

SUMMARY OF REGULATIONS GOVERNING EMPLOYMENT OF MINORS CALIFORNIA LABOR CODE - TITLE 8

NOTE: References are to California labor Code, Title 8, or other resources as indicated.

Regulations cover:

California minors who work in California or are taken out of state [8 CCR 11756]

Out-of-state minors who work in California [8 CCR 11753]

DEFINITION OF A MINOR [Section 11750]

A minor, in accordance with the California Labor Code [Section 1286 (c)], is any person under the age of 18 years who is subject to California's compulsory education law. Minors who have a high school education or its equivalent are exempt from the regulations. However, emancipated minors are not necessarily exempt from the regulations, since emancipation does not automatically exempt a minor from the compulsory education laws. An emancipated minor is not required to obtain parental consent to work.

A work permit must still be obtained. The only minors exempt from work permit requirements are those with a high school education or its equivalent.

TYPE OF WORK OR ACTIVITIES; EMPLOYERS PERMIT TO EMPLOY MINORS [Section 11751(b); Section 11752]

Employers who wish to hire minors in the entertainment industry must apply for a permit with the Division of Labor Standards Enforcement (DLSE) and can only employ minors in such work or activity which is not hazardous or detrimental to the health, safety, morals or education of the minor. Proof of workers' compensation insurance is required to obtain the permit. DLSE must issue the permit if the employer has satisfied the conditions as to permissible work or activity. The permit does not require renewal unless workers' compensation has lapsed or the DLSE has revoked the permit.

MINOR'S WORK PERMIT [Section 11753]

An entertainment work permit may be issued to a minor by any of the DLSE's district offices. Such a permit must be issued if:

- A) The minor provides the district office with written verification regarding the minor's school attendance and record; and
- B) The minor provides proof that he or she satisfies the school district's requirements as to age, school record, attendance, and health.

The Labor Commissioner may require a physical examination in appropriate cases. The permit is good for six months whereupon a renewal is required.

BLANKET PERMITS [Section 11754]

Blanket work permits may be granted to groups and organizations of minors. Such a permit is valid only for the particular production issued and only for the period of time specified in the permit. Special arrangements may be made for studio teachers required with groups of minors in excess of 100.

Additionally, one parent or guardian must be provided for every 20 minors. An application for blanket permit must be supported by proof that the minors are covered by workers' compensation insurance.

STUDIO TEACHERS' QUALIFICATIONS [Section 11755]

Studio teachers must hold both a current California Elementary and a current Secondary Teaching Credential, and they must be certified by the Labor Commissioner pursuant to a written examination. The certificate is good for three years.

STUDIO TEACHER'S AUTHORITY [Section 11755.3]

The studio teacher is responsible for providing for the education of all minors who are subject to California's

compulsory education laws. Additionally, studio teachers have the responsibility for caring and attending to the health, safety and morals of minors under the age of 16. In so doing, the studio teacher shall consider the minor's working conditions, physical surroundings, mental and physical fatigue, age, agility, strength and stamina. A studio teacher can refuse to allow a minor to work on a set or location which, in the teacher's opinion jeopardizes the health, safety or morals of the minor. A decision of a studio teacher may be appealed to the Labor Commissioner who may confirm or countermand such decision.

APPLICATION OF THE REGULATIONS [Section 11756]

The Labor Commissioner's regulations apply (including the requirement that a studio teacher accompany the minor) out of the state if all of the following conditions are present:

- A) The minor is a resident of California.
- B) The employer is located in California.
- C) The contractual arrangements by which the minor is employed are made in California.

PRESENCE OF PARENT OR GUARDIAN [Section 11757]

A parent or guardian shall be within sight or sound at all times of all minors under the age of 16 years.

SANCTIONS FOR VIOLATION OF THE REGULATIONS [Section 11758]

Where an employer violates the Regulations, the Labor Commissioner's representative has discretion to deny, suspend or revoke that employer's permit to employ minors. The same sanctions exist against an employer who discriminates against a studio teacher. An employer whose permit has been deemed suspended or revoked has direct appeal right to the Labor Commissioner and a right to a hearing.

TRAVEL TIME [Section 11759]

Travel from a studio to location or vice versa, is part of the minor's work day. Although Section 11759 does not expressly refer to "report to" locations, the Labor Commissioner's position is that the travel time from the studio to the report to location is to be calculated and only that time is credited against the minor's work day.

All travel time from studio to a location or from location to studio shall count as part of the working day of the minor. (8 CCR 11759a) With respect to overnight locations, travel from the minor's living quarters to the set or vice versa is not work time provided that:

- A) Such travel time does not exceed 45 minutes; and
- B) The company provides for the minor's transportation.

The studio teacher can make reasonable changes either to extend or shorten the amount of travel time subject to work time for minors on overnight locations.

MINOR'S WORKING HOURS [Section 11760]

Under Section 1391, minors may not be employed more than eight hours in one day or more than 48 hours in one week, or before 5 a.m. or after 10 p.m., except that a minor may be employed until 12:30 a.m. in the morning of a non-school day. Under Section 1308.5 (4), minors between the ages of 8 and 18 years who are engaged in a performance that starts before 10 p.m. may continue in that performance past 10 p.m. but not beyond 12 p.m. (12:30 a.m. on the morning of a non-school day), provided that the Labor Commissioner has given written authorization to do so. Minors who attend regular school may not work in the entertainment industry for the same number of hours as minors tutored by studio teachers. Minors taught by a studio teacher need only be instructed for three hours a day [EC 48224; 8CCR 11760] while minors in regular school are generally required to attend school for a much longer time. Clearly, minors who attend regular school cannot assume the same work hour burden as tutored minors. Consequently, the Division adopted an enforcement policy for minors who attend regular school. This policy computes the length of the workday for minors who attend regular school by subtracting six hours from the maximum number of hours that tutored minors are permitted on set when school is in session. For example, tutored minors nine to 16 years of age are permitted to be on set for up to nine hours, therefore minors who attended regular school on a workday would be permitted to be on set for up to three hours. Such workdays for minors attending

regular school do not require a one-hour rest and recreation period, but they may be extended one-half hour by a meal period. Finally the Division's policy always assumes that the minor who attends regular school always attends for at least six hours. Thus, in an effort to safeguard the minor's educational interest, an artificially shortened regular school day is never allowed to result in an employer benefit of extended work hours. Nothing in DLSE's policy for minors who attend regular school may be construed to allow those minors to work during regular school hours. DLSE's policy is specifically designed to dissuade any interruption of a minor's regular school attendance requirements.

TWO CONSECUTIVE DAYS ABSENCE FROM SCHOOL [Section 11760 (h)]

Minors between the ages of 14 and 18 years, with the school's written permission, can work for two consecutive days at no more than eight hours per day. Presumably this is without the necessity of fulfilling any daily education requirement. However, this would not exempt the requirement that a studio teacher be present for those minors aged 14 and 15.

TWELVE HOUR TURNAROUND TIME [Section 11760 (i)]

Twelve hours must elapse between a minor's time of dismissal and time of call on the following day. If the minor's regular school starts less than 12 hours after dismissal time, then the minor must be schooled the following day at the set.

MEAL PERIODS [Section 11761]

All hours for the minor are exclusive of no less than a one-half hour meal period.

WARDROBE, MAKE-UP, HAIRDRESSING, AUDIO-RECORDING, ETC. [Section 11762]

No minor under the age of 16 may be sent to wardrobe, make-up, hairdressing or employed in any manner unless under the general supervision of a studio teacher. If any such minor is not called to the set but is called for a period up to one hour into wardrobe, make-up, hair dressing, promotional publicity, personal appearances, or for audio recording, on a non-school day, a studio teacher need not be present but the minor must be accompanied by a parent or guardian. Example: If a child under the age of 16 publicity, personal appearances or audio recording, a studio teacher must be present to supervise that child. The only time a studio teacher is not required under this regulation is when the student conducts these activities on a scheduled holiday or weekend but the minor must be accompanied by a parent or guardian.

USE OF STUDIO TEACHERS [Section 11755.2; 11760]

Employers shall provide a studio teacher on call for minors from age 15 days to their 16th birthday and for minors aged 16 and 17 when required for the education of the minor. One (1) teacher must be provided for each group of 10 or fewer minors when school is in session. When school is not in session, one (1) teacher may be provided for every group of 1 to 20 minors. With respect to infants from 15 days to 6 weeks of age, a nurse and a studio teacher must be provided for each 3 or fewer babies. For infants from 6 weeks to 6 months, one nurse and one studio teacher must be provided for each group of 10 or fewer babies.