

§ 520.408

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

(a) All learner certificates shall specify:

(1) The subminimum wage rate of not less than 95 percent of the applicable minimum wage required by section 6(a) of the FLSA;

(2) The number or proportion of learners authorized to be employed on any one day;

(3) The occupations in which learners may be employed;

(4) The authorized learning period of not more than 240 hours, except in extraordinary situations as discussed in § 520.403; and

(5) The effective and expiration dates of the certificate.

(b) Learners properly hired prior to the date on which a learner certificate expires may be continued in employment at subminimum wage rates for the duration of their authorized learning period under the terms of the certificate, even though the certificate may expire before the learning period is completed.

(c) The employer shall post a copy of the learner certificate during its effective period and thereafter until all authorized learners have completed their learning period(s). The certificate shall be posted in a conspicuous place in each department of the plant where learners are to be employed.

(d) No learners shall be hired under a learner certificate if, at the time the employment begins, experienced workers capable of equaling the performance of a worker of minimum acceptable skill are available for employment. Before hiring learners during the effective period of the certificate, the employer shall place an order for experienced workers with the local State or Territorial Public Employment Service Office (except in possessions where there is no such office) or have such an active order on file. Written evidence that an order has been placed or is on active file shall be maintained in the employer's records.

(e) No learner shall be hired under a learner certificate while abnormal labor conditions such as a strike, lock-

out, or other similar condition exist in the plant or establishment.

(f) For each individual learner, the number of hours of previous employment and hours of vocational or similar facility(ies) training must be deducted from the authorized learning period if within the past three years the learner has been employed or received vocational training in a given occupation and industry.

(g) If experienced workers are paid on a piece rate basis, learners shall be paid at least the same piece rates as experienced workers employed on similar work in the plant and shall receive earnings based on such piece rates whenever such earnings exceed the subminimum wage rates permitted in the certificate.

§ 520.409 When will authority to pay apprentices special minimum wages become effective and what is the special minimum wage rate?

(a) An apprenticeship program which has been registered with a recognized apprenticeship agency shall constitute a temporary special certificate authorizing the employment of an apprentice at the wages and under the conditions specified in such program until a special certificate is issued or denied. This temporary authorization is, however, conditioned on the requirement that within 90 days from the beginning date of employment of the apprentice, the employer or the apprenticeship committee shall send one copy of each apprenticeship agreement, with evidence of registration, to the appropriate Regional Office of the Wage and Hour Division.

(b) The wage rate specified by the apprenticeship program becomes the special minimum wage rate that must be paid unless the Administrator issues a certificate modifying the terms and conditions of employment of apprentices at special minimum wages.

§ 520.410 How long does a messenger, learner, or apprentice certificate remain in effect?

(a) Messenger and/or learner certificates may be issued for a period of not longer than one year.

(b) Each special apprentice certificate shall specify the conditions and limitations under which it is granted,

including the periods of time during which subminimum wage rates may be paid pursuant to a registered apprenticeship program.

(c) No certificate may be issued retroactively.

(d) The Administrator may amend the provisions of a certificate when necessary to correct omissions or defects in the original certificate or reflect changes in this part.

§ 520.411 Does a certificate authorizing payment of subminimum wages to messengers and/or learners remain in effect during the renewal process?

(a) Application for renewal of a messenger and/or learner certificate shall be made on the same form as described in this section and employees shall be advised of such renewal application in the same manner as explained in § 520.405. No effective messenger and/or learner certificate shall expire until action on an application for renewal shall have been finally determined, provided that such application has been properly executed in accordance with the requirements, and filed with and received by the Administrator not less than fifteen nor more than thirty days prior to the expiration date. A final determination means either the granting of or initial denial of the application for renewal of a messenger and/or learner certificate, or withdrawal of the application. A "properly executed application" is one which contains the complete information required on the form, and the required certification by the applicant.

(b) A renewal certificate will not be issued unless there is a clear showing that the conditions set forth in section 520.404 of this part still prevail.

§ 520.412 What records, in addition to those required by Part 516 of this chapter and section 520.203 of this part, must I keep relating to the employment of messengers, learners, or apprentices under special certificate?

(a) Each worker employed as a messenger, learner, or apprentice under a certificate shall be designated as such on the employer's payroll records. All such messengers, learners, or apprentices shall be listed together as a sepa-

rate group on the payroll records, with each messenger's, learner's, or apprentice's occupation being shown.

(b) At the time learners are hired, the employer shall also obtain and keep in his/her records a statement signed by each employee showing all applicable experience which the learner had in the employer's industry, including vocational training, during the preceding three years. The statement shall contain the dates of such previous employment, names and addresses of employers, the occupation or occupations in which the learner was engaged and the types of products upon which the learner worked. The statement shall also contain information concerning pertinent training in vocational training schools or similar training facilities, including the dates of such training and the identity of the vocational school or training facility. If the learner has had no applicable experience or pertinent training, a statement to that effect signed by the learner shall likewise be kept in the employer's records.

(c) The employer shall maintain a file of all evidence and records, including any correspondence, pertaining to the filing or cancellation of job orders placed with the local State or Territorial Public Employment Service Office pertaining to job orders for occupations to be performed by learners.

(d) Every employer who employs apprentices under temporary or special certificates shall preserve for three years from the last effective date of the certificate copies of the apprenticeship program, apprenticeship agreement and special certificate under which such an apprentice is employed.

(e) Every apprenticeship committee which holds a certificate under this part shall keep the following records for each apprentice under its control and supervision:

(1) The apprenticeship program, apprenticeship agreement and special certificate under which the apprentice is employed by an employer;

(2) The cumulative amount of work experience gained by the apprentice, in order to establish the proper wage at the time of his/her assignment to an employer; and