

**EMPLOYMENT ASSISTANCE
ISSUANCE PY 02-09**

Ed Rolle, Director

June 24, 2003

TO: Local Workforce Investment Areas, Arkansas Workforce Centers and Service Providers

SUBJECT: Child Labor Laws, Work Permits and the Hatch Act

1. **Purpose:** To provide general guidance and information regarding the administration of the Workforce Investment Act (WIA) Youth Programs.
2. **General Information:** During the Program Year 2002 Summer Youth Program, our office, as well as the Arkansas Department of Labor (ADOL) office, received telephone calls from participants voicing complaints and/or asking questions about child labor laws and requirements, relative to work hours, working conditions, work requirements, etc. The Arkansas Department of Labor also received a number of requests for Child Labor Work Permits, days or weeks after some youth had started working.

As a result of our reviews and investigations of those complaints and questions, and specifically the lateness in requesting Work Permits, we find it necessary to provide guidance and reiterate the requirements of the Arkansas and Federal Child Labor Laws.

Also, we have received some questions regarding the Hatch Act and how it relates to the Workforce Investment Act (WIA). Please be advised that the WIA does not specifically refer to the Hatch Act, as with a number of other Federal, State or local laws and requirements. However, the Act at §195(6) provides guidance that WIA funds must not be spent on political activities. Also, the WIA Regulations at §667.264 provides a list of activities that are prohibited under Title I of WIA. Reference specifically §667.264(a)(3).

In accordance with previously issued policies and procedures, we reemphasize that summer programs should provide meaningful work experience that compliments and integrates the learning that takes place in the classroom. DOL also strongly recommends that all participants, including 14 and 15-year olds, spend considerable time on an actual job.

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All Local Workforce Investment Areas should ensure that worksites introduce and/or reinforce the rigors, demands, rewards and sanctions associated with holding a job. You should be reminded that working with local business leaders utilizing the Work Opportunity Tax Credit (WOTC) program (a federal income tax incentive encouraging private-information might be helpful in planning summer youth programs activities).

Regarding the Issuance of Child Labor Permits: Minors placed through grantees remain the employees of the grantee, due to the nature of the operation of such organizations. Therefore, ADOL will not issue Child Labor permits until complete arrangements have been made for the child to be placed with a particular employer through the organization.

When a Local Workforce Investment Area (LWIA) submits a Child Labor application to the ADOL, the application must include the name, address, and type of business of the job site where the child is placed. ADOL must have this information in order to properly discharge its statutory obligations to insure the safety of children under the age of sixteen in the workplace.

Please be reminded of the following:

- a. **Performance Evaluation:** Participants should not be terminated from the WIA summer activities, unless they are not expected to return to the program for further employment, training and/or services funded (or provided for) under that title.
- b. **Employment Certificates:** Arkansas Child Labor Laws, Section 2.200 and 2.202, require that Employment Certificates be obtained for 14- and 15-year old individuals prior to the date employment begins. They must not be employed until the employer has received a copy of the employment certificate. The employer must maintain the certificate on record as long as the child is employed and for a period of three years after the employment terminates.
- c. **Elected Official:** You are cautioned relative to the requirements regarding participants being employed or out stationed in the offices of any elected officials. Each Local Workforce Investment Area should monitor work activities and maintain, in the participant's file, record of:
 - 1) A list the job duties (don't just state the job title such as a secretary) to show that they are not involved in political or campaign work, do not use the phrase – other duties as required or assigned or appropriate duties, in the job description

- 2) Assurance that the participant will not be involved in any political activity
 - 3) Pertinent information about the worksite
 - 4) Participant job descriptions.
- d. **Time Sheets:** The Arkansas Child Labor Laws, Section 2.600, require that employers of individuals under age eighteen maintain records that contain the hours worked each workday, including starting and ending time, and total hours worked each workweek. (Time sheets are a method for collecting this information. **NOTE:** Time sheets should not be completed or signed in advance.)
- e. **Seat Belts:** State law requires the use of seat belts. Be sure to remind supervisors that seat belts must be worn when in the passenger's compartment of a moving vehicle.
- f. **Health and Safety:** Federal Child Labor Laws require that youth not be permitted to work under conditions which are hazardous or dangerous to their health or safety. In fact, it prohibits Subrecipients from assigning participants to work for employers who do not comply with applicable labor laws, including wage and hour, occupational health and safety, and child labor laws.

Youth may not ride in the back of a truck with the goods that are being transported since this is considered hazardous or dangerous to their health. If goods and youth are transported in the same truck, the youth must be inside of the cab. Although according to the DOL Wage and Hour Unit the transportation of youth in the back of a pickup truck is not a violation of child labor laws in itself, we discourage the transportation of youth in this manner due to the potential for injury to the participant(s) in the event of even minor mishaps.

Other conditions, which are considered hazardous or dangerous, includes situations where participants are mowing, spraying poisonous acids, gasses or other chemicals, or weed eating without eye protection. Riding in moving vehicles without using seat belts and the use of riding or power push mowers with defective safety switches are also considered hazardous and dangerous. Transportation of participants in the rear of vans not equipped with seat belts or with goods is also considered hazardous and dangerous.

- g. **Sling/Grass Blades:** Youth under age sixteen are prohibited from using sling blades/ grass blades.

- h. **Loading Goods:** According to the Federal Child Labor Laws (Child Labor Bulletin 101, page 3) and the Arkansas Child Labor Laws, Section 2.300 (b), youth under age 16 are prohibited from loading goods to and from motor vehicles or anything that is attached to a motor vehicle such as a trailer.
- i. **Use of Chemicals:** The Arkansas Child Labor Laws, Section 11-6-106, prohibit individuals under age 16 from using poisonous acids, gasses or other chemicals. This includes using these substances to spray weeds.
- j. **Painting (14- and 15-year-old youth):** Painting is considered a construction trade and is prohibited for youth less than 16 years of age by both Federal requirements (USDOL booklet WH-1330, Child Labor Bulletin No. 101, page 2) and State Child Labor Laws, Section 2.300. They may not paint any equipment, including playground equipment, if it is fixed and cannot be moved.
- k. **Outside Helper:** Federal requirements prohibit the occupation of outside helper, defined as any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.
- l. **Education/Skills Training:** Reference the Act at Section 129 for a list of the required activities. The training must be documented.
- m. **YOU Program Monitoring:** LWIAs must conduct on-site monitoring of all contracts with universities participating in the YOU program.
- n. **Ladders and Scaffolding:** Arkansas Child Labor Laws, Section 2.301(b)(4) prohibit individuals under the age of 16 from using ladders, scaffolds, or their substitutes.
- o. **Special Situations:** Special effort should be made to ensure that participants at law enforcement facilities are not placed in a position that violates Section 2.300 (b) (6) of the Arkansas Child Labor Laws (14- and 15-year-old youth) or Hazardous Order Number 1 of Child Labor Bulletin No. 101 contained in USDOL Booklet WH-1330, regarding explosives.
- p. **Job Descriptions:** A copy of the job description should be placed in the participant files. The original should be at the worksite for ready reference by both the participant and supervisor. Job descriptions for participants involved in work experience are important since they list the parameters for the worksite supervisor to follow.

If written clearly, they can prevent inadvertent safety and child labor law violations. For example, do not just state the job title as □secretary,□ but list the duties which the participant will be expected to perform. Job descriptions must not contain such general catchall phrases as other duties as required, other duties as assigned, as determined by the supervisor, but are not limited to or other appropriate duties.

- q. **Employment Goal:** 20 CFR 664.405(2) requires that a career goal be included on the ISS.

- 3. **Action Required:** All LWIAs will be expected to monitor 100% of the summer program worksites and participants during the period in which the summer program is operating, preferably monitoring heavily on the front end to detect and correct problems early. Provide the state with a report of monitoring activities by August 31. The State will conduct summer monitoring visits in the following areas: Northeast, City of Little Rock and Central.

- 4. **Inquiries:** Contact your Workforce Development Specialist.

- 5. **Expiration Date:** Continuing.