

Adding Minors to Your Summer Workforce? Be Mindful of Youth Employment Laws!

Public entities are long-time supporters of youth employment opportunities. Particularly during summer months, the use of minors in the workforce increases, most significantly in park- and recreation-related activities. Minors benefit by gaining useful work experience, and public entities benefit from the channeling of youthful energy into productive endeavors.

If your entity is planning to hire minors for the fast-approaching summer season, you'll want to have best practices in place for a safe, rewarding, and mutually beneficial work experience for them. And you'll want to be sure you are following the federal and state laws governing work by minors. This article introduces the framework of the laws governing youth employment and provides links to information on applicable youth labor requirements. It also addresses, in a Q & A format, certain recurring questions we receive about the youth employment laws. In order to reduce risks and potential liability, CIRSA recommends its members closely review and continually monitor their compliance with applicable youth employment laws.

FEDERAL FAIR LABOR STANDARDS ACT & COLORADO YOUTH EMPLOYMENT OPPORTUNITY ACT

Two sets of laws generally govern work by minors (persons under 18) in Colorado: the federal Fair Labor Standards Act (FLSA), and the Colorado Youth Employment Opportunity Act (YEA).

General Framework: The FLSA and YEA use similar approaches. For example, the YEA focuses on permissible occupations at various age levels and includes a list of hazardous occupations that are generally prohibited for any minor. The FLSA regulations similarly set minimum age standards for certain work activities and, via Hazardous Occupations Orders, ban all minors from certain occupations. Generally, both laws severely restrict the types of work that minors under 16 may perform and allow for broader work activities by minors 16-18 but prohibit all minors from particularly hazardous activities (such as operating heavy machinery, working with most power-driven tools, and many others).

Despite their similar approaches, the FLSA and YEA use different verbiage and have different standards in some areas, which can sometimes make the two difficult to reconcile. Importantly, however, when both federal and state laws apply the more stringent standard must be followed. As one example to illustrate this principle, the YEA states operation of a motor vehicle is permissible for minors 16 years of age and older; however, the FLSA essentially prohibits driving by persons under 17 and has strict rules for driving by any 17-year-old. Thus, work-related driving by minors should be avoided altogether, or strictly controlled and supervised to ensure compliance with more stringent FLSA standards. In short, for any proposed work by a minor, each law must be closely reviewed to ensure the more restrictive standard is identified and followed.

Frequently Asked Questions. This section addresses, in Q & A format, some of the youth employment rules that are the frequent source of questions we receive via the CIRSA Liability Hotline.

Q: May a 16-year-old licensed driver who works in our parks and recreation department drive a motor vehicle on public roads to the ballfield complex to perform lawn care?

A: No. The FLSA prohibits employees 16 years of age and under from driving motor vehicles on public roads as part of their jobs even if the employee possesses a valid state driver license.

Q: What if the licensed driver is 17 years old?

A: If the 17-year-old worker and the motor vehicle meet the requirements of the FLSA and YEA, then yes. But is your entity able to ensure related requirements are met? And are the additional risks acceptable?

Under the FLSA, driving by a 17-year-old worker must be limited to two trips per day within a 30-mile radius and be only “occasional and incidental to the employment;” i.e., the driving constitutes no more than 1/3 of the minor’s daily work time, and no more than 20% of the minor’s work time in any workweek. For some types of workers, “drive time” and distance could be difficult to track, and supervisors may forget or ignore the strict limits on time, distance, and number of trips.

Moreover, there’s a reason personal car insurance is more expensive for teens: They have little experience behind the wheel and data shows they are more likely to get into accidents. Thus, all things equal, on-duty driving by your minor employees increases the chances that your entity could be liable for injuries and property damage resulting from an accident. Therefore, if in our scenario an adult employee will also be performing lawn care at the ballfields, you may decide it’s best to have the 17-year-old hitch a ride.

Q: May we hire a 17-year-old employee for the sole purpose of driving a small truck (under 6,000 lbs. GVW) to plow snow on public streets?

A: No. Driving must be occasional and incidental to the minor’s employment.

Q: May our parks and recreation department employ minors to perform lawn care and grounds maintenance?

A: Yes. Minors may be employed in occupations related to parks and recreation. But 14- and 15- year-olds may use only light, non-power-driven, hand tools like rakes, hand-held clippers, shovels, brooms, with personal protective equipment, and may not operate or perform maintenance or repair work on power-driven machinery or equipment like mowers, cutters, trimmers, or edgers. While 16- and 17- year-olds may use mowers and other similar power-driven equipment, like with adult employees, it’s important to consider the minor employee’s aptitude, experience, and level of training when assigning tasks involving use of potentially dangerous equipment. And separate from FLSA and YEA allowances, your entity made decide as its risk management policy that certain tasks are simply too risky for youthful employees.

Q: May our public works department employ minors to remove snow from public walkways?

A: Yes. Minors 14 years of age or older may perform snow removal from public walkways. However, 14- and 15- year-olds may not use power-driven snow removal equipment or machinery like snow blowers or an ATV to which a plow has been attached. Also, no minor may operate a bobcat or skid steer loader or similar equipment with the ability to hoist, under any circumstances.

Q: May we employ minors as lifeguards at our municipally owned public swimming pool?

A: Yes, so long as the minor is 15 years of age or older and employed in compliance with all applicable provisions of the child labor rules under the FLSA, including the restrictions on the hours and times of day applicable to 15-year-old lifeguards, and is trained and certified in aquatics and water safety and as a swimming instructor by the American Red Cross or similar certifying agency. However, a 15-year-old lifeguard may not enter or work in any chemical storage areas, including areas housing filtration and chlorinating systems. Moreover, your entity should take care to ensure proper staffing and training for minor employees and all other employees at the swimming pool, particularly as swimming pools are one of the few types of facilities for which there are not just one, but two, waivers of governmental immunity

that can create a path to civil liability. (More specifically, governmental immunity is waived for injuries resulting from the operation and maintenance, as well as a dangerous condition, of a swimming facility).

Q: What if the public property containing the swimming pool also contains a water slide?

A: A minor of 15 years of age or older may be employed as a lifeguard at a "water amusement park," or a swimming facility with water amusement components, such as wave pools, lazy rivers, baby pools, waterfalls, sprinklers, and elevated water slides, so long as the minor is employed in compliance with all applicable provisions of the child labor rules under the FLSA and holds all requisite certifications. However, no lifeguard under the age of 16 may operate power-driven equipment or serve as attendants at the top of elevated water slides.

Q: What about at our municipal reservoir?

A: A minor must be at least 16 years old to be employed as a lifeguard at natural environment swimming facilities like rivers, streams, lakes, and reservoirs.

Resources: Fact sheets on the FLSA and YEA can be found [here \(FLSA\)](#) and [here \(YEA\)](#). Additional resources are available on the child labor and youth law sections of the federal Department of Labor, Wage and Hour Division [website](#), and the Colorado Department of Labor and Employment (CDLE) [website](#). Each website includes links to applicable laws and regulations. Helpful information on employment of minors as lifeguards can be found in this FLSA [Fact Sheet #60](#).

While a fuller discussion of federal and state child labor laws is beyond the scope of this article, CIRSA members may also obtain a more detailed CIRSA memorandum entitled "Overview of Federal and State Child Labor Laws". For a copy, contact CIRSA's Deputy Executive Director/General Counsel Sam Light at saml@cirsa.org or Associate General Counsel Nick Cotton-Baez at nickc@cirsa.org.

Hours Worked by Minors: In addition to meeting minimum age requirements and removing minors from prohibited and particularly hazardous tasks and occupations, employers must be mindful of the FLSA and YEA limits on minors' work hours. Minors 16 years of age and older may generally work up to eight hours a day and forty hours a week. Minors under 16 have additional restrictions on their hours of work and may only work between the hours of 7:00 a.m. and 7:00 p.m. (except that from June 1 to Labor Day work may extend to 9:00 p.m.).

Enforcement & Remedies: The FLSA and YEA each have their own enforcement provisions and remedies for violations that can be pursued separately by federal and state enforcement officials. As such, a single act may give rise to violations of each law. For FLSA violations, the U.S. DOJ may impose civil penalties of up to \$11,000 per offense, and higher amounts (and potential criminal sanctions) for willful violations. By contrast, violations of YEA are misdemeanors and upon conviction for a knowing violation are subject to a fine of up to \$100 for a first offense and up to \$500 for any subsequent offenses.

All minor employees are also subject to the rights and remedies of the Workers' Compensation Act of Colorado (Act). Therefore, if a minor employee is injured on the job, whether lawfully engaged or not, they are entitled to the benefits and protections of the Act. Colorado House Bill 23-1196, passed during the 2023 Legislative session, clarifies that benefits under Act are not the only remedy available if a minor is injured while engaging in work or working during hours prohibited under the YEA. In these situations, claimants may pursue tort claims such as negligent supervision which, for public entities, may not be barred by governmental immunity if the YEA violation is willful and wanton. Additional legislation has been proposed in the 2024 Colorado Legislative Session to strengthen remedies for violation of the YEA.

Concluding Thoughts. The employment of minors in your public entity can present great opportunities for your organization and youth in your community. However, the work performed and hours worked by minors must be carefully selected, supervised, and controlled to ensure compliance with federal and state laws and further the safety of your workforce.

If you have questions or would like additional CIRSA assistance regarding the topics addressed in this article, contact CIRSA's Deputy Executive Director/General Counsel Sam Light at saml@cirsa.org, or Associate General Counsel Nick Cotton-Baez at nickc@cirsa.org.

Note: This article is intended for general information purposes only and is not intended or to be construed as legal advice on any specific issue. Youth labor laws are highly technical and fact-specific, and employers are responsible for ensuring their policies and practices are in compliance with applicable federal and state laws and regulations. CIRSA members are encouraged to consult with their human resources, legal, and safety teams to ensure their youth employment programs comply with applicable laws and regulations and incorporate appropriate safety practices.

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