

Wage and Hour Division, Labor

§ 520.505

(3) The occupation must not be one for which a student-learner application was previously submitted by the employer and a special certificate was denied by the Administrator.

(The information collection requirements contained in paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i) were approved by the Office of Management and Budget under control number 1215-0192.)

§ 520.503 What must I demonstrate in my application for a student-learner certificate to receive a favorable review?

Each student-learner application must demonstrate that:

(a) The training program under which the student-learner will be employed is a bona fide vocational training program as defined in subpart C of this part;

(b) The employment of the student-learner at subminimum wages authorized by the special certificate must be necessary to prevent curtailment of opportunities for employment;

(c) The student-learner is at least sixteen years of age, or at least eighteen years of age if employed in any occupation which the Secretary has declared to be particularly hazardous (see part 570, subpart E, of this chapter, but note the specific exemptions for student-learners in several of the orders);

(d) The occupation for which the student-learner is receiving preparatory training requires a sufficient degree of skill to necessitate a substantial learning period;

(e) The training is not for the purpose of acquiring manual dexterity and high production speed in repetitive operations;

(f) The employment of a student-learner will not have the effect of displacing a worker employed in the establishment;

(g) The employment of the student-learners at subminimum wages must not tend to impair or depress the wage rates or working standards established for experienced workers for work of a like or comparable character;

(h) The occupational needs of the community or industry warrant the training of student-learners;

(i) There are no serious outstanding violations of the provisions of a student-learner certificate previously

issued to the employer, or serious violations of any other provisions of the FLSA by the employer which provide reasonable grounds to conclude that the terms of the certificate would not be complied with, if issued;

(j) The issuance of such a certificate would not tend to prevent the development of apprenticeship programs in accordance with the regulations applicable thereto (subpart D of this part) or would not impair established apprenticeship standards in the occupation or industry involved; and

(k) The number of student-learners to be employed in one establishment is not more than a small proportion of its work force.

§ 520.504 When will authority to pay student-learners subminimum wages become effective?

(a) Certification by the appropriate school official on an application for a special student-learner certificate shall constitute a temporary authorization. This temporary authorization is effective from the date such application is forwarded to the Wage and Hour Division in conformance with § 520.501.

(b) At the end of 30 days, this application shall become the permanent special student-learner certificate unless, after review, the Administrator denies the application, issues a certificate with modified terms and conditions, or expressly extends the period of review.

§ 520.505 How will I be notified that my request to employ student-learners at subminimum wages has been denied and can I appeal the denial?

(a) If, after review, an application is denied, notification of denial will be made to the appropriate school official, the employer and the student. This notification will occur within 30 days following the date such application was forwarded to the Wage and Hour Division, unless additional time for review is considered necessary or appropriate.

(b) If additional time for review is considered necessary or appropriate, the proper school official, the employer, and the student shall be so notified. To the extent feasible, the Administrator may provide an opportunity to other interested persons to

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present data and views on the application before denying a special student-learner certificate.

(c) Whenever a notification of denial is mailed to the employer, such denial shall be without prejudice to any subsequent application, except under the circumstances referred to in § 520.502(i)(3).

(d) Section 520.204 of this part describes the procedures for requesting reconsideration of a decision to grant or deny a certificate.

§ 520.506 What is the subminimum wage for student-learners and what must I do to comply with the terms of my student-learner certificate?

(a) The special minimum wage rate paid to student-learners shall be not less than 75 percent of the applicable minimum under section 6(a) of the FLSA.

(b) Compliance with items listed for favorable review of a student-learner application (§ 540.503) must be demonstrated.

(c)(1) The number of hours of employment training each week at subminimum wages pursuant to a certificate, when added to the hours of school instruction, shall not exceed 40 hours, except that authorization may be granted by the Administrator for a greater number of hours if found to be justified by extraordinary circumstances.

(2) When school is not in session on any school day, the student-learner may work a number of hours in addition to the weekly hours of employment training authorized by the certificate; provided,

(i) The total hours worked shall not exceed 8 hours on any such day, and

(ii) A notation shall be made in the employer's records to the effect that school not being in session was the reason additional hours were worked on such day.

(3) During the school term, when school is not in session for the entire week, the student-learner may work at his/her employment training a number of hours in the week in addition to those authorized by the certificate; provided,

(i) The total hours shall not exceed 40 hours in any such week, and

(ii) A notation shall be made in the employer's records to the effect that

school not being in session was the reason additional hours were worked in such week.

(d) A special student-learner certificate shall not constitute authorization to pay a subminimum wage rate to a student-learner in any week in which he/she is employed for a number of hours in addition to the number authorized in the certificate, except as provided in paragraphs (c)(1), (2), and (3) of this section.

§ 520.507 How long does my certificate remain in effect?

(a) A special student-learner certificate shall be effective for a period not to exceed the length of one school year unless a longer period is found to be justified by extraordinary circumstances. These circumstances must be explained in detail at the time of application. While each such request will be considered on its own merit, it is anticipated that such authorizations would be limited to occupations requiring an extended period of specialized training;

(b) No certificate shall authorize employment training beyond the date of graduation.

(c) No special student-learner certificate may be issued retroactively.

§ 520.508 What records, in addition to those required by Part 516 of this chapter and section 520.203 of this part, must I keep when student-learners are employed?

Any worker employed as a student-learner shall be identified as such on the payroll records, with each student-learner's occupation and rate of pay being shown. Notations should be made in the employer's records when additional hours are worked by reason of school not being in session.

PARTS 521-523 [RESERVED]

PART 525—EMPLOYMENT OF WORKERS WITH DISABILITIES UNDER SPECIAL CERTIFICATES

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