

“LEGAL 18” vs. EMANCIPATION

Legal 18

The California High School Proficiency Examination (CHSPE) is a testing program established by California law (*Education Code Section 48412*). If eligible to take the test, a minor can earn the legal equivalent of a high school diploma by passing the CHSPE. The CHSPE consists of two sections: an English-language Arts section and a Mathematics section. If you pass both sections of the CHSPE, the California State Board of Education will award a minor a Certificate of Proficiency, which by state law is equivalent to a high school diploma (although not equivalent to completing all coursework required for regular graduation from high school). All persons and institutions subject to California law that require a high school diploma for any purpose must accept the certificate as satisfying the requirement. You must be 16 yrs. old or in your second semester of your sophomore year to take the test (parents of minors who are home schooled and under 16 can provide proof that their child is in the second semester of sophomore year and take the test).

Passing the CHSPE allows minors in the State of California to be hired in the entertainment industry as “Legal 18.” No Studio Teachers are required for schooling or welfare and the minor can work adult hours on set. Minors under the age of 16 with a CHSPE or early High School Graduation will still need their parent or guardian on set, and a parent or guardian will still have to sign their contracts until the minor turns 18. Coogan funds are still blocked until the age of 18, and producers should still withhold Coogan funds from their paychecks.

EMANCIPATION

General Information [Civil Code, Sec. 60, 63-64]

Emancipation does not necessarily mean that the minor is exempt from:

- the compulsory school attendance laws, and/or
- the child labor laws and regulations.

Any person under the age of eighteen years who comes within the following description is an emancipated minor (Sec. 60, pt. 2.7):

- who has entered into a valid marriage, whether or not such marriage was terminated by dissolution; or
- who is on active duty with any of the armed forces of the United States; or
- Who has received a declaration of emancipation pursuant to Sec. 64 of the Civil Code.

A minor may petition the Superior Court of the county in which he or she resides or is temporarily domiciled, for a declaration of emancipation. The petition shall be verified and shall set forth with specificity all of the following facts [Sec. 64]:

- that he or she is at least 14 years of age
- that he or she willingly lives separate and apart from his or her parents or legal guardian with the consent or acquiescence of his or her parents or legal guardian
- that he or she is managing his or her own financial affairs

Consequences of emancipation [Sec. 63]:

- minor may consent to medical care without parental consent, knowledge, or liability
- minor may enter into a binding contract

An emancipated minor who has not completed his or her compulsory education requirements must receive three (3) hours of school per day unless the banking provisions apply.

An emancipated minor is still subject to all of the rules and regulations of 8 CAC unless specifically exempted from 8 CAC in the emancipation order.

Letter from Labor Commissioner Aubry

State of California

Department of Industrial Relations

Division of Labor Standards Enforcement

525 Golden Gate Avenue

San Francisco, CA 94102

August 1, 1988

To: Affected Persons Using Minors in the Entertainment Industry

It has recently come to my attention that there may be some confusion with respect to the child labor regulations applicable to the Entertainment Industry (Title 8 Code of California Regulations Section 11750 et seq.) and their impact on emancipated minors.

The regulations are fully applicable to emancipated minors except as set forth below. An emancipated minor may only work the hours prescribed by the regulations and, if the child is under eighteen years of age and has not graduated from high school or obtained a high school proficiency certificate (available only to 16 and 17 year olds), the minor must be provided educational training as required by law. A studio teacher must also be provided to all minors under the age of sixteen for the purposes of educational instruction and safety protection. For minors sixteen and seventeen years of age, a studio teacher is required for educational instruction as required by law.

The only effect that the emancipation of a minor has under these regulations and other labor laws is that, while the minor must still obtain a theatrical work permit, he or she may do so without the signature of a parent.

I would appreciate it if you would make certain that all persons in hiring or casting positions with whom you are affiliated are aware of this fact before an emancipated minor is used on a production.

Very truly yours,

*Lloyd W. Aubry, Jr.
State Labor Commissioner*