

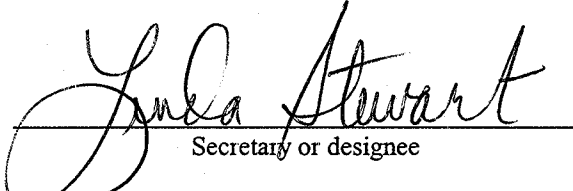
Rules Certificate

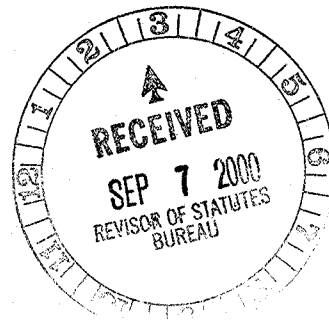
STATE OF WISCONSIN)
) SS
DEPARTMENT OF WORKFORCE DEVELOPMENT)

I, Linda Stewart, Secretary of the Department of Workforce Development, and custodian of the official records, certify that the annexed rules relating to student worklike activities that do not constitute employment were duly approved and adopted by this department on September 6th, 2000.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the of the Department of Workforce Development at 201 E. Washington Avenue in the city of Madison, this 6th day of September 2000.


Secretary or designee



Order Adopting Rules

Pursuant to authority vested in the Department of Workforce Development by Secs. 103.66 and 104.04, Stats., the Department of Workforce Development creates, and repeals and creates rules of Wisconsin Administrative Code sections DWD 270.085 and 272.085, relating to student worklike activities that do not constitute employment.

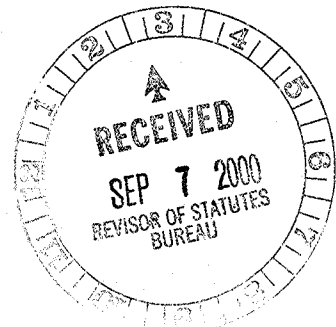
The attached rules shall take effect on November 1, 2000, pursuant to s. 227.22, Stats.

Adopted at Madison, Wisconsin this

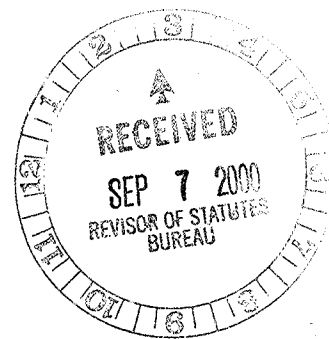
Date: Sept. 6, 2000

Department of Workforce Development

Linda Stewart
Secretary or designee



**State of Wisconsin
Department of Workforce Development
Equal Rights Division**



Student Worklike Activities That Do Not Constitute Employment

DWD 270.085 and 272.085

The Wisconsin Department of Workforce Development proposes an order to repeal and recreate s. DWD 272.085 and to create s. DWD 270.085 relating to student worklike activities that do not constitute employment.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Secs. 103.66 and 104.04, Stats.

Statutes interpreted: Sec. 103.66 and 104.04, Stats.

The state's administrative rules on child labor currently do not contain specific provisions on the status of students who perform services such as helping in the lunchroom or cafeteria or performing minor clerical work in the school office or library. The field operations handbook of the Wage and Hour Division of the U.S. Department of Labor provides that student activities of this type should not be treated as employment under the wage and hour laws as long as certain conditions are met. This rule adopts a policy similar to the federal standards.

The proposed rule allows a student to help in the school lunchroom, clean a classroom, act as a hall monitor, or perform minor clerical work in the school office or library for periods of one hour per day or less. Other student worklike activities are not sufficient to constitute employment if they have an educational benefit for the student and do not add more than one hour to the school day. Students performing worklike activities in schools must be supervised by an adult and these activities may not displace a regular employe. Student worklike activities that meet these criteria are not subject to the minimum wage requirements.

SECTION 1. DWD 270.085 is created to read:

DWD 270.085 Student worklike activities. (1) SPECIFIC ALLOWABLE ACTIVITIES. A student may perform worklike activities in his or her own elementary or secondary school, with or without compensation, which shall not constitute employment if all of the following conditions are met:

(a) The student helps in the school lunchroom or cafeteria, cleans a classroom, acts as a hall monitor, or performs minor clerical work in the school office or library.

(b) The student may perform the activities listed in par. (a) for periods of one hour or less on days that school is in session. The student may perform the activities listed in par. (a) for longer periods on days that school is not in session but may not perform the activities for longer hours on more than a few consecutive days. The annual total time that the student performs the activities listed in par. (a) shall not exceed the equivalent of one hour per school day in any school budget year.

(c) The student is supervised by an adult.

(d) The student does not displace a regular employe or reduce previously existing employment opportunities by performing work that would otherwise be performed by regular employes.

(2) CONDITIONS FOR OTHER STUDENT WORKLIKE ACTIVITIES. A student may perform worklike activities, other than those listed in sub. (1) (a), in his or her own elementary or secondary school, with or without compensation, which shall not constitute employment if all of the following conditions are met:

(a) The activity is basically educational and is conducted primarily for the benefit of the student.

(b) The time in attendance at school plus the time spent at the activity does not exceed the time that the student would be required to attend school under a normal academic schedule by more than one hour per day.

(c) The student is supervised by an adult.

(d) The student does not displace a regular employe or reduce previously existing employment opportunities by performing work that would otherwise be performed by regular employes.

SECTION 2. DWD 272.085 is repealed and recreated to read:

DWD 272.085 Student worklike activities and employment. (1) INDEPENDENT COLLEGES AND UNIVERSITIES. (a) Independent colleges and universities may employ full-time students who are 18 years of age and over for 20 hours per week or less at the federal minimum wage rates established under 29 USC 206.

(b) Students who work at independent colleges or universities for over 20 hours per week shall be paid at the rates established under s. DWD 272.03.

(2) ELEMENTARY AND SECONDARY SCHOOLS. Student worklike activities that meet the criteria of s. DWD 270.085 are not covered by the minimum wage provisions of this chapter.

EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.