

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

TITLE 29 -- LABOR

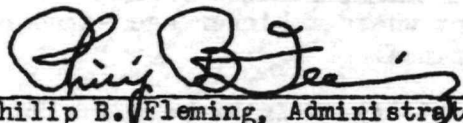
CHAPTER V -- WAGE AND HOUR DIVISION

PART 521

REGULATIONS APPLICABLE TO EMPLOYMENT
OF APPRENTICES PURSUANT TO SECTION 14
OF THE FAIR LABOR STANDARDS ACT.

The following amendments to Regulations - Part 521 - (Regulations Applicable to Employment of Apprentices Pursuant to Section 14 of the Fair Labor Standards Act) are hereby issued. These amendments, amending all Sections of said Regulations, shall become effective upon my signing the original and upon publication thereof in the Federal Register and shall be in force and effect until repealed or modified by regulations hereafter made and published.

Signed at Washington, D. C., this 14th day of September, 1940.



Philip B. Fleming, Administrator
Wage and Hour Division
Department of Labor

Published in Federal Register, September 24, 1940

WHEREAS, it having been found by me upon investigation that in order to prevent curtailment of opportunities for employment, it is necessary to make special provision for the employment of apprentices at minimum wage rates fixed in the apprenticeship agreement, where such rates are less than the minimum wage rates applicable under Section 6 of the Fair Labor Standards Act of 1938, I hereby prescribe the following Rules and Regulations governing such employment of apprentices:

SECTION 521.1 - DEFINITION OF APPRENTICE

For the purpose of these Rules and Regulations, the term "apprentice" shall mean: a person, at least sixteen years of age, 1/ who is employed to learn a skilled trade pursuant to the terms of a written apprenticeship agreement with the employer, which agreement provides (a) for not less than 4,000 hours of reasonably continuous employment for such person and (b) for participation of the apprentice in an approved schedule of work experience through employment, and (c) for at least 144 hours per year of supplemental instruction at classes in subjects related to that trade, providing such classes are available in the community. 2/

SECTION 521.2 - APPROVAL OF APPRENTICESHIP AGREEMENT

An apprenticeship agreement providing for the employment of an apprentice at wage rates below the applicable minimum and therefore requiring the issuance of a special certificate, may be filed for approval with: (1) a local joint apprenticeship committee -- consisting of an equal number of representatives of employers and of labor -- whose membership and procedures have been recognized by a recognized state apprenticeship council (or authority), or if no such council (or authority) exists in the state, by the Federal Committee on Apprenticeship; or (2) a state apprenticeship council (or corresponding apprenticeship authority) if such council (or authority) has been recognized by the Federal Committee on Apprenticeship. Or, if no such state or local agency exists, the agreement may be filed directly with the Wage and Hour Division, which may issue a certificate authorizing the employment of the apprentice at a wage rate or rates lower than the applicable minimum under

1/ Except where a higher age standard is fixed by Federal or State Law, or municipal ordinance.

2/ Par. 15 (f) of Interpretative Bulletin No. 13, issued by the Wage and Hour Division, U. S. Department of Labor, contains the following statement with respect to related supplemental instruction of apprentices: "In view of the special circumstances involved in bona fide apprenticeship training, it is our opinion that time spent in related supplemental instruction by a bona fide apprentice -- one who is employed under a written apprenticeship agreement which meets the standards of the Federal Committee on Apprenticeship or which conforms substantially with such standards -- need not be considered hours worked if the written apprenticeship agreement so provides . . . It should be noted, however, that related supplemental instruction does not include time spent by an apprentice in performing his regular duties or in any active work. Such time should be considered hours worked under all circumstances."

Section 6 of the Act, specified in the agreement, if such agreement is found upon consultation with the Federal Committee on Apprenticeship to be in accord with its standards.

If any interested party feels aggrieved by the action of a local joint apprenticeship committee or a state apprenticeship council, the agreement may be submitted directly to the Wage and Hour Division as above provided.

SECTION 521.3 - TEMPORARY SPECIAL CERTIFICATES

The written apprenticeship agreement when approved by a recognized local joint apprenticeship committee or by a recognized state apprenticeship council, and after the employer has received notice of such approval by the approving agency, shall be considered a Temporary Special Certificate, authorizing the employment of the apprentice at a wage rate or rates lower than the applicable minimum under Section 6 of the Act, specified in the approved agreement, until such time as a special certificate is issued by the Administrator or his authorized representative, or the employer is notified that his request for a Special Certificate is denied. In the event that a request for a Special Certificate is denied, the Temporary Special Certificate shall be considered terminated and the employer shall thenceforth, upon receipt of notice of such denial, pay the minimum wage applicable under Section 6 of the Act to the named apprentice.

SECTION 521.4 - REQUEST FOR SPECIAL CERTIFICATE

Upon approval of the apprenticeship agreement the employer shall immediately send the approved apprenticeship agreement, or a true copy thereof, to the Wage and Hour Division, U. S. Department of Labor, Washington, D. C., with a request that a Special Certificate be issued authorizing the employment of the apprentice at the wage rate or rates, lower than the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act, specified in the apprenticeship agreement. Or, the approving agency, on behalf of the employer, may send the approved agreement or a true copy thereof to the Wage and Hour Division and request a certificate.

SECTION 521.5 - ISSUANCE OF SPECIAL CERTIFICATES

If, upon examination of the apprenticeship agreement, the Administrator or his authorized representative finds that the employment of the apprentice conforms to the requirements of these regulations, he will issue a special certificate and mail one copy to the employer (who shall keep the same on file with his employment record) and one copy to the apprentice. The special certificate will authorize the employment of the named apprentice at the rate or rates less than the minimum wage applicable under Section 6 and for the length or lengths of time specified in the apprenticeship agreement. Such rate or rates and the length of time for which they are applicable shall be set forth in the certificate.

SECTION 521.6 - WAGES FOR APPRENTICES

No employer shall employ any apprentice at a wage rate less than the minimum wage applicable under Section 6 of the Fair Labor Standards Act until

he has obtained approval of the apprenticeship agreement and has received notice of such approval, which operates as a Temporary Special Certificate, or has obtained a Special Certificate as provided in these Regulations. No employer shall employ any apprentice under a Temporary Special Certificate or Special Certificate at a wage rate less than the rate applicable in such certificate.

SECTION 521.7 - CANCELLATION OF CERTIFICATES

A Special Certificate may be cancelled for violation of any of the terms of the certificate, and also for good cause to effectuate the provisions of Section 14 of the Fair Labor Standards Act.

SECTION 521.8 - RECONSIDERATION AND REVIEW

Any person aggrieved by the action of an authorized representative of the Administrator under these regulations in denying, granting, cancelling or revoking any Special Certificate may within 15 days of such action:

- (1) request reconsideration thereof by the authorized representative of the Administrator who made the decision in the first instance, and present additional evidence which may materially affect the decision, or
- (2) petition for review of the decision by the Administrator or an authorized representative who has taken no part in the action which is the subject of review. Such petition must set forth grounds for the requested review. The petition will be examined by the Administrator or an authorized representative who has taken no part in the action which is sought to be reviewed.

If a request for reconsideration or a petition for review is granted, all interested parties will be afforded an opportunity to present their views either in support of or in opposition to the matters prayed for.

SECTION 521.9 - PETITION FOR AMENDMENT OF REGULATIONS

Any person wishing a revision of any of the terms of the foregoing Regulations applicable to apprentices may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, upon examination of the petition, the Administrator finds that a reasonable cause for amendment of the Rules and Regulations has been shown, the Administrator will either schedule a hearing, with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, both in support and in opposition to the proposed changes.