

requirements customarily include education of college level).

*Standards of apprenticeship* means the apprenticeship program is an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in the apprenticeable occupation, which meets the requirements established by BAT, and is subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

*State* means any state of the United States or the District of Columbia or any territory or possession of the United States.

*Student-learner* means 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 by an establishment on a part-time basis, pursuant to a bona fide vocational training program.

*Subminimum wage* means the rates which may be paid under temporary authorization or under certificate as provided by section 14(a) of FLSA and this part.

*Vocational Training Program*. See "Bona fide vocational training program".

*Wage and Hour Division* means the Wage and Hour Division, Employment Standards Administration, United States Department of Labor.

### Subpart D—Messengers, Learners (Excluding Student-Learners), and Apprentices

#### § 520.400 Who are messengers, learners, and apprentices?

The terms messenger, learner, and apprentice are defined in subpart C of this part.

#### § 520.401 Are there any industries, occupations, etc. that do not qualify for a certificate to employ messengers, learners, or apprentices at subminimum wages?

(a) Certificates to employ messengers at subminimum wages are available to only those establishments engaged in

the business of providing messenger service, i.e., the delivery of letters and messages. Requests for such certificates are uniformly denied to applicants whose principal business purpose is not the delivery of messages and letters.

(b) All applications for special certificates authorizing the employment of learners at subminimum wage rates in the manufacture of products in the following industries shall be denied (definitions for all listed activities can be found in subpart C of this part):

(1) In the apparel industry:

(i) Rainwear

(ii) Leather and sheep-lined clothing

(iii) Women's apparel division of the apparel industry for the manufacture of women's misses', and juniors' dresses;

(iv) Robes

(2) Shoe manufacturing industry

(3) Men's and boys' clothing industry.

(c) No certificates will be granted authorizing the employment of learners at subminimum wage rates as homeworkers; in maintenance occupations such as guard, porter, or custodian; in office and clerical occupations in any industry; or in operations of a temporary or sporadic nature.

(d) Authorization to employ apprentices at subminimum wages will only be granted if permitted by the BAT regulations (29 CFR Part 29).

#### § 520.402 How do I obtain authority to employ messengers, learners, or apprentices at subminimum wages?

(a) Employers wishing to employ messengers, learners, or apprentices as defined in subpart C of this part at subminimum wages must apply for authority to do so from the Administrator at the Wage and Hour Division's Regional Office having administrative jurisdiction over the geographic area in which the employment is to take place. To obtain the address of the Regional Office which services your geographic area, please contact your local Wage and Hour Office (under "Department of Labor" in the blue pages of your local telephone book).

(b) In the case of messengers, such application may be filed by an employer or group of employers. Preferential consideration will be given to

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applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof.

**§ 520.403 What information is required when applying for authority to pay less than the minimum wage?**

(a) A separate application must be made for each plant or establishment requesting authorization for employment of messengers and/or learners at subminimum wages, on the official form furnished by the Wage and Hour Division, containing all information required by the form including:

(1) Information concerning efforts made by the applicant to obtain experienced workers in occupation(s) for which learners are requested;

(2) The occupations/industry in which the messenger(s) and/or learner(s) are to be employed;

(3) A statement explaining why employment of messenger(s) and/or learners(s) at subminimum wages is needed to prevent curtailment of employment opportunities;

(4) The number of messengers and/or learners the applicant anticipates employing at subminimum wages under special certificate;

(5) If requesting authorization for the employment of learners at subminimum wages for a learning period greater than 240 hours, information pertinent to the extraordinary circumstances necessitating such a request. 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;

(6) The number of messengers and/or learners hired at subminimum wages during the twelve-month period prior to making application;

(7) Total number of nonsupervisory workers in the particular plant or establishment for which a certificate is requested;

(8) The number of experienced workers in the learner occupations and their straight-time average hourly earnings during the last payroll period and the corresponding payroll period in the prior year; and

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(9) The type of equipment to be used by learners.

(b) For apprentices, the employer or apprenticeship committee must submit a copy of the registered apprenticeship program.

(c) Any applicant may also submit such additional information as may be pertinent. Applications which fail to provide the information required by the form may be returned to the applicant with a notation of deficiencies and without prejudice against submission of a new or revised application.

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

**§ 520.404 What must I demonstrate in my application for a messenger, learner, or apprentice certificate to receive a favorable review?**

(a) The application must demonstrate that a certificate is necessary in order to prevent the curtailment of opportunities for employment.

(b) The issuance of a messenger and/or learner certificate must not tend to create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage rates or working standards of experienced workers performing work of a like or comparable character in the industry.

(c) Abnormal labor conditions such as a strike, lock-out, or other similar condition, must not exist at the plant or establishment for which a messenger and/or learner certificate is requested.

(d) It must be shown that an adequate supply of qualified experienced workers is not available for employment in those occupations for which authorization to pay subminimum wages to learners has been requested; that the experienced workers presently employed in the plant or establishment in occupations in which learners are requested are afforded an opportunity, to the fullest extent possible, for full-time employment upon completion of the learning period; and that learners are available for employment.

(e) Reasonable efforts must have been made to recruit workers paid at least the minimum wage in those occupations in which certificates to employ learners at subminimum wages have