

## U.S. DEPARTMENT OF LABOR

WASHINGTON, DC 20210

August 24, 2023

The Honorable Nate Boulton  
State of Iowa Ninetieth General Assembly  
1007 E Grand Avenue  
Des Moines, IA 50319

Dear Senator Boulton:

Thank you for your July 19, 2023 letter to the U.S. Department of Labor (Department) Solicitor of Labor, Seema Nanda, and Wage and Hour Division (WHD) Principal Deputy Administrator, Jessica Looman, in which you request additional technical assistance regarding Iowa's recently enacted child labor legislation and its relationship to federal child labor requirements.

As you know, WHD is responsible for administering and enforcing some of our nation's most comprehensive labor laws. These include the minimum wage, overtime, and child labor provisions of the Fair Labor Standards Act (FLSA). Child labor laws ensure the safety and well-being of young workers and prevent work experiences from having a negative effect on a minor's health or education. In your letter, you request technical assistance regarding whether specific provisions of Iowa's recently enacted child labor legislation conflict with provisions of federal child labor law.

As explained in our May 10, 2023 letter, the FLSA establishes federal standards with respect to child labor, and while states can pass more protective laws, states cannot nullify federal requirements by enacting less protective standards. The provisions of Iowa's child labor law that you identify appear to be inconsistent with federal child labor law. Specifically, you explain that section 9 of Senate File 542, which was codified at Iowa Code § 92.8A, permits 16- and 17-year-olds to work in certain hazardous occupations if they are enrolled in a career and technical education program, work-based learning program, internship, registered apprenticeship program, or student learners' program.

While the Department's regulations provide limited exceptions to certain hazardous occupations orders in nonagricultural employment for apprentices and student-learners who are at least 16 years old, there are specific and important requirements that must be met for those exceptions to apply. These additional requirements operate as safeguards to protect the safety and well-being of the 16- and 17-year-olds participating in apprenticeships and student-learner programs. *See* 29 CFR 570.50. You explain that Iowa Code § 92.8A does not contain the same requirements as federal law for youth working under the limited apprenticeship or student learner exemption for 16- and 17-year-olds. *See* 29 CFR 570.50. Specifically, you note that Iowa Code § 92.8A does not require a 16- or 17-year-old apprentice to be registered by the Department or by a State agency, or to be employed under a written apprenticeship agreement or conditions that DOL finds substantially conformed to approved federal or state standards. This is inconsistent with federal requirements. Under 29 CFR 570.50(b), an exemption for the employment of apprentices shall apply, in part, only when "the apprentice is registered by the [Office of Apprenticeship] of the United States Department of Labor as employed in accordance with the standards established

by that [Office], or is registered by a State agency as employed in accordance with the standards of the State apprenticeship agency recognized by the [Office of Apprenticeship], or is employed under a written apprenticeship agreement and conditions which are found by the Secretary of labor to conform substantially with such Federal or State standards.” 29 CFR 570.50(b). As mentioned, these requirements act as important safeguards to ensure the safety and well-being of 16- and 17-year-olds as they participate in apprenticeships and potentially hazardous work. Thus, this provision of Iowa’s child labor law, in its current form, is inconsistent with federal law to the extent that an employer or child is covered by the FLSA.

In addition, the limited apprentice and student-learner exception only applies to certain hazardous occupations. There are several hazardous occupations orders that do not have the limited apprentice and student-learner exception, and youth generally may not perform work in such occupations even if they are participating in an apprenticeship or student-learner program. You explain that Iowa Code § 92.8A permits 16- and 17-year-olds to operate power-driven hoisting apparatuses and power-driven bakery machines, to manufacture brick, tile, or related products, and to work in wrecking, demolition, or ship breaking operations if they are enrolled in a career-technical education program, work-based learning program, internship, registered apprenticeship program, or student learners’ program. However, under federal law, 16- and 17-year-olds cannot work in these hazardous occupations, and there is no exception for 16- and 17-year-olds participating in apprenticeships or student-learner programs meeting the conditions described in 29 CFR 570.50. *See* 29 CFR 570.58, .62, .64, .66. Thus, Iowa Code § 92.8A purports to permit 16- and 17-year-olds to perform work that is, in fact, prohibited by federal law to the extent that an employer or child is covered by the FLSA.

You further request that the Department issue a state-specific “fact sheet” regarding Iowa’s child labor law. Thank you for that suggestion. The Department recently sent a letter to the Iowa Commissioner of Labor recommending that the Iowa Department of Inspection, Appeals, and Licensing include specific language on its website and in compliance assistance materials explaining that most employers are subject to both state and federal child labor laws and that employers covered by the FLSA who only follow a less restrictive Iowa law will be in violation of federal law. We hope that this language may provide clarity to employers who could violate the FLSA by, for example, only complying with a less protective Iowa child labor law.

Finally, you request that the Department “confirm what specific penalties may be issued if DIAL [Iowa’s Department of Inspections, Appeals, and Licensing] fails to adopt rules that match federal law.” Where provisions of state child labor law are less protective than the FLSA’s child labor provisions, a FLSA-covered employer must follow the more protective provisions of the FLSA. The Department has broad authority to enforce the child labor provisions of the FLSA. FLSA-covered employers that violate federal child labor law are subject to various penalties, including civil money penalties, which depend on the nature of the violations and the underlying factual circumstances. *See, e.g.*, 29 CFR 579.1. In addition, the Department will continue to monitor Iowa’s implementation of the law to assess potential obstruction of federal child labor protections.

If you have any further questions, please feel free to contact the Department’s Office of Congressional and Intergovernmental Affairs at (202) 693-4600. In addition, employers and

young workers may visit <https://www.dol.gov/agencies/whd/child-labor> to learn more about their responsibilities and rights regarding child labor under the FLSA. We appreciate the opportunity to work with you to ensure children in Iowa who work do so in a safe and healthy environment.

Sincerely,

*Seema Nanda*

Seema Nanda  
Solicitor of Labor

*Jessica Looman*

Jessica Looman  
Principal Deputy Administrator, WHD