

Federal Student-Learners at Subminimum Wage

The Fair Labor Standards Act authorizes payment of a subminimum wage rate that is no less than 75% of federal minimum wage, which would be \$5.43, to a student learner after the employer applies for an authorizing certificate from the US Department of Labor. The application (WH-205) must be signed by the employer, the appropriate school official and the student-learner. A separate application must be submitted for each student-learner. The employer can pay the subminimum wage immediately upon submitting the application. After 30 days, the application becomes the permanent student-learner certificate unless, after review, the Department denies it, issues a certificate with modified terms, or extends the period of review.

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 of Labor has declared to be particularly hazardous), who is receiving instruction in any 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.

The regulations addressing the application process and employment of student-learners at subminimum wages are contained in 29 CFR Part 520.

Federal Youth Minimum Wage

A minimum wage of not less than \$4.25 may be paid to employees under the age of 20 for their first 90 consecutive calendar days (not work days) of employment with any employer as long as their work does not displace other workers. After 90 consecutive days of employment, or when the worker reaches age 20 (whichever comes first), the worker must receive at least the full federal minimum wage. A state or local minimum wage law may prohibit an employer from paying the lower federal youth wage.

Oregon Student-Learner Special Wage

ORS 653.070 and OAR 839-020-0015 establish the requirements for paying a student learner a subminimum wage of no less than 75% of the applicable minimum wage. The employer must submit an application to BOLI signed by the employer, prospective employee and legal guardian of employee. The Labor Commissioner can grant, on a case-by-case basis, an application only after determining that numerous conditions are satisfied. One such condition is that the minimum wage would substantially curtail the prospective employee's opportunities for employment. Another condition is that employing a student learner may not have the effect of displacing a worker employed in the establishment. The employee may not spend more than 8 hours a day or 40 hours a week on a combination of school instruction and employment.