

Back to School in the Midwest

By Jody Kahn Mason, Brian L. McDermott, Catherine A. Cano, Katherine J. Van Dyke, Gina K. Janeiro, Hadley M. Simonett, Elaine Luthens, Carrie L. Kinsella, Rebecca J. Davis, Elizabeth A. Erickson, Michaela A. Utrup &

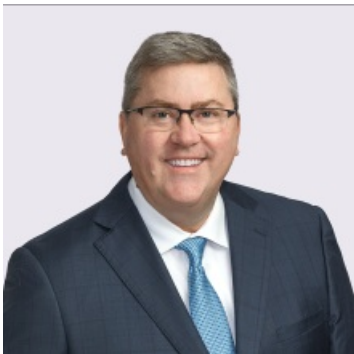
July 26, 2023

Meet the Authors



Jody Kahn Mason

Principal
312-803-2535
Jody.Mason@jacksonlewis.com



Brian L. McDermott

(He/Him)
Office Managing Principal
317-489-6930
Brian.McDermott@jacksonlewis.com



Catherine A. Cano

Principal

Summer is winding down, and kids will soon be returning to school. To help keep business operations running smoothly, employers have many considerations during this time of year, including the various paid leave laws available to employees throughout the region. Employees may need time off to drive their kids to their first semester of college out of state or to take their little ones to their first day of kindergarten. Additionally, employment-age kids will likely be wrapping up summer jobs or reducing schedules as they prepare to head back to class. At any age, getting kids back to school is an adjustment, and employers can help support their employees by keeping these Midwest state laws and issues in mind, including those in Michigan, Indiana, Illinois, Ohio, North Dakota, Wisconsin, Minnesota, Iowa and Missouri.

Leave Laws

Under the Illinois [Employee Sick Leave Act](#), an employee may use personal sick leave benefits provided by the employer for absences due to medical appointments of the employee's family members, including children, stepchildren and grandchildren.

Similarly, Michigan's [Paid Medical Leave Act](#) (PMLA) requires employers with more than 50 employees to provide eligible employees with a maximum of 40 hours of paid sick time per year. The PMLA's covered reasons for leave include time off for preventative care of the employee or the employee's family member.

As parents prepare kids to return to school, this will likely include annual check-ups and various doctor visits that fall under the umbrella of preventative care and medical appointments covered by both laws. Employers are encouraged to communicate the availability of the leave with employees, along with clear procedures for requesting the time off.

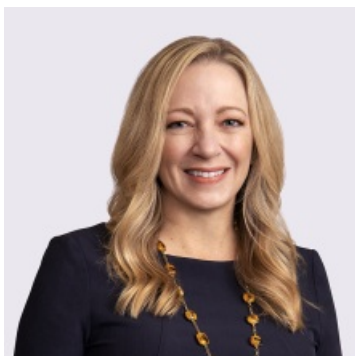
Furthermore, Minnesota's [Jobs and Economic Development and Labor Omnibus Budget Bill \(S.F. No. 3035\)](#) provides employees up to 16 hours of unpaid leave during any 12-month period to attend school conferences or school-related activities for the employee's child if conferences and activities cannot be scheduled during nonwork hours. Prior to the amendment, only employees who met a certain hours-of-service requirement were entitled to the leave.

Employment of Minors

INDIANA

As the start of the school year draws closer, it is important for Indiana employers to be familiar with Indiana's laws regulating youth employment. Employers of minors are subject to a variety of laws restricting a minor employee's total hours worked, days worked, timing of work, duties performed and more. For purposes of the law, a minor is

(402) 391-1991
Catherine.Cano@jacksonlewis.com



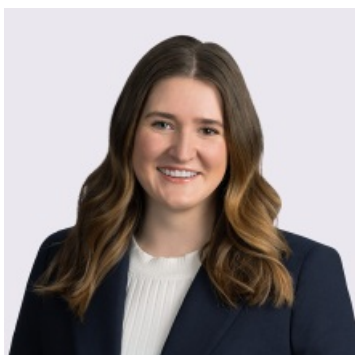
Katherine J. Van Dyke

Principal
(248) 936-1931
Katherine.VanDyke@jacksonlewis.com



Gina K. Janeiro

Office Managing Principal and Office
Litigation Manager
(612) 359-1766
Gina.Janeiro@jacksonlewis.com



Hadley M. Simonett

Associate
(612) 787-3505
Hadley.Simonett@jacksonlewis.com

Related Services

National Compliance and Multi-
State Solutions

anyone less than 18 years old who is employed or seeking employment in Indiana.

Relevant employment restrictions are based on the minor's age, and the younger the employee, the more stringent the restrictions. Minors ages 14 and 15 may work up to three hours per school day and up to eight hours per non-school day. Those who work on school days are not permitted to work during school hours. This group of minors can work up to 18 hours per school week or up to 40 hours per non-school week. In addition to hourly limits, 14- and 15-year-olds cannot work outside the hours of 7:00 a.m. to 7:00 p.m. Conversely, from June 1 to Labor Day, they can work as late as 9:00 p.m. if their shift does not precede a school day.

Minors ages 16 and 17 have more leeway in their employment schedules and may work up to nine hours per school day and up to 40 hours per school week. They cannot exceed 48 hours of work during non-school weeks, and at no time can they work more than six days in a row in a week. This age group also cannot begin a workday prior to 6:00 a.m. or work past 10:00 p.m. on a night preceding a school day. However, if the employer has obtained written permission from the minor's parent and filed that documentation in its office, then those minors may work as late as 11:00 p.m. when their shift precedes a school day.

All minors are prohibited from working after 10:00 p.m. or before 6:00 a.m. in an establishment open to the public between 10:00 p.m. and 6:00 a.m. unless another employee who is at least 18 years old is also working.

While anyone who employs a minor is subject to the restrictions mentioned above, only employers who employ five or more minors must utilize the state's online tracking and reporting system – [Indiana Youth Employment System \(YES\)](#) – to record information on minor employees. Employers employing less than five minors are permitted to utilize the system but not required. Failure of a required employer to correctly register can result in penalties ranging from a warning letter to up to a \$400 fine per employee.

IOWA

Many Iowa employers have heard about the state's efforts to loosen child labor regulations. In addition to modifying the types of activities children under 18 can perform and allowing exceptions to the restrictions for "work-based learning," the new legislation enables children under 16 to work later and longer. The new law permits children under 16 to work until 9:00 p.m., except from June 1 through Labor Day, when hours can be extended to 11:00 p.m. and to work up to six hours a day. Previously, children under 16 could only work between 7:00 a.m. and 7:00 p.m., except from June 1 through Labor Day, when they could only work as late as 9:00 p.m., and they could work no more than four hours per day or 28 hours a week while school was in session.

Although these extended times may be welcome news for employers dealing with a tight labor market, the U.S. Department of Labor (DOL) held that many of these changes violate protections guaranteed under federal law. For example, the Fair Labor Standards Act (FLSA) limits 14- and 15-year-olds to a maximum of three hours on a school day, up to eight hours on a non-school day, no more than 18 hours per week

when school is in session and no more than 40 hours when school is not in session. The FLSA also provides that 14- and 15-year-olds can only work between 7:00 a.m. and 7:00 p.m. outside of school hours, except between June 1 and Labor Day, when they can work until 9:00 p.m. The DOL also expressed concern about the expansion of activities and work-based learning exceptions. As such, employers should proceed with caution.

NORTH DAKOTA

A new exception for minors went into effect on April 13, 2023. Time and hour limitations for minors ages 14 and 15 no longer apply when the minor performs sports-attendant services at professional sporting events. Permissible sports-attendant duties include pregame and postgame equipment setup; supplying and retrieving balls, items and equipment during a sporting event; clearing the field or court of debris and moisture during play; providing ice, drinks and towels to players during play; running errands for trainers, managers, coaches or players before, during and after a sporting event; and returning or storing balls, items and equipment in a clubhouse or locker room after a sporting event.

Minors ages 14 and 15 years old who are not employed in sports-attendant services, domestic service and farm labor may not work before 7:00 a.m. or after 7:00 p.m. during the school year. From June 1 through Labor Day, they may work as late as 9:00 p.m. Additionally, a minor may work up to three hours on school days and 18 hours during school weeks.

For minors working in hazardous occupations, starting August 1, 2023, a minor who is at least 16 is permitted to work in a hazardous occupation if they are in a registered apprenticeship program or a student in an approved career and technical education program, and they must have a parent's signature for participation.

OHIO

For many employers, back-to-school can mean increased recruiting and hiring efforts, whether due to summer caregivers looking for a new position or accounting for vacancies left by students returning to school. When hiring, Ohio employers should keep in mind a few key considerations.

First, Cincinnati and Toledo prohibit employers from asking about an applicant's salary history, and Columbus recently passed a similar law that goes into effect on March 1, 2024. Under both the Cincinnati and Toledo ordinances, it is an unlawful discriminatory practice for an employer with 15 or more employees in the applicable city to:

- Ask about an applicant's past salaries;
- Screen applicants based on their current or prior wages, other compensation or salary histories, including requiring that an applicant's prior wages, benefits, other compensation or salary history satisfy minimum or maximum criteria;
- Rely on an applicant's salary history in deciding whether to extend an offer of

employment or in determining the salary, benefits or other compensation for an applicant during the hiring process, including the negotiation of an employment contract; and

- Refuse to hire or otherwise disfavoring, injuring or retaliating against an applicant for not disclosing their salary history.

Cincinnati and Toledo employers must also provide the pay scale for a position upon reasonable request from an applicant who has received a conditional offer of employment. The upcoming Columbus law includes similar provisions but does not require sharing the pay scale after a conditional offer of employment. However, it prohibits employers from relying *solely* on an applicant's salary history when deciding to offer employment or determining wages. All that being said, employers remain free to discuss applicants' pay expectations as to salary, benefits and other compensation in all three cities.

Second, Ohio employers looking to hire school-age employees should be mindful of the state's child labor laws. During summer vacation, minors ages 16 or 17 need only present proof of age and a statement signed by their guardian to work in non-agriculture and non-hazardous jobs. However, once the school year starts, all employees under 18 must obtain an age and schooling certificate before starting work. In addition, minors are entitled to a 30-minute, unpaid break if they work at least five consecutive hours and are subject to hours restrictions, including limitations on shift starting and ending times and total hours per day and per work week.

WISCONSIN

Wisconsin employers should be aware of state and federal child labor laws related to maximum hours and times of day minors may work during the school year. Minors are restricted in how many hours they may work per day and week while school is in session. The specific age of a minor will dictate the state and federal laws a Wisconsin employer must follow – 14- and 15-year-olds may work up to three hours on school days and up to 18 hours during school weeks. If there are less than five school days in a certain week, up to 24 hours of work is permitted during that week. This age group may be employed no more than to eight hours on non-school days. Conversely, minors ages 16 and 17 can work up to five hours on school days, excluding the last day of the school week. On the last day of the school week as well as non-school days, this age group may be employed for up to eight hours per day. When school is in session, 16- and 17-year-olds may work up to 26 hours per week. If there are less than five school days in a specific week, they may work up to 32 hours.

Wisconsin employers should also note time-of-day restrictions for minors during the school year. No minors may be employed during the hours they are required to attend school, nor can they be scheduled to work hours contrary to local curfew ordinances establishing an earlier time restriction than those discussed below.

Wisconsin employers should make sure that minors ages 14 and 15 are not scheduled to work before 7:00 a.m. or after 7:00 p.m. except from June 1 through Labor Day, when nighttime work hours are extended to 9:00 p.m. During school weeks, 16- and 17-year-olds may not work before 7:00 a.m. and after 11:00 p.m. on days preceding school

days or 12:30 a.m. on days not preceding school days. If this age group is employed after 11:00 p.m., they must receive eight consecutive hours of rest from the end of one shift to the beginning of the next.

MISSOURI

As summer is winding down, here is a reminder of some Missouri-specific requirements for employee departures to avoid owing additional money to departing employees, including summer employees.

As an initial matter, a discharged employee's final wages are due at the time of separation under Missouri law (see Mo. Rev. Stat. 290.110) to avoid having to pay the employee an additional amount equivalent to the employee's regular wages for up to a maximum of 60 days. The statutory language affirms that the employer has a built-in grace period in that the employee must make a written request, and the employer has seven days to deliver the final paycheck to the employee. The statute does not specify the delivery methods; however, the employer should have proof of delivery via direct deposit, a check sent to the employee's last known address via certified mail with delivery confirmation or other delivery methods with tracking information. While this statute applies only to company-initiated separations, as a best practice, employees who resign should receive their final paycheck by the next regularly scheduled pay date.

Finally, after a Missouri employee's written request for a dismissal letter or service letter (see Mo. Rev. Stat. 290.140), the employer must provide a letter within 45 days signed by the manager "setting forth the nature and character of service rendered by such employee . . . and the duration thereof" and stating the reason for termination including discharge or voluntary resignation. Missouri employers must provide this letter for all employees who worked for the company for at least 90 days and those who request the letter within one year of leaving. The statute also allows employees to recover compensatory, nominal and even punitive damages for non-compliance.

If you have any questions about the issues or laws discussed, please contact a Jackson Lewis attorney.

Thank you to Jackson Lewis summer associate Greer Glover, for her help in developing this article.

©2023 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.