

**REVIEW OF STATUTES AND REGULATIONS PERTAINING**  
**TO THE ISSUANCE OF WORK PERMITS IN CALIFORNIA**

**February 2010**

California law was amended in 2009 to permit a private school principal to issue, or to designate another administrator in the private school to issue, work permits to pupils who attend the school. The principal or administrator must certify on California Department of Education (CDE ) Form B1-8 that he or she is familiar with the various state and federal laws applicable to the subject. To assist school officers in understanding these laws, the CDE publishes a document entitled “Work Permit Handbook for California Schools: Laws and Regulations Governing the Employment of Minors” (the “Handbook”). For the convenience of small private schools, we have summarized in this document (the “Summary”) the nature and probable applicability of these laws and regulations to the private school student. Private school officials responsible for issuing work permits should read and understand all of the laws and regulations that are applicable to their situation.

Nothing in this Summary should be construed as legal advice. All private school officials should be familiar with the Handbook and should rely on their own interpretation of the laws and regulations or the advice of their counsel in making determinations about whether the issuance of a work permit to a particular student would be in compliance with law.

The page numbers in this Summary refer to the 2009 version of the Handbook.

**Frequently Asked Questions (pp. 4-12)**

These are useful for summarizing some of the laws, but, as they have not been updated to reflect the 2009 change in law that allows private schools to issue work permits to their students, they are misleading in certain respects. See comments under **Education Code 49110** below for a discussion of those changes.

**Definitions of “Trainee” and “Volunteer” and Rules Regarding In-School Programs (pp. 13-15)**

Private school officials should be familiar with these definitions so that they know when a work permit is not required. The provisions on school-related programs would not apply to private schools.

**Chart of Labor Laws (pp. 16-29)**

This chart summarizes the laws as they apply to minors of different ages. It is incorrect with respect to the hours that minors 14 and over NOT enrolled in public school may work.

## **Forms Required**

This section reviews the forms required for work permits. It has not been updated to include new Form B1-8, the form by which the private school official (the form says “principal”, but this is not required by statute and can be completed by the officer who issues the permit with the correct title inserted) certifies that s/he is familiar with the labor laws concerning work permits. There is a checklist on that form for the official to state that s/he has read all of the listed laws. The purpose of this Summary is to help private school officials determine which of the laws are applicable to the student to whom the permit will be issued.

## **Business and Professions Code (p. 35)**

Sections 25663 through 25665 restrict the employment of minors in establishments that serve liquor. Any official asked to issue a permit to work in such a business should read these.

## **California Code of Regulations, Title 5 (pp. 36-58)**

Title 5 covers a number of subjects, all of which are not applicable to private schools. Since there are also detailed federal regulations governing work experience and similar programs, it is unlikely that a private school could easily set up a formal program that complies with both state and federal law, although the school could implement an informal program.

Sections 10070 through 10075 deal with how schools should set up Work Experience Education programs.

Sections 10080 through 10092 deal with how school districts can establish “Community Classroom” programs.

Sections 10100 through 10111 deal with “Cooperative Vocational Education” programs.

Sections 11001 through 11004 deal with Continuing Education programs.

Sections 11700 through 11705 deal with Independent Study Programs.

Sections 16023 through 16027 deal with Record Retention Policies to be followed by districts.

## **California Code of Regulations, Title 8 (pp. 59-94)**

Sections 205 through 212 and Sections 251 and 252 deal with formal apprenticeship programs under the Labor Code. These are probably not applicable to occasional employment that is not a formal apprenticeship program.

Sections 11701 through 11707 deal with (a) prohibited occupations that no child under 16 may perform; and (b) dangerous activities that minors under 16 may perform only if certain conditions are met. These should be read by everyone.

Sections 11750 through 11765 deal with the employment of minors in the entertainment industry. These should be read by any school issuing a work permit to a child for work in this industry.

Sections 11779 through 11784 deal with employer penalties for violations of the work permit laws. Reference is made to “Class A” and “Class B” violations, which are defined in the Labor Code. Any person intending to employ a minor should be familiar with this set of regulations.

Sections 13500 through 13520 deal with how complaints are made to the Division of Labor Standards Enforcement. Parents of minors receiving work permits as well as school officials who advise working students may wish to be familiar with these regulations in the event that a complaint must be made.

Sections 13600 through 13624 deal with employment to do piecework in the home (called “industrial homework”), including special provisions relating to the garment manufacturing industry. These should be read by any person issuing a work permit where the minor will perform work in the home to make articles to be delivered to another person or to perform work for the garment manufacturing industry.

Sections 13670 through 13677 deal with specific conditions placed on the employment of minors in making door-to-door sales. These should be read by anyone issuing a work permit for this type of work.

#### **Code of Federal Regulations, Title 29 (pp. 95-104)**

Sections 570.2 through 570.50 deal with the employment of minors, covering permitted and prohibited occupations, periods and conditions of employment, etc. Everyone should read these regulations. Presumably the statutes and regulations adopted by California comply with these federal rules, but they should be read.

#### **California Education Code (pp. 105-160)**

Sections 35162 through 35208 deal with administrative matters relating to school districts and are not applicable to private schools.

Section 41601.3 deals with on-the-job work experience for students enrolled in district continuing education programs and is not applicable to private schools.

Section 44031 deals with personnel matters relating to employment by public school districts and is not applicable to private schools.

Section 46113 sets out the minimum school day for grades 4-8 of public schools and is not applicable to private schools.

Section 46140.5 discusses attendance at specified vocational education programs and is not applicable to private schools.

Sections 46141 through 46180 set out the minimum day and week and attendance requirements for public high school and junior high school and are not applicable to private schools.

Section 46300 sets out the method for computing Average Daily Attendance and is not applicable to private schools.

Sections 47600 through 47615 deal with charter schools and are not applicable to private schools.

Sections 48200 through 48232 deal with compulsory attendance, exemptions from compulsory attendance and certain other matters, including leaves of absence. All persons operating private schools are presumably familiar with Sections 48200 and 48222; all of the other sections referenced do not apply to private schools.

Sections 48400 through 48433 deal with students who are subject to the continuing education requirements, including provisions on truancy and the California High School Proficiency Exam. Students enrolled in and attending private schools meeting the provisions of Section 48222 would not be covered by these.

Section 48900.6 deals with compulsory community service on school grounds as a form of discipline and is not applicable to private schools.

Sections 48915 through 48926 deal with expulsion from public school and are not applicable to private schools.

Sections 49100 through 49101 are additional compulsory attendance statutes. Any person issuing a work permit to a minor who plans to work but not attend private school when public schools are in session for more than 10 consecutive days should be familiar with this section.

Section 49110 through 49183 are the core work permit regulations and should be read and understood by all persons intending to issue work permits. The CDE had not, as of the date of this document, updated its handbook to conform to amendments to the law adopted in 2009. The changes are summarized below, but you may read the current version of the statute at <http://www.leginfo.ca.gov>. Click on Education Code and search without entering anything into the search box to bring up the index of this Code. The index is by Chapter, but the code section numbers are shown on the right as links.

The amendment to the law in 2009 added a new subsection (5) to 49110(b) allowing private schools to issue permits to their own students, provided that no one may issue a permit to his or her own child. The new section requires the self-certification discussed above and also requires that a copy of the permit and the self-certification form be sent to the superintendent of the school district in which the school is located. Subsection 49110(f) was also added, which states that the hour limitations that apply to a work permit issued by any of the individuals described in (b), including the new subsection (5) relating to private schools, shall be based on the school calendar of the school that the pupil attends. Accordingly, when the laws refer to restrictions based on when the public schools are in session, this should be read to apply to when *the pupil's school* is in session. For instance, private schools may adopt school year or daily calendars that are not the same as the public schools. Private school officials should, however, be certain that pupils are receiving adequate instruction in their schools when determining the school's calendars and hours of options.

Sections 51745 through 51749.3 govern public school independent study programs and are not applicable to private schools.

Sections 51760 through 51769.5 govern public school work experience education programs and do not apply to private schools.

Sections 52300 through 52314.5 govern the operation of occupational, vocational and technical training programs run by the state and do not apply to private schools.

Section 79140 through 79148 apply to apprenticeship or internship training programs operated by the state and do not apply to private schools.

Section 87031 deals with the right of school district employees to inspect their personnel files and is inapplicable to private schools.

### **California Family Code (pp. 161-163)**

The Family Code sections contained in the Handbook deal mainly with the topic of the emancipation of minors. Persons under 18 who successfully petition a court to be declared emancipated minors no longer need permission of parents or guardians and would be able to act as adults for many legal purposes. The work permit laws would still apply to such persons, although such minors would not need the participation of parents.

### **California Labor Code (pp. 164-265)**

Most of the Labor Code sections apply to employers, not to the minors seeking work. Private school officials responsible for issuing work permits should be generally familiar with the types of matters governed by the Labor Code so that any student suspecting violation of the labor laws can receive assistance.

Sections 18 and 19 set out a few definitions and Section 90 specifies that the Labor Commissioner may enter places of employment.

Sections 96 through 98.9 detail how hearings are to be conducted with respect to violations of the Labor Code.

Sections 200 through 232 govern how wages are to be calculated, reported and paid, including rules regarding rest breaks and meals.

Sections 350 through 356 regulate the treatment of gratuities.

Sections 500 through 558 govern how working hours are to be calculated, contain limitations on hours, calculation of overtime and required rest, and certain provisions regarding working conditions.

Section 1171 through 1205 also govern hours, wages and working conditions. Section 1182.4 sets out an exception from maximum hours for students working as camp counselors. Apprentices and learners may be paid less than minimum wage under certain conditions set out in 1192.

Sections 1285 through 1289 set out the sanctions for employers who violate laws regarding employment of minors.

Sections 1290 through 1399 specifically regulate the employment of minors. This entire section should be read and understood by all school officials responsible for issuing work permits. Certain violations may subject employers to prosecution.

Section 1777.6 prohibits discrimination against apprentices on account of race and other factors.

Sections 2650 through 2662 regulate “industrial homework” whereby articles are made in the home for an employer. There are no specific provisions relating to minors.

Sections 2750 through 2752 deal with the classification of certain persons as employees or as contractors. There are no specific provisions relating to minors.

Section 2802 requires employers to indemnify employees for all losses or expenditures incurred (including attorneys fees) if the employer requires the employee to do something unlawful.

Sections 3077 through 3079 govern apprenticeships. Section 3079 requires any minor entering into an apprenticeship agreement to obtain the signature of his/her parents.

Sections 3200 through 3201, Sections 3350 through 3368 and Sections 3605 through 3702 deal with workers’ compensation.

Sections 6400 through 6409.3 govern the employer’s obligation to maintain safe working conditions and to report violations.

### **California Penal Code (p. 266)**

Sections 273(e) and (f) prohibits employers or parents from sending minors to places of ill repute. Violators may be guilty of a misdemeanor.

### **California Vehicle Code (pp. 267-272)**

Section 353 defines “hazardous material”.

Section 12515 states that persons under 18 may not be employed for compensation for the purpose of driving a motor vehicle on the highways, nor may a person under 21 drive a motor vehicle in interstate commerce or to transport hazardous material.

Section 15210 defines a number of terms used in the safety sections of the Vehicle Code.

Sections 17706 through 17708 deal with who may sign driver license applications on behalf of a minor and further specify that the person signing the application, but not including an employer who signs the application as permitted in Section 17706, shall have any negligence of the minor imputed to him.

Section 34500 sets out the DMV's authority to adopt safety regulations with respect to specified classes of vehicles.

**Appendix A** is an index showing where specific words occur in the statutes and regulations included in the Handbook. This is useful since the Handbook as of the date of this document was not searchable.

**Appendix B** does not apply to private schools.

**Appendix C** is a list with contact information for the various government agencies administering the statutes and regulations covered by the Handbook.

**Appendix D** is a list of website addresses for various state and federal education and labor agencies.