

DATE: April 27, 2018

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RE: Student Learners under the Child Labor Act

Background

This memorandum will define “student learners,” under the Pennsylvania Child Labor Act, as it applies to vocational high school training programs, or “career work experience” programs, in which students earn academic credits for working at employment locations in their community. Specifically, this memorandum addresses whether students/minors in various vocational training programs can be considered “student learners” or specifically, “pre-apprentices” under 34 Pa. Code § 11.21, the regulations implementing the Pennsylvania Child Labor Act.

Analysis

While the Act prohibits minors from engaging in certain types of hazardous employment, the state regulations provide for several exceptions. The provision of the regulations “Employment of Minors” addresses minors employed in “industry,” and define “apprentice” and “student learners.” 34 Pa. Code § 21. If a minor is classified as an “apprentice” or a “student learner,” they may be able to engage in otherwise prohibited employment. Student Learners for the purposes of this memorandum are considered “pre-apprentices” 34 Pa. Code Chapter 11 provides:

Employment of minors under 18 years of age at acetylene or electric welding is prohibited except for apprentices, student learners and graduates of an approved vocational, technical, or industrial education curriculum which prepared them for employment in the specific occupation.

Thus, a minor categorized as a “student learner” may be allowed to legally engage in otherwise prohibited employment.¹

¹ 34 Pa. Code Chapter 11 does not allow exceptions for “student learners” for all prohibited employment. As an example, “employment of minors under 18 years of age as operators or managers of passenger or freight elevators, or other hoisting or lifting machinery is [still] prohibited” under Chapter 11.

“Student learner” is defined as:

Minors enrolled in a course of study and training in a cooperative vocational training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school and employed under a written agreement which provides the following:

- (i) That the work of the student learner in the occupations declared particularly hazardous shall be incidental to his training.
- (ii) That such work shall be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person.
- (iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training.
- (iv) That a schedule or organized and progressive work process to be performed on the job shall have been prepared. Each such written agreement shall contain the name of the student learner and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer.

Career work experience programs and volunteer internship programs at public high schools, in which students obtain paid employment positions, or volunteer, at local businesses, would qualify as “student learner” positions under the regulations. These programs fit the requirement of a program that is “under a recognized state or local educational authority,” because such public school districts are political subdivisions of the Commonwealth, which fall within the category of “state or local educational authority” within the meaning of the section 11.21. If the minor is at a private school, he/she must be enrolled in a course of study in a program substantially similar to those recognized in public schools. In addition, in both public and private school contexts, a written agreement must be executed that provides, in part, that any hazardous work would be incidental; that it would be under direct and close supervision; and that it would be intermittent and for short periods of time.

Conclusion

A minor that is at a public school may be categorized as a “student learner” if he or she is part of a recognized cooperative vocational program such as a registered pre-apprenticeship program. Further, a minor at a private school can also be categorized as a “student learner,” but the regulations require enrollment in a course of study in a program substantially similar to those recognized in public schools. Additionally, in both situations, a written agreement is required such as a registered pre-apprenticeship agreement. Once a minor is categorized as a “student learner,” the Act and the governing regulations, must be reviewed to confirm that the specific work being done is allowed. Some work is still prohibited whether the minor is a student learner or not.

It is strongly recommended that when encountering requests for specific determinations as to the applicability of the abovementioned laws and regulations, contact be made with the Pennsylvania Bureau of Labor Law Compliance.