

Last Updated: 4/13/2004

***Frequently Asked Questions about* The Child Performer Education and Trust Act of 2003**

What is the Child Performer Education and Trust Act of 2003?

- It is a law that establishes new rules for child performers, their parents/guardians and their employers, both within and without New York State.

When did this law go into effect?

- The law became effective on March 28, 2004.

Are Child Performer Permits issued by the City of New York that expire after March 28, 2004 still valid?

- The Department of Labor will recognize the validity of permits issued by the City of New York until their expiration date.

Who is required to possess an Employment Permit for a Child Performer?

- Any person under the age of 18 who renders creative or artistic services in New York State as a performer is required to obtain an Employment Permit for a Child Performer issued by the Department of Labor prior to the commencement of work.
- Any New York resident under the age of 18 who renders creative or artistic services anywhere outside New York State is required to obtain an Employment Permit for a Child Performer issued by the Department of Labor prior to the commencement of work.
- Permits are not required for the use, exhibition or employment of child performers in connection with any church, academy, or school (including dancing schools) as part of regular services or activities or in annual graduation exercises. Performances in a private home or in any place under the direction, control or supervision of the Department of Education are also exempt as are broadcasts of children from a school, church, academy, museum, library or other religious, civic or educational institution, or for not more than two (2) hours per week from the studios of a regularly licensed broadcasting company where the performance of the child or children is of a non-professional character and occurs when attendance for instruction is not required in accordance with the Education Law.

What are the responsibilities of the parent /guardian?

- Obtain a Child Performer Employment Permit (valid for up to six months) before employment begins and give the original to each employer.
- Renew the permit for the child performer 30 days prior to expiration.
- Establish a child performer trust account within 15 days of the start of employment, unless one already exists.
- Notify the child performer's employer of the existence of the account within 15 days of the start of employment including any additional information required to make transfers.
- Notify the employer of any change in facts that could affect the employer's obligation to make transfers.
- Notify the child performer's employer if they wish to transfer more than 15% of the child performer's gross earnings to the trust account.
- Appoint a trust company as custodian of the account once the balance reaches \$250,000.
- Provide evidence each semester to the Department demonstrating that the child performer is maintaining satisfactory academic performance as determined by the child performer's school.
- Work with the child performer, any certified teacher provided by the employer and with the child's school of enrollment to ensure that the child maintains acceptable academic performance.
- Make sure that a child performer required to attend school is not without educational instruction and unemployed for longer than ten (10) consecutive days while the school of enrollment is in session.

Is a separate Trust Account required for work performed in New York State?

- No, as long as the trust account is set up in the form required by New York State Law and the employer can complete the required transactions, it may be set up in any state, territory, province or country.

Are accounts established under the Uniform Trust to Minors Act (UTMA) and the Uniform Gift to Minors Act (UGMA) acceptable?

- Yes.

Are "Coogan Accounts" set up in California going to be acceptable in New York State?

- Yes.

What evidence has to be submitted to the Department of Labor as proof of the existence of a trust account?

- For trust account verification – a single document such as a copy of a deposit slip, passbook or other official document showing the financial institution's name, child's name, parent's/guardian's or custodian's name, the account number and a statement saying that the account is a trust account.

If a child is not paid, is he/she required to possess an Employment Permit for a Child Performer?

- Yes.

If a child does not reside in New York State, does he/she still have to possess a Permit?

- No matter where the child legally resides, the child will need to possess an Employment Permit For A Child Performer if the performance occurs in New York State.

How can I obtain a Permit For A Child Performer?

- There are two ways to obtain a permit.
 - You can obtain a copy of the Application For An Employment Permit For A Child Performer (LS-555) by clicking [here](#). Once the application is completed you can mail it to the address on the form along with the required documentation.
 - You can also obtain, online, **a one time only** 15-day permit for first time applicants by clicking [here](#). Upon successful completion of the application a permit will be issued online that will allow the child performer to work for 15 days to give parents time for the submission and processing of the additional required documentation.

What information is required on the application form?

- Child performer's identifying information including given and professional names, date of birth, physical characteristics, address and phone number.
- Social Security Number.
 - The Social Security Number is not used for identification purposes but to indicate that the child is legally able to work in the U.S.
 - For a non-U.S. Citizen without a Social Security Number, the identification number from the passport, other document required to enter the U.S. or the document authorizing the child to work in the U.S.
- Parent/guardian name, address and phone number.
- Information about the child's current school enrollment status.
- Information about the current status of the child trust account.

What documentation is required with the application form?

- If no Social Security Number was provided, a copy of the child's passport or other document required to enter the U.S. and any document authorizing the child to work in the U.S.
- For a child not yet of school age - a copy of either a Birth Certificate, Hospital record of birth, or Baptismal certificate.
- For performers of school age – a completed copy of the Labor Department Form "Verification of Satisfactory Academic Performance" LS-560 signed and dated by the principal or authorized school official explaining the child performer's academic status. A copy of the form is available [here](#).
- ***Note: For a first-time only applicant, the Department will issue a one time only 15 day permit, allowing the applicant time to submit the required academic performance verification. These permits may be applied for on line by clicking [here](#).***
- For a parent – a discernible copy of a Driver License with photo, or a discernible copy of a government or employee photo ID.
 - If not a U.S. citizen, a copy of a passport or other document that was required to enter the U.S.

- For a guardian – the same documents as a parent plus a notarized statement from the parent naming him/her as the child’s guardian or court papers with a document number for an appointed guardian.
- For trust account verification – a single document such as a copy of a deposit slip, passbook or other official document showing the financial institution’s name, child’s name, parent’s/guardian’s or custodian’s name, the account number and a statement saying that the account is a trust account.

Where are completed permit application forms sent?

- Completed permit application forms must be submitted to:
New York State Department of Labor
Division of Labor Standards
Permit and Certificate Program
State Office Building Campus, Bldg 12, Rm 185-B
Albany, NY 12240.

For how long are Employment Permits For A Child Performer valid?

- An Employment Permit For A Child Performer is valid for six (6) months. Permits may be renewed 30 days prior to the expiration date.

Why must parents/guardians open a trust account for their child?

- The law requires employers to deposit at least 15% of the performer’s earnings in a trust account. If no trust account information is given to the employer within 15 days of the commencement of employment, the employer is required to turn this money over to the State Comptroller to be held in the child performer’s name until he/she reaches the age of majority. In addition, the Department of Labor is prohibited from issuing a renewal or future permit to a child performer unless trust account information is provided.

Can the parent/guardian ask the employer to deposit more than 15% in the trust account?

- Yes. 15% is the minimum amount that the employer must transfer.

Are residual payments made to a child performer required to be deposited in a trust account?

- Yes, but only for work performed after the effective date of the law.

When is a teacher required for a child performer?

- Generally, a teacher is only required if the child will miss more than two consecutive days of school.

I am the child performer’s agent, manager or employer. Can I apply for a permit on the child’s behalf?

- While you can certainly help in filling out the application and obtaining required documents, every application form requires a declaration and signature from the child performer’s parent or guardian.

On a movie, TV or other project where there are multiple employers (payroll companies, production companies etc.) who is required to have a Certificate of Eligibility to Employ Child Performers?

- Any entity doing one or more of the following would be required to have a Certificate of Eligibility:
 - Any entity that employs a child performer to furnish artistic or creative services for a fee either directly or through a third party provider.
 - Any entity that has “control” over the child performer’s worksite. For example, any entity that sets the hours of work (rehearsal or performance) would be required to have a Certificate.
 - In cases where payroll services are being used to pay performers, the entity that contracts with the payroll service.

What are the responsibilities of the employer of Child Performers?

- Obtain a Certificate of Eligibility to Employ Child Performers (valid for three years) prior to employing any child performers.
 - Renew this certificate prior to expiration.
 - Make sure all child performers it employs have a valid Employment Permit for a Child Performer.
 - Keep copies of all relevant certificates and permits on file and available for inspection at the location of employment.
 - Obtain from the child performer’s parent/guardian or custodian the information required to make the transfers.
 - Transfer the appropriate amounts for placement into the trust account.
 - When the employment contract is for 30 days or less, transfer 15% of gross earnings within thirty (30) days following the final day of the child performer’s employment.
 - When the employment contract is for longer than 30 days, transfer 15% of gross earnings at the end of each payroll period.
 - By request of the parent/guardian or custodian, the amount transferred can be increased to more than 15%.
 - If the parent/guardian or custodian has not provided the necessary information within 15 days of the start of employment, or no such account has been established, transfer the money together with the child performer’s name and last known address to the State Comptroller for placement into the child performer’s holding fund. The State Comptroller may be contacted at (518) 474-4044.
- If the child performer will be absent from school for more than two consecutive days due to their employment schedule, provide a certified teacher.

I am an out-of state company. Do I still need to apply for a Certificate of Eligibility?

- Regardless of where the employer’s business is domiciled, a Certificate of Eligibility to Employ Child Performers is required when the performance occurs in New York State or the child performer is a resident of New York State.

I am a student making a film as part of a school project and the child performers in the film are not being paid to perform, am I required to obtain a Certificate of Eligibility to Employ Child Performers?

- No, as long as none of the child performers are being paid.

How can I obtain the required Application For A Certificate of Eligibility to Employ Child Performers?

- Click [here](#) for an Application For A Certificate of Eligibility to Employ Child Performers

Where are completed certificate application forms sent?

- Completed certificate application forms for an Application For A Certificate of Eligibility to Employ Child Performers must be submitted to:

New York State Department of Labor
Division of Labor Standards
Permit and Certificate Program
State Office Building Campus, Bldg 12, Rm 185-B
Albany, NY 12240.

Is there an application for a Certificate of Eligibility to Employ Child Performers fee?

- There is an application fee for a Certificate of Eligibility to Employ Child Performers as follows:

<u>Theater capacity of 1 to 499 seats</u>	<u>All Others</u>
Initial Registration Fee - \$200.00	Initial Registration Fee - \$350.00
Renewal Fee - \$200.00	Renewal Fee - \$200.00

For what period are Certificates of Eligibility to Employ Child Performers valid?

- A Certificate of Eligibility to Employ Child Performers is valid for up to three (3) years.

What information is required on the application forms?

- For an Application For A Certificate Of Eligibility To Employ Child Performers the following information is required;
 - Employer identifying information including name, address, FEIN, telephone, fax and e-mail address, if available;
 - Signed declaration from an authorized employer representative.

What other documents must be submitted with the completed and signed application form?

- For an Application For A Certificate Of Eligibility to Employ Child Performers;
 - A check or money order payable to the Commissioner of Labor for the appropriate fee;
 - Documents proving compliance with New York State Workers' Compensation and Disability Insurance requirements;
 - If you currently have employees in New York, provide proof of coverage by attaching copies of Form C-105.2 and DB-120.1, available from your insurance carrier, or

- If you are currently exempt from this requirement, complete Form WC/DB-100 or WC/DB-101 attesting that you are not required to obtain New York State Workers' Compensation and Disability Insurance coverage. Information on and copies of these forms are available from any district office of the Workers' Compensation Board or from their website at www.wcb.state.ny.us under "Common Forms Online".
- If you use a Payroll Service, which provides the Workers' Compensation and Disability Insurance coverage for your employees, you may provide proof of coverage for your New York State workers by attaching copies of Form C-105.2 and DB-120.1 from your payroll service's insurance carrier and a completed LS-551 from your payroll service. The name of the applicant that appears on the Application For A Certificate of Eligibility to Employ Child Performers and the name of the applicant on the LS-551 must match exactly. An LS-551 is available [here](#).

If I have any other questions, where can I get help?

- Call the Permit and Certificate Program of the Division of Labor Standards at (518) 457-1942 or send your question by e-mail to <mailto:CPinfo@labor.state.ny.us>