

Memorandum

To : All Professional Staff

Date : February 25, 1987

Subject: Division Management
Memorandum 87-1

From : Department of Industrial Relations

Division of Labor Standards Enforcement
Lloyd W. Aubry, Jr., State Labor Commissioner

Theatrical Permits and
Practices Concerning the
Employment of Minors in
Entertainment Industry

Various questions have arisen since April 3, 1986, the effective date of the revised Rules and Regulations Governing the Employment of Minors in the Entertainment Industry. (Title 8, California Administrative Code Section 11750 et seq.) The purpose of this memo is to answer a number of questions and to develop uniformity, not only in the issuance of entertainment work permits, but also with respect to responses given to questions concerning the employment of minors in the entertainment industry.

I. The Application Process

- A. Requests are often received for batches of theatrical work permit applications. Extra applications in a reasonable amount may be provided to the public upon request for good cause.
- B. The application for the theatrical permit must be completed and include all the information requested on the application form. There is no requirement for the minor to provide his/her Social Security number (8 C.A.C. Section 11753).
- C. The application must be signed by a parent or guardian. Except in an unusual circumstance, no "proof" of guardianship authorization is required when the application is signed by other than a parent.

II. Permits

- A. If the studio teacher or DLSE representative is unable to verify the existence of a current entertainment work permit, approval to work should not normally be granted.

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- B. The State Seal should be stamped on the original copy of the entertainment work permit in order to verify its authenticity.

III. School Records

- A. Under 8 C.A.C. Section 11753, applicants for an entertainment work permit must submit evidence of their school record and attendance. If the requirements of the school district have been met and the school representative signs the back of the application, no further action concerning grades, etc., will be taken unless the school records portion of the application appears to have been altered. If it appears to have been altered, the school should be contacted by telephone to confirm the entries.
- B. From time to time an application for an entertainment work permit may be presented where the minor has an immediate job, the school is closed and no representative is available to complete the application. In order to accommodate both the minor and the production company, the minor may present his/her last report card with the completed application. If the grades on the report card are C or better, the permit may be issued for a limited time until school is in session. If the grades on the report card are below C, the permit should not be issued in the absence of a school official's approval.

IV. Work Hours

- A. Under 8 C.A.C. Section 11764, babies under six months of age are normally permitted to work only between the hours of 9:30 a.m. and 4:30 p.m. However, babies under six months of age may work any hours as permitted by Labor Code Section 1391 if the parent or guardian and the studio teacher approve and adequate facilities are available for the baby to eat and rest. An "adequate facility" is an area removed from the work site where the baby can eat and/or sleep without being held. However, babies are limited to only two hours at the place of employment (8 C.A.C. Section 11760(a)).

- B. A pre-schooler (under 6 years of age usually) may work, with the approval of the parent or guardian and the studio teacher, until 12:30 a.m. on any night as long as his/her allowed hours at the place of employment, under 8 C.A.C. Section 11760(b) and (c), are not extended.
- C. If a child attends his/her own regular school prior to reporting to his/her place of employment, the time spent in school will be considered six hours regardless of how long the child actually spends at his/her own regular school. The required one hour of rest and recreation will be allocated to that six-hour period. This structure will permit the child to be at the place of employment 2 1/2, 3 1/2, or 4 1/2 hours, depending on the age of the child (8 C.A.C. Section 11760(d), (e) and (f)). The times permitted at the place of employment set forth above include a 30-minute meal period (8 C.A.C. Section 11761).

Travel time between school and reporting to the studio is not considered work time.

- D. Children may be permitted to work two or more jobs on the same day. However, the combined hours of time on the set for all jobs on a given day may not exceed those permitted by the appropriate subsection of 8 C.A.C. Section 11760. The studio teacher on the first set should attempt to arrange and ensure that at some point in the day the minor will have time allocated for schooling, rest and recreation, and meal periods.

The last company to employ the minor on a given day will be held responsible for assuring that the requirements of the regulations have been met.

- E. Meal periods for minors must be provided within 6 hours of his/her call time. Subsequent meal periods must be provided within 6 hours of the last meal period (8 C.A.C. Sections 11110 and 11120, subsection 11-IWC Orders 11-80 and 12-80, Section 11(a)).

If a studio teacher determines that a child is uncomfortable and hungry, the studio teacher may require that an earlier meal period be given.

If the minors are required to eat on the premises, a suitable place for that purpose is to be provided (IWC Orders 11-80 and 12-80, Section 11(c)).

V. Schooling

- A. 8 C.A.C. Section 11760 provides that the minor must be provided at least three hours of schooling per day while the minor's school is in session. This regulation is based on a section of the Education Code which requires that children not attending full-time day school must be instructed by a person holding a valid state credential for the grade taught for at least three hours per day, between 8:00 a.m. and 4:00 p.m.

Over the years the practice of "banking" school time for minors employed in the entertainment industry pursuant to certification by the Labor Commissioner has developed.

Occasionally motion picture or television producers must schedule an unusually busy production day which requires that the child work longer than would be permitted by the combined work/school schedule of Section 11760. A production company making reasonable use of the "banking" concept within specified guidelines will be considered to be in compliance with the Rules and Regulations of the Labor Commissioner. However, "banking" is a privilege that requires the permission of the studio teacher and not a right to be exercised daily. The welfare of the child is always paramount.

The following limitations on this privilege shall prevail:

1. All "banked" instruction time must be under the immediate supervision of the studio teacher. "Homework" cannot be counted as "banked" time.
2. Instruction time may be "banked" on school holidays, during school vacation, or on regular days when the scheduled work time is less than that permitted by 8 C.A.C. Section 11760 for the age group of the child in question.

3. The number of hours that may be "banked" on a vacation day or holiday is limited to 4 hours for elementary students (Grades 1-6) or 5 hours for secondary students (Grades 7-12). Of course, if the child is working, the total number of hours that may be "banked" would also be limited to the total amount of combined work and school time permitted for the age group of the child in question.

Time may not be "banked" during summer vacation.

The number of hours that may be "banked" on a day that school is in session is limited to one for the elementary school student and two for the secondary school student.

At least one hour of instruction must be conducted every school day. Therefore, not more than two hours of "banked" time may be used on any production day in lieu of the required three hours of daily instruction.

7. "Banked" time should not exceed 10 hours in any one month and must be used within 30 days of the time "banked".
 8. A record must be kept of when the instruction time was "banked" and when it was used.
- B. If a child is scheduled to work until 10:00 p.m. on a night preceding a school day, he/she must have completed three hours of school before 4:00 p.m.; therefore, his/her call time cannot be later than 1:00 p.m. unless he/she has previously "banked" school hours.
 - C. If a school aged child under 9 years of age is called in at 1:00 p.m., he/she could only be at the place of employment until 9:30 p.m. If school hours had been previously "banked", the minor's call time could be 1/2 hour later (8 C.A.C. Sections 11760(d) and 11761).
 - D. If school is to be waived for two consecutive days for minors over 14 years of age, the minor must present to the studio teacher documentation from his/her school that the school has granted him/her permission to work without receiving the minimum hours of schooling (8

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C.A.C. Section 11760(h)). This applies in those situations where no "banking" of hours has occurred.

VI. Studio Teachers

- A. Minors 16-18 years of age need an entertainment work permit, but under certain conditions a studio teacher is not required on the set. These conditions are:
- (a) If the emancipation documents of the minor specifically exempt that minor from the provisions of the Labor Code and the Education Code.
 - (b) If the minor has completed the required amount of educational instruction for the day.

Reminder: If the minor has satisfied the educational requirements of the State of California (i.e., G.E.D., Proficiency Certificate, or High School Diploma), neither an entertainment work permit nor a studio teacher is required.

- B. The requirement that 12 hours elapse between the child's dismissal time and his/her call time the next day must be strictly followed and may not be waived at the discretion of the studio teacher (8 C.A.C. Section 11760(i)).
- C. A studio teacher is required to be present if a minor is employed to perform any form of entertainment including dinner-theater groups and live theater (8 C.A.C. Section 11751). Children participating as volunteers in equity-waiver theater do not need an entertainment work permit or a studio teacher.

Any questions regarding the above should be directed to your supervisor. If uncertainty or a question still exists, please contact Carol Cole and/or Nance Milberger whom I have asked to provide guidance to all field personnel on these issues so that our decisions will be consistent throughout the state.