

# FIA'S CHILD PERFORMER TOOLKIT



# INTRODUCTION

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Welcome to the FIA Child Performer Toolkit. We've designed this Toolkit as a User's Manual to assist FIA organizations around the world – as well as their own members - in their efforts to work with child performers. We hope it will be useful and encouraging, giving an overview of the many solutions to common workplace problems involving child performers that have already been developed and implemented by in other countries.

Our recent survey of FIA members showed that while there are significant differences in the way that FIA members represent – or do not represent – child performers, one thing was common to almost every response: namely that the actual employment of children is increasing, particularly in film, television and commercials. Child actors also commonly appear in live theatre and variety shows, alongside adult professionals.

Of course this is not a new feature of life – children have always acted, in productions aimed at children as well as in order to create authenticity in the portrayal of family life in film, television, on stage and in commercials. Whether we like it or not, it does seem clear that our modern society with its myriad media outlets and hunger for content wants to see children performing on stage and screen.

One significant repercussion is that more children than ever crave an illusory 'celebrity' life and indeed may be encouraged by their families to pursue

a career in the entertainment industry. Sadly, most of these dreams will amount to nothing but, in the process, many children will be exposed to unscrupulous people and damaging practices.

Here's where FIA can help. From the work of many of FIA members, we see that speaking up for child performers has been a positive experience. There may not be many children working in our industries, relative to our adult membership. We may not even be able to admit them to 'real' membership. But their public visibility is high and there are lots of positive, union-building advantages to helping them, as well as the obligation to stop exploitative practices wherever we can.

We know that FIA's member organizations benefit from solidarity and advice, so the Toolkit also aims to help Unions reach out to parents of child performers and co-opt them as partners, to make their child's working experience a positive one.

And a final proviso that we must mention. Namely, that there is no single solution to working with child performers. This toolkit is really a tour through some of the key elements and ideas that need to be considered. There is a wealth of experience among FIA members already, but those organizations that wish to do more for child performers will certainly develop solutions that work for them and that match the context and needs that are particular to their own countries.

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## GETTING TO KNOW THE LEGAL LANDSCAPE

In navigating the many challenges facing child performers, we must always start at the same place. What are the national, regional and local laws and regulations relating to child performers in our own countries?

There are very few countries in the modern world that have not acceded to the most influential ILO conventions relating to child labor; most significantly the widely ratified Minimum Age Convention, 1973 (no. 138) and the Worst Forms of Child Labor Convention, 1999 (no. 182). The U.N. Convention on the Rights of the Child has also been extremely influential, recognizing the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with a child's education or to be harmful, physically, mentally, emotionally etc. Additionally there are important regional instruments, most notably the European Council Directive 94/33/EC on the protection of young people at work.

Clearly these laws exist to prevent children from working, so therefore, in order to allow child performers to work legally, the ILO Convention, and subsequently the national legislation in most countries, will create a very general exemption for 'artistic performances' or even, in some cases, specific legislation relating to the work of child performers.

The way that exemptions are – or are not – framed in national legislation will

be very different in each country. Unions need to be completely familiar with these laws, even if they seem at first glance to have little relevance to the entertainment industries.

In Brazil, a very comprehensive and authoritative legal analysis was provided by SATÉD/MG – containing information about applicable laws, national collective agreements, and also a very useful description and discussion of the particular problems of child performers.

Can your union sponsor a study or similar piece of research, perhaps by a university department or a law firm, detailing the relevant employment laws and practices in your country?

In other countries, we know that a very stringent application of the international norms dedicated to preventing any child labor make it extremely difficult for children to work as performers – Germany being a significant example. The union GDBA says that *'regulations concerning child labour in Germany are so strict, that it is almost impossible to produce a show with lots of children involved. A show like Billy Elliot basically could not be produced in Germany because there are too many child roles involved in this show.'*

Do you believe it is a benefit to the industry and to your membership that producers should be able to hire child performers relatively easily? If so, you will need to make sure that there are appropriate legislative provisions in force!

## OTHER KINDS OF LAWS TO CONSIDER

It is worth remembering that there are other kinds of laws that may have an impact on the hiring of children as performers and not just those relating to the labor itself, although this is our primary focus.

- Laws relating to child pornography and obscenity/indecency
- Laws relating to censorship
- Privacy laws and laws related to the photographing and filming of others

Also, the impact of employment status on the situation of child performers should not be underestimated, as this may

determine whether some legal provisions may apply at all.

If, in your country, performers are not considered employees, are child labor laws and provisions even applicable to child performers?

It would be wise to include these wider legislative questions in any analysis of the law affecting the employment of child performers.

## CASE STUDY:

### WORKING TO PASS A NEW LAW IN CANADA

We might be surprised at the number of countries that do not have legislation specific to the protection of child performers. In Ontario, Canada, efforts over many years to obtain a law are

finally bearing fruit. The following is included as an example of the kinds of problems – and solutions – and the work required to create legislation.

Canada has not yet ratified the ILO Convention 138 on Minimum Age but each of the ten provinces and three territories have legislation with respect to child workers and jurisdiction over employment. In general children under the age of 12 may not be employed. There is no specific mention of work in the entertainment industry in either the exclusions or the allowable work places.

Canadian Actors' Equity Association and ACTRA have had terms and conditions specific to child performers in their agreements for many years. Those conditions have been refined and improved over years of bargaining and, as a rule, child performers working under them are well protected. However, in the absence of any provincial employment standards, child performers working outside of the jurisdictions of the two associations have no protection specific to the industry and parents have no recourse in the event of a problem other than to refuse to allow their child to continue working.

A number of early attempts by Members of the Provincial Parliament in Ontario to introduce Child Performer Bills failed in the 2000s.

In 2013, a major attempt by a Member of the Ontario parliament to get a bill passed, failed. He had been extensively supported and advised by ACTRA and CAEA, but did not succeed - despite significant parliamentary support, extensive and successful lobbying, detailed - and widely praised - drafting by the unions and successful resistance against weakening of the Bill's provisions by the Producers. Not surprisingly the Producers were also lobbying to

ensure that any legislative requirements were less than those in the collective agreements. As weak as their arguments were, they worked hard against the Bill, pressuring members of Parliament and the Ministry of Labor. Finally, the Bill became hung up in political bargaining.

Arden Ryshpan of CAEA comments: *"Surprisingly, I received several letters and phone calls from MPs in all parties, expressing their support for the Bill and their dismay with the way in which it had been stopped. The MPs all advised us that the Bill had now become a bargaining chip for the parties to extract agreements from each other about other legislation".*

In the end, the Bill failed because it ran out of Parliamentary time.

A few months later in June 2014, with a new government, the Unions' lobbying began again. The Bill, known as Bill 17 was re-introduced in the exact same form. Again, the unions were told that the Bill was the subject of political football between the three House leaders. Meetings and letters started again. Each political party blamed the other for being stubborn and insisted that they were not responsible for the hold up. The Film producers association continued to press for amendments.

The unions' lobbying took on a stronger tone as they urged representatives of all three parties, senior policy officials in government and the bureaucracy to resist bad amendments and they spoke of their distress over the Bill being used in a political tug of war. They expressed concern about how to explain this situation to their members, but there were no promises that anything would

ever happen further. It was an extremely demoralizing time.

Finally an unexpected breakthrough came when an advisor to the Premier became involved. The Bill was fast-tracked for Royal Assent, the final step in becoming legislation, which was granted on May 5th 2015. It is highly unusual for a Private Member's Bill to actually make it into legislation. At the time of writing, the Ontario's Protecting Child Performers Act is scheduled to come into force 9 months after its adoption. This delay is designed to allow the Ministry of Labour to write the regulations that will be the practical application of the Bill. No doubt, there will be further wrangling with the Producers over the actual wording of the regulations.

In conclusion, the union officials are, of course, used to politics, but it was still demoralizing to see politicians playing politics instead of simply doing the right thing, especially when all parties stand to look good when the legislation goes through. This Bill costs the government practically nothing in actual money and it sits on moral high ground. After all, how can you not want to protect little children? Nevertheless, it was hard to watch for many months as the three parties used Bill 17 to leverage something else they wanted. Patience, resilience and perseverance were all needed!

On May 5th 2015, when the Ontario's Protecting Child Performers Act was finally approved, union members were at Queen's Park to mark the historic occasion.



### The Canadian unions shared some of their thoughts on how to fight for child performer legislation



- Legislation to protect child performers should be an idea that can get some political traction, particularly in countries that already restrict child labour to some degree. It provides the parties with an opportunity to be seen to be working together, which may have its own political currency.
- It is essential to have a “champion” in the government who is willing to take on the cause and stick with it.
- There is great value in establishing respectful working relationships with members of all political parties, long before you might need to call on these relationships. And a paid lobbyist can open doors that you might not otherwise be able to.
- Doing your homework is essential as is ensuring that every document presented is carefully researched and prepared. Inconsistent messaging, unclear demands or sloppy material can easily be put aside.

- Respecting the established political process, understanding the hierarchy of government and identifying the power brokers is essential. Deviating from the accepted processes can make political enemies. It is essential to be non-partisan in your lobbying efforts.
- Enlisting the participation of high profile performers is valuable.

Having child performers speak for themselves and tell stories publically about their professional experiences can make a big difference.

- Meetings with politicians and/or letters to them must be strategically planned and repeated more than once. Politicians are besieged by constituents demanding one thing or another. No one ever got what they wanted by giving up too easily.

## LICENSING AND WORK PERMITS

In different countries around the world there is a wide variety of secondary licensing systems, established in order to make it possible for children to work as performers. In some cases local authorities are responsible for licensing both the producer and the child concerned – with a potentially long list of conditions attached to that license, including inspections (medical, workplace, and educational requirements, among many others).

Licensing authorities operate at different levels – sometimes local, sometimes at State, departmental or territorial level. There is no recommended solution for the licensing of child performers, of producers and the subsequent necessary inspections, checks etc. This all depends on the tiers of administration within a specific country.

Parents have the authority to represent their children – and sometimes they themselves have to obtain a work permit for that child before work can begin. In many other cases, the parent or guardian has to approve the license that is applied for by producer. And, importantly for our discussions, the law can also be structured in order to apply to a producer, even if the child performer is not actually being paid for the work that he or she is doing.

The key requirements for whatever licensing authority is given the power to decide on the recruitment of child performers are that it be appropriately resourced to track and administer licenses, and that it have the ability to establish and enforce meaningful sanctions against producers who do not keep to the rules.

### Questions you and your members might ask include:

- What is known about the laws in your country? Are there regional or State variations or specific regulations?
- Do the regulations include mandatory medical examinations of the child and also specify who should pay for these examinations (preferably the employer)?
- Is there a provision for education/ tutoring in the license as well as all the other elements that one would expect in a working agreement?
- Are these laws and requirements or permissions well known? Are they observed by producers and/or enforced by authorities?
- Is there a specific legal definition for a child performer (including age categories)?
- Do you believe that the relevant authorities in your country have the resources, or will, to adequately administer and police licensing arrangements for child performers? Is there an existing system that could be improved?
- If your collective agreement provisions are more favorable than the law, do your terms prevail?

## HOW SHOULD WE REPRESENT CHILD PERFORMERS?

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*"It is work, whether it's being done by an adult or a child"*

*Arden R. Ryshpan, Canadian Actors' Equity Association*

FIA affiliated organizations work for child performers in many different ways, even when they are not their members. In some cases minors cannot even legally join unions until they reach a certain age. In others, children cannot join FIA unions because of strict requirements

of professionalism for membership (work experience or formal professional training).

It is well understood that for some FIA member unions and guilds, professionalism is not some arbitrary matter but a necessary feature of life in order to maintain standards and collective agreements. It may be controversial for those organizations to risk undermining those standards by admitting child performers to full or partial membership.

Nevertheless, child performers are working people too, and they need our help! FIA's efforts are aimed not to stop children working but rather to give those working children, safety and structure in their lives – something many do not have. Our survey showed that exploitation, morally hazardous conditions, and poor working practices are rife, wherever children are involved in live performance, film, TV and commercials – and that children are sometimes at the mercy not only of producers and managers or agents, but may also in some cases have to deal with a different, additional problem much closer to home, namely their own parents.

FIA members support the idea that unions should find a way to educate, inform, support and protect child performers even in situations where those children cannot immediately join

our organizations. They may be a small minority in our workforce, but they are highly visible and of great interest and appeal to the public. Some children will go on to have performing careers one day and giving them an education in the importance of the unions will be invaluable when they become eligible to be our members as adults. Not only this, but they are extremely vulnerable and in need of protection.

We have examples to show that standing up for the rights of child performers, representing their interests and even bringing them into membership, can bring our unions opportunities to develop, creating dialogue with employers, governments and others, demonstrating our knowledge, authority and effectiveness as representatives of all performers in our respective industries.



### Some of the different FIA solutions include:

- A supervisory relationship in which the union and its workplace representatives monitor the licensing conditions under which children are permitted to work and inform authorities of any infractions.
- Student membership – for child performers under a certain age, with lower dues.
- Apprenticeship membership (through which children working in union productions can build up credits towards full membership).
- Membership, with full benefits, as soon as a child of any age starts working.

In addition to the issues of membership, unions must consider how they wish to

involve themselves with child performers in the workplace.



### Some different ways of positioning your organization toward child performers include:

- Negotiation of collective agreements which include child performers' issues and provisions that can often be more comprehensive and in general more favorable than those provided by law.
- Organizing Child Performer Committees within the union, to advise and steer the union in matters of concern to child performers.
- Having staff members in the union who concern themselves with child performers' issues.
- Workplace representatives in theatres and on sets who oversee child performers' arrangements, even if the children are not members.
- Advocacy on behalf of child performers, towards producers and government even if the children concerned are not members.
- Consider the impact of bringing children into membership – should they pay the same union dues/subscriptions as adult members? Will having children as members create more work for union staff?

## CASE STUDY:

### CHILDREN AS UNION MEMBERS IN THE U.K.

In 2012, British Equity's Council took the decision to create the possibility for children aged 10 and over to be brought into membership, with voting rights conferred at age 16. Previously the union had operated a youth membership

scheme for performers aged 14 to 16. The question had been considered by the Union for a number of years, and required legal investigation as well as internal discussion with union members and representatives.

The UK has a long-established set of requirements for children working in the entertainment industries, administered by local authorities. Those measures include detailed licensing requirements, hours of work, rest days, education, approved chaperones, accommodation, places of performance and rehearsal.

However, because children were not union members, when any infractions took place, Equity was not in a strong position to intercede. One such issue in 2007 blew up when it became public that children performing in a choir in a West End production were not being paid. At that time, Equity's Martin Brown said:

*"We think that child performers are at risk of not being treated as well as they might be in the entertainment industry. They have no one to represent them at the moment. Their agents find them work – the agents, of course, have a financial interest. They don't have a disinterested representation that a trade union like Equity could give them."*

Meanwhile, the employment of children in theatre and film continued, including some of the most numerous and highest-profile child actors in the world in the casts of the Harry Potter film series. Tens of thousands of licenses for child performers are reportedly issued every year in the UK.

Equity's internal consultations resulted in a highly significant change to the Union's rules to allow children to qualify for membership. The criteria for joining the union for young people under 16 are based on evidence of paid professional work: either one job on an Equity contract or evidence of earnings in excess of £250 from the industry in an area of

work covered by Equity (this is a lower earnings requirement than for adults).

In 2015 Equity reported something like 25-30 members in this new age range. Children have been asked to pay a reduced subscription for minors but it will take some time to determine how much staff time is taken up working for these members, and exactly what impact their membership will have on the Union.

In 2012 the British Government issued a detailed consultation on a wide-ranging overhaul of the British regulations. The Government's view was that these rules were 'archaic, complex, irrelevant and overly bureaucratic', dating from an age before media expansion and stricter child protection legislation. The object of the exercise was to 'streamline' and 'clarify' the rules and allow local authorities to focus on inspecting and enforcement rather than administration of paperwork. A goal of the consultation was to put a clear onus on parents to take responsibility for their own children's activities and producers to show they have put in place robust safeguarding arrangements and thorough risk assessments before they apply for a license. The consultation included a list of exemptions, including unpaid/amateur work (which nevertheless has to be licensed but is not subject to the same conditions).

Of course, Equity weighed in on this consultation, as it would have done on any proposed measure affecting performers, but was able to do so in an even stronger way, with the full force of representation. Their comments to the Government argued, in essence, that many of the provisions in Equity's

collective agreements, which cover performers of all ages, would be better than what was being proposed.

Child performers and their families will certainly be educated and informed about the important advantages of union

membership, and will see, from the better collective agreement provisions offered by Equity to professionals, that the union is an invaluable and supportive entity.

## REACHING OUT TO CHILD PERFORMERS

The results of our survey showed that many FIA members are interested in knowing more about child performers' problems, but have difficulty in, as one union said, 'reaching the prospective "clients"'. Finding out about the conditions of child performers is indeed a challenge in situations where

our collective agreements may not be applicable or observed.

However reaching out to the population of child performers – through their parents or representatives – could be a useful exercise in union building.



We have heard lots of ideas from FIA members about how to build up contacts with child performers, including:



- Holding open meetings for families in the business to listen to their concerns and inform them about our unions and the way to become a professional performer.
- Inviting leading young performers to speak to you about their lives in the business.
- Talking to reputable agents, managers and producers about the issues and ways to build up good practice.
- Creating resources for families – ACTRA's 'Stage Parent's Survival Guide' and SAG-AFTRA's Young Performers' Handbook are excellent examples of guides about all the relevant issues, with contacts and advice, written in a non-technical way, enabling parents to take better care of their performing children.
- Websites specific to young performers, for example see: <http://youngperformers.sagaftra.org/>

- You know your business better than anyone - ask your members working in theatres and on sets to alert you to the conditions of child performers. If your union has some kind of formal workplace organization established, with representatives in place who have some knowledge of your agreements or contractual standards, these are probably going to be the best resource for you to start with.
- Assigning a member of staff, or an actor member, to represent child performer issues in your union – like ACTRA's Child Performer Advocates (<http://www.actratoronto.com/performers/at-work/child-performers>).
- Taking a campaigning approach, like Canadian Actors' Equity, drafting and pushing through legislation to regulate child performers if none exists, finding new public and government alliances in the process.
- Gathering as much actual information as you can about conditions, as it will be helpful to draw on real examples and even hard data when approaching different levels of government or creating public awareness of the problems.
- Getting to know any other parties who might be working to improve the situation for child performers, and finding ways to work with them.
- Creating formal structures and committees within your organization, involving child performers – or getting child performers to help create a body of reliable information. The SAG-AFTRA Young Performers' Committees have existed for decades and organized many activities, including seminars on different aspects of the business, for parents and children.

## ENGAGING WITH CHILD PERFORMERS AS THEY START WORK

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How do children become performers in your country?

It's at the beginning of their journey that child performers are at their least informed and most vulnerable. At this stage, they and their families are likely

to be excited and impressionable – and are all too susceptible to unscrupulous dealings.

It is important to know how producers find child actors, singers and dancers – perhaps through drama schools and

other training programs, through advertisements placed by supposed ‘agents’, casting directors or managers.

There are huge potential risks involved with many of these routes. The schools themselves may not be ethical – ‘modeling’ schools may offer ‘training’ of poor quality, with unrealistic promises of work, but also charging parents large fees. Talent shows are promoted as a route to stardom. Parents may well be told that, for their child to have a chance at promised stardom, they have to spend large amounts of money on casting services. A commonly stated requirement is for expensive headshots and other materials that will be redundant within months, as a child’s appearance changes quickly and legitimate productions would never use such services. We have even heard of parents being asked to pay for their children to attend auditions.

Not all unions are able to regulate the process of casting and auditions, though many try to do so, at least on legitimate productions. Scammers will always exist and there will always be situations in which people try to take advantage of parents and children.

Then come the contracts. Of course, the process of hiring and contracting is similarly fraught with problems. Minor children cannot sign contracts, so the parents will be responsible for doing so – possibly on their own, unless advised by you or an agent.

It is for this reason that parents need to be made aware of the essential need for a written agreement, for specifications to be included in relation to working hours, payment, performers’ rights, tutoring, supervision, travel, special or hazardous skills, and to view the script in advance. The more that parents know in advance of such perils as buy-out contracts the better. It is important that they are empowered to know that they can resist worrisome elements – with the support of your organization – without their child losing the role.

The French law includes the fact that a child must be clearly informed prior to a license being awarded, that he/she may withdraw his/her consent to participate, taking account of his/her age. This element would aim to prevent a child being forced to work under duress.



Some key factors to watch relating to child performers at the earliest stages of their working lives include:



- Auditions should not take place during the school day, but only after school and end at a reasonable time (for example, 8.00 pm).
- Parents should be told to be highly suspicious of any upfront fees payable to an agent or manager.

- Although children may well need to use an agent to find work, there should be a way of establishing the legitimacy of that agent – perhaps through your union?

- Parents should be well informed and wary – even if their child is signed by an agent - that there is no guarantee of work.

- Can your union provide informational resources to advise parents?

- Can the law protect the process of contracting? The South African law specifies some basic conditions as to what the contract must contain. The new Law promoted by CAEA and ACTRA in Ontario (Canada) specifies that a meeting must take place at the time of contracting, with a more detailed list of required disclosures about the nature of the contract.

## ENGAGING POSITIVELY WITH PARENTS

*“Whatever is done, must be done in coordination with parents, who too frequently sign ridiculous contracts or accept ridiculous conditions and then ask us to arrange things.”*

S.F.A. (France)

There are three key considerations that differentiate the protection of child performers from that of adult performer members, namely:

- Parents
- Moral risks
- Education

Parents are an inevitable additional party to consider in any dealings. Depending

on the situation, they will be your most important ally or a formidable opponent. Parents – who, a FIA member sagely points out, may often be actors, directors or technicians themselves – play an essential part in making a child’s experience successful or not. A positive and informed partnership with parents is therefore an important solid basis on which to build the protection of child performers.

It is inevitable that there will be a small minority of parents who, convinced that their child is destined for stardom, may take less than ideal decisions on their behalf. The stereotypical ‘Stage Parent’ – a term not usually meant as a compliment – is not entirely a fiction. A Turkish union representative reported to the authors of an ILO Study of conditions in their country: ‘Families close their eyes

to apparent problems... It is mostly those poor families investing hope in their children's prospective fame.'

However, most often, parents will simply be operating from a position of less than full knowledge and, as a result, be prone to accept bad conditions of work and pay, ignore advice and use their discretion to vary agreed conditions. FIA's members reported this as a relatively common situation.

We will assume that the parents of child performers you encounter may be uninformed but in general well meaning! They are likely not to know how to conduct themselves in the highly specialized workplace of their child and need advice. However the responses we received from the FIA survey indicate that while parents are often the cause of many problems, they can never be discounted from the point of view of supervision, preparing and caring for the child to ensure that a performance can take place (particularly for younger children) and of course negotiating and agreeing conditions of work.

Even if there is an agent representing

the child, or a chaperone or 'wrangler' employed by the production to manage child performers, the parents are an inevitable part of the equation.

The relationship between your organization and parents is a delicate one. They need to be invested in their child's safety and well-being, but on the terms established by your union. They may not realize how much they need you, and therefore the more outreach and information you are able to convey, and the earlier that takes place, the better.

Rules and practice as to the role of additional adults who are employed to work with child performers vary widely. In some union's collective agreements, parents are excluded from the theatre or other workplace and a professional person – perhaps a child wrangler or guardian will, for example, take the child to the stage and wait in the wings until they come off-stage. In other situations this chaperone will also have tutoring duties. Union agreements and laws should contain strong provisions with respect to this element, to ensure that the children are in a secure environment and be vigilant for risky situations.



### Initiatives that may be useful ...

- The guides for stage parents produced by various unions, including ACTRA (Canada) and SAG-AFTRA (US) are highly supportive.

One of them was written by a parent and this approach can help demystify the process of production, the fine details of complicated

collective agreements and the many important requirements that every stage parent must consider.

- Several unions have also produced extensive glossaries, explaining common production terms, collective agreements, laws, payments, rules and penalties, etc. Such guides are empowering for parents and might avoid some of the problems that will later emerge.
- Training seminars and open

meetings are also important ways in which to convey key messages to parents.

- Emphasis on professionalism – the one thing that unions and stage parents have in common, is a desire for the child to work as a professional and that means, of course, union membership. If this is not something you can, or wish to extend, contact and involvement with the union should be something that is appealing to parents.

## PHYSICAL AND MORAL WELLBEING

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The moral protection of children in our workplaces is a subject that has been widely addressed, including in an important study for the ILO and UNICEF that examined the situation of children working in cultural and artistic activities in Turkey. As a matter of health and safety, there are a number of areas to think about.

Theatres and film sets are dangerous places in which to work in general. They are also intensely adult environments. A child may be exposed to many things that are unsuitable. For example, the subject matter of a production may be difficult for a child to deal with – particularly younger children for whom reality and 'pretend' may be very difficult to distinguish. And of course, just to add to the complication, our business is filled with adults who may not modify their

behavior, habits or language around children.

Any work your organization may do in relation to child performers will need to address these concerns and help protect working child performers from difficult, or positively dangerous, situations. Of course, 'danger' can be defined differently depending on the age of the child – for a baby or very small child the requirement to work without a sufficient break may, in itself, constitute danger to health and wellbeing (working hours are dealt with separately).

The key element in avoiding problems relates to the duties and rights given to a chaperone, who will most frequently be the parent or a guardian assigned by the parent.



## Some considerations when weighing the protection of children at work:



- What is the role of the parent/guardian/chaperone? Do they have rights to insist on the terms of work – the safety of a situation, its effect on their child as well as the strict observance of working hours, breaks, food etc.?
- Can the parent be prevented from circumventing terms that have been agreed (for example, forcing their child to miss breaks or work longer hours than is permitted)?
- If the production appoints a chaperone, or coordinator, to supervise children, how many children do they have to look after at one time?
- Are productions required to give children separate spaces to eat, dress and rest, use a toilet and shelter from the bad weather, away from adults?
- Are stunts or potentially hazardous activities involved in the production and what provision is made to ensure the child's safety or to avoid the child actually having to perform the stunt themselves?
- Are background checks required for people engaged to work alone, or closely, with the child performer in any capacity?
- Is there any protection or limitation in terms of the material the child may be asked to perform, or even just witness?
- Is there a provision to prevent a child performer being punished, frightened or humiliated, as included in some unions' collective agreements?
- Is travel to a film set or production included in all these considerations, so that, for example, accommodation must be approved if the child is not staying in their own home at night?

# EDUCATION FOR CHILD PERFORMERS

*'Education is Job One'*

SAG-AFTRA Young  
Performers' Handbook

Every child has a job that comes before everything – that is, getting an education. Legal and collectively bargained provisions to marry the demands of an education with the needs of performing in film, television and commercials or in live theatre or variety, must all ensure that child performers experience minimum disruption to their schooling. This can be a very complicated and expensive thing for producers to arrange,

but it is fundamental to the employment of children.

Utmost vigilance is needed to ensure that provisions are adhered to and that the educational experience provided is of good quality. Parents who try to cut corners in this respect do their children a serious disservice, as deficiencies in formal education will hamper even a successful actor later in life. The parents of a child actor cannot assume that a successful adult career will emerge from early success, so an academic education is essential and this is an important message to communicate.



What are the key elements to think about in terms of education and child performers?



- The child's own school should be closely involved in the educational aspects of a child performers' life, specifying curriculum, materials, etc. for minimum disruption.
- Different educational authorities may have different rules, depending on where the performance takes place.
- Will the producer provide an appropriately qualified tutor?
- Is sufficient time for study built into the working day and week of the child, at appropriate times of day and, if varied for production reasons, made up at a different time?
- How many children and of what ages can be tutored at the same time?

- Do studio or on-set tutors have other supervisory duties?

- Can a child attend regular school on a workday, even if they have paid employment out of school hours?

## THE CHILD PERFORMER'S WORKING DAY

One of the most challenging aspects in managing the lives of child performers is accommodating the needs of the child within the length of the working day. Not every child will have the stamina required to work on a film or television set, or in rehearsal for a play, with frequent delays and periods of non-activity. From the producer's point of view, having the child work in a useful way is logistically complicated. So the parent or union representative must be advised to be vigilant for infringements of agreed working hours and breaks, and resist the temptation to vary them.

The divisions of age and hours of possible work, vary quite a bit from country to country, however very roughly speaking

child's age groups are commonly divided as follows:

- Baby (in some countries, newborn babies cannot be used in film/TV).
- Toddler to 5/6 years old
- 5/6 to 11/12 years old
- Pre-teen to 15
- 15+

Obviously, the older the child, the more working hours subject to a break are permissible. A good producer will understand that very long hours are, in any case, counterproductive to their work, but this area is commonly subject to abuse and can be complicated for parents to supervise.



**What are the main things to consider in respect to establishing a formula for children's working hours?**



- Rehearsals count as workdays!
- Clearly specified hours of work for each age group must be determined, with a maximum number of hours.

- Substantially different working hour patterns may be devised for live performance, as opposed to film and TV work.

- Within the hours of work, there must be clearly specified periods of rest (babies and small children may only work for 20 or 30 minute bursts at most, before having a break of at least that time and often twice as long).
- Working hours must specify earliest and latest allowable start and finishing times – in other words, a range of hours in which a child's work can take place.
- Working hours must include reference to the continuous hours per day and then days per week that are allowed within a week-long, or longer, period so as a limitation on the number of consecutive days that can be worked.
- Similarly, breaks between rehearsal or performance days must be built into your formula, as well as travel time and days spent traveling.
- Hours for educational study must be built into the child performer's day of work and his/her work schedule and breaks.
- Night hours, particularly for live performance, must be carefully considered and limited appropriately.
- Small variations to the above are often allowed during school holidays or on non-school days.
- Parents should be advised to be vigilant and keep notes of times their children are working, resting, etc.
- Overtime, if allowed, should be extremely limited and appropriately remunerated.

## PROTECTION OF CHILD PERFORMERS' EARNINGS

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Always a challenging element of any performers' negotiation, this issue is doubly fraught with children because of pressures from their parents. To begin with, there is always pressure from producers for children to work for free – or almost free. Parents may be desperate for their child to gain work experience, and the producer may argue that the child's part is very small or the actual working time very short.

There is, of course, no substitute for a collective agreement with minimum terms, or at least recommended terms, proportionate to those of adult actors and applicable to child performers. If, however, there is no agreement in place, parents and/or agents must resist the pressure to exploit the child. Work, as we have said, is work, no matter whom it is done by, and remuneration is always due.

And then the parents come into play. At the very least, many of them do not know how to manage their child's earnings – whether and how to pay taxes, how use fees, pension and health contributions and deductions for such things as Social Security are calculated, etc. Clearly, this can be complicated, and a lack of knowledge can easily lead to problems – often the unions only get involved too late, when parents come to them to sort things out.

At the other end of the spectrum there are those parents who flagrantly exploit their child's earnings, funding their own lifestyles and, in some cases, coming to depend on those earning for their family's upkeep. Sometimes it is simply the case that the child is the biggest earner in a family. It is because of such abuses that different laws in countries around the world have established rules to protect children's earnings.

A number of jurisdictions have created protections for children's earnings, specifying that the earnings belong to

the minor but giving parents financial responsibility. It is often specified that a certain small percentage of those earnings may be accessible to the parents, ostensibly to cover expenses incurred in enabling the child to work. However, the premise should not be that the parents pay themselves a salary out of the child's earnings, but this does happen and is clearly an area of potential abuse.

The Coogan Law in the US operates on a Trust Account system, whereby part of the child's earnings, once a certain level has been reached, are transferred to a protected account by the producer. A similar situation exists in France and those earnings are not available to the child until he/she reaches majority. It is essential that such provisions have legal status and total applicability, rather than depending on observance of a collective agreement. In some cases the union may be involved in administering the child's funds, in which case the child must receive an annual statement of their lifetime earnings.

## CASE STUDY:

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### THE COOGAN ACT

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Granted that this is not solely a North American issue, the misappropriation of child performers' earnings has historically been a problem in the US entertainment industry and the laws that the Screen Actors' Guild campaigned for over decades have substantially mitigated the situation, providing an important example for unions and legislatures in other countries.

It is important to remember that in the United States, the regulation of work permits and the contents and conditions of those permits, differs from State to State. The most active and developed provisions are, not surprisingly, in California and New York States, where the vast majority of child performer employment originates.

California's Coogan Law is named after the famous child actor Jackie Coogan. Coogan was discovered in 1919 by Charlie Chaplin and, soon after, cast in the comedian's famous film, *The Kid*. Jackie-mania was in full force during the 1920s, spawning a wave of merchandise dedicated to his image. It wasn't until his 21st birthday, after the death of his father and the dwindling of his film career, that Jackie realized he was left with none of the earnings he had worked so hard for as a child. Under California law at the time, the earnings of the minor belonged solely to the parent.

Coogan eventually sued his mother and former manager for his earnings. As a result, in 1939, the Coogan Law was put into effect, presumably to protect future young actors from finding themselves in the same terrible situation that Jackie Coogan was left in. Unfortunately, the 1939 incarnation of the Coogan Law was flawed, leaving open various loopholes and necessitating long term, court sanctioned contracts for validation.

After many years of advocating for more protections for child actors, the Screen Actors Guild Young Performers

Committee, the National Policy and Planning Department and other industry groups were successful in closing many of the loopholes that made the original Coogan Law ineffective. In January 1, 2000, changes in California law affirmed that earnings by minors in the entertainment industry are the property of the minor, not their parents. Since a minor cannot legally control their own money, California Law governs their earnings and creates a fiduciary relationship between the parent and the child. This change in California law also requires that 15% of all minors' gross wages must be set aside by the employer in a escrow trust account, commonly known as a Coogan Account. Similar requirements exist in New York law. The responsibility for establishing the Trust Account falls onto the parents.

Jackie Coogan went on to recover a small portion of his earnings after battling his mother in court. He became well known on the small screen playing Uncle Fester on *The Addams Family* and will always be remembered for the role his story played in protecting child actors from losing their earnings

## CASE STUDY:

### ACTRA'S COLLECTING SOCIETY SECURES EARNINGS

The ACTRA Minors' Trust is an excellent example of a solution for the protection of the earnings of minor performers, in this case by a union itself - the Alliance of Canadian Cinema, Television and Radio Artists, a union of more than

22,000 professional performers working in English-language recorded media in Canada including TV, film, radio and digital media. Young performers in film and television are covered in Canada by ACTRA through their Independent

Production Agreement (IPA) and the National Television and Radio Commercial Agreement (NCA). ACTRA has, over many years and in negotiations, established detailed provisions regarding the engagement and treatment of minors on set and indeed made their concerns a central bargaining issue.

Inspired by the laws enacted in California - the Coogan Laws already referred to - ACTRA devised its own solution in negotiation with Canadian producers, by which, after a minor's total lifetime remuneration reaches \$5,000, 25% of the child performer's gross remuneration is deducted from the total payment due to him or her and remitted to the ACTRA Performers' Rights Society (PRS), a collecting management organization controlled by the union, to be set aside in trust and available to the child when he or she reaches adulthood.

ACTRA took a very specific decision to place the union itself in control of the process and guardianship of the funds, rather than accepting a solution administered by government. Their feeling was that even if provincial legislatures have the will to enact and administer laws, the Union is closer and more accountable to its members and can therefore better understand their needs.

The Union works closely with the Creative Arts Savings and Credit Union, an independent banking and financial services institution established by, and for, organizations serving the

entertainment industry. The funds set aside for minors are invested by the Savings and Credit Union under the direction of the ACTRA Minors' Trust and the ACTRA PRS. This mechanism ensures the best and - importantly - most transparent and accountable management of the funds. Those funds are invested in a Canadian financial product known as a Guaranteed Investment Certificate (GIC), a very low-risk investment in which both the principal and interest earned are guaranteed and where every dollar invested is protected. This decision was taken to avoid the hazard of stock-market volatility.

In addition, the funds of every beneficiary are insured up to \$100,000 CDN by the Province of Ontario. Minors and parents can also feel secure knowing that there is no annual administration fee payable to ACTRA, but only a processing fee of 2% payable at the time that the minors' contributions are remitted to ACTRA PRS. In addition, parents who have established their own trusts to protect their children's earnings may be granted an exemption. If funds are needed before the child reaches the age of 18, the family may apply for access to the funds to meet educational, professional, medical or psychological needs. Finally, parents who wish to make additional voluntary contributions to their child's trust may do so. Families of the child performer are given online, real-time access to all information about their trust fund account balance.

# LIFE AFTER LIFE AS A CHILD PERFORMER

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Transitioning to adulthood is a difficult enough process, without some of the additional pressures and problems experienced by certain child performers. In fact, these problems are frequent and severe enough that the union's job cannot be assumed to have ended once a working child performer reaches the age of 18.

For this reason, a number of unions have programs specifically dedicated to assisting these young people.

The problems have been widely discussed, including in an excellent report from Brazil, assessing the long-term needs of child performers and how closely they are met by Brazilian law and in collective agreements, notably with the largest television producers.

Many child performers will have successful careers and emerge to become adult actors or, alternatively pursue another kind of life, once given the choice to do so. However, performing is a cruel business and individual examples of former child stars that have committed suicide or died from overdoses, or otherwise had very difficult lives, are well known.

Children who work a great deal and have had unconventional childhoods in any branch of the entertainment industry may be vulnerable in a number of ways, including:

- Missing out on normal childhood activities and development, forced to

mature too early, because of all the time spent pursuing a performing career and the nature of that work.

- Being under-qualified for further education and normal employment from having had an inconsistent education.
- Having a distorted sense of self and issues of self-esteem from having spent a disproportionate amount of time among adults and receiving a great deal of attention.
- Anxiety and similar problems resulting from life in an intensely competitive environment.
- Financial problems from mismanagement of their funds.
- Problems with relationships, and distorted dynamics between parents and other non-performer siblings, when a child is the family's highest earner.
- Exposure to drugs and alcohol.
- Problems of esteem and depression in dealing with a life after childhood popularity, when a child's career may have ended abruptly.

These problems are not uncommon among the child performer community and it makes sense that the better protections and safeguards that are in place, the more likely it is that those children will emerge unscathed, whether they continue to act or not.

It may be surprising to some FIA members that people who may no longer even be working as performers should be in any way the responsibility of the union. However this process of transition is a delicate and challenging one and a number of unions have taken on the stewardship of former child actors.

Ahead”, developed in cooperation with SAG-AFTRA, which supports young performers between the ages of 9 and 18 in developing the values, skills and confidence they need to make successful transitions to fulfilling adult lives (<http://www.actorsfund.org/services-and-programs/looking-ahead>).

One such example is the US Actors' Fund program called “Looking

## FINAL THOUGHTS

We hope that this Toolkit has provided some food for thought and will stimulate discussion about why, and how, FIA members should find ways to represent the interests of child performers. We know that the population of child performers is small and that unions and guilds may have other, more pressing priorities. We also know that the situations that performers are dealing with in different countries and cultures are also radically different. This is why the FIA Toolkit offers ideas and suggestions, rather than a one-size-fits-all solution.

However, if child performers are experiencing exploitation, abuse and unregulated work in ‘our’ workplaces, FIA members will certainly feel a moral imperative to act in some way, even if that involvement is minimal. And we believe that in so doing, there are potential advantages for development of our organizations. In FIA our best resource and inspiration is the work of our own member unions and guilds, many of which have excellent examples of legislative and bargaining approaches and, very often, a combination of both.



**Welcome to the discussion**  
we look forward to hearing where it takes you!



# APPENDIX

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## A TEMPLATE GUIDE FOR THE PARENTS OF CHILD PERFORMERS / BY [YOUR UNION'S NAME]

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### INTRODUCTION

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congratulations on being the parent of a child who has the talent and ability to work as a professional performer! This can be a magical experience for you and your child and provide a lifetime training ground that is artistic, rigorous and inspiring.

We are the organization representing categories of performers in your country and a proud member of the International Federation of Actors (FIA), a global federation of performers' trade unions, guilds and professional associations representing several hundreds of thousands of performers, with some 90

member organizations in more than 60 countries around the world.

Our responsibility is to work with you, with employers, and your child to ensure that the conditions and working environment that he or she will encounter as a performer meet the highest possible standards. It is our job to protect your child and to advise, advocate and assist you and your family to make this a fulfilling and successful experience. We welcome your child to the world of performing and thank you for your support.

### 1. JUST A LITTLE LEGAL BACKGROUND ...

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- Provide a brief, lay-person's guide to the legal position of child performers in your country, avoid technical language and only include the key things a parent might need to know.

- If your union helped create a law to protect child performers, make sure parents know it!

## 2. SO WHY DO YOU AND YOUR CHILDREN NEED THE UNION?

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- Explain the role of your union – and the role of the parent
- Helping with contractual problems and providing advice
- What do agents and/or managers do?
- Workplace representation if things go wrong
- Collective bargaining and agreements – particular terms relating to children
- How to make performing a life-enhancing experience for your child
- What do typical children's contracts look like? Are there problems to look out for?
- Being in the union, or working with the union, is an indicator of professionalism (if this is the case)
- Advocacy and resources
- Can children be members of your union, or have some other relationship?

## 3. WHERE IT ALL BEGINS ...

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- One of the first things a parent needs to understand – how much children should be paid for their work, whether rates are determined by a collective agreement or otherwise.
- Is there any form of protection for children's earnings and how does it work?
- Are there extra payments to be negotiated to cover rehearsals, overtime, travel etc.?

## 4. THE CHILD'S WORKING DAY

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- Explanation of an acceptable/agreed working day in your country for a child performer, including overtime, breaks,

night work etc. and how these vary for children of different ages.

## 5. TAKING CARE OF THE WORK ENVIRONMENT

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- Health and safety concerns – making sure that children work in a safe environment

- What are reasonable expectations for food/rest/travel/accommodation, etc.?

- Psychological welfare – children need to work with people who have appropriate understanding and experience and are sensitive to potentially traumatizing situations

- The role and need for chaperones, tutors, etc.

- What is a performing workplace like? What are the hazards for a child?

- Explain the psychological stresses of working as a child performer

- What can the performing business do to a child mentally and emotionally and both positively and negatively?

- How may the life of a child performer affect a whole family?

## 6. OTHER ITEMS

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- A glossary of terms, in particular language that may be seen in a contract or in a workplace

- Useful contact information – how parents can make representations and

seek help, including out-of-hours - your union, a child performer contact, a Committee or other body

- Standard forms and documents, if these exist

The International Federation of Actors (FIA) represents performers' trade unions, guilds and professional associations in some 65 countries. In a connected world of content and entertainment, it stands for fair social, economic and moral rights for performers working in all recorded audiovisual media and live theatre.





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