

Colorado

Colorado Adopts New Child Labor Rules

Colorado recently [adopted](#) new child labor rules to administer and enforce the provisions of the Colorado Youth Employment Opportunity Act (CYEOA). The rules address, among other things, recordkeeping requirements, the minimum wage for minors, prohibited duties and occupations, and exemptions. The rules are currently in effect.

Background

The CYEOA governs the employment of all minors under 18 in Colorado. The CYEOA sets restrictions on hours and types of work that may be performed by minors. The Colorado Department of Labor and Employment provides detailed [information](#) on the employment of minors, such as exemptions to certain provisions of the CYEOA and complaints for alleged violations of the law.

New Rules

The new rules contain a number of child labor provisions, including the following.

Recordkeeping Requirements

Employers are already required to retain a true and accurate record for each minor, including the date of birth for minors under 18 years of age. The rules clarify that employers must retain a copy of the following records for three years after the minor's 18th birthday or three years after the termination of employment, whichever is sooner:

- Exemptions;
- Documents supporting the use of the hazardous occupation exception in Colorado law, including proof of completion of or enrollment in a qualifying program;
- Age certificates and related documents;
- Proof of a high school diploma, a passing score on the general educational development examination, completion of a career and technical education program, or related documents; and
- School release permits and related documents.

These documents must be made available to the state upon request. Also, where a claim, complaint or investigation under the CYEOA has been filed or commenced, the employer must preserve all relevant documents throughout the duration of the investigation and until the expiration of the statutory period within which an aggrieved person may bring a civil action.

Highlights

Colorado recently adopted new rules to administer the state child labor law. The rules contain detailed information on, among other things:

- Recordkeeping requirements, including timelines;
- The minimum wage for minors, including specific definitions;
- Prohibited duties and occupations; and
- Exemption requests.

The rules are currently in effect.

Minimum Wage

The new rules also address the minimum wage for minors. For purposes of the minimum wage rules only, a **minor** is any individual who is under 18 years of age and is not an “emancipated minor.” An **emancipated minor** means any individual who is less than 18 years of age who has the sole or primary responsibility for their own support, is married and living away from parents or guardians, or is able to show that their well-being is substantially dependent upon being gainfully employed.

Under Colorado law, the minimum wage for minors may be 15% below the minimum wage for other workers, but the full minimum wage must be paid to any emancipated minor. The new rules clarify that the reduced minimum wage may only be paid if, after diligent inquiry, the employer determines that a minor is not emancipated. The employer must keep records of this inquiry, including the information considered and the final determination.

In addition, the reduced minimum wage may only be paid to individuals employed as minors in compliance with Colorado law. Minors employed in violation of the CYEOA or the new rules are entitled to the full minimum wage.

Exemptions and Prohibited Duties and Occupations

The rules contain a detailed list and explanations of hazardous occupations prohibited for all minors (Rule 8) and prohibited duties and occupations (Rule 9). Employers have the burden to demonstrate that employment of a minor is permissible under the CYEOA and the new rules. For occupations not specifically permitted by the CYEOA or identified in state rules or guidance, employers may submit an exemption request in accordance with the new rules and state procedures established for such requests. The rules also note that the state may grant exemptions from provisions of the CYEOA concerning restrictions on work hours.

Requests for exemptions must be submitted on forms provided by the state, in accordance with procedures set by the state. These [forms and procedures](#) may require information and documentation to demonstrate that the request is in the best interest of the minor involved. The rules specify that requests may be submitted by any employer, a minor, a minor’s parent or guardian, a school official or a youth employment specialist. A request from an employer, school official or youth employment specialist will not be approved without agreement by the minor and, if appropriate, the minor’s parent or guardian.

When considering whether an exemption is in the best interest of the minor, the state will consider the totality of the circumstances. The relevant factors and weight of each factor are determined by the state on a case-by-case basis. The state will always consider certain factors listed in the new rules but may also consider other factors.

Next Steps for Employers

The rules contain other provisions, such as complaints and investigations. Colorado employers with minors should consider thoroughly reviewing the rules to ensure they are in compliance with all applicable provisions, including recordkeeping, minimum wage and prohibited duties and occupations. Employers needing additional assistance should contact local counsel for specific legal advice.
