

**Chapter 8: Youth
Child Labor Restrictions/Proof of Age**

Issue Date/

Effective Date: April 1, 2000 Updated: August 5, 2010

Required Action

Action: WSAs and service providers should be aware of and comply with Federal and State prohibitions and concerns regarding the employment of 14 through 17 year old participants. Service providers must require and keep on file for monitoring purposes some proof of age for all youth who are employed under WIA programs.

Who: All WSAs and youth service providers in the State of Minnesota.

Background: There are two regulatory bodies controlling the employment of minors; U.S. Department of Labor, Wage and Hour Division which enforces the Fair Labor Standards Act (FLSA) and the Minnesota Division which also enforces the Minnesota Child Labor Standards Act.

In general, with regard to possible conflicts among Federal or State law, regulations or municipal ordinance, the more restrictive standard shall be applicable (20 CFR 570.50(a)). Employers violating FLSA's child labor provisions may be assessed fines of up to \$10,000 for each employee who is the subject of a violation.

Policies and Procedures:

WIA incorporates employment or work experience programs for minors between 14 and 18 years of age. It is important to determine whether minors of these ages are working in occupations and during hours or times prohibited by child labor laws. Pursuant to Section 3 (1) of FLSA, the Secretary of Labor has issued regulations allowing, under limited conditions, the employment of youth 14 and 15 years old. These regulations are found in Child Labor Regulation No. 3 (29 CFR Part 570, Subpart C). Pursuant to the same section of FLSA, Hazardous Occupations (HO) are issued which prohibit the employment of minors under 18 years of age in occupations declared by the Secretary of Labor to be particularly hazardous for such minors or detrimental to their health or well-being. The regulations at 29 CFR Part 570 (Subpart E and E-1), among other things, describe the restrictions on employment of minors between the ages of 16 and 18 and those occupations, both agricultural and non-agricultural, which are particularly hazardous.

Under the child labor provisions of FLSA, 16 years is the basic minimum age for employment; however, persons 14 and 15 years of age may be employed outside school hours in a variety of non-manufacturing and non-hazardous jobs under specified conditions that do not interfere with their health, well-being, or opportunity to obtain an education.

Child Labor Regulation No. 3 limits the hours and the time of day that minors 14 and 15 year olds may work and prohibits their employment in certain occupations. In non-farm jobs, they may not work: (1) during school hours; (2) more than 8 hours in a day and 40 hours in a week when school is not in session; (3) more than 3 hours in a day and 18 hours in a week when school is in session or (4) before 7 a.m. and after 7 p.m. except during the summer (June 1 through Labor Day) when

the evening hour is extended to 9 p.m. Youth 14 and 15 years old may not work in any of the hazardous occupations applicable to youth ages 16 and 17, such as manufacturing, mining and a number of other activities identified in the Regulations.

All WIA participants must be at least 18 years old to work in any of the non-agricultural hazardous occupations. This minimum age applies even when the minor is employed by the parent or person standing in place of the parent. The 17 nonagricultural hazardous occupations in effect apply either on an industry-wide basis or to an occupation irrespective of the industry in which the occupation is found.

The Minnesota Child Labor Standards Act requires that the employer of a minor must require and keep on file some proof of the minor's age. This can be a copy of a driver's license or a birth certificate, an Age Certificate which is issued by school officials, or a completed United States Department of Justice Immigration and Naturalization Service Employment Eligibility Verification Form I-9.

There are five bulletins outlining federal child labor provisions:

- **Child Labor Bulletin No. 101, WH-1330:** describes the FLSA child labor provisions that apply to minors under 18 in non-agricultural employment. It describes the employment standards for minors 14 and 15 years old. Hazardous occupations are briefly described.
- **Child Labor Bulletin No. 102, WH-1295:** provides child labor requirements in Agriculture.
- **29 CFR Part 570:** provides changes to three hazardous occupations (HOs) which prohibit the employment of minors under 18 years of age related to the operation of motor vehicles, the use of power-driven meat processing equipment and the operation of paper product machines.
- **A Fact Sheet No. 43:** outlines Federal Child Labor Laws in Non-Farm Jobs.
- **A Fact Sheet No. 12:** outlines Federal Child Labor Laws in Farm Jobs.

For copies of the bulletins referenced above or more information concerning an interpretation of the Federal Fair Labor Standards Act dealing with child labor requirements, contact: U.S. Department of Labor, ESA Wage and Hour Division, Tri-Tech Center, 331 Second Avenue South, Suite 920, Minneapolis, MN 55401-1321 or telephone 1-866-487-87-4293.

There are two bulletins prepared by the Minnesota Department of Labor and Industry outlining state child labor provisions:

- Department of Labor and Industry Child Labor Laws and Rules
- Guide to Minnesota's Child Labor Standards

For more information concerning a specific occupation or an interpretation of the statute or regulation dealing with Minnesota Child Labor Standards contact: Department of Labor and Industry, Labor Standards Division, 443 Lafayette Road, St. Paul, MN 55155-1354; telephone (651) 284-5005 or 1-800-342-5354; or visit the website at <http://www.dli.mn.gov/LS/FaqChildLabor.asp>

The Wage and Hour Division of the Department of Labor's Employment Standards Administration (ESA) has begun enforcement activities in States and WSAs. ESA will contact each State liaison to arrange for a discussion of FLSA's child labor provisions and their enforcement. WSAs are to be

familiar with these prohibitions under the FLSA child labor provisions by consulting the Regulations at 29 CFR Part 570 for a fuller understanding of all applicable provisions. Particular attention should be paid to the hazardous occupations, including definitions and the enumeration of particular exemptions, such as the employment of apprentices and student-learners.

Reference Section:

Cites/References: Child Labor Regulations, 29 CFR 570, including changes by the Department of Labor's Employment Standards Administration (ESA) to the Hazardous Occupations Orders (HOs), effective December 20, 1991, in Subpart E-Occupations.

Minnesota Child Labor Act (Section 181A.06)

Minnesota Rules (Section 5200.0010)

Department of Labor and Industry <http://www.dli.mn.gov/LS/FaqChildLabor.asp>

Contacts:

Kay Tracy (voice: 651/259-7555; fax: 651/215-3842; TTY: 651/296-3900; email: kay.tracy@state.mn.us)

Youth website:

http://www.positivelyminnesota.com/All_Programs_Services/Office_of_Youth_Development