

CHECKLIST | COMPLYING WITH THE FLSA'S CHILD LABOR REQUIREMENTS



The Fair Labor Standards Act (FLSA) establishes standards for employing individuals younger than 18 years old. Under this law, covered employers must comply with certain restrictions, including the minimum employment age, permissible work activities and limitations on work hours. The FLSA also sets the minimum wage for employment and subminimum wage standards for certain employees who are younger than 20 years of age, full-time students, student learners, apprentices and workers with disabilities.

The U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) administers and enforces the FLSA's child labor regulations. Employers that violate the law's child labor provisions may be subject to civil monetary penalties, injunctions and criminal action in federal court, including fines and imprisonment. In addition to the FLSA, states can implement their own laws governing the employment of minors. When both federal and state regulations apply to youth workers, the law with stricter standards must be followed.

This checklist outlines key steps for complying with the FLSA's child labor requirements for nonagricultural jobs. Different standards apply to farm work. Since complying with the FLSA can be complex, this checklist should be used as a guide, and the steps in this list should be modified to meet the unique needs of each organization. Because many states and localities may have their own child labor requirements employers must comply with, employers are encouraged to seek legal counsel to address specific issues and concerns.

Covered Employers

Is your company subject to the FLSA?	Yes	No
<p>Select "Yes" if your company meets the criteria for "enterprise" coverage:</p> <p>Enterprise coverage applies to employees who work for certain organizations (or "enterprises"). Your company is considered a covered employer under enterprise coverage if you employ at least two employees and:</p> <ul style="list-style-type: none">• Have an annual dollar volume of sales or business done of at least \$500,000; <p>OR</p> <ul style="list-style-type: none">• Are a hospital, a business providing medical or nursing care for residents, a school and preschool, or a government agency. <p><i>If you answered "No," go to individual coverage.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Is your company subject to the FLSA?	Yes	No
<p>Select "Yes" if your company meets the criteria for "individual" coverage:</p> <p>Individual coverage applies to employees who are involved in interstate commerce, the production of goods for interstate commerce, or any closely related process or occupation directly essential to such production.</p> <p>Examples include employees who work in communications or transportation; regularly use mail, telephones or telegraph for interstate communication; keep records of interstate transactions; handle, ship or receive goods moving in interstate commerce; regularly cross state lines in the course of employment; work for independent employers who contract to do clerical, custodial, maintenance or other work for firms engaged in interstate commerce or the production of goods for interstate commerce.</p> <p><i>If you answered "No," you can stop here. However, be sure to check any state and local child labor laws that may apply to your company.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Important Information</p> <p>Domestic service workers, such as day workers, housekeepers, chauffeurs, cooks or full-time babysitters, are covered by the FLSA if:</p> <ul style="list-style-type: none"> • Their cash wages for one employer in the calendar year 2010 are at least \$1,700 (this calendar year threshold is adjusted by the Social Security Administration each year); <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • They work a total of more than eight hours per week for one or more employers. 		

The FLSA's Child Labor Requirements

The FLSA's child labor provisions help to ensure that when minors work, the work is safe and does not jeopardize their health, well-being or educational opportunities. However, federal youth employment regulations **do not**:

- Require minors to obtain "working papers" or "work permits";
- Restrict the number of hours or times of day that workers 16 years of age and older may be employed;
- Apply where no FLSA employment relationship exists;
- Regulate or require such things as breaks, meal periods or fringe benefits; and
- Regulate issues such as discrimination, harassment, verbal or physical abuse, or morality.

Employment of Minors Under 14 Years Old

The FLSA sets the minimum age of employment in nonagricultural occupations at 14 years old. While minors under 14 years of age may not be employed in nonagricultural occupations covered by the FLSA, they may be employed in work that is exempt under the FLSA. Minors who are under 14 years old may also perform work that is not covered by the FLSA, including completing minor chores around private homes or casual babysitting.

Is the employee under 14 years of age?	Yes	No
<p>Does the employee perform work that is exempt or not covered under the FLSA?</p> <p>In general, youth workers who are under the age of 14 are limited in what types of jobs they can do. Minors who are under 14 years of age are only permitted to do the following jobs:</p> <ul style="list-style-type: none"> • Delivering newspapers to customers; • Babysitting on a casual basis; • Working as an actor or performer in movies, television, radio or theater; • Working as a homemaker gathering evergreens and making evergreen wreaths; and • Working for a business owned entirely by the minor's parents as long as the minor is not employed in mining, manufacturing or occupations deemed to be hazardous by the U.S. secretary of labor. <p>There are different rules in place for minors in this age group who work in agriculture. States may also have specific rules for youth workers under 14 years old, and employers must follow both federal and state regulations.</p>	<input type="checkbox"/>	<input type="checkbox"/>

Employment of Minors Ages 14 and 15

Youth workers who are 14 and 15 years old are limited in the kinds of jobs they can perform in nonagricultural work and what hours they may work.

Is the employee between 14 and 15 years old? <i>Employers should answer all of the following questions.</i>	Yes	No
<p>Does the employee work in a permitted occupation?</p> <p>The FLSA limits the occupations minors ages 14 and 15 can work. These minors may work outside school hours in a variety of nonmanufacturing and nonhazardous jobs for limited periods of time and under specified conditions. However, if an occupation is not specifically permitted under the FLSA, it is prohibited for youths ages 14 and 15. Minors who are 14 or 15 can work the following occupations:</p>	<input type="checkbox"/>	<input type="checkbox"/>

- Office and clerical work;
- Intellectual or artistically creative work in a recognized artistic or creative field, such as computer programming, writing software, teaching or tutoring, peer counseling or serving as a teacher's assistant, singing, playing an instrument and drawing;
- Cooking with electric grills, gas grills and deep fryers that automatically raise and lower baskets, except where the cooking involves using an open flame, rotisseries, broilers, pressurized equipment or cooking devices that operate at extremely high temperatures;
- Cashiering, selling, modeling, creating artwork, working in advertising departments, window trimming and comparative shopping;
- Price marking and tagging, assembling orders, packing and shelving;
- Bagging and carrying out customer orders;
- Errand and delivery work by foot, bicycle and public transportation;
- Cleanup work, including the use of vacuum cleaners and floor waxers but not power-driven mowers, cutters, trimmers, edgers or similar equipment;
- Kitchen work and other work involved in preparing and serving food and beverages, including operating machines and devices used in performing such work;
- Cleaning kitchen equipment;
- Cleaning vegetables and fruits and wrapping, sealing, labeling, weighing, pricing and stocking of items, including vegetables, fruits and meats, when performed in areas separate from a freezer or meat cooler.
- Loading onto and unloading from motor vehicles light, nonpower-driven, hand tools and personal protective equipment;
- Lifeguarding at traditional swimming pools and water amusement parks (15-year-olds but not 14-year-olds);
- Performing limited tasks in sawmills and woodshops for 14- and 15-year-olds who meet certain requirements;
- Working in connection with cars and trucks if confined to dispensing gasoline and oil; performing courtesy service on premises of gasoline service stations; and car cleaning, washing and polishing by hand; and
- Working in connection with riding inside passenger compartments of motor vehicles unless otherwise prohibited under the FLSA.

For more information about nonagricultural work that is hazardous for minors 14 and 15 years of age, employers can review the WHD's [fact sheet](#) for nonagricultural occupations.

Does the employee work outside of school hours?

Minors ages 14 and 15 can only work outside of school hours.

<p>Does the employee work schedule meet the times of day and number of hour restrictions? Minors ages 14 and 15 may not work:</p> <ul style="list-style-type: none"> • More than three hours on a school day, including Fridays; • More than 18 hours per week when school is in session; • More than eight hours per day when school is not in session; • More than 40 hours per week when school is not in session; and • Before 7 a.m. or after 7 p.m. on any day, except from June 1 through Labor Day, when nighttime work hours are extended to 9 p.m. <p>A “school day” or “school week” is any day or week when the public school where the minor lives while employed is in session.</p> <p><i>There are some exceptions to the FLSA’s hour standards for 14- and 15-year-olds if they have graduated from high school, are excused from compulsory school attendance, or are enrolled in an approved work experience or career exploration program or work-study program.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Is the employee paid the proper wage? Covered 14- and 15-year-olds must be paid at least the federal statutory minimum wage of \$7.25 for all hours worked, except under certain circumstances. Employers can pay minors a wage based on an hourly rate, piece rate, day rate, salary or any combination as long as the minor’s hourly earnings average at least the applicable minimum wage.</p> <p>Minors 14 and 15 years olds may be paid \$4.25 per hour during their first consecutive 90 calendar days of working for any employer.</p> <p><i>Certain full-time students, student learners, apprentices and workers with disabilities may be paid less than the federal minimum wage under special certificates issued by the DOL.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Employment of Minors Ages 16 and 17

Minors who are 16 and 17 years old can be employed for unlimited hours in any occupation other than those declared hazardous by the U.S. secretary of labor.

<p>Is the employee between 16 and 17 years old? <i>Employers should answer all of the following questions.</i></p>	Yes	No
<p>Does the employee work in a nonhazardous occupation? The FLSA limits the occupations minors ages 16 and 17 can work. These minors may be employed for unlimited hours in any occupation other than one declared to be hazardous by the U.S. secretary of labor. Minors who are 16 or 17 may not work in the following types of work:</p>	<input type="checkbox"/>	<input type="checkbox"/>

<ul style="list-style-type: none"> • Manufacturing and storing explosives; • Motor-vehicle driving and outside helper of a motor vehicle; • Coal mining; • Most occupations in forest firefighting, forest fire prevention, timber tract operations, forestry service, logging and sawmilling; • *Power-driven woodworking machines; • Exposure to radioactive substances and ionizing radiation; • Power-driven hoisting apparatus, including forklifts; • *Power-driven metal-forming, punching and shearing machines; • Mining, other than coal mining; • *Operating power-driven meat processing equipment, including meat slicers and other food slicers; • Power-driven bakery machines, including vertical dough or batter mixers; • *Power-driven balers, compactors and paper processing machines; • Manufacturing bricks, tiles and kindred products; • *Power-driven circular saws, bandsaws, chain saws, guillotine shears, wood chippers and abrasive cutting discs; • Wrecking, demolition and shipbreaking operations; • *Roofing operations and all work on or about a roof; and • Trenching and excavation operations. <p>These types of work are hazardous even when the minor is employed by a parent or person standing in place of a parent.</p> <p><i>*The FLSA provides a limited exemption for these hazardous occupations for 16- and 17-year-olds who are bona-fide student-learners and apprentices enrolled in approved programs.</i></p>		
<p>Is the employee paid the proper wage? Covered 16- and 17-year-olds must be paid at least the federal statutory minimum wage of \$7.25 for all hours worked, except under certain circumstances. Employers can pay minors a wage based on an hourly rate, piece rate, day rate, salary or any combination as long as the minor's hourly earnings average at least the applicable minimum wage.</p> <p>Minors 16 and 17 years old may be paid \$4.25 per hour during their first consecutive 90 calendar days of working for any employer.</p> <p>In nonagricultural work, nonexempt minor employees must receive time and one-half at their regular rate of pay after 40 hours of work in a seven-day workweek. The regular rate includes all compensation, such as certain bonuses and shift differentials.</p>	<input type="checkbox"/>	<input type="checkbox"/>

Certain full-time students, student learners, apprentices and workers with disabilities may be paid less than the federal minimum wage under special certificates issued by the DOL.

Employment of Minors Ages 18 and Over

Minors who are 18 years old and older can be employed for unlimited hours in any occupation.

Is the employee 18 years old or older?	Yes	No
<p>Is the employee paid the proper wage? Covered employees under 20 years of age must be paid at least the federal statutory minimum wage of \$7.25 for all hours worked, except under certain circumstances. Employers can pay minors a wage based on an hourly rate, piece rate, day rate, salary or any combination as long as the minor's hourly earnings average at least the applicable minimum wage.</p> <p>Minors under 20 years of age may be paid \$4.25 per hour during their first consecutive 90 calendar days of working for any employer.</p> <p>In nonagricultural work, nonexempt minor employees must receive time and one-half at their regular rate of pay after 40 hours of work in a seven-day workweek. The regular rate includes all compensation, such as certain bonuses and shift differentials.</p> <p><i>Certain full-time students, student learners, apprentices and workers with disabilities may be paid less than the federal minimum wage under special certificates issued by the DOL.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>

Exemptions from the FLSA's Child Labor Provisions

Is the employee exempt from the FLSA's child labor provisions? <i>Employers should review the following questions to determine whether a minor is exempt from the FLSA's child labor provisions.</i>	Yes	No
<p>Is the 16- or 17-year-old employee employed by their parents in occupations other than those declared hazardous by the U.S. secretary of labor? Minors aged 16 or 17 are exempt from the FLSA's child labor provisions if they are employed by their parents in any occupation that is not deemed hazardous under FLSA regulations.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Is the employee who is under 16 years of age employed by their parents in occupations other than manufacturing or mining or occupations declared hazardous by the U.S. secretary of labor? Minors under 16 who are employed by their parent or a person standing in place of their parent in an occupation</p>	<input type="checkbox"/>	<input type="checkbox"/>

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other than mining, manufacturing or occupations deemed hazardous under FLSA regulations are exempt from the FLSA's child labor requirements.		
Is the minor employed as an actor or performer in motion pictures, theatrical, radio or television productions? A minor of any age is exempt from the FLSA's child labor requirements if they work as actors or performers in motion pictures or theatrical, radio or television productions.	<input type="checkbox"/>	<input type="checkbox"/>
Is the minor engaged in the delivery of newspapers to consumers? An employee is exempt from FLSA child labor provisions if they are engaged in delivering newspapers to consumers.	<input type="checkbox"/>	<input type="checkbox"/>
Is the minor employed as a homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar or other evergreens (including the harvesting of the evergreens)? An employee is exempt from FLSA child labor provisions if they are homeworkers making evergreen wreaths.	<input type="checkbox"/>	<input type="checkbox"/>

Use this checklist as a guide when reviewing your company's compliance with FLSA's child labor provisions. For assistance, contact Horst Insurance.