

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?

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?

520.507 How long does my certificate remain in effect?

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?

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SOURCE: 62 FR 64959, Dec. 9, 1997, unless otherwise noted.

### Subpart A—[Reserved]

### Subpart B—What are the General Provisions Governing the Employment of Messengers, Learners (Including Student-Learners), and Apprentices at Subminimum Wages?

#### § 520.200 What is the legal authority for payment of wages lower than the minimum wage required by section 6(a) of the Fair Labor Standards Act?

Section 14(a) of the Fair Labor Standards Act provides, in order to prevent curtailment of employment opportunities, for the payment of special minimum wage rates to workers employed as messengers, learners (including student-learners), and apprentices under special certificates issued by the Department of Labor.

#### § 520.201 How are those classifications of workers which may be paid subminimum wages under section 14(a) of the Fair Labor Standards Act defined?

(a) A messenger is a worker who is primarily engaged in delivering letters and messages for a firm whose principal business is the delivery of such letters and messages.

(b) A learner is a worker who is being trained for an occupation, which is not customarily recognized as an apprenticeable trade, for which skill, dexterity and judgment must be

learned and who, when initially employed, produces little or nothing of value. Except in extraordinary circumstances, an employee cannot be considered a “learner” once he/she has acquired a total of 240 hours of job-related and/or vocational training with the same or other employer(s) or training facility(ies) during the past three years. An individual qualifying as a “learner” may only be trained in two qualifying occupations.

(c) A student-learner is a student who is at least sixteen years of age, or at least eighteen years of age if employed in an occupation which the Secretary has declared to be particularly hazardous, who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis, pursuant to a “bona fide vocational training program” as defined in subpart C of this part.

(d) An apprentice is a worker, at least sixteen years of age unless a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade through a registered apprenticeship program. Training is provided through structured on-the-job training combined with supplemental related theoretical and technical instruction. This term excludes pre-apprentices, trainees, learners, and student-learners. The terms learner and student-learner are defined in subpart C of this part. Standards governing the registration of apprenticeship programs are established and administered by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training (BAT) and are found in Regulations, 29 CFR Part 29.

(e) Additional terms used in this part are defined in subpart C of this part.

#### § 520.202 How do persons who want to apply for a particular certificate find out what is needed?

The application process, terms, conditions and requirements of certificates and other matters are discussed in subparts D and E of this part. Messengers, learners (excluding student-learners), and apprentices are discussed in subpart D of this part and student-learners in subpart E of this part.

**§ 520.203 What records does an employer have to keep when subminimum wage certificates are granted? How long do they have to be kept?**

(a) In addition to other records required under the recordkeeping requirements (part 516 of this chapter), the employer is required to keep records specific to certification under section 14(a) of the Fair Labor Standards Act. All workers employed under a subminimum wage certificate shall be designated as such on the employer's payroll records. Further recordkeeping requirements are described in each applicable subpart of this part (see §§ 520.412 and 520.508 of this part).

(b) Employers must maintain and preserve all required records for at least three years from the last date of employment under a subminimum wage program. The employer's copy of the application and the certificate shall also be maintained for three years. Such records shall be kept secure and accessible at the place of employment or where payroll records are customarily maintained. All records must be available for inspection and copying by the Administrator.

**§ 520.204 If someone does not agree with the Department of Labor's decision on a certificate, can the decision be appealed?**

(a) Any person, applicant, trade union, association, etc. who does not agree with action granting or denying a certificate (pursuant to §§ 520.406 and 520.505) may, within 60 days of that action or such additional time as the Administrator may allow, file with the Administrator a petition for review. The decision of the Administrator becomes final unless such a written request is timely filed.

(b) Such requests should contain a statement of the additional evidence which the person believes may materially affect the decision and establish that there were reasonable grounds for failure to present such evidence during the original certification process.

(c) If a request for reconsideration or review is granted, the Administrator, to the extent it is deemed appropriate, may afford other interested persons an opportunity to present data and views.

(d) The Administrator may conduct an investigation, which may include a hearing, prior to taking any action pursuant to this part.

**§ 520.205 How do these rules affect other Federal, state and local laws and collective bargaining agreements?**

No provision of this part, or of any special minimum wage certificate issued thereunder, shall excuse non-compliance with any other Federal or state law or municipal ordinance or collective bargaining agreement establishing higher standards.

### Subpart C—Definitions

**§ 520.300 Definitions.**

*Administrator* means the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, or his/her authorized representative.

*Apparel industry* means the manufacturing of the following products as referred to in subpart D of this part:

(1) Rainwear means the manufacture of waterproofed garments and raincoats from oiled cloth or other materials, whether vulcanized, rubberized, cravenetted, or otherwise processed.

(2) Leather and sheep-lined clothing means the manufacture of leather, leather-trimmed and sheeplined garments for men, women or children.

(3) Women's apparel division of the apparel industry for the manufacture of women's, misses', and juniors' dresses means the production of women's, misses' and juniors' dresses; washable service garments; blouses from woven or purchased knit fabric; women's, misses', children's and infants' underwear, nightwear and negligees from woven fabrics; corsets and other body supporting garments from any material; infants' and children's outerwear; and other garments similar to them.

(4) Robes, means the manufacture of robes from any woven material or from purchased knitted materials, including, without limitation, men's, women's and children's bath, lounging and beach robes and dressing gowns.