

Frequently Asked Work Permit Questions

1. Who is allowed to issue work permits within a public school district?

Education Code 49110 specifies that only the following persons may issue work permits:

 - Superintendent of any local public school district in which any minor resides; or
 - Superintendent of county schools if the minor resides in a portion of a county not under the jurisdiction of the superintendent of a school district; or
 - Person holding a services credential with a specialization in pupil personnel services authorized, in writing, by the superintendent; or
 - Work Experience Education teacher/coordinator authorized, in writing, by the superintendent; or
 - Person authorized, in writing, by the superintendent if the designated person is not available, and delay in issuing a permit would jeopardize the ability of the pupil to secure work; or
 - Person authorized, in writing, to issue work permits if the superintendent is absent from the district and the district does not employ a person holding the necessary credential or a Work Experience Education teacher/coordinator.
 - The Division of Labor Standards Enforcement (DLSE) issues all entertainment industry permits. Inquiring parents or employers must be referred to the nearest DLSE office.
2. May a private school issue work permits to its students?

Education Code 49110.1. The superintendent of any school district may designate the principal or other person having charge of a private school within the district, in which pupils are enrolled pursuant to Section 48222, as a person authorized to issue work permits to pupils of the school, in accordance with this chapter. Where the pupil resides in a portion of the county not under the jurisdiction of the superintendent of any school district, the county superintendent of schools may designate the principal or other person having charge of a private school as the person authorized to issue such work permits.

The superintendent of the school district, or the county superintendent of schools as the case may be, shall periodically ascertain that the designated person has complied with the requirements of this chapter pertaining to issuing authorities.
3. May a work permit be issued by a public school to a pupil who attends a private school located within the school district boundaries, even though the pupil is not a resident of the school district?

Yes. The California Department of Education, Deputy General Counsel's office, has found that, pursuant to written authorization from the superintendent of the public school district, a work permit may validly be issued for such a pupil.

Further, the findings indicated that the intent of *Education Code* sections 49110 and 49110.1 was not to restrict, on the basis of legal

residence, the authority to issue work permits, but rather to consider the school district in which the pupil attends school.

4. May a work permit be issued by the public school to a pupil who attends a private school located outside the school district boundaries if the pupil is a resident of the school district?

Yes. EC 49110.1. The superintendent of any school district may designate the principal or other person having charge of a private school **within the district**, in which pupils are enrolled pursuant to Section 48222, as a person authorized to issue work permits to pupils of the school, in accordance with this chapter.
5. Is a school required to issue a "Permit to Employ and Work" (B1-4) to an eligible minor?

No. It is solely within the discretion of the school district to determine whether a minor, who is still subject to the state's compulsory education laws, may obtain a work permit and, therefore, be employed to work.

Each of the laws governing the issuance of work permits uses the word "may," which is permissive, and, therefore, does not require the permit to be granted (*Education Code* Section 75). If the statutes had used the word "shall," which means issuance is mandatory, then the school would not have discretion and would have to issue a permit to every eligible minor (*Education Code* sections 49110, 49111, 49112, 49113, 49114, and 49130).
6. What process should be followed to complete a "Request for a Work Permit" (B1-1)?

The minor/student, after obtaining a promise of employment, must obtain the "Statement of Intent to Employ Minor and Request for Work Permit" (B1-1) from the school/school district. The minor must complete the "minor" section, request that the employer and parent complete their sections (making certain to obtain both required signatures), and then return the completed form to the appropriate school authority.
7. What process should be followed to issue a "Permit to Employ and Work" (B1-4)?

After receiving the completed B1-1 form, the school authority must verify the minor/student's date of birth and the type of work permit to be issued. If all requirements are met, the work permit issuing authority may issue the "Permit to Employ and Work." At the discretion of the local school district, there may be additional requirements for the issuance of a work permit. For instance, the school district may have a policy requiring the minor to maintain a 2.0 grade point average. In such a case, the work permit issuing authority would need to verify the student's GPA. Another policy might require the minor to exhibit his/her social security card for verification by the school authority. Other local policies should be verified through the work permit issuing authority.
8. Can a work permit be issued before the minor has secured employment?

No
9. What is the minimum age for work permits?

14 years old

10. What are the different types of work permits? Regular, Work Experience, Vacation, Exempt
11. How many hours per day can a 14-15 year old minor work Monday through Friday? How many hours per day can the same minor work on Saturday and Sunday?
- Ages 14-15—School in Session**
 3 hours max. per day/Monday-Friday
 8 hours max. per day/Saturday-Sunday
12. What is the maximum number of hours per week a 14-15 year old minor can work on a REGULAR work permit when school is in session? When school is not in session? Does a WORK EXPERIENCE work permit make a difference for the same pupil? How?
- Ages 14-15—School in Session**
 18 hours total per week
Summer (June 1 to Labor Day)
 8 hours max. per day
 48 hours total per week/7 a.m.–9 p.m.
- For a student enrolled in Work Experience (exemption required) the student can work a total of 23 hours per week. All other requirements remain the same. EC 49116. (a)
13. What spread of hours can a 14-15 year old minor work? Does it change in the summer?
- Ages 14-15—School in Session**
 During the school year 7 a.m. to 7 p.m.
- Summer (June 1 to Labor Day)**
 7 a.m.–9 p.m.
14. May a 14-15 year old minor work during school time on a school day? No
15. Other than a VACATION work permit can a 14-15 minor obtain a permit to work FULL TIME? Yes
49130. A permit to work full time may be issued to a minor under the age of 16 years and over the age of 14 years who holds a diploma of graduation from the prescribed elementary school course under both of the following circumstances:
- (a) The permit expires not later than the end of the current school year.
- (b) Any of the following conditions:
- (1) The parent or guardian of the minor child presents a sworn statement that the parent or guardian of the minor is incapacitated for labor through illness or injury, or that through the death or desertion of the father or mother of the minor, the family is in need of the earnings of the minor and that sufficient aid cannot be secured in any other manner.
- (2) The minor is unable to reside with his or her family and the earnings of the minor are necessary for the support of the minor.
- (3) The minor is residing with a foster care provider, or guardian

receiving foster care funds for the minor, if the provider or guardian obtains written authorization from the minor's social worker, probation officer, or child protective services worker acting as an officer of the court. A permit may be issued to a minor who is subject to this paragraph only if the child's case plan documents that the purpose of the employment is to further the goal of emancipation pursuant to Part 6 (commencing with Section 7000) of Division 11 of the Family Code, or to enable the minor to gain knowledge of necessary work skills and work habits, and of the responsibilities related to maintaining employment.

The person issuing the permit shall sign a statement that he or she, or a competent person designated by him or her, has investigated the conditions under which the application for the permit has been made and has found that, in his or her judgment, the earnings of the minor are necessary for the family to support the minor or that the earnings of the minor are necessary to support the minor and that sufficient aid cannot be secured in any other manner. Before issuing a work permit to a minor who is subject to paragraph (3) of subdivision (b), the person issuing the permit shall sign a statement that he or she has received authorization from the minor's social worker, probation officer, or child protective services worker.

A minor who applies for a work permit pursuant to this section shall be duly enrolled in a work experience education program.

49131. Notwithstanding Section 49130, 49132, or 49134 or subdivision (d) of Section 49133, a permit to work full time may be issued to a minor over the age of 16 and under the age of 18.

49132. No permit shall be issued until the minor accompanied by his parent or guardian, appears before the person authorized to issue the permit and makes application therefor. This section shall be applicable only to minors subject to Section 49130.

16. How many hours per day can a 16-17 year old minor work Monday through Thursday? How many hours per day can the same minor work on Friday, Saturday and Sunday?

Ages 16-17—School in Session

4 hours max. per day/Monday-Thursday

8 hours max. per day/Friday-Sunday

17. What is the maximum number of hours per week a 16-17 year old minor can work on a REGULAR work permit when school is in session? When school is not in session? Does a WORK EXPERIENCE work permit make a difference for the same pupil? How?

Ages 16-17

48 hours weekly-Regular work permit-School in Session

48 hours weekly-Regular work permit-School not in Session

WEE students can work 8 hours per day

WEE students must be enrolled in a WEE program.

18. What spread of hours can a 16-17 year old minor work? Does it change on the weekend? Does it change in the summer?
- Ages 16-17**
 Minors can work from 5 a.m. to 10 p.m. Monday-Thursday
 Minors can work from 5 a.m. to 12:30 a.m. on days preceding a non-school day
 WEE enrollees may work until 12:30 a.m. on any day with specific written approval.
19. Is a special permit required of work experience minors working between 10:00 PM and 12:30 AM?
- Ages 16-17**
 WEE enrollees may work until 12:30 a.m. on any day with specific written approval.
20. When do “vacation” work permits begin and end (during the summer)?
- June 1 through Labor Day
21. When do work permits expire?
- EC 49118. Permits to work issued during the school year shall expire five days after the opening of the next succeeding school year.
22. Does a minor have to obtain a new work permit if they change jobs?
- Yes
23. Can a minor have more than one work permit?
- Yes- The combined hours of all jobs can not exceed the maximum allowed by law.
24. Can the school district limit the number of hours a minor is permitted to work or impose additional occupational restrictions?
- Yes-Usually done in the District Plan for Work Experience Education
25. Does a minor need a work permit after they graduate or pass the proficiency exam if they are still under 18?
- No – Once a minor is no longer subject to the state's compulsory education laws, he/she is not considered a minor for purposes of the state's child labor laws and is not required to obtain a work permit (Labor Code 1286[c]). California's compulsory school attendance law requires a person to attend school until he/she is 18 years of age or has graduated from high school or has passed the high school proficiency examination. Federal law does not have a similar exception, and occupational restrictions may still apply. Under federal law the employer would still need a certificate of age for the student when employing a high school graduate under 18 years of age. The school may issue a work permit as a certificate of age but other forms of identification are also accepted as proof of age (EC 49114).
26. Does a minor need a work permit if they meet the graduation requirements, but do
- Yes – Officially they are considered dropouts

not pass the CAHSEE if they are still under 18?

27. Can a work permit be revoked? If so, who can revoke a work permit?

Yes – The superintendent of the public school district
The permit signer
A Division of Labor Standard Enforcement officer
The School District administrator in charge of child welfare and attendance
A probation officer
A parent or legal guardian

49164. Permits to work and to employ and certificates of age shall always be open to inspection by supervisors of attendance, probation officers, designees of the Labor Commissioner, and by officers of the Superintendent of Public Instruction. Every permit to work or to employ and every certificate of age shall be subject to cancellation at any time by the Superintendent of Public Instruction, the Labor Commissioner, or by the person issuing the permit or certificate whenever any person authorized to inspect such permits and certificates finds that the conditions for the legal issuance of the permit or certificate of age do not exist or did not exist at the time the permit or certificate was issued. A permit to work shall be revoked by the issuing authority when he is satisfied that the employment of the minor is impairing the health or education of the minor, or that any provision or condition of the permit is being violated, or that the minor is performing work in violation of any provision of law.

28. If you are going to REVOKE a work permit what would be a proper protocol to follow?

You make a phone call to the employer informing them the permit is being revoked and give instructions on what they should do with the work permit. i.e. using a maker write REVOKED or CANCELED across the work permit. Sign and date the permit. You should send a letter to the employer with the same instructions. Within a week you should visit the employer and ask to see the work permit. If the employer has not followed the instructions, you should then REVOKE or CANCEL the permit on the spot.

29. Can an employee be paid less than the minimum wage?

Yes. The Industrial Welfare Commission Orders of 2001 state that "employees during their first one-hundred sixty (160) hours of employment in occupations in which they have no previous similar or related experience, may be paid not less than eighty-five percent (85 percent) of the minimum wage rounded to the nearest nickel."

30. Is the permit issuer required to verify the employers workers' compensation insurance company?

No -- By the employer signing the B1-1 they are stating they are carrying worker compensation insurance for their employees.

31. Does the student need to present his/her Social Security Card to

No. The notification of intent to employ (B1-1) must contain, among other information, the social security number of the minor

school authorities when applying for a work permit?

(EC 49163). The regulation does not specify that the card itself must be presented, only that the number be on the application for a work permit.

The California Department of Education has taken the position that the B1-1 statement signed by the parent or legal guardian ("I hereby certify that the information herein is correct and true.") holds the adult responsible for providing accurate information.

School districts can be more restrictive and require the minor to provide the social security card before the work permit is issued.

32. Is the student's Social Security number required on the work permit?

Yes – EC 49115. The permit to employ shall contain:

- (a) The name, age, birth date, address and phone number of the minor.
- (b) The place and hours of compulsory part-time school attendance for the minor, or statement of exemption therefrom, and the hours of compulsory full-time school attendance for the minor, if the permit is issued for outside of school hours.
- (c) The maximum number of hours per day and per week the student may work while school is in session.
- (d) The minor's social security number.
- (e) The signature of the minor and the issuing authority.
- (f) The date on which the permit expires.

33. How long do copies of work permits have to be retained...by the school....by the employer?

The school district must retain a copy of the work permit application (form B1-1 or B1S-1) and work permit (form B1-4) until the end of the fourth year after the work permit was issued. Those files may be retained on a computer disk(s) and, if requested, can be printed for examination (*California Code of Regulations, Title 5, Section 16026*).

The employer must retain the minor's work permit until the beginning of the fourth year after the permit was issued (*Labor Code* sections 1174 and 1299).

34. If Federal laws, State laws, and school district policies conflict, which law prevails?

The most restrictive.

35. Does a minor need a work permit if they are married?

Yes. However, the minor is emancipated and can sign the work permit without the parent's permission.

36. Does an emancipated minor need a work permit to be employed?

Yes. The only exception from child labor and compulsory school attendance laws enjoyed by an emancipated minor is that he/she may apply for a work permit without the parent's permission. An emancipated minor may sign, in place of the parent, the "Statement of Intent to Employ Minor and Request for Work Permit" (B1-1) form (Family Code 7050[e][16]). An emancipated minor is defined in Family Code 7002.

37. Can a minor who is not a California resident or not enrolled in the school district be issued a work permit?
- Yes. The local school district may issue a work permit if the minor enters the attendance area from another state within 10 days or less before the end of the school term. The minor may be issued a permit to work full-time because he/she is exempted from school attendance for the remainder of the school term (*Education Code* Section 48321).
- The only requirement for work permit issuance is that the minor resides in the district that issues the permit. The minor does not have to be a California resident or be enrolled in the school, or reside with parents (*Education Code* Section 49110).
- Any minor wishing to work in California must adhere to the state's work standards and regulations, even if not a permanent or full-time resident of California (*Labor Code* sections 1286 and 1299).
38. Can a minor who has dropped out of school or is truant be issued a work permit?
- No. A truant or "dropout" is in violation of California's compulsory school attendance laws and a school district is not permitted to sanction violation of those laws by issuing a permit to work. A truant or "dropout" is subject to arrest, and the parents are subject to infraction fines if the minor is found working without a work permit (*Education Code* sections 48264, 48293, and 49112).
39. Can a minor who has been expelled be issued a work permit?
- Yes. The law does not prohibit issuing a work permit to an expelled minor. An expelled minor must be provided educational services. Options include, but are not limited to, community day school, juvenile court school, another school district, etc. When the expelled minor enrolls in and attends school, only the district in which the minor resides may issue -or refuse to issue -the work permit (*Education Code* sections 48915, 48915.01, 48915.1, 48915.2, and 48926).
40. Can a work permit be issued for a minor who is being "HOME SCHOOLED?"
- Education Code* Section 49110 authorizes school district officials to issue work permits to eligible students. *Education Code* Section 49110.1 authorizes the school district superintendent to designate a private school official to issue work permits to students who are enrolled in a private school pursuant to *Education Code* Section 48222. It is the exclusive responsibility of the school district to decide, under district criteria, whether the private entity is a private school as described in *Education Code* Section 48222. The same determination would be made regarding a parent who teaches exclusively his or her own child or children and who files a private school affidavit pursuant to *Education Code* Section 33190. School officials seeking further guidance should consult their district's legal counsel.
41. Is a "Home School" the same as a private school?
- Yes and No
 No. There are specific factors that differentiate between a "home school" and a private school. The private school:
- is a business,

- must meet local zoning regulations,
- must have a business license,
- must advertise,
- must be open to the public, and
- must charge a reasonable tuition.

The filing of a private school affidavit does not automatically transform a "home school" into a private school nor does the use of a correspondence course of study.

Yes. In a recent appeals court case concerning Mary and Phillip Long, 8-8-08, the court ruled "California statutes permit home schooling as a species of private school education."

42. If a minor works for a family business are they required to obtain a work permit?

Yes. Work permits are required for all minors employed in manufacturing, mercantile, or similar commercial enterprises (*Education Code* Section 49141). Exemptions are allowed for agricultural or domestic work performed on land that is owned, operated, or controlled by the parents (*Labor Code* Section 1394). All regulations concerning hazardous occupations and other work forbidden to minors remain in effect for minor children working for their parents.

43. Does a parent/employer have to provide Workers' Compensation Insurance for his/her children/employees?

Yes. Workers' compensation insurance must be provided for an employee regardless of whether the employee/minor is the employer's child. Exceptions may be made for an employer who has been given permission by the Department of Industrial Relations to be self-insured (*Labor Code* sections 3700 and 3701).

44. Is the permit issuer required to give the employer a copy of the B1-1 with the B1-4?

Yes.
 EC 49164. **Permits to work and to employ** and certificates of age shall always be open to inspection by supervisors of attendance, probation officers, designees of the Labor Commissioner, and by officers of the Superintendent of Public Instruction. Every permit to work or to employ and every certificate of age shall be subject to cancellation at any time by the Superintendent of Public Instruction, the Labor Commissioner, or by the person issuing the permit or certificate whenever any person authorized to inspect such permits and certificates finds that the conditions for the legal issuance of the permit or certificate of age do not exist or did not exist at the time the permit or certificate was issued. A permit to work shall be revoked by the issuing authority when he is satisfied that the employment of the minor is impairing the health or education of the minor, or that any provision or condition of the permit is being violated, or that the minor is performing work in violation of any provision of law.

LC 1304. Failure to produce any permit or certificate either to work or **to employ** is prima facie evidence of the illegal employment of any minor whose permit or certificate is not so produced. Proof that any person was the manager or superintendent of any place of

employment subject to the provisions of this article at the time any minor is alleged to have been employed therein in violation thereof, is prima facie evidence that the person employed, or permitted the minor so to work. The sworn statement of the Labor Commissioner or his deputy or agents as to the age of any child affected by this article is prima facie evidence of the age of such child.

45. Must a public school or governmental agency require a work permit for a minor employee?

No. It is the position of the California Division of Labor Standards Enforcement that the state's *Labor Code* does not apply to a state or local agency unless the agency is expressly included in the statute. The child labor statutes do not expressly include state or local agencies.

State and local agencies are subject to the federal Fair Labor Standards Act and must follow all of its child labor provisions, including having a certificate of age to verify permissible employment (*California Code of Federal Regulations, Title 29, Section 212*). Contact the Wage and Hour Division of the U.S. Department of Labor for further information. (See Appendix A of the Work Permit Handbook for the telephone number.)

46. What are the hazardous occupation minors are prohibited from working in and type of equipment prohibited from using according to age (14-15 year olds and 16-17 year olds)?

16-17 – Prohibited Employment

The Federal Government under the Fair Labor Standards Act (FLSA) has listed 17 hazardous occupations which minors under the age of 18 are prohibited from working in association with and equipment use prohibited. **There are no exemptions or exceptions.** This is a partial list. For a complete listing contact the U.S. Department of Labor.

- Explosives
- Motor vehicle driving (Minors may not drive on any public highway. This does NOT prohibit a minor from driving on private property, i.e. auto dealer, etc.).
- Coal mining
- Logging and sawmilling
- Power-driven woodworking machines
- Exposure to radioactive substances (X-rays)
- Power-driven hoisting apparatus (Includes automobile hoist, lift truck, fork lift, elevator, crane, derrick)
- Power-driven metal forming, punching, and shearing machines
- Other mining
- Power-driven meat slicing/processing
- Power-driven bakery machines (Includes dough sheeter; bread, meat, or vegetable slicer; dough mixer)
- Power-driven paper-products machines (Paper bailers, box crushers)
- Manufacturing brick, tile products
- Power-driven saws and shears
- Wrecking, demolition
- Roofing operations
- Trenching/excavation operations (Cannot work in trenches deeper than four feet).

14-15 – Prohibited Employment

In addition to Federal (FLSA) regulations, the State of California further prohibits minors under the age of 16 from the following occupations. This is a partial listing. Contact the Department of Industrial Relations for complete information.

- Selling or serving alcoholic beverages
- Public messenger service
- Hazardous occupations
- Construction work
- Operating an auto or truck
- A pool or billiard room
- Delivery from a motor vehicle
- Vicinity of moving machinery
- Vicinity of explosives
- In or about moving equipment, aircraft, or vessels
- In or about gasoline service stations
- Selling to passing motorists: newspapers, candy, flowers, or other merchandise or commodities (C.A.C. 11707)
- Door-to-door selling: newspapers or magazine subscriptions, candy, cookies, flowers, or other merchandise/commodities, unless the following conditions are met (C.A.C. 11706):
 1. Minors work in pairs as a team;
 2. One adult supervisor for 10 or fewer minors;
 3. Within sight or sound of the supervisor once every 15 minutes; and
Returned to home or rendezvous point daily.

Good News: The answers can be found at the following website
<http://www.weecourse.info> under the Teacher Support Link