

Employing Minors Toolkit



California
Employers
Association™

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Restrictions on Employing Minors

State and federal laws place multiple restrictions on the employment of minors. Restrictions consider the minor's age, the industry employing them, and the hours they can work. The restrictions also vary based on whether the minor has completed school or if they are actively attending classes. The purpose of this tool kit is to make employers aware of the protections afforded to employees who are minors.

The California Labor Code defines a minor as “any person under the age of 18 years required to attend school under the provisions of the Education Code, and any person under age six.” It is important to note that non-resident minors working in California (minors whose main residence is outside the state of California) are subject to all the same requirements and protections of the Labor Code. The Department of Industrial Relations provides a [comprehensive chart broken down by age](#).

When hiring minors, employers should be aware of the following:

- **High School Graduate/Equivalent Diploma.** Graduation from high school or an equivalent diploma *does not* excuse a minor from the age requirements and protections. Even though the California Labor Code excludes any high school graduate under the age of 18 from permit requirements, hour restrictions and occupational prohibitions, the federal regulations still restrict minors under 18 from certain prohibited occupations unless they have also completed a bona fide training course.
- **Drop Outs.** Any minor who drops out of school is still subject to all state child labor law requirements. California's Compulsory Education laws specify that a student may only drop out of school at age 18 by their own decision or between the ages of 16-17, with their parent's permission as long as they pass California's High School Proficiency exam.
- **Emancipated Minors.** Emancipated minors are still subject to the state's child labor laws. However, emancipated minors may apply for a work permit without their parents' permission.
- **Wage and Hour Requirements.** Minors are subject to the same protections as adult employees relating to all wage and hour requirements (i.e., minimum wage, days of rest, overtime pay, etc.).

Age/Industry Restrictions

When employing a minor, employers need to be aware of industry-specific regulations. As you would expect, these can vary quite a bit. For example, a minor working in the entertainment industry would be subject to a very different set of regulations than someone working in agriculture or food service because of the nature of the work and the risks associated.

In addition, federal agencies may categorize jobs or industries differently or include additional restrictions not present in their state counterpart or vice versa. In any case, where there is a difference between federal and state restrictions, employers should follow the regulation that affords the most protection to the employee.

The FLSA prohibits the employment of minors **under the age of 14**, with limited exceptions (e.g., the entertainment industry, certain agricultural firms, newspaper delivery, etc.). State law allows minors **regardless of age** to perform work such as babysitting, lawn mowing, leaf-raking or other domestic labor the law classifies

as “casual work in private homes.” Additionally, any domestic labor in which the parent/guardian is the employer and the work is performed on premises owned and controlled by the parent/guardian is not regulated as long as it is not in one of the restricted enterprises listed by the state or federal government.

More information is available in the DIR’s [comprehensive chart broken down by age](#). The age categories include:

- Minors under age 12
- 12 and 13 year olds
- 14 and 15 year olds
- 16 and 17 year olds

Employers should be aware that industry-specific restrictions build upon each other and become more restrictive the lower the age group. For example, any restrictions that apply to an employee between the ages of 16-17 would also apply to any employee who is 14-15 years old, along with some additional restrictions for that age group. Consequently, 12-13 year olds would be subject to the regulations that govern the employment of 16-17 year olds and those that apply to 14-15 year olds, along with any additional restrictions for their own age group.

Restrictions on Working Hours

State and federal laws also place restrictions on working hours for all minors. These include both restrictions on total hours worked and restrictions on what shifts or what hours of the day they can work. For the most part, these limitations depend on the age of the minor and whether school is in session. Like other regulations, the restrictions on working hours also vary by industry, so employers need to ensure they are in compliance. It is also important to be aware that a school district may limit the number of hours a minor can work to less than what is permitted by law. Any such limitation would be listed on the minor’s work permit as outlined in the next section.

In general, similar to industry restrictions described in the previous section, the regulations on working hours become more restrictive the younger the minor. For example:

- 16-17 year olds can work up to 8 hours per day, and up to 48 hours a week while school is not in session. Younger age groups can also work up to 8 hours per day, but only up to 40 hours a week.
- When school is in session, 16-17 year olds can work up to 4 hours on schooldays. 14-15 year olds can only work up to 3 hours per school day, and 12-13 year olds cannot work on schooldays.

Additional restrictions on working hours by age group can be found in the DIR’s [summary chart](#).

Exceptions to Age Restrictions

The Department of Industrial Relations has approved several exceptions to the applicable age restrictions. These exceptions address factors such as graduation from high school or completion of an equivalency

certificate, participation in work experience programs and work in certain industries. Some of the approved exceptions include:

- **High School Graduates and Permits.** Regardless of age, high school graduates or those awarded a certificate of proficiency may be employed the same hours as adults and do not require permits. (They are still subject to the industry restrictions in the previous section, as discussed above.)
- **Agriculture and Permits.** If a special permit is obtained from the Labor Commissioner, 16 and 17 year olds employed in agricultural packing plants during peak harvest season may work up to 10 hours on any day school is not in session.
- **Full Time Work – 14 and 15 Year Olds.** 14 and 15 year olds who have completed elementary school and are enrolled in an approved Work Experience program may be issued permits for full time employment if they meet certain conditions:
 - It is demonstrated that through the death and desertion of the minor's father or mother, the minor's earnings are needed and sufficient aid cannot be secured by any other means
 - The minor is unable to reside with their family and such full-time earnings are necessary for the support of the minor
 - The minor resides in foster care and, with written authorization from their social worker, probation officer or CPS worker, they wish to further the goal of a court ordered Declaration of Emancipation.In any of these cases, school officials must investigate the claimed conditions and issue a written judgement in support of issuing the work permit.
- **Daily Work and 13 Year Olds.** A 13 year old may be issued a permit to work up to 7 hours in a week if they have completed sixth grade, been identified by the school district as a potential dropout, and participates in an employment program conducted on school premises.
 - **Note:** They are still subject to the federal Fair Labor Standards Act, which prohibits the employment of minors under 14 in what the FLSA has identified as an "exempted occupation". An "exempted occupation" is one the FLSA has deemed as hazardous such as excavation, manufacturing explosions, and mining to name a few.
- **Employment Industry Exceptions.** Minors employed in the Entertainment Industry are subject to different regulations. For example, minors as young as 15 days old can work up to 20 minutes a day with the proper permits.

As with other protections for employees, when there is a difference between state and federal regulations, employers should apply the one that affords the most protection to the employee. If an employer fails to abide by the state and/or federal regulations they risk criminal charges punishable by fines or imprisonment. A full list of the exceptions is available in the [Department of Industrial Relations Child Labor Laws booklet](#).

Permits & Required Forms

Permit to Employ and Work

Generally, work permits for minors are issued by their local public school district. If school is not in session, you can obtain the permit from the superintendent of the school district or an official from the district office based on where the minor lives. If the minor attends private school, the permit must still be obtained from the minor's local public school district. In order to obtain the permit, the minor needs to take the following steps:

1. The application for a work permit is obtained from their school or directly from the Department of Education.
2. Once a potential employer is found, the minor, their parent or guardian (if applicable), and the employer will need to complete their sections on the "[Statement of Intent to Employ a Minor and Request for a Work Permit](#)" form.
3. Once the form is completed and signed by all parties, it is returned to the school or the superintendent.
4. School officials or the Superintendent can then issue the "[Permit to Employ and Work](#)."
5. The officials issuing the permit will note the number of hours that can be worked in a day or week as well as the hours during the day that the minor can work. The permit will also note any other limitations or restrictions the school imposes.
6. The permit is brought to the employer and kept on file.

The work permit must be granted *before* the minor begins working. Once the permit has been obtained and presented to the employer, it must be kept on file and retained along with any other employment and payroll records. It is recommended to retain it for at least 4 years. School officials have the option to inspect employment records to assure that any restrictions they placed on the permit are adhered to. The school district can also revoke a permit if the restrictions on hours are not being followed or if the employment is adversely affecting the minor's academic performance.

Work permits also have restrictions on how long they are valid. A permit will expire five days after the start of the next school year. To continue their employment, minors must renew their permit by completing and submitting a new "Statement of Intent to Employ a Minor and Request for a Work Permit" form to their local public school district.

Each work permit issued is exclusive to the employer listed in the application. If a minor decides to work elsewhere they must complete a new request for it and submit it to their local public school district.

The [Statement of Intent to Employ a Minor and Request for a Work Permit](#) can be obtained from the minor's school, their district office or directly from the Department of Industrial Relations.

CEA has created an [Employee Orientation Checklist For Minors](#) that outlines the steps necessary when employing and onboarding a minor which can help employers comply with applicable regulations.

Entertainment Industry Work Permit

The process for acquiring a work permit for a minor to be employed in the entertainment industry is different from the process to obtain a standard work permit. The DLSE issues the permits directly rather than being processed by the minor's school. School officials may not issue work permits for employment in the entertainment industry, even though in some cases written verification demonstrating satisfactory academic and attendance record is necessary. The DLSE permits minors beginning as young as 15 days old to be

employed in certain entertainment industries and places specific guidelines for doing so. There are four types of entertainment work permits that can be issued:

- Ten day individual temporary permits
- Six month individual permits
- Permits to employ minors
- Blanket permits

To obtain an Entertainment work permit, applicants take the following steps:

1. The [Application for Permission to work in the Entertainment Industry](#) can be obtained directly from the DLSE office or online.
2. The minor's parent or legal guardian complete all the requested information and print and sign their name.
3. If the minor is of school age, an authorized school official must complete the "School Record" portion of the application, sign and affix the school's seal or stamp.
4. If the minor is not of school age (age 15 days – kindergarten) the minor's parent or guardian must provide one of the following documents:
 - A certified copy of the minor's birth certificate
 - The minor's baptismal certificate
 - A letter from the hospital where the minor was born attesting to their date of birth
 - The minor's passport
5. The completed application with all required signatures, seals and documents must be mailed or presented in person to a DLSE office so the permit can be issued.

Applicants for entertainment work permits for minors between the ages of 14 and 17 must also complete sexual harassment prevention training before obtaining a minor's entertainment work permit.

Required Trainings

The State of California places training requirements on *employers*. These vary based on the total number of employees and industry, among other factors. When employing minors, employers are subject to *additional* training requirements.

AB 1963 Mandated Reporter Training

Assembly Bill 1963 expanded the Child Abuse and Neglect Reporting Act to encompass employers in the state of California that employ a total of five or more employees and any minors (i.e., under the age of 18). Human Resources employees authorized to receive employee complaints and any "adult whose duties require direct contact with and supervision of minors in the performance of the minors' duties in the workplace" (i.e., direct supervisors of minors) are considered *Mandated Reporters* and therefore required by law to report any suspected child abuse or neglect they learn about in the scope of their job. Failure to do so is a misdemeanor punishable by up to six months in jail, a fine or both.

Covered employers must provide training in identifying and reporting child abuse and neglect to any of their employees that meet the criteria. The training educates *Mandated Reporters* of their responsibilities, how to identify abuse, and the steps required to report it.

At the time of hire or promotion to a mandated reporter position, AB 1963 requires that you provide mandated reporters with copies of applicable penal code sections: [11165.7, 11166, and 11167](#). In addition, they must sign a [Mandated Reporter Notice](#) acknowledging that they received training and understand their responsibilities. The employer must keep a copy of the signed notice for compliance purposes. Refer to our [Mandated Reporter \(AB 1963\) Fact Sheet](#) for further guidance.

CEA offers Mandated Reporter training. Learn more [here](#).

Harassment Prevention Training for Minors

The state of California requires all employers with five or more employees to provide one hour of harassment prevention training to all non-managerial employees and two hours of training to all managerial employees every two years. Employers must provide the training to temporary or seasonal employees within 30 calendar days of hire or 100 hours worked, whichever comes first.

Employers should notify the parent or guardian of the minor employee that the training is required by the state for all employees. Additionally, the parent or guardian should be given the opportunity to attend the training with the minor. You may offer a training to the minor that is more suitable/age appropriate for them so long as it covers all of the required topics, but you are not obligated to do so.

Internship Program Requirements

Internship programs provide candidates the opportunity to gain practical knowledge in their chosen field. The same restrictions and protections for minors apply regardless of whether they are an employee or intern. For example, they must obtain a work permit from their local school district before starting work. However, when hiring a minor as an unpaid intern, a different application is used to apply for a work permit called a [Request for Volunteer/Unpaid Trainee Authorization for Minor](#). The form can be obtained from the minor's school or directly from the [California Department of Education](#).

The U.S. Department of Labor (DOL) and the California Department of Labor Standards Enforcement (DLSE) use the "primary beneficiary" test to determine whether the worker is an intern or employee. This test includes seven factors pointing to the intern being the primary beneficiary and thus, properly classified:

- The intern and employer understand there is no expectation of compensation;
- The internship provides training that is similar to an educational environment, such as hands-on experience;

- The internship is tied to the intern's formal education program, typically for academic credit or involving integrated coursework;
- The internship accommodates the intern's academic commitments by corresponding with their academic calendar;
- The internship's duration is limited and coincides with the intern's beneficial learning;
- The intern's work does not displace the work of paid employees and also provides significant educational benefits;
- The intern and the employer understand that the internship does not entitle the worker to a paid job at the conclusion of the internship.

No single factor is determinative and proper classification depends on the unique circumstances of each case.

Note that employers sometimes hire workers on a temporary basis to gain work experience. These employees are subject to the same test above to determine whether they are an employee or intern. Often, temporary workers do not satisfy the definition of "intern," and thus should be classified as "temporary" or "part-time" employees. Temporary and/or part-time employees are subject to all applicable employee regulations including wage and hour requirements (i.e., minimum wage, overtime, meal/rest breaks, etc.).

Final Note

Even though the workplace in California continues to evolve, some trends have remained consistent for several years. One of these trends continues to be the increase of the youth labor force actively looking for work between April and July each year. Employing minors provides employers with another option for meeting operational demands, while providing important job training to tomorrow's workforce.