



## Quick Quiz Answer: FLSA Child-Labor Restrictions

Insights

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The answer to our December 11, 2013 [Quick Quiz](#) is, "No". In declining percentage order, the responses were:

"No.": (72.5%)

"It is not possible to answer without more facts.": (13.7%)

" Yes, because Rick will supervise Conor.": (7.9%)

" Yes, because Conor is suspended from school.": (5.9%)

### What's The Problem?

This arrangement would result in multiple violations of the U.S. Labor Department's non-agricultural Fair Labor Standards Act child-labor restrictions (a USDOL summary of which can be accessed [here](#)).

First, 14- and 15-year-olds may not be employed to drive cars. USDOL's regulations specify the "operation of motor vehicles" as being a prohibited occupation for someone of Conor's age. In addition, 14- and 15-year-olds may not perform work that 16- or 17-year-olds may not do, and (with a narrow exception for certain 17-year-olds) this includes driving motor-vehicles on public roads.

Also, PoundOut may not permit Conor to work from 12 p.m. until 8 p.m. The regulations limit minors 14 and 15 years old to work done outside of school hours. Furthermore, these minors may not work after 7 p.m., except that they may work until 9 p.m. during the "summer" (from June 1 through Labor Day).

Neither may Conor work more than three hours in any day when school is in session; the plan is that Conor would work eight hours. And if Conor works five days in a week, that is, 40 hours, this would violate the restriction that 14- and 15-year-olds may not work more than 18 hours in any week when school is in session.

### What About The *Other* Considerations?

Doesn't it make a difference that Conor is suspended from school, or that his father will supervise him? *No* – these factors do not change things.

A limited FLSA exemption applies to some situations in which a minor is employed by his or her parent or by a person with custody standing in the place of the minor's parent. However, USDOL says that this exemption is possible only if the parent/custodian is the minor's *sole and exclusive* employer, whereas Rick is simply an employee of the corporation by which Conor would be employed. And even this exemption would not allow Rick to employ Conor to do the delivery driving.

A 14- or 15-year-old who has been *permanently expelled* from attending any school may work during school hours, for more than three hours in a day when school is in session, and for more than 18 hours in a week when school is in session. But USDOL says that this exception does not apply to temporary suspensions. Also, even when the exception does apply, the minor still may not work more than eight hours in a day, more than 40 hours in a week, or before 7 a.m. or after 7 p.m. (9 p.m. in the "summer").

### **The Bottom Line**

Our scenario illustrates just how complex and strict the FLSA child-labor rules are, especially where 14- and 15-year-olds are concerned. This is an area in which operating on the basis of conventional wisdom can be particularly perilous.

Keep in mind that the FLSA authorizes civil penalties of up to \$11,000 per illegally-employed minor. For violations resulting in a minor's death or serious injury, the penalty can be up to \$50,000 and can double to \$100,000 in the case of "repeated" or "willful" violations. There can also be other sanctions, possibly including even criminal prosecution. USDOL understandably views child-labor violations as being very serious matters.

Employers must also take into account the often-tougher restrictions that states and other jurisdictions typically have under their own laws.