TRUST ACCOUNTS

- It is the responsibility of the parent or legal guardian to set up a trust account for the child performer if the child performer will be earning $1,000 or more.
- The account must be set up within seven business days after the employment contract or Pre-Authorization Certificate is signed.
- The account has to be set up in the child’s state of residence for the sole benefit of the child.
- The child will not have access to the trust account until the child is 18 years of age or becomes legally emancipated.
- The parent or legal guardian must provide the employer with a trustee statement 15 days after the start of employment. The employer must provide the parent with written acknowledgement upon receiving the statement.
- The employer will deposit not less than 15% of the child’s gross earning directly into the child’s trust account within 15 business days of the work. If the account is not established the employer will withhold 15% of the gross income until a trust account is set up.
- The employer will have no obligation to monitor the funds once the 15% is deposited into the trust account.
- The parent/legal guardian/trustee will be obligated to monitor the account.
- If the employer does not receive the trust account statement within 90 days after the start of employment, the child’s employer shall refer the matter to district court. The district court shall have jurisdiction over the trust. If the child performer is a New Mexico resident, the complaint can be referred to the district where the child resides. If the child performer is from out of state, the complaint should be referred to the district where the work was performed.

SAFETY REQUIREMENTS

- Dressing rooms cannot be occupied by minor and adult performers at the same time.
- Dressing rooms cannot be occupied by minors of the opposite sex at the same time.
- The employer must provide a safe, secure shelter for all child performers under the age of 18 to rest when required to be at the place of employment during non-performance times.
- The employer cannot cause, induce, entice, or permit a child performer to engage in any sexually exploitive material for the purpose of producing a performance.
- No child performer can be depicted in any media as appearing to participate in a sex act.

CONTACT INFORMATION

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Revised 7/2019
The New Mexico Department of Workforce Solutions (NMDWS) enforces rules for employing and protecting child performers in the entertainment industry, including motion pictures, theatrical, radio, and television productions. The rules require employers to follow educational and safety requirements stated in rules 11.1.4.1-15 NMAC and the statutes 50-6-1 to 50-6-19 NMSA 1978 Comp. Complete rules about children working in the entertainment industry can be found at [www.dws.state.nm.us](http://www.dws.state.nm.us) under “Labor Relations,” and “Child Labor.”

### Employer Responsibilities

The **employer** is responsible for obtaining a Pre-Authorization Certificate for any child performer under the age of 18 before the employment begins.

**The Pre-Authorization Certificate can be obtained from the NMDWS website at** [www.dws.state.nm.us](http://www.dws.state.nm.us)

The certificate is valid for one year or until the specific project is completed, whichever time period is shorter. The employer must provide a certified teacher for each group of 10 or fewer children. The employer is responsible for providing a New Mexico certified trainer or technician at the place of employment at all times when a child performer may be exposed to potentially hazardous conditions.

The following documents must be on file at NMDWS and at the location where the child is working:

- Pre-Authorization Certificate.
- Certificate of Compliance for certified teacher(s) must be attached to Pre-Authorization Certificate.
- Certificate of Compliance for the NM Certified trainer(s) or technician(s) must be attached to the Pre-Authorization Certificate.

### Employer Responsibilities, Continued

- A written background check on all certified teachers, trainers, and technicians on the project must be attached to the Pre-Authorization Certificate.
- Parent signature indicating their permission for their child to work on the specific project: the parent is also agreeing to be within eyesight or earshot of the child performer at all times other than the time period in which teachers are teaching school.
- Any other applicable records.

### Duties of Certified Teachers

A certified teacher of New Mexico-resident children must possess a valid and current teaching certificate issued by the New Mexico Public Education Department. Teachers of non-resident children must possess a valid and current teaching certificate issued by any state in the United States.

All teachers, in addition to teaching and in conjunction with the parent, have the responsibility of monitoring and protecting the health, safety, and well-being of the child performers who they have been hired to teach.

*It is the ultimate responsibility of the parent or legal guardian to assure that the child is protected.*

The teacher may refuse to allow the engagement of the child performer at the place of employment, if the treatment and conditions are threatening to the health, safety, and well-being of the child performer.

A teacher must be present during the time reserved for school. **Exception:** A teacher is not required for a child performer under the age of 16, for up to one hour, for wardrobe, make-up, hairdressing, promotional publicity, personal appearances, or audio recording.

### Required School and Rest Times

<table>
<thead>
<tr>
<th>Age</th>
<th>Work Time</th>
<th>School Time</th>
<th>Rest Period</th>
<th>Total Hours at Place of Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 days - 6 months, with doctor’s approval</td>
<td>20 minutes</td>
<td>—</td>
<td>1 hour 40 min.</td>
<td>2 hours</td>
</tr>
<tr>
<td>7 months - 2 years</td>
<td>2 hours</td>
<td>—</td>
<td>2 hours</td>
<td>4 hours</td>
</tr>
<tr>
<td>3 years - 5 years</td>
<td>3 hours</td>
<td>—</td>
<td>3 hours</td>
<td>6 hours</td>
</tr>
<tr>
<td>6 years - 8 years, school not in session</td>
<td>4 hours</td>
<td>3 hours</td>
<td>1 hour</td>
<td>8 hours</td>
</tr>
<tr>
<td>6 hours</td>
<td>6 hours</td>
<td>—</td>
<td>2 hours</td>
<td>8 hours</td>
</tr>
<tr>
<td>9 years - 15 years, school not in session</td>
<td>5 hours</td>
<td>3 hours</td>
<td>1 hour</td>
<td>9 hours</td>
</tr>
<tr>
<td>9 hours</td>
<td>7 hours</td>
<td>—</td>
<td>2 hours</td>
<td>9 hours</td>
</tr>
<tr>
<td>9 years - 15 years, school not in session</td>
<td>6 hours</td>
<td>3 hours</td>
<td>1 hour</td>
<td>10 hours</td>
</tr>
<tr>
<td>8 hours</td>
<td>8 hours</td>
<td>—</td>
<td>2 hours</td>
<td>10 hours</td>
</tr>
</tbody>
</table>

### Hour Limitations

- Child performers may not work before 5:00 am or after 10:00 pm on evenings preceding a school day.
- Child performers may not work after 12:00 am on days preceding non-school days.

**All child performers must be given a 12-hour rest break at the end of the work day.**

- Child performers 15 days to 6 months of age must have written approval from a U.S. licensed physician prior to being employed in the entertainment industry. The approval is necessary to assure that the infant is physically capable of handling the stress of filmmaking.
- NMDWS may grant a waiver of the mandatory hours and start to finish times, in exceptional circumstances due to unusual performance requirements. This waiver must be granted prior to the performance.

For complete information, visit our website at [www.dws.state.nm.us](http://www.dws.state.nm.us)