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for economic equity and worker power

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TO: **Colorado Department of Labor and Employment Division of Labor Standards and Statistics**

FROM: **Towards Justice**

RE: **Comments on 7 CCR 1103-20 as proposed on September 30, 2025 Implementing the Colorado Youth Employment Opportunity Act ("CYEOA") C.R.S. § 8-12-101, et seq.**

DATE: **November 6, 2025**

VIA EMAIL: **CDLE_LaborStandardsRules@state.co.us**

Towards justice submits these comments on 7 CCR 1103-20 proposed September 30, 2025, and scheduled to go into effect January 1, 2026. These proposed rules implement the Colorado Youth Employment Opportunity Act ("CYEOA") C.R.S. § 8-12-101, et seq.

Towards Justice is a nonprofit law firm that advocates for and collaborates with workers, consumers and small businesses to build power and advance economic equity in our home state of Colorado and across the country. We appreciate the Colorado Department of Labor and Employment Division of Labor Standards and Statistics's (CDLE or the Division) effort to ensure that Colorado youth can participate in the workforce without sacrificing their safety or well-being. We offer these comments to support key elements of the framework proposed by the CDLE and to encourage additional clarity for Colorado youth and their employers.

General Comments.

We are grateful that the Division has proposed a strong set of rules to protect child workers from hazardous occupations. Young workers' ability to safely participate in the workforce is essential to economic equity in Colorado, especially as so many families in our community confront pressing financial needs. We also hope that in the future CDLE will propose and adopt regulations implementing the hours provisions of the CYEOA to ensure that youth can participate in the workforce without sacrificing the time and rest they need to succeed in school.

We suggest that these rules further clarify that the protections in the CYEOA build upon federal requirements for employment of children in the Fair Labor Standards Act of 1938, 29 U.S.C. sec. 201 et seq. (FLSA) as currently in force. Rules 9.2.1 and 9.3.1 are a great first step, but subsequent rules seem to suggest that work currently barred by the FLSA could be allowed under state law. Without further harmonization - which could be accomplished in proposed rule 9.1 - these rules run the risk of confusing employers about their obligations to child workers. Ensuring that Colorado law is at least co-extensive with current federal law, if not more protective, falls well within the Division's broad rulemaking authority. *See* C.R.S. § 8-12-110(3); *see also* C.R.S. § 8-12-115(7) and (8).

In particular, these rules ought to specify that employment of minors in hazardous occupations defined in the FLSA § 570.33 are incorporated into and prohibited by Colorado law. The language of incorporation is important to ensure that the Division has authority to use the enforcement provisions in the CYEOA to implement all applicable protections for Colorado's working kids. Also, further harmonization of these rules with federal law should specify that FLSA standards as they currently exist in 2025 set the floor upon which state law builds, and that all references to federal law refer to current federal protections (e.g., in proposed rules 8.3.4, 8.6.16, and 9.2.3). This approach will ensure that if the federal government later weakens protections for child workers, Colorado law will maintain the standards that protect our youth today.

We appreciate the clarity that the proposed rules offer to employers operating in particularly dangerous industries, as well as the clarity around when related workplace protections like the youth minimum wage or heat safety protections apply to children in the workplace, particularly proposed rules 11.1.2(C), 11.2.2, and 9.6. We also appreciate the proposals to align investigations, appeals, and other Division procedures with those already used in implementing other employment protections.

Proposed Rules 2. and 3., Definitions and Complaints.

We suggest eliminating the definition of the term "includes" from the definition section because it is not used consistently. We also suggest modifying the definition of "qualifying adult" to exclude "a relative of the minor". This change will ensure that the employer, not a family member, retains responsibility for keeping the young worker safe at work. We also suggest that the definition of "complainant" specifically reflect the Division's openness to anonymous complaints. This change should be accompanied by an update to proposed rule 3.3, which currently requires a complainant's signature and contact information. Given the extraordinary concerns about retaliation based on the exercise of workplace rights in our modern economy, particularly among vulnerable workers, anonymous complaints are an important tool. In allowing anonymous complaints, the CDLE may elect to retain the option of converting such complaints into direct investigations as needed for procedural or other reasons. In a similar vein, we suggest removing the requirement in proposed rules 3.1 and 3.2 that complaints be filed using a particular form. In the context of hazardous work violations that impact child workers, the CDLE ought to welcome complaints, tips, and information in any form.

We are concerned about proposed rules 3.1 and 3.6 to the extent they suggest that only a child worker or their authorized representative may file a complaint with the Division alleging violation of the CYEOA. The statute nowhere imposes such a limitation, and would allow a teacher, parent, union, or other third party to report violations to the CDLE without formal designation as an authorized representative. We recommend removing the designation requirement from proposed rule 3.6 and modifying 3.1 to underline the flexibility the CDLE must exercise to uncover violations of the CYEOA. Rather than limit the identity of the complainant, we suggest clarifying that the CDLE may, in its discretion, convert a complaint filed by anyone other than the minor or their authorized representative into a direct investigation.

We also suggest separating the discussion of direct investigations from rule 3.6 and instead having a separate section describing the CDLE's direct investigation operations. This change could also impact

rule 4.1 which, in addition to requiring the Division to "investigate complaints that provide sufficient evidence from which a violation of the CYEOA may be reasonably inferred", ought also to grant the Division permissive authority to investigate any complaint or to treat a complaint that lacks sufficient evidence as a tip that leads to a direct investigation. By addressing direct investigations head on, the CLDE will have the opportunity to clarify other outstanding pieces of the rules like, for example, proposed rule 5.1, which does not clarify whether or in what circumstances the division will issue a written determination following a direct investigation.

Rule 5. Determinations and Remedies.

We suggest removing the undefined language "originally issued and" from rule 5.1.5. More substantively, we suggest adding a clause at the end of the first sentence of proposed rule 5.1.6 that reads "and will be filed at the request of a claimant". This change will ensure consistency with CRS 8-12-115(5.5)(a) and require the Division to be responsive if a claimant requests such filing in order to enforce an agency determination.

Rule 7. Recordkeeping Requirements.

We suggest requiring an employer to preserve all relevant documents throughout the duration of any appeal of a division determination pursuant to proposed rule 6.

Rule 8. Hazardous Occupations Prohibited for All Minors Under C.R.S. 8-12-110.

We believe that it is unsafe for any child to work more than 10 feet above ground; indeed, NIOSH has recommended that child workers not work at heights above 6 feet. *See National Institute for Occupational Safety and Health (NIOSH) Recommendations to the U.S. Department of Labor for Changes to Hazardous Orders*, May 3, 2002, at 79, https://www.cdc.gov/niosh/docs/nioshrecsdolhaz/pdfs/dol-recomm.pdf. Certainly, 20 feet above ground - as proposed in rule 8.2.1 - is too dangerous given the developmental and training needs unique to child workers. If the Division has reason to believe that safety depends on industry or sector, then proposed rule 8.2 ought to include a narrow industry or sector definition, which specifically excludes "practices … performed by a farmer or on a farm as an incident to or in conjunction with such farming operations" as described in section 203 (f) of the FLSA.

In line with our general suggestion that Colorado adopt and implement current federal safety requirements given the concern about erosion thereof, we suggest that the reference in proposed rule 8.3.4 to the "most recent list of explosive materials published by the Bureau of Alcohol, Tobacco, Firearms, and Explosives Department of Justice" refer instead to the current list applicable as of 2025 plus any additional goods identified an any more recent list. A similar update should be made to proposed rules 8.6.15 and 9.2.3 to ensure that any future modifications to federal regulation will not reduce the protections available to child workers under Colorado law.

Rule 9. Prohibited Duties and Occupations.

We suggest ensuring that proposed rules 9.1 and 9.2.8 specify that an employer shall not permit any minor to perform occupations other than those authorized by the CYEOA, the FLSA, or these rules and generally aligning these rules with current federal requirements as suggested above.

Rule 10. Exemptions, Exceptions, and Criteria.

We suggest that any time an employer would like to employ a child in a dangerous occupation or require a child to perform hazardous duties, the employer must proactively demonstrate that the work is in the best interest of the child involved. To that end, rule 10.1.1 ought to consistently require employers to submit documentation and information demonstrating that an exemption from the requirements of the CYEOA is in the child's best interests. When considering whether an exemption is in the best interests of the child, in addition to the factors listed in rule 10.1.3, we suggest that the Division also consider the employer's plan for supervising the child and the schedule of the child's work, including length, time, and frequency of shifts, as well as the adequacy of break time between shifts.

As proposed, rule 10.2 would create two types of exclusions from the regular process of seeking an individualized exemption before allowing a child to perform hazardous duties. The first is an exclusion for youth that have completed or graduated from an occupational education program. The second is an exclusion for youth performing hazardous work during – and incidental to – such a program. Our concerns about each of these exclusions could be addressed in one of two ways. Our preference would be to eliminate any exclusion from the requirement that an employer apply for an exemption before allowing a child to perform hazardous duties. However, if the Division declines that proposal, these rules ought to at least align these exclusions with State Apprenticeship Agency (SAA) program registration and federal law.

To the extent the Division declines to analyze the best interests of a child before allowing them to perform duties so hazardous as to be outlawed by the CYEOA, we suggest that only registered apprenticeship programs overseen by the SAA ought to be eligible for such a blanket exclusion. Narrowing the list of occupational education programs only to registered apprenticeship programs would ensure that only teens 16 years and older may perform hazardous duties without an exemption from the CYEOA. To ensure that registered apprenticeship programs both keep child workers safe during the program and effectively prepare graduates to perform hazardous duties before they turn 18, we suggest that these rules create an application process for registered apprenticeship programs to receive a blanket exemption. This process ought to require each program to specify the types of hazardous work the program requires children to perform, and the types of hazardous work that program graduates will be prepared to safely perform. Apprenticeship programs identified through this application process ought to update their CYEOA exemption-related materials at regular intervals to ensure that the program continues to keep kids safe and adequately prepare graduates to perform hazardous duties.

When an employer retains a child to perform hazardous duties after completion of a registered apprenticeship program, these rules ought to require the employer to submit information to the Division about the apprenticeship program. Such a pre-employment submission should include a description of (1) the program of apprentice training that the child completed to prepare them to engage in hazardous duties, including the anticipated or actual date of completion, the entity or institution that provided or approved the training, and information about the course of study; and (2) the relevance of the training program described in (1) to the work the child will perform on the job. If an

employer fails to submit such pre-employment disclosures, any subsequent violation of the minor's rights under Article 12 should be presumptively willful.

Finally, rule 10.2 as proposed would allow children to perform hazardous duties that are "incidental" to various occupational education programs listed in proposed rule 10.2 without an exemption. However, merely requiring that duties be "incidental" is insufficient to make children's performance of those duties safe, and that stand-alone requirement would fall below the floor set for by federal law related to work performed by children in the context of a work-based learning program. *See* 29 CFR 570.50. We encourage Colorado to adopt federal requirements as a baseline and to use rulemaking to implement any additional Colorado requirements on top. We recommend that if the Division intends to allow young workers to engage in hazardous occupations during occupational education without analysis of a child's best interests, such engagement should only be allowed in registered apprenticeship programs and state rules ought to adopt and build upon the requirements in federal law.

Conclusion.

Thank you for the opportunity to comment on these proposed rules. We hope these suggestions prove useful and we look forward to reviewing the final rules.