

Hawaii Administrative Rules

TITLE 12
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Subtitle 4
Wage Standards Division

CHAPTER 20
WAGE AND HOUR

Subchapter 2 Employment of Student-Learners

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SUBCHAPTER 2

EMPLOYMENT OF STUDENT-LEARNERS

Historical Note: Subchapter 2, chapter 20 of title 12 is based substantially upon "Rule XVII, Relating to Employment of Student-Learners" of the Department of Labor and Industrial Relations. [Eff 8/15/55; am 1/1/64; R Oct. 2, 1981]

§12-20-51 Definition. As used in this subchapter:

"Bona fide vocational training program" means one authorized and approved for public high schools by the department of education or approved for a private high school by the principal of that school, with provision for part-time employment training which may be scheduled for a part of the workday or workweek, for alternating weeks, or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related industrial information given as a regular part of the student-learner's course in the high school.

"Student-learner" means a student who is receiving instruction in a public high school or licensed private high school and who is employed on a part-time basis pursuant to a bona fide vocational training program. [Eff. Oct. 2, 1981] (Auth: HRS §§387-9, 387-11) (Imp. HRS §387-9)

§12-20-52 Application for certificate. Application for the employment of student-learners under special certificates authorizing employment at wages lower than the minimum wage applicable under section 387-2, Hawaii Revised Statutes, shall be made by the employer to the director on forms furnished by the department. The application must be complete and be signed by the employer, student-learner, and appropriate school official. [Eff. Oct. 2, 1981] (Auth: HRS §§387-9, 387-11) (Imp. HRS §387-9)

§12-20-53 Issuance of certificate. (a) upon receipt of an application for the employment of a student-learner, the director may issue a special certificate under the following terms and conditions:

- (1) Any training program under which the student-learner will be employed shall be a bona fide vocational training program;
 - (2) The special minimum wage shall not be less than seventy-five per cent of the minimum wage under section 387-2, Hawaii Revised Statutes, as amended;
 - (3) The special certificate shall be valid for a period not to exceed one school year;
 - (4) The special certificate shall have no retroactive effect, but shall operate as an exception subsequent to the date of issue only;
 - (5) The student-learner shall be at least sixteen years of age;
 - (6) The work hours at the subminimum rate combined with the school hours of the student-learner shall not exceed forty hours per week. When school is not in session the number of hours worked at the subminimum rate by the student-learner shall not exceed forty hours per week; and
 - (7) There have been no violations of chapter 387, Hawaii Revised Statutes, by the employer which may provide reasonable grounds for the director to conclude that the employer would not comply with the terms of the special certificate.
- (b) The special certificate or a notice of the denial thereof shall be mailed to the employer.
- (c) The special certificate shall be preserved by the employer and be available for inspection for at least six years after date of issue. [Eff. Oct. 2, 1981] (Auth: HRS §§387-9, 387-11) (Imp: HRS §387-9)

§12-20-54 Revocation of certificate. (a) A special certificate may be revoked by the director for cause at any time. Cause shall mean violation of any provision of this subchapter, falsification of any information required by the application, or withdrawal of approval of the employer's participation in the training program.

(b) No order revoking any special certificate shall take effect until the expiration of the time allowed for reconsideration under section 12-20-55, and if reconsideration is requested, the effective date of the revocation order shall be postponed until action is taken thereon. If the revocation order is affirmed, the employer shall reimburse any person employed under a special certificate which has been cancelled for the difference between the minimum wage applicable under section 387-2, Hawaii Revised Statutes, and any lower wage paid that person subsequent to the revocation date indicated in the director's order. [Eff. Oct. 2, 1981] (Auth: FIRS §§387-9, 387-11) (Imp. HRS §387-9)

§12-20-55 Reconsideration. (a) Any person aggrieved by the director's action in denying, granting, or revoking a special student-learner certificate may, within ten days after the director's action, file a written request for reconsideration by the director.

(b) A request for reconsideration shall be granted where the applicant shows that there is additional evidence which may materially affect the decision and that there were reasonable grounds for failure to offer that evidence prior to the director's action. [Eff. Oct. 2, 1981] (Auth: HRS §§387-9, 387-11) (Imp. HRS §387-9)

§§12-20-56 to 12-20-60 (Reserved)

Nothing in Chapter 387, HRS, and above related Administrative Rules shall be construed to supersede any provision of Chapter 390, HRS, Child Labor Law and related Administrative Rules that may provide greater protections and requirements.