



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

December 1, 2008

[REDACTED]

Re: Request for Opinion
Working Papers/
Home School Students
RO-08-0135

Dear [REDACTED]:

I have been asked to respond to your letter of October 24, 2008, in which you ask for clarification regarding providing working papers to students who are home-schooled. Your letter states that the children are educated by their parents at home, have very little contact with the school district other than to submit their curriculum and plans for instruction once a year and to request working papers once they reach the ages of 14-18 and wish to be employed. The questions posed by your letter are addressed individually below:

1. *May home-schooled students under the age of 16 work full-time?*

With certain exceptions, minors under the age of fourteen are not permitted to work (Labor Law §130). The number of hours fourteen and fifteen year olds are allowed to work depends on whether school is "in session." While school is in session, fourteen and fifteen year olds are allowed to work no more than three hours on any school day, eight hours on any day when school is not in session, eighteen hours a week, six days a week, or after seven o'clock in the evening or before seven o'clock in the morning. (See, Labor Law §142(1)). When school is not in session, fourteen and fifteen year olds are allowed to work no more than eight hours per day, six days per week, more than forty hours per week, or after seven o'clock in the evening or before seven o'clock in the morning except between June 21st and Labor Day of the same calendar year, when such minor may not work after nine o'clock in the evening or before seven o'clock in the morning. (See, Labor Law §142(2)). While neither the Labor Law nor the Education Law expressly defines "in session" for purposes of home-schooling, information contained on the Department of Education's website states that while instruction at home is usually given within the time-frame of the normal school day and greater flexibility in scheduling is possible, the total amount of instructional time per week should be generally comparable to that of a public school. (See, New York State Education Department, Home

Tel: (518) 457-4380, Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240

Instruction--Questions and Answers¹). It is this Department's opinion, therefore, that home-schooled children fourteen to fifteen years of age will be deemed to be "in session" the same dates and times as are children receiving instruction in school and that the hours of work and other time limitation provisions of Labor Law §142 are applicable to home-schooled children in the same manner as they apply to children schooled in traditional school settings.

2. *What type of working papers are minors under the age of 16 who are home-schooled entitled to (ex. Full-Time Employment Certificate, Student General Employment Certificate, etc)?*

Nothing in the Labor or Education laws distinguish between home-schooled and school-enrolled minors in the issuance of working papers. Therefore, all minors under the age of 16, whether home-schooled or enrolled in school, are entitled to the same certificates and permits.

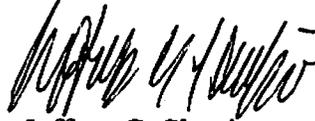
3. *Are home-schooled children bound by the same labor laws as children attending public or private schools (i.e. number of hours allowed per day)?*

Yes. Nothing in the New York State Labor Law diminishes or inhibits the protections for child workers due to the fact that they are home-schooled.

This opinion is based on the information provided in your letter dated October 24, 2008. A different opinion might result if the circumstances outlined in your letter change, if the facts provided were not accurate, or if any other relevant fact was not provided. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel



By: Jeffrey G. Shapiro
Associate Attorney

JGS:jc
cc: Carmine Ruberto

¹ Available online at [<http://www.emsc.nysed.gov/nonpub/homeschoolingqanda.htm>]