

# Oklahoma Department of Labor

Oklahoma Administrative Code  
Title 380 – Department of Labor  
Chapter 16 – Child Labor Violations



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Commissioner of Labor

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# Oklahoma Administrative Code

## Title 380 – Department of Labor

### Chapter 16 – Child Labor Violations

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### **380:16-1-1. Purpose**

The purpose of this Chapter is to set forth rules for the enforcement of 40 O.S. § 71 *et seq.*, relating to the employment of children.

##### **380:16-1-2. Definitions**

The following words or terms shall have the following meaning, unless the context clearly indicates otherwise:

**“The Act”** shall be defined as 40 O.S. §§ 71-89.

**“Age and Schooling Certificate”** may at various times be referred to as “employment certificate of age and schooling,” “employment certificate,” “work certificate,” and “work permit.”

**“Commissioner”** shall mean the Commissioner of Labor or her designee.

**“Equity interest”** means ownership interest.

**“Hearing officer”** shall mean the Commissioner of Labor or her designee sitting as Administrative Law Judge.

**“Inspecting officer”** means any employee of the Department of Labor who may be designated to inspect or investigate violations of the Act, or who personally observes a violation of the Act.

##### **380:16-1-3. Burden of compliance on parents and employer**

The failure of a parent or guardian to comply with the provisions of the Act shall not absolve the employer from the requirements thereof. Lack of knowledge, either actual or constructive, as to an employee’s age shall not be a valid defense to any violation of the Act.

#### SUBCHAPTER 5. HEARING PROCEDURES

##### **380:16-5-1. Notices of violation**

If upon inspection or investigation, an employer is found to be in violation of the Act, the inspecting officer may issue the employer a written citation describing the violations found and any corrective action which must be taken. Employers are to comply with such corrective action immediately, or as soon as possible, unless otherwise instructed by the Commissioner. Failure to comply with the Commissioner’s lawful order shall be taken into account as an aggravating factor during any administrative hearing. In any administrative hearing, the hearing officer shall not be bound by the amount

of any fine which may have been negotiated prior thereto. The hearing officer may set the fine at whatever amount he or she deems appropriate, up to the maximum allowed by the Act.

**380:16-5-2. Warnings**

In lieu of a citation, the inspecting officer may issue a warning to the employer if such is warranted in the officer's opinion. The warning may require that corrective action be taken immediately; however, failure to comply with a warning will not result in a fine being imposed upon the employer, unless a subsequent citation is issued to the employer.

**380:16-5-3. Hearing procedures**

- (a) Employers cited for violations of the Act will be provided with notice of the date, time, and place where they may contest such violations. Employers may appear either in person or by counsel. Failure to appear may result in entry of a default order and assessment of the maximum fine allowable by law. Employers may file whatever pleadings or motions they deem appropriate.
- (b) The Notice of Violation and the testimony of the inspecting officer shall establish a prima facie case that the violation occurred.
- (c) If the employer wishes to contest any facts relating to the violation, or to present an affirmative defense, the employer shall provide the following documents to the agency's Legal Division at least 10 days prior to the scheduled hearing date:
  - (1) A brief statement explaining the employer's defenses to the citation;
  - (2) A list of any witnesses the employer intends to call on its behalf;
  - (3) Two (2) copies of all documents the employer intends to introduce as exhibits at the hearing.
- (d) Unless good cause is shown, no evidence shall be admissible at the hearing unless the same has been provided to the Legal Division as required above.

**380:16-5-4. Cease and desist orders**

Pursuant to the Act, the Commissioner may issue Cease and Desist Orders against employers who repeatedly violate child labor laws. If a Cease and Desist Order is issued against an employer, the matter will be set before a hearing officer on the next available Child Labor docket. The employer shall be commanded to appear and show cause why the Order should not remain in full force and effect. Failure to comply with the Order and/or appear at the show cause hearing may result in the Commissioner obtaining an injunction from the District Court to enforce the Order. Compliance with any Cease and Desist Order is mandatory unless and until the Commissioner rescinds the Order.