



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

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To Interested Parties:

The Department of Labor Standards (DLS) issues this opinion letter in response to the recent statutory change to General Laws chapter 151, section 7. Following the passage of Chapter 144 of the Acts of 2014, and effective January 1, 2015, the second paragraph of section 7 reads as follows:

The commissioner shall not establish minimum fair wage rates below \$1.85 per hour, except for learners and apprentices, except for seasonal camp counselors and counselor trainees, and except for ushers, ticket sellers and ticket takers whose minimum fair wage rates shall not be below \$1.25, and except for janitors and caretakers of residential property, who, when furnished with living quarters, shall be paid a wage of not less than \$36 per week, and except for services as golf caddies, and except for service people who customarily and regularly receive more than \$20 a month in tips.

The sole change to the paragraph is the insertion of the phrase "except for seasonal camp counselors and counselor trainees," to the list of occupations for whom the Director of DLS may establish a sub-minimum wage rate.

For years, DLS regulations have permitted seasonal camps to apply for a waiver allowing them to pay student camp counselors and counselor trainees 80% of the minimum wage. Consequently, in the wake of Chapter 144's enactment, DLS recently proposed a regulation that would have extended the 80% exemption to all seasonal camp counselors, not just those who are also students. During the regulation's public comment period, however, DLS learned from both interested parties and numerous legislators that the Legislature's intent when it added "seasonal camp counselors and counselor trainees" to section 7 of the Minimum Fair Wages Act was to provide a full minimum wage exemption to those categories of employees. As a result of those comments, DLS deleted the proposed language from the final regulation.

Additionally, going forward, DLS will interpret section 7 of chapter 151 in accordance with the expressed legislative intent to provide a complete minimum wage

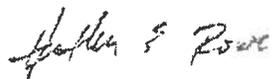
exemption for seasonal camp counselors and counselor trainees. In Massachusetts, a business may be considered seasonal if it operates for 120 days or fewer in a year.

As they have in the past, seasonal camps seeking a minimum wage exemption still must apply annually for a waiver from the Director of DLS. In order to receive a waiver a camp must provide to DLS information regarding the seasonal nature of the business, the sub-minimum wage sought, whether the camp will provide food and lodging to the employees, the number of counselors and trainees for whom the waiver is sought and their duties and responsibilities, and the number of counselors for whom no waiver is sought and the wage(s) they will be paid.

As in the past, seasonal camps, except for summer camps operated by a non-profit charitable corporation, seeking an exemption from the requirement to pay overtime to employees still must apply annually for an overtime waiver from the Director of DLS. The camp must provide to DLS information regarding the seasonal nature of the business.

Please do not hesitate to contact this office if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Heather E. Rowe".

Heather Rowe
Director



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Summer Camp Employment Guidelines

Issued: December 2006

Summer camps, like other Massachusetts employers, are subject to various employment laws that govern employee wages, hours, and other employment-related matters. One of these laws is the Massachusetts Minimum Fair Wage Law, G.L. c. 151 ("the Minimum Wage Law"). The requirements of the Minimum Wage Law are further defined by Regulations.

The Division of Occupational Safety (DOS) is responsible for interpreting the Minimum Wage Law and Regulations. The Office of the Attorney General enforces the Minimum Wage Law, Regulations, and other employment laws that set many of the standards that must be met when employing counselors and other employees at summer camps. Additional standards applicable to summer camps are set by the Massachusetts Department of Public Health and can be found in the Code of Massachusetts Regulations. See 105 C.M.R. §430.000, et seq.

DOS provides the following Guidelines to assist summer camps in understanding the Minimum Fair Wage Law and Regulations and how they apply to summer camps. The Guidelines have been updated to incorporate the increase to the statutory minimum wage, effective January 1, 2007. We have also included in these Guidelines references to several other employment laws that apply to summer camp employers. We hope that you find these Guidelines helpful. If you have any questions about the applicability of the Minimum Wage Law or Regulations, please feel free to contact DOS Deputy General Counsel, Lisa Price, at (617) 727-3452, ext. 108. If you have any questions about the enforcement of the Minimum Wage Law, Regulations, or the applicability or enforcement of the other employment laws discussed herein, please contact the Office of the Attorney General's Fair Labor and Business Practices Division at (617) 727-3465.

Minimum Wage

The Minimum Wage Law requires that employees be paid no less than the statutory minimum wage, \$7.50 per hour, effective January 1, 2007.¹ G.L. c. 151, §1. However, some exceptions may apply to summer camps.

The Minimum Wage Law and Regulations allow for payment of a sub-minimum wage to students employed as camp counselors or counselor trainees, provided the camp obtains an Employer License, also known as a waiver, from DOS. 455 C.M.R. §2.05(1)(c). Student employees are considered camp counselors or counselor trainees if they are directly involved in camp programming and camper supervision. 455 C.M.R. §2.05(1)(c). The waiver permits the camp to pay these student workers an hourly wage of no less than 80% of the minimum wage, or \$6.00 per hour, effective January 1, 2007. An application for waiver of minimum wage for these employees may be downloaded from the DOS website: www.mass.gov/dos.

Overtime Compensation

The Minimum Wage Law also includes provisions requiring most employers to pay overtime compensation (time and one-half) for hours worked in excess of 40 in a given workweek. Overtime pay is calculated on a *weekly* basis. Again, there are some exceptions that apply to summer camps.

Summer camps operated by non-profit charitable corporations are not required to pay overtime compensation to their employees. G.L. c. 151, §1A(18). No waiver application is necessary.

For-profit summer camps must pay overtime compensation for hours worked in excess of 40 hours in a given work week unless they obtain a waiver by means of a seasonal business determination. G.L. c. 151, §1A(9). To be eligible for a seasonal business determination, and thus an exemption from the requirement to pay overtime, the for-profit summer camp must operate during a period or accumulated periods of not more than 120 days per year. An application for a seasonal business determination may be downloaded from the DOS website: www.mass.gov/dos.

Minimum Wage Regulations

In addition to the Minimum Wage Law, summer camps must comply with Regulations

¹The current minimum wage is \$6.75 per hour. In addition to the increase to \$7.50 per hour, effective January 1, 2007, the minimum wage will increase to \$8.00 per hour, effective January 1, 2008.

that apply to all employees regardless of whether they are subject to a wage waiver. These regulations include, but are not limited to, the following:

1. When a camp employee is required to be on duty at the camp for 24 hours or more, the employer and employee may agree prior to performance of the work to exclude bona fide meal periods and a bona fide regularly scheduled sleeping period of not more than eight hours from working time, provided the employer provides adequate sleeping quarters and the employee can usually enjoy an uninterrupted night's sleep.² If no prior agreement is made, sleeping time and meal time will constitute working time. If the sleeping period is interrupted by a call to duty, all such time on duty must be counted as working time. If the sleeping period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted as working time. 455 C.M.R. §2.03(3)(b).
2. If a camp employee resides at the summer camp on a permanent basis or for extended periods of time, not all time spent on the premises is considered working time. The employer and the employee may make any reasonable agreement as to hours worked which takes into consideration all of the pertinent facts. 455 C.M.R. §2.03(3)(c).
3. Camps must keep a true and accurate record of the name, complete address, social security number, and occupation of each employee, of the amount paid each pay period to each employee, the hours worked each day, and the dates on which each employee worked each week. 455 C.M.R. §2.06(2). These records are subject to inspection by the Office of the Attorney General.
4. Camps that require uniform deposits should ask for and review a copy of the DOS Uniform Deposit Waiver Policy. Additionally, camps may not deduct the cost of laundering uniforms from an employee's wages if doing so would reduce that employee's wage below the basic minimum wage (or approved sub-minimum wage for workers subject to a waiver). 455 C.M.R. §2.04(1). If camp staff are responsible for cleaning their own uniforms, the camp must reimburse actual costs for dry-cleaning, commercial laundering, or other special treatment to the extent that these costs reduce the employee's wage below the basic minimum wage (or approved sub-minimum wage for workers subject to a waiver). Where uniforms are made of "wash and wear" materials, that do not require special treatment, and that are routinely washed and dried with other personal

²Camp employees under the age of 18 who are expected to be on duty or on call at night may only work during the hours permitted by the Massachusetts Child Labor laws. (See pages 5-6.) Additionally, a federal law may apply to some employers which prohibits minors under the age of 16 from working more than 40 hours in a week. Otherwise, the Massachusetts restriction applies, which allows minors under the age of 16 to work no more than 48 hours per week. G.L. c. 149, §65.

garments, the camp need not reimburse employees for uniform maintenance costs. 455 C.M.R. §2.04(2)(a).

5. Camps may take deductions from employees' wages for lodging and meals. The maximum allowable deductions are as follows:

For lodging, a camp may deduct \$35.00 per week from employee's wages for a room occupied by one person; \$30.00 per week for a room occupied by two persons; and \$25.00 per week for a room occupied by three or more persons. 455 C.M.R. §2.04(1)(a).

For meals, a camp may deduct \$1.50 for breakfast; \$2.25 for lunch; and \$2.25 for dinner. However, no deductions for meals may be taken without the written consent of the employee, and no such deduction may exceed the actual cost to the employer. 455 C.M.R. §2.04(1)(b).

For illustrative purposes, we provide the following examples of wage calculations:

The first is a calculation of the minimum weekly gross pay for a student camp counselor subject to a wage waiver who works in a **residential camp**. This calculation assumes that the student 1) is provided three meals a day seven days a week, 2) has provided written consent for the meals deduction, 3) is provided a room shared by three or more persons, and 4) works 40 hours during the week.

40 hours x \$6.00 per hour (\$7.50 x 80%)	\$240.00
Breakfasts (\$1.50 x 7 days)	- 10.50
Lunches (\$2.25 x 7)	- 15.75
Dinners (\$2.25 x 7)	- 15.75
Lodging in a room occupied by three or more persons	- 25.00
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	\$173.00

The following is a calculation of the minimum weekly gross pay for a student camp counselor subject to a wage waiver who works in a **day camp**. This calculation assumes that the student 1) is provided lunch five days a week, 2) has provided written consent for the meals deduction, and 4) works 40 hours during the week.

40 hours x \$6.00 per hour (\$7.50 x 80%)	\$240.00
Lunches (\$2.25 x 5)	- 11.25
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	\$228.75

Other Massachusetts Wage and Hour and Child Labor Laws

The following is a compilation of other laws that apply to Massachusetts employers, including summer camps. These laws are enforced by the Massachusetts Office of the Attorney General:

1. Camps must comply with other Massachusetts wage and hour laws which include, but are not limited to, the following:
 - a. Camps must pay weekly or bi-weekly the wages earned to each employee within six days of the end of the pay period. G.L. c. 149, §148.
 - b. Camps must provide a day of rest in seven for all employees. G.L. c. 149, §§48 & 51.
 - c. Camps may not require any employee to work more than six hours without a 30-minute meal break. G.L. c. 149, §100.
2. Camps must provide statutory workers' compensation coverage for all employees. G.L. c. 152, §25A.
3. Camps must comply with all requirements of the Massachusetts child labor laws including, but not limited to, the following:
 - a. Camps must receive and maintain on file an employment permit for every 14 and 15 year-old who works at the camp. Work permit applications may be found online at: www.mass.gov/dos/youth. Education certificates are required for 16 and 17 year-olds who perform certain types of jobs at summer camps. These certificates may be obtained from the superintendent of schools in the city or town where the minor lives. A permit or educational certificate must be on file at the work site before the minor may begin work at the camp. Minors who live outside of Massachusetts must obtain their permits or certificates from the school department in the city or town in which the camp is located. G.L. 149, §§86 & 89.
 - b. Camps must post a work schedule for minors at the beginning of each week. G.L. c. 149, §74.
 - c. A list of all minors employed by camps must be maintained and made available for inspection. G.L. c. 149, §86.

- d. Camps must observe the following restrictions on the hours worked by minors: (Note: These reflect the requirements of the Massachusetts child labor laws. In most camps, the federal child labor laws also apply and these laws may be more stringent. An asterisk is placed next to any requirements where the federal law is more restrictive.)
- i. Minors aged 14 and 15 may work only between the hours of 6:30 a.m.* and 7:00 p.m. (9:00 p.m. from July 1 through Labor Day). G.L. c. 149, §65.
 - ii. Minors aged 14 and 15 may not work more than eight hours a day within a nine consecutive hour period or more than 48 hours a week.* G.L. c. 149, §65.
 - iii. Minors aged 16 and 17 may work only between the hours of 6 a.m. and 10 p.m. G.L. c. 149, §66.
 - iv. Minors aged 16 and 17 may work no more than nine hours a day. G.L. c. 149, §67.
 - v. Minors under the age of 18 may not work more than six days in any week (i.e., the minor must be given one full day of rest each week). G.L. c. 149, §§65 & 67.
- e. Camps must observe the prohibitions on hazardous tasks for minors. G.L. c. 149, §§60, 61 & 62.

If you have any questions about the Massachusetts wage and hour laws, or child labor laws, included in this section, please contact the Office of the Attorney General's Fair Labor and Business Practices Division at (617) 727-3465.