



July 28, 2023

Jade Butay
Director
Hawaii Department of Labor and Industrial Relations
830 Punchbowl Street, Room 340
Honolulu, Hawaii 96813

Dear Director Butay:

I write to you with the goal of working together to ensure the safety and welfare of young workers in Hawaii.

As Principal Deputy Administrator of the Department of Labor's (Department) Wage and Hour Division (WHD), I am responsible for administering and enforcing some of our nation's most foundational labor laws, including the child labor provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. 212(c). Child labor laws ensure the safety and well-being of young workers and prevent work experiences from having a negative effect on their health or education. The federal child labor regulations generally prohibit employers subject to the FLSA from employing children in hazardous occupations and limit the hours that 14- and 15-year-olds can work in agricultural and nonagricultural employment. The FLSA also restricts the employment of children under the age of 14. The FLSA's child labor provisions cover children under the age of 18 who are employed by businesses or organizations that have an annual dollar volume of sales or business done of at least \$500,000 or who are individually engaged in commerce or in the production of goods for commerce as part of their employment. *See, e.g., [Fact Sheet #14: Coverage Under the Fair Labor Standards Act \(FLSA\) | U.S. Department of Labor \(dol.gov\)](#).*

Most states also have laws setting standards for child labor in both agricultural and non-agricultural occupations, and employers may be subject to both state and federal child labor provisions. WHD has seen a disturbing increase in efforts to weaken these state child labor laws across the country. While states may establish higher child labor standards than those set by the FLSA, the FLSA sets the minimum standards for child labor for covered employers and children. When both federal and state child labor laws apply, and the state child labor law is less restrictive than federal law, the federal law must be followed. State child labor laws that purport to authorize employment practices that are prohibited by the FLSA present an obstacle to accomplishing the objective of the FLSA's child labor provision—to protect the education and well-being of children and to end oppressive child labor. Moreover, without clear guidance from the state, these laws could create confusion for employers as to whether they must comply with the FLSA's provisions.

To provide clarity to employers who may inadvertently violate the FLSA by complying only with a less protective state law, WHD strongly recommends including the following language on the Hawaii Department of Labor and Industrial Relations website and in compliance assistance materials for employers:

Employers are generally subject to both state child labor laws and the federal child labor provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. 212(c), and the FLSA regulations at 29 CFR Part 570. Certain provisions of Hawaii state law may be less restrictive than federal law, and employers covered by the FLSA that only follow a less restrictive provision of Hawaii state law will be in violation of federal law. *See* 29 U.S.C. 218(a). For more information on federal child labor law, please visit the U.S. Department of Labor's Wage and Hour Division Website at www.dol.gov/whd.

If you have questions about how Hawaii state law interacts with federal child labor law, WHD is available to provide technical assistance. Please direct any questions to Cheresse Thymes at Thymes.Cheresse@dol.gov in WHD's Division of Fair Labor Standards Act and Child Labor. WHD is also available to provide compliance assistance to Hawaii employers, parents, and young workers to help each understand their rights or obligations under the FLSA and the Department's regulations. We appreciate the opportunity to work with you to ensure children in Hawaii who work do so in a safe and healthy environment.

Sincerely,



Jessica Looman
Principal Deputy Administrator