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Advocacy groups say proposed rule on teen workers violates Information Quality Act

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Washington — The National Employment Law Project and two other labor advocacy groups have filed a complaint against the Department of Labor, claiming DOL violated the [Information Quality Act](#) in its move to [roll back child labor laws](#) to allow unsupervised teens to operate powered patient lifts in health care settings.

NELP, the Child Labor Coalition and the Service Employees International Union on Feb. 11 submitted the complaint to Mick Mulvaney, director of the Office of Management and Budget and President Donald Trump's acting chief of staff, as well as Secretary of Labor R. Alexander Acosta and Wendy Johnson of DOL's Wage and Hour Division.

The groups are calling for DOL to “retract and correct” the information contained in its proposal, which seeks to ease restrictions to allow unsupervised 16- to 17-year-old workers to operate powered patient lifts. They contend the proposal “contains false and misleading information about the need for and the impact of the department's proposed changes to child labor policies, and it fails the transparency standards embedded in the [guidelines](#). By disseminating information that violates the IQA in its proposal, DOL is acting in an arbitrary and capricious manner, which would violate the Administrative Procedure Act.”

One of the main points of contention is DOL's supporting evidence for the change – the 2012 Massachusetts Department of Public Health's Teens at Work Project survey. The survey results were not part of the original docket of the proposed rule, but Debbie Berkowitz, NELP's program director for worker safety and health, obtained a copy of the full results and shared them with *Safety+Health* in December.

That survey was sent to 42 vocational programs, but 25 or fewer responded to 12 of the 15 multiple-choice questions. The median number of responses to the questions was 22. When asked if they knew about the DOL policy on “the conditions under which hoists can be used by persons under the age of 18,” eight of 22 respondents said no and two answered they did not know.

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“The results of this survey were that Massachusetts decided they need to educate votech programs and employers on the new policy – not that the new policy was not working,” Berkowitz wrote in an email to *S+H*.

On Jan. 25, DOL Inspector General Scott Dahl stated that his office was [reviewing](#) “the integrity of the rulemaking process” at DOL in response to a Jan. 7 letter from five lawmakers requesting an audit of the proposal.

The proposed rule states that teens seeking to learn the skill would need – according to federal or state regulations – at least 75 hours of training and at least 16 hours of supervision under a registered nurse who has at least two years of experience.