

Instructions for Forms WH-202

The Payment of Subminimum Wages to Full-Time Students Under Section 14(b) of the Fair Labor Standards Act

Section 14(b) of the Fair Labor Standards Act (FLSA) authorizes certain types of employers to pay subminimum wages – wages less than the Federal minimum wage – to full-time students, but only after applying for and receiving a certificate from the U. S. Department of Labor.

A full-time student, for purposes of this limited exception, is a student who receives primarily daytime instruction at the physical location of a bona fide educational institution, in accordance with the institution's accepted definition of a full-time student. A full-time student retains that status during the student's holiday recess, summer, and other vacations if local law requires attendance at the end of the vacation period. If attendance is not mandatory, full-time student status is determined by the student's intention stated to the employer. A student who has graduated from high school and informs the employer of plans to attend a college or university on a full-time basis at the end of the vacation period may be presumed to be a full-time student.

Full-time students may be employed under the subminimum wage provisions of Section 14(b) in retail or service establishments or in agriculture. An institution of higher education may also employ its full-time students at subminimum wages after making proper application. Such employment is permitted to the extent necessary in order to prevent the curtailment of opportunities for employment of full-time students.

Employers with proper certification may pay full-time students 85 percent of the applicable statutory minimum wage. The current minimum wage is \$5.15 per hour, therefore, full-time students employed under Section 14(b) must receive at least \$4.38 per hour. There are restrictions of the number of hours that an individual full-time student may be employed at subminimum wages.

There are three different kinds of applications that may be used to apply for authority to pay full-time students subminimum wages under Section 14(b):

WH-202 Designed to be used by Retail or Service Establishments or Agricultural employers to request authority to employ 6 OR FEWER full-time students at subminimum wages. Employers need to submit only one application to cover all establishments, but may not employ more than 6 full-time students at subminimum wages on any one work day throughout the entire enterprise.

Completed applications should be forwarded to:

U. S. Department of Labor
Employment Standards Administration
Wage and Hour Division
attn: FTS certification
525 Griffin Street. Room 800
Dallas, Texas 75202
Tele: (972)850-2600
Telefax: (972) 850-2601

Application for Authority to Employ Six or Fewer Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture Under Regulations 29 CFR Part 519

U. S. Department of Labor
 Employment Standards Administration
 Wage and Hour Division
 525 South Griffin Street, Room 800
 Dallas, Texas 75202



Note: Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. | OMB No.: 1215-0032 | Expires: 10/31/2005

This is an application for retail or service establishments or agricultural employers to obtain authority to employ up to six full-time students at subminimum wage rates on any workday under Section 14(b) of the Fair Labor Standards Act (FLSA). The subminimum rates paid full-time students under Section 14(b) may not be less than 85 percent of the applicable minimum wage under Section 6 of the FLSA. The term "employer" as used by this application means the highest structure of ownership or control and hence, may be more than one establishment or farm, i.e., the controlling conglomerate or enterprise would be the "employer." Thus, the limit of six full-time students applies to the "employer" and not to each establishment or farm in the enterprise or business. Those seeking to employ more than six full-time students at subminimum wages throughout a single enterprise or business should complete and submit WH Form 200 (Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture). Temporary authority to employ full-time students at subminimum wages is effective when this form is properly completed and forwarded to the address listed above. This temporary authority may be effective for a period of up to one year, provided that within 30 days of the forwarding, the Administrator of the Wage and Hour Division does not deny the application, issue a certificate with modified terms or conditions, or expressly extend the 30-day period of review. See reverse for more information about temporary authority. Please submit one copy of the completed form to the address shown above. Retain a completed copy for your records. A certificate may not be granted unless a properly completed application has been received and approved.

1. This is (check one):

Initial Application

Renewal Application (complete following):

Current Certificate Number: _____

Certificate Expiration Date: ____/____/____

Total number of full-time students paid subminimum wages during the most recent 12 months: _____

2. Name of Employer: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: () _____

Will you employ full-time students at the above location at subminimum wages? Yes No

Mailing Address (if different than street address): _____

City: _____ State: _____ Zip: _____

Federal Employer

Identification Number (EIN): _____

FOR USDOL USE ONLY

Pending	Denied	Issued	Issue/W Pending
Withdrawn	Revoked		
Postmark Date: ____/____/____		RO _____	DO _____
Print Cert. _____		New Cert No. _____	
Effective ____/____/____		Expiration ____/____/____	
Remarks: _____			

4. If full-time students will be employed at subminimum wages at establishments other than that listed in block 2, provide the names and addresses of those establishments:

1. _____
2. _____
3. _____
4. _____
5. _____

3. Type of establishment(s) where full-time students will be employed at subminimum wages (check all that apply) and provide names and addresses of each establishment in block 4):

- | | | | |
|---|-------------------------|---|----------------------|
| Grocery Store | Full Service Restaurant | Convenience Store | Fast Food Restaurant |
| Clothing/Shoe Store | Hotel/Motel | Movie/Theater | General Merchandise |
| Hospital/Nursing Home | | Other Retail/Service, Specify Type: _____ | |
| Agriculture, Specify Crop/Product _____ | | | |

5. Representations, certification and signature:

I certify, as set forth in Regulations, 29 CFR Part 519, Subpart B, that the employment of not more than six full-time students on any workday will not reduce the full-time employment opportunities of other workers.

6. Authorized representative (print or type)

7. Signature of authorized representative:

8. Title (print or type)

9. Date application forwarded to USDOL:

Public Burden Statement

This collection of information is estimated to vary from 15 to 30 minutes per response with an average of 23 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the U. S. Department of Labor, Wage and Hour Division, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C., 20210 (do not send the completed application to this address).

TEMPORARY NOTICE TO EMPLOYEES

THE EMPLOYER NAMED BELOW HAS FILED AN APPLICATION WITH THE WAGE AND HOUR DIVISION FOR AUTHORITY TO EMPLOY UP TO SIX FULL-TIME STUDENTS ON ANY WORKDAY AT THE ESTABLISHMENT(S) LISTED AT A WAGE RATE NOT LESS THAN 85% OF THE STATUTORY MINIMUM ESTABLISHED UNDER SECTION 6 OF THE FAIR LABOR STANDARDS ACT (THE FEDERAL WAGE AND HOUR LAW). THIS AUTHORITY IS EFFECTIVE FROM THE DATE THE APPLICATION IS MAILED (POSTMARKED) TO THE DIVISION AND MAY REMAIN IN EFFECT FOR A PERIOD OF ONE YEAR.

Name of Employer: _____

Name and Address of Establishment(s) Where Full-Time Students May Be Employed At Subminimum Wages Under This Temporary Notice:

- | | |
|----------------------------|----------------------------|
| 1. _____

_____ | 4. _____

_____ |
| 2. _____

_____ | 5. _____

_____ |
| 3. _____

_____ | 6. _____

_____ |

Date application was mailed to the Division: ____/____/____

Full-time students may be employed under the terms of this authority only outside of their scheduled hours of instruction and for not more than 8 hours a day or more than 20 hours a week when school is in session all week or more than 40 hours a week during the student's vacation. Full-time students must be employed in compliance with local ordinances, State laws, and other Federal laws, including child labor provisions. There is no authority to pay subminimum wages to full-time students for work under the Walsh-Healey Public Contracts Act or the Service Contract Act. This temporary authority may only be issued if the follow conditions are met (29 CFR Part 519.5):

- a. The granting of the authority requested is necessary to prevent curtailment of opportunities for employment;
- b. The employment of full-time students at subminimum wages will not create a substantial probability of reducing the full-time employment opportunities of other persons;
- c. Full-time students are available for employment at subminimum wages;
- d. Abnormal labor conditions, such as a strike or lockout, do not exist in the establishment(s) for which authority is sought;
- e. There are no serious outstanding violations of the provisions of the previous authority to employ full-time students nor of other provisions of the Fair Labor Standards Act;
- f. The granting of the authority will not result in a reduction of a wage rate paid to a current employee, including student employees.

Any interested person may send data or views concerning the application to the Wage and Hour Division, 525 South Griffin Street, Room 800, Dallas, Texas, 75202.

TO THE EMPLOYER: It is required that you complete this notice and post it in a conspicuous place at each establishment where full-time students will be employed from the date the application is mailed to the Division and that it remain posted during the effective period of the temporary authority.