

ROSS ANDERSON - Originator  
FRANK SAGARINO - Concurred  
WM. E. EUBANK - "

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

November 7, 1962  
Opinion No. 62-38  
R-449

REQUESTED BY: Harry J. Broderick  
Assistant Superintendent  
Department of Public Instruction

OPINION BY: ROBERT W. PICKRELL  
The Attorney General

QUESTION: May a person who has completed the eighth grade and is under the age of 16 be employed in agricultural type work?

ANSWER: Yes.

Congress, on May 5, 1961, revised the Fair Labor Standards Act of 1938 (20 USC 261-219) to include provision covering employment of children under 16 on agricultural jobs. In essence, Congress generally prohibited the employment of children under 16 as "oppressive child labors," then went on to list a broad spectrum of exceptions to this rule. Section 13 (c) of this statute provides an exemption from the child labor provision for "any employee (i.e. child under 16) employed in agriculture outside of school hours for the school district where such employee is living while he is so employed." The purpose Congress attempted to accomplish by this act was to permit agricultural work only so long as it did not infringe upon the opportunity of children for education.

This law simply states that if the child is under 16, he cannot be employed in agriculture during the school hours for a particular school district. The statute does allow employment of such children "outside of school hours," which means before and after school hours, holidays, summer vacations, Sundays, or any other days on which the school for the district in which the minor lives does not assemble. The Department of Labor has taken the position that minors who have graduated from high school may be employed even though they are under 16 years of age, for the reason that the Department feels they fall within the area designated as "outside of school hours."

If a child moves into a district which has a summer school in session and the school district he just left was closed for the summer, the child may be employed in this new district until the new autumn session begins.

November 7, 1962  
Opinion No. 62-38  
R-449 - Page 2

Congress has allowed another exemption. This is called the parental exemption found in Section 3 (1) of the Act. This provides that children under 16 are permitted to work for their parents on their parents' farms at any time, provided they are not employed in a manufacturing or mining operation.

This opinion is not exhaustive of all the ramifications and subtleties of this Federal Act. It is only to give a general interpretation. More specific questions and inquiries should be directed to the United States Department of Labor, Wage and Hour and Public Contracts Divisions, Washington 25, D. C.

*Robert W. Pickrell*  
ROBERT W. PICKRELL  
The Attorney General

RA:rr

Office Of Attorney General

INTER-OFFICE MEMO

TO:

ALL SECRETARIES:

Date October 18, 1962

FROM:

WM. EUBANK :

SUBJECT:

FORMAL OPINION PROCEDURE:

\*\*\*

Upon file folder being made up - given R. No. and when rough draft has been checked - given Opinion No., then given to Secretary for stencil: PROOF ROUGH DRAFT AS TO CITATIONS. Check citations to show they have been checked.

1. Stencil is proofed before mimeo is made (250 copies)
2. Cover letter is sent to requesting party with copy of opinion.
3. One copy is placed in the book in the library, with notation on top as to Originator and who concurred (needs 2 concurring attorneys)
4. 2 copies to Highway
5. 1 Copy to Bill ~~Richey in Tucson~~ Richey in Tucson
6. 1 Copy in Gazette envelope
7. 1 Copy in Land Dept. envelope
8. 1 Copy in Employment Security envelope
9. 1 Copy in Inner-office file folder
10. 1 Copy to Sylba Martin for record book
11. 4 copies to Press file
12. Remaining copies to Nancy for Capitol distribution and monthlk distribution.
13. Index cards to be made by Mary Miller, and Index to be made of all opinions for library book and future records. Index is as to subject matter and Code Sections and Constitution, also, requesting party, or department.

\*\*\* Write No. of Opinion and to whom sent and question, and who prepared same in front of the opinion book. See form.

W.E. EUBANK  
Chief Assistant  
Attorney General

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL