

**875—216.30(91D) Learners, apprentices, messengers, students, or persons with a disability employed under special certificates as provided in the federal Fair Labor Standards Act, 29 U.S.C. 214.**

**216.30(1)** With respect to persons employed as learners, apprentices, messengers or full-time students employed outside of their school hours in any retail or service establishment, in agriculture, or in institutions of higher education, or persons with a disability employed at special minimum hourly rates under special certificates pursuant to the federal Fair Labor Standards Act, 29 U.S.C. 214, employers shall maintain and preserve records containing the same information and data required with respect to other employees employed in the same occupations.

For the purposes of this rule, the following definitions shall apply:

*a. "Apprentice"* means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade and in conformity with the standards of apprenticeship.

*b. "Full-time student"* means a student who receives primary instruction at the physical location of a bona fide educational institution. A full-time student retains that status during the student's winter, summer and other vacations. Employment must be in compliance with applicable child-labor laws. An agricultural or retail service establishment employer is permitted to employ not more than six full-time students per workday at subminimum wage. A full-time student certificate will not be issued for a period longer than one year, nor will it be issued retroactively. A subminimum wage of at least 85 percent of the applicable minimum wage is permitted.

*c. "Handicapped worker"* means an individual whose earning capacity is impaired by age or physical or mental deficiency or injury for the work to be performed. *"Handicapped trainee"* means an individual whose earning is impaired by age or physical or mental deficiency or injury, and who is receiving or scheduled to receive on-the-job training in industry under any authorized vocational rehabilitation program.

The application for special certificate shall include the nature of the disability, a description of the occupation in which the worker is to be employed and the wage the firm proposes to guarantee the worker per hour. The nature of the disability shall be set out in detail.

When a wage is requested which is less than 50 percent of the minimum wage applicable, the application shall also contain evidence that the individual is multihandicapped or so severely impaired that the individual is unable to engage in competitive employment. *"Competitive employment"* is employment of a handicapped worker whose earning or productive capacity would yield wages equal to at least 50 percent of the minimum wage as wages which are commensurate with those for nonhandicapped workers in the industry in the vicinity for the same type, quality and quantity of work. For multihandicapped workers the rate shall be not less than 25 percent of the minimum wage.

*d. "Learner"* means a worker whose total experience in an authorized learner occupation in the industry is usually within the past three years.

*e. "Messenger"* means an individual engaged primarily in delivering letters and messages at a wage lower than the minimum wage.

*f. "Student-learner"* means a student who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis pursuant to a bona fide vocational training program. The student-learner must be at least 16 years of age. The student-learner must be at least 18 years of age if employed in any hazardous occupation. The number of student-learners to be employed in one establishment must not be more than a small proportion of its working force. The special minimum wage rate shall be not less than 75 percent of the applicable minimum wage.

REFERENCE/SOURCE: 29 U.S.C. 214, 29 CFR 519.4, 522.2.

**216.30(2)** In addition, each employer shall segregate on the payroll or pay records the names and required information and data with respect to those learners, apprentices, messengers, persons with a disability and students, employed under special certificates. A symbol or letter may be placed before each

name on the payroll or pay records indicating that that person is a “learner,” “apprentice,” “messenger,” “student,” or “person with a handicap,” employed under a special certificate.

**216.30(3)** The initial employment wage rate established in Iowa Code section 91D.1(1) “d” as amended by 2007 Iowa Acts, House File 1, shall be the basis for initial employment under this rule. The amount approved by a special order by the Secretary of Labor shall be effective if more than the amount specified in Iowa Code section 91D.1(1) “d” as amended by 2007 Iowa Acts, House File 1. If the Secretary of Labor’s approved rate is lower than the initial employment wage rate, the initial employment wage rate shall be applicable for the period covered by the Secretary of Labor’s order.

**216.30(4)** Federal special minimum wage certificates will be honored at the applicable Iowa minimum wage rate as applied to the certificate.

SOURCE: 29 CFR 516.30.