



## CHILD LABOR LAWS

Federal and state child labor laws are designed to protect students from working too early, too late, too many hours and from performing tasks that might cause injuries or illnesses. Students engaged in work-based learning activities may or may not be covered by the child labor laws depending on the nature of their learning experience. Federal and state child labor laws apply in all employment situations, so students in paid placements are always covered. Under the School-to-Work Opportunities Act of 1994, no waivers of the child labor laws are permitted for students participating in paid placements.

### Coverage

Businesses in California are typically covered not only by the state's child labor laws but also by the federal child labor laws. When businesses are covered by both sets of laws, the most protective prevails. Because state law is required to be at least as protective as the federal law, this usually means the state law prevails. The California child labor laws (*CA Labor Code, section 1390 – 1398*) are established and enforced by the State Department of Industrial Relations' Division of Labor Standards Enforcement.

### Public Entities

Students working for public entities such as state or city government (including school districts) are covered only by the federal child labor laws set out in the Fair Labor Standards Act (*29 CFR, Part 570*). Although the limitations on tasks are generally the same under the federal and state laws, the hours limitations are somewhat different. Unlike the state child labor laws, the federal laws impose no hours restrictions on 16- and 17-year-olds. The hours restrictions on 14- and 15-year-olds are the same under the state and federal laws. Charts detailing the hours students are allowed to work can be found in the *Can Do Guides* for employers, labor organizations, educators and School-to-Career staff.

### Minimum Wage

Although the federal and state minimum wage rates are different, any workplace covered by the federal labor laws (including public entities) must pay the higher state minimum wage, as of October 2000. The Wage and Hour Division of the U.S. Department of Labor enforces the federal child labor laws.

### Unpaid Work-Based Learning Experiences

Students participating in unpaid work-based learning experiences such as job shadows, field trips to a worksite and career awareness and exploration activities are not considered employees. Although child labor laws do not apply in these situations, every effort should be made to ensure that students are placed in safe workplaces, receive sufficient training and are doing or observing tasks with adequate supervision.



### Determining if Pay is Required

According to the Fair Labor Standards Act, a student enrolled in a work-based learning experience is considered an employee unless all of the following criteria are met (US DOL Fact Sheet No. 013, *Employment Relationship Under the Fair Labor Standards Act*).

1. The student receives training at the employer's worksite similar to that which would be given in a vocational school (a curriculum is followed and the student is under extensive and ongoing instruction and supervision).
2. The training is intended to benefit the student and not to meet the labor needs of the business.
3. The placement of the student at a worksite during the learning experience does not result in the displacement of any regular employee.
4. The result of any productive work the student performs is offset by the employer's burden to provide training and supervision.
5. The student is not entitled to a job at the completion of the learning experience.
6. The employer, student and parent or guardian understand that the student is not entitled to wages or other compensation for the time spent in the learning experience (although the student may be paid a stipend for expenses such as books or tools).

Unless all six criteria are met, the student is considered an employee, must be paid and is covered by the child labor laws.

### Tasks Students Can and Can Not Do

The state and federal child labor laws specify the tasks students may and may not do for pay (*CA Labor Code 1294–1312*). School districts may impose additional restrictions through the work permit process. In general 16- and 17-year-olds may cook, pump gas, or work in manufacturing or processing, but may not drive as a major part of the job, use power equipment, work in demolition or roofing, or handle, serve or sell alcoholic beverages. Fourteen- and 15-year-olds may not work around machinery or dangerous chemicals, cook, do construction or manufacturing work, or load and unload trucks, but they may work in an office, cashier, prepare and serve food, and perform other non-hazardous jobs. Different rules apply to agricultural work. Cal/OSHA, the California agency that enforces safety and health laws in workplaces, does not use age as a criterion, so all Cal/OSHA standards apply to student employees.

Charts detailing the tasks students can and cannot do are found in the *Can Do Guides* for employers, labor organizations, educators and School-to-Career staff.



## **Work Permits**

The hours that a student may work are ultimately determined by the local school district (*CA Education Code Section 49160, CA Labor Code Section 1299*). The school district is responsible for issuing and approving a work permit for students under age 18 that details the appropriate number of hours and times that a student may be at the workplace (*CA Education Code Sections 49110, 49112, 49113, 49116*). Work permits are intended to foster communication among parents, the school, the employer and the student; to link educational performance with permission to work and to ensure that students are engaged in work that is in compliance with child labor laws. Students under 18 who plan to work must get a new work permit each September from their school or school district office (unless they have graduated) and before starting each new job (*CA Education Code Section 49118*). Employers must keep these permits on file and available for inspection. A permit is always required even when school is not in session.

## **Regulatory Authority**

The California child labor laws are overseen by the California State Department of Industrial Relations, Division of Labor Standards Enforcement. Federal child labor laws are overseen by the U.S. Department of Labor, Wage and Hours Division. Work permits are overseen by the California Department of Education and are ultimately the responsibility of local school districts.

### **For more information visit:**

California Department of Industrial Relations	<a href="http://www.dir.ca.gov/labor_law.html">http://www.dir.ca.gov/labor_law.html</a>
U.S. Department of Labor	<a href="http://www.dol.gov/dol/esa/public/regs/statutes/whd/allfair.htm">http://www.dol.gov/dol/esa/public/regs/statutes/whd/allfair.htm</a>
California Department of Education	<a href="http://www.cde.ca.gov/resources/legal.html">http://www.cde.ca.gov/resources/legal.html</a>
California Law, Education and Labor Code	<a href="http://www.leginfo.ca.gov/calaw.html">http://www.leginfo.ca.gov/calaw.html</a>

**Make sure to contact your local school district to determine local policies.**