Minnesota Department of



Employer's Guide to Work-Based Learning Activities

Revised 2010

Introduction

The following fact sheets have been prepared to assist employers in the development and operation of work-based learning experiences. These fact sheets help to answer common questions that arise when students use worksites to enhance their learning. Topics addressed include roles for employers and worksite supervisors, liability and insurance, age requirements, hazardous occupations, and safety.

These fact sheets have been developed to give general guidance and do not carry the weight of legal opinion. Employers are encouraged to consult with their own legal and insurance providers if specific question arise.

Work-based learning is one of the most powerful learning tools available to help students both prepare for careers of their own choosing and to strengthen their understanding of academic concepts through practical application. Thank you for your willingness to enhance student learning and prepare a productive future workforce.

Dan Smith - Supervisor Al Hauge – Work-Based Learning Specialist Center for Postsecondary Success Minnesota Department of Education

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Employer Fact Sheets

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WORK-BASED LEARNING ACTIVITIES

Definition

Work-Based Learning is an educational approach that uses workplaces to structure learning experiences that contribute to the intellectual, social, academic, and career development of students and supplements these with school activities that apply, reinforce, refine, or extend the learning that occurs at a worksite.

The **workplace** is considered an active learning environment where students acquire new knowledge and skills, learn by doing, and constantly improve their abilities. Academic knowledge and skills learned through years of classroom instruction are applied to real life situations.

Benefit to Employers

Employers play an active role in shaping the quality of their future workforce when they participate in work-based learning activities. WBL can help business and industry in the following ways:

- Expose young people to unfamiliar careers/businesses/industries;
- Expose young people to the needs and expectations of a business;
- Improve the skill level of workers through their interaction with young people;
- Improve community relations by helping local youth with employment and education;
- Reduce employee training costs and turnover; and
- Improve morale and management skills of adult workers.



Benefit to Learners

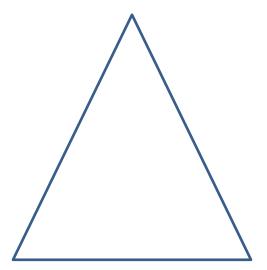
Work-based learning activities can help young people to:

- Strengthen academic skills;
- Realize the relevance of a rigorous education and understand the need for academic success;
- Gain real workplace experience and an understanding of career and educational options;
- Become motivated to expand their learning through the hands-on approach of applying knowledge and gaining skills; and
- Work with positive adult role models.

FACT SHEET #1 (continued)

Types of Work-Based Learning Activities

- Work-Site Field Trips Short-term exploratory experiences where students take part in employer, employee, teacher or volunteer led tours of worksites. The tour includes information on aspects of the industry, work processes, and academic/technical skills required at the worksite.
- Job Shadowing Experiences where a student works with an employee at the worksite. This experience can be from a few hours to a few days in length. The focus is on the application of real knowledge and skills in an industry or occupation.
- 3. **Rotations** Working in a number of different departments or for different employers, to explore different occupations within an industry cluster.
- Mentorship A relationship is formed between a student and an adult working in a career field. The mentor is a role model who offers support, guidance, motivation, and assistance as the student explores a career.
 - **Practicum** The student has an opportunity to complete an individualized project in a career field at a worksite. This is usually a short-term activity with a specific goal.
- 5. Internship A paid or non-paid work experience for a student who desires to explore and participate in a career field or occupation. The length of the internship is based on individual objectives and designed and agreed upon by the employer, student, parent and teacher. This experience generally takes place during the 11th and/or 12th grades.
- Service Learning Unpaid work, geared to the public good, integrated with school learning through projects or similar mechanisms.
- Cooperative Work Experience A paid workexperience conducted under a state-approved career and technical education program: agriculture careers, business/marketing careers, service occupations, health careers, trade and industrial/technical, and general workbased learning.
- 8. Youth Apprenticeship An employer-led work-based partnership that integrates academic instruction, formal career-specific job training and exploration of the roles within a selected career field. This is a paid work-based learning experience.



Employer and Worksite Supervisor

The employer's and worksite supervisor's responsibilities include:

- Follow all federal and state child labor laws.
- Provide worker's compensation for the student for all paid hours worked (for paid experiences).
- Pay at least the state minimum wage for hours worked by the student (for paid experiences) unless student qualifies for an exception to the minimum wage laws in which case documentation must be completed and on file.
- Sign and implement the Individual Training Agreement and Training Plan.
- Provide instruction in the competencies identified in the curriculum and document the student's progress.
- Conduct progress reviews with the student (which may include parent, guardian and school personnel) and provide copies of those reviews to the school.
- Treat a student as a regular employee.
- ➤ Ensure that no student is excluded from participation in the program on the basis of race, color, creed, religion, sex, national origin, age, disability, or marital status, in regard to public assistance or any other protected groups under state, federal or local Equal Opportunity Laws.
- Protect a student from sexual harassment.
- Provide a student with safety training, safe equipment, and a safe and healthful workplace that conforms to all health and safety standards of federal and state law (including the Fair Labor Standards Act, OSHA, and MN Child Labor Laws).
- Properly train a student on the safe operation of any equipment prior to use.

EMPLOYER/WORKSITE SUPERVISOR ROLE

The Supervisor and Student Relationship

The role of the supervisor in any work-based learning experience is a very important one. The experience may be a young person's first exposure to a workplace that may seem very foreign to him or her. Also, it may be the first time an employee has had contact with a student in a workplace setting.

The employer/supervisor has a lot of expertise to share and will guide the young person in learning both technical and core employability skills competencies. A work-based learning experience can be very rewarding for both the student and the adult.

Following are some basic strategies the employer/supervisor can use to have a meaningful experience with a student:

- Get to know the young person Ask a student about their career dreams, goals, strengths, limits, and needs. This information will help the employer identify what kinds of activities will be most beneficial to the student. For example, in a job shadowing experience where a young person has a general interest in a health career, they should spend time in a variety of departments within a health care facility.
- Emphasize safety and health at all times Young people are
 often not aware of the dangers in the workplace, and will need
 instruction in general safety rules, machine safety and required
 health precautions. Frequent reminders to the student are
 important to their health and well-being.
- 3. Provide opportunities for the student to make some decisions regarding the work-based learning experience – A student's level of involvement may be increased through allowing the young person to express their choices and interests. Learning to make informed decisions helps a student grow as an individual.
- 4. **Teach the student about workplace culture** As a new experience for a young person, they need to learn about the culture of the business/organization, such as the rules, customs and standards. An employer can encourage a student's curiosity through inviting questions and providing opportunities for exploration.
- 5. **Be a positive role model** A young person is easily influenced by what is occurring around them. As a role model, the employer/supervisor should use proper techniques and practices, including respectful language.
- 6. Be clear with directions/instructions Young people need to learn about the company/organization's policies as soon as possible. A workplace orientation should be provided, preferably the first day of the experience. Directions and instructions for tasks or use of equipment need to be clear and straightforward. The information may need to be repeated. It is important to make sure the young person understands the "what" and "why". If possible, allow them to work out the "how". This can equip a young person with problem-solving skills and teach them to take responsibility for the outcomes of their actions. (An exception to the "how" is where there is an issue of student safety.)

FACT SHEET #2 (continued)

7. Provide information on careers to the young person – The work-based learning experience is an ideal opportunity for the student to understand the knowledge and skills necessary to pursue work in a particular career field. The employer/supervisor's perspective will not only assist the young person to make an informed career choice but better understand the relevance and importance of education.

Additional Tips for Supervising Youth

Introduce the young person to other employees in the workplace;

- Clearly explain the operations of the job and the functions of the organization;
- Give the student clear job specifications, verbal and written;
- Speak directly to the young person when giving instructions;
- Give honest feedback
- If it appears the student needs help in finishing a task, ask if they need help, and if they do, ask how you can help;
- Be a good listener;
- If the young person displays inappropriate behavior, speak with them;
- When possible, include the student in company-wide activities;
- Be flexible and open-minded to new ways of doing things;
- Be an example for job attitude, attendance, and performance; and
- Remember the young person is not yet an adult but is working on becoming one.

General Characteristics of Young People

- A. Students have a very strong need to feel respected. They usually will not listen to people who they perceive to be lecturing or "saving" them.
- B. Fairness is an important value for students.
- C. Some young people believe it is "cool" to be passive. This may appear as a lack of curiosity or engagement but in reality their interest level is high.
- D. Young people are often "idealistic" even if their own situation may not be very positive.
- E. Be aware that students may frequently surprise you.

LIABILITY and INSURANCE ISSUES

Addressing Liability/Worker's Compensation Issues

When young people are engaged in work-based learning activities, some liability issues exist for the school and the worksite. The chart below is an overview of the liability insurance and worker's compensation coverage that businesses, agencies, and schools should possess in order to protect these young people. These requirements are similar to those an employer would have for employees, volunteers and visitors to their facility.

(This is a general description of the requirements and does not carry the force of legal opinion. Businesses and schools should consult their insurance carriers prior to implementing a work-based learning program.)

Program Name	Program Description	School	ol District	Business Employer	
		Liability	Workers	Liability	Workers
		Insurance	Compensation	Insurance	Compensation
		Coverage	Coverage	Coverage	Coverage
Worksite Field	Employer led tours to				
Trips	increase young person's	Required	No	Required	No
	awareness of	rtoquirou	140	rtoquilou	140
	Careers				
Job Shadowing	Student shadows an				
	employee to explore	Required	No	Required	No
0	Careers				
Career	Student meets regularly with an employee to gain	Doguirod	No	Doguirod	No
Mentorship	career insight	Required	INO	Required	INO
Practicum	Young person completes a				
Tacticum	brief assigned project at a	Required	No	Required	No
	worksite			7.00	
(Non-Paid) Work-	Student develops skills and				
Experience/	earns school credit at a				
Youth Internship	worksite – meets all federal				
	employment relationship	Required	No	Required	No
	requirements to be a non-				
	paid experience. (State				
(5 1 1) 14/ 1	approved program)				
(Paid) Work-	Student develops skills,				
Experience/	school credit, and is a paid	Required	No	Required	Required
Youth Internship	employee at a worksite. (State approved program)				
Cooperative	Student develops skills as				
Work-Experience	an employee at a worksite.				
•	(State approved career and	Required	No	Required	Required
Program	technical education	rtoquiiou	110	rtoquilou	rtoquilou
	program)				
Youth	Intense paid work-				
Apprenticeship	experience for young				
	person where school credit				
	is earned. Individual	Required	No	Required	Required
	student agreement and				
	program are state				
	approved.				

NOTE: If a student is participating in a family owned/operated work-based learning experience or has established her or his own business, the appropriate insurance provider needs to be consulted.

FACT SHEET #3 (continued)

Steps for Employers Engaged in Work-Based Learning Experiences

The following suggestions will assist in dealing with work-based learning liability and worker's compensation issues:

- Consult with your insurance carrier early in the development of work-based learning experiences;
- Presume worker's compensation coverage is necessary when the employee is a student in a work-based learning activity;
- Be prepared to provide the school representative with written documentation of your liability insurance and worker's compensation coverage;
- Sign and implement the Individual Work-Based Training Agreement. This agreement lists the roles and responsibilities of the employer, student, parent/guardian and school representative;
- Identify with the school representative what safety and health training the school and you will be responsible for when employing a student;
- Document all the training you provide for safety and health in the workplace;
- Identify the employee/employees who are responsible for supervising the student in your worksite;
- Provide mentorship training for the employee/employees supervising a young person;
- Prevent students from engaging in any work that is prohibited by the U.S. Department of Labor Fair Labor Standards Act (FLSA) and the Minnesota Child Labor Laws; and
- Request the school representative visit the worksite prior to placing the student and during the terms of the Individual Training Agreement.



EMPLOYMENT RELATIONSHIP

Federal Employment Relationship Defined

Employment means engagement in an occupation for money or other valuable consideration. Generally speaking, a student in a work-based learning situation is an employee unless **all** of the following criteria are met:

1. The employer derives no benefit from the activities of the student.

A student receives ongoing instruction at the worksite and is closely supervised throughout the experience. Any productive work performed is offset by the burden to the employer for the training and supervision provided. The Department of Labor uses the following three-part test to determine there has been no benefit to the employer:

- a. There has been no displacement of employees, vacant positions have not been filled, employees have not been relieved of assigned duties, and the students are not performing services that clearly are of
- b. The student is under continued and direct supervision by either a representative of the school or by an employee of the business.
- c. The period of time spent by the student at any one site or in any one distinguishable job are of limited duration.
- 2. The experience is of short duration.
 - a. Career exploration is generally limited to 5 hours per job experienced.
 - b. Career assessment is generally limited to 90 hours per job experienced.
 - c. Work-related training is generally limited to 120 hours per job experienced.
- 3. The student and parent/guardian understand that the student is not entitled to a job at the end of the experience.

Additional Information

U.S. Department of Labor

Wage and Hour Division 612-370-3341 331 Second Avenue South, Suite 920 Minneapolis, MN 55401-223

Minnesota Department of Labor & Industry

Labor Standards Division Toll-free 1-800-342-5354 651-284-5005 443 Lafayette Road North St. Paul, MN 55155-4306



FACT SHEET #4 (continued)

Volunteer Time and Nonpaid Employment

The determination of compensation for work is separate from the determination of an employment relationship.

Under the Fair Labor Standards Act, individuals may work for charitable, civic or religious nonprofit enterprises without expectation of compensation and be considered a "volunteer" not included in the definition of "employee." When determining ordinary volunteerism, the US Department of Labor considers a variety of factors, including the nature of the entity receiving the services, the receipt by the worker of any benefits from those for whom the services are performed, whether the activity is less than a full-time occupation, whether regular employees are displaced, whether the services are offered freely without pressure or coercion, and whether the services are of the kind typically associated with volunteer work.

In most cases, training that is directly related to work is considered part of the employment relationship and should be compensated. Time spent in training or preparing for training outside regular working hours shall be considered hours of work if the training is required to bring performance up to a fully successful, or equivalent level, or to provide knowledge or skills to perform new duties and responsibilities in the employee's current position.

Time spent in an organized program of related, supplemental instruction by employees working under an apprenticeship or similar program may be excluded from working time if: a) the student is employed under a written agreement, and b) such time does not involve productive work or performance of the student's regular duties.

The Fair Labor Standards Act provides for the employment of certain individuals at wage rates below the minimum wage. These individuals include student-learners (career and technical education students), as well as full-time students employed by retail or service establishments, agriculture, or institutions of higher education. Also included are individuals whose earning or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed. Employment at less than the minimum wage is designed to prevent the loss of employment opportunities for these individuals. Certificates issued by the Department of Labor's Wage & Hour Division are required for this type of employment. The youth minimum wage, authorized by the FLSA, allows employers to pay employees under 20 years of age a lower wage for 90 calendar days after they are first employed.

US Department of Labor opinion letter, July 31, 2001

United States Army Civilian Personnel

29 CFR 785.32 - Apprenticeship Training at Federal Department of Labor

US Department of Labor Subminimum Wage Information

FLSA Standards and Questions

Understanding the Fair Labor Standards Act (FLSA)

1. When is a work-based learning experience subject to FLSA?

Work-based experiences that do NOT meet all student-learner criteria referenced under Federal Employment Relationship are employment relationships and subject to FLSA. According to the FLSA, the definition of "to employ" is "to suffer or permit to work." Case law states that an employment relationship "does not depend upon the level of performance or whether the work is of some educational and/or therapeutic benefit."2 The WBL coordinator and employer must review the criteria very carefully before deciding the type of relationship that will exist between the employer and the young person.

2. When is a student who is employed "covered" under FLSA?

FLSA covers employees who are performing work for any type of enterprise that is either

- A. Engaged in interstate commerce
- B. Producing goods for interstate commerce, or
- C. Handling, selling, or otherwise working on goods or materials that have been moved or produced for such commerce.

3. What about state and local laws?

When there is a difference between federal or state laws/regulations or a municipal ordinance, the strictest standard applies.

4. What are the implications of an employment relationship "covered" under FLSA?

When a young person who is an employee is covered by FLSA, he or she must be paid no less than the minimum wage, receive no less than one and one-half times the regular rates of pay for each hour worked in excess of 40 hours per workweek, and be employed in accordance with child labor laws.

5. Are there standards and special provisions for employing minors?

Once it is determined that there is an employment relationship that is covered by FLSA, then certain standards and limitations apply to the employment of students according to their age. The limitations and provisions are discussed in this section.

6. Are there any exceptions to the standards?

Yes, there are exceptions for: "A student who is enrolled in a course of study and training in a cooperative career and technical education program under a state or local education authority or in a course of study in a substantially similar program conducted by a private school."

7. What is the minimum age for employment:

A minor under 14 years of age may not be employed, except: as a newspaper carrier (if at least 11 years of age); in agriculture (if at least 12 years of age and with parental or guardian consent); and as an actor/actress or model.

8. Are minors permitted to drive on-the-job?

16 year olds are NOT permitted to drive while working on-the-job; 17 year olds are permitted to perform a limited amount of driving on-the-job. See details in Employer Fact Sheet #34.

9. How important is terminology?

Very important! Contact the U.S. Department of Labor – Wage and Hour Division if you have any questions about terminology. Their role is to help clarify the definitions of apprenticeship, employment relationships, enterprise, hazardous occupations, internships, interstate commerce, stipend, trainee, and other terms used under FLSA.

LEGAL REQUIREMENTS - CHILD LABOR LAWS

Activities Prohibited Under Hazardous Occupations Orders

- HO1 Manufacturing and storing explosives
- HO2 Motor-vehicle driving and outside helper
- HO3 Coal mining
- HO4 Logging and saw milling
- HO5 Using power-driven woodworking machines including saws
- HO6 Exposure to radioactive substances
- H07 Operating of power-driven hosting devices, including forklifts, cranes, and non-automatic elevators
- HO8 Use of power-driven metal forming, punching, and shearing machines
- HO9 Mining other than coal mining
- HO10* Slaughtering or meat-packing, processing or rendering including the use of power-driven meat slicers
- HO11 Operation of power-driven bakery machines
- HO12* Use of power-driven paper product machines including paper balers
- HO13 Manufacturing of brick, tile, and similar products
- HO14* Use of circular saws, band saws, and guillotine shears
- HO15 Wreaking, demolition and ship-breaking
- HO16* Roofing operations
- HO17* Excavating including work in a trench as a plumber

The above list provides a general overview. To obtain a list of specific occupations, hazardous equipment and a detailed explanation contact:

U.S. Department of Labor

Minneapolis office: 612-370-3371

Federal and State Child Labor Laws Non-Agricultural Limited Occupations

FEDERAL – Based on protecting the safety and health/well-being of a young person, employers may not allow minors to perform work that has been determined by the Secretary of Labor to be hazardous. The Hazardous Occupation Orders (HOs) prohibit persons under the age of 18 from engaging in occupations and activities as shown on the left.

Exemptions: Student-learners aged 16 or 17 enrolled in Minnesota state approved career and technical education programs may be employed on a limited basis in the seven HOs listed with an asterisk (*) if they are employed under a written agreement. Under this regulation, the agreement must provide that:

- Any work performed by a student in the hazardous occupation must be incidental to his or her training;
- Any work performed that is considered hazardous is intermittent and for short periods of time, only under the close supervision of a qualified person;
- Student receives safety instruction; and
- A schedule of progressive skill-building work processes is in place.

An exemption may also exist for students enrolled in a youth apprenticeship program. This exemption applies only to apprenticeships that are approved and registered with the Minnesota Department of Education and the Minnesota Department of Labor and Industry – Apprenticeship Division or the U.S. Department of Labor, Bureau of Apprenticeship and Training.

STATE – The Minnesota Commissioner of Labor and Industry has established additional prohibited occupations considered to be hazardous or detrimental to the well-being of minors. These occupations include the serving and dispensing of liquor, hazardous materials, transportation, and machinery. For specific information, <u>visit Minnesota Labor and Industry</u>.

Hours of Work for 16 and 17 year olds

State Law (all employers): 16 and 17 year olds may work no later than 11 p.m. on evenings before school days or before 5 a.m. on school days. With written permission from a parent or guardian, these hours may be expanded to 11:30 p.m. and 4:30 a.m.

^{*} See exemptions on this page.

FACT Sheet #6 (continued)

Driving "On-the-Job" Restrictions

NO employee **under 17 years of age** may drive on public roadways **as a part of his or her job** if that employment is subject to the Fair Labor Standards Act. (FLSA). (A 16-year-old, who holds a valid driver's license, may drive to and from work.)

A **17-year-old** may drive on public roadways as a part of his or her job **ONLY** if all of the following requirements **are** met:

- The driving occurs only during daylight hours;
- The 17 year old holds a valid Minnesota driver's license for the type of driving being performed;
- The driver has successfully completed a state-approved driver education course;
- The driver has no record of any moving violation at the time of hire;
- The vehicle being driven does not exceed 6000 pounds gross vehicle weight; and
- The car or truck driven has seat belts for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle.

Driving "on-the-job" MAY NOT involve:

- Towing vehicles;
- Routine deliveries or routine sales; Deliveries which are urgent or time-sensitive;
- Transporting property, goods, or passengers for pay;
- Transporting more than three passengers (including co-workers) at one time;
- Driving more than a 30 mile radius beyond the work site; and
- Driving more than two trips away from the primary work site in any one day for either a) or b) below;
 - a) To deliver the employer's goods to a customer:
 - b) To transport passengers, other than coworkers.

Driving must be only occasional and incidental to the job.

This means driving no more than one-third of work time in any workday and no more than 20 percent of work time in any one work week.

Child Labor Law Changes

Recent changes to the FLSA Child Labor Laws became effective February 14, 2005. These changes expand protections for youth working in restaurant cooking, roofing, driving and other areas. View Read federal child labor provisions for detailed information.

The following fact/information sheets can be downloaded from the <u>U.S. Department of Labor website</u>.

- Restaurant Employer Self-Assessment Tool
- Fact Sheet #2A: Rules for Employing Youth in Restaurants and Quick-Service Establishments under the FLSA
- Fact Sheet #34: Hazardous Occupations Order No. 2 Youth Provision and Driving Automobiles and Trucks under the FLSA
- Fact Sheet: Teen Driving on the Job
- Grocery Employer Self-Assessment Tool
- Fact Sheet #38: Application of the Federal Child Labor Provisions of the FLSA to Grocery Stores
- Fact Sheet #58: Cooking and Baking under the Federal Youth Employment Provisions of the FLSA
- Fact Sheet #37: Application of the Federal Child Labor Provision to Amusement Parks and Recreation Establishment:
- Fact Sheet #52: The Health Care Industry and Youth Employment
- Fact Sheet #57: Hazardous Occupations Order No. 12 Rules for Employing Youth and the Loading of Power-Driven Balers and compactors under the FLSA
- Fact Sheet: Roofing and Work On or About a Roof
- Construction Employer's Quick Guide to Teen Worker Rules

FACT SHEET #6 (Continued)

Laws Affecting 14 and 15 Year Olds

Additional Activities Prohibited Under Child Labor Regulation 3

In addition to the Hazardous Occupations listed on the previous page that are prohibited for minors under the age of 18, **Child Labor Regulation 3 prohibits the employment of persons aged 14 and 15** in the occupations and activities listed below:

- · Manufacturing, mining, and processing
- Most transportation jobs
- Cooking (new regulations apply)
- Work in warehouses and workrooms
- Public messenger service
- · Work on construction sites other than in the office
- Any job involving power-driven machinery including hoists, conveyor belts and lawnmowers.

No Exceptions to Occupation Limitations

Occupation limitations are strictly enforced for 14 and 15-year-old youth with **no exceptions or exemptions.** The student-learner provisions applicable to some Hazardous Occupations for youth 16 and 17 years of age DO NOT apply to minors under the age of 16.

Work Experience and Career Exploration Programs (WECEP)

This is a one- or two-year federally approved transition program designed for students, ages 14 and 15, who have had difficulties with their school experiences. Variances may be granted by the Administrator of the U.S. Department of Labor, Wage and Hour Division under limited conditions to a student employed under a WECEP program to engage in some activities otherwise prohibited by Child Labor Regulation 3. This DOES NOT include the Hazardous Occupation orders.

Hours of Work for 14 and 15 year olds

State Law (all employers):

- ★ 18 hours or less per week when school is in session
- ★ 3 hours or less on a school day
- ★ Not during school hours (except if the student is enrolled in WECEP)
- ★ Not before 7 AM or after 7 PM (9 PM is permissible from June 1 through Labor Day)
- ★ 8 hours or less per day on a non-school day
- ★ 40 hours or less per week during non-school weeks

NEW Minnesota Minimum Wage Law Changes*

(Effective August 1, 2005)

SMALL EMPLOYERS \$5.25 an hour (Annual gross volume or sales of less than \$625,000.) LARGE EMPLOYERS \$6.15 an hour (Annual gross volume or sales of \$625,000 or more.) TRAINING WAGE \$4.90 an hour A training wage may be paid to new employees who are under the age of 20 during their first 90 consecutive days of employment. The new employee may not displace a permanent or current employee.

*There is NO lower minimum hourly pay rate for minors.

Navigating the Minnesota and federal exemptions to minimum wage and overtime

In the areas of minimum wage and overtime there is dual regulation by the state of Minnesota and by the federal government. If an employment situation falls within the jurisdiction of both state and federal law, then the employer must comply with the state or federal law that sets the higher standard.

The Minnesota Fair Labor Standards Act requires employers to pay overtime for all hours worked in excess of 48 per work week.

The Federal Fair Labor Standards Act requires some employers to pay overtime for all hours worked in excess of 40 per work week. These employers include:

- employers that produce or handle goods for interstate commerce;
- businesses with gross annual sales of more than \$500,000;
- businesses that were covered before April 1, 1990, under the \$250,000 (\$362,500 retail and services) dollar volume test; and
- hospitals and nursing homes, private and public schools, federal, state and local government agencies.

LEGAL REQUIREMENTS MINORS IN AGRICULTURAL EMPLOYMENT

Prohibited Hazardous Occupations/ Activities in Agriculture

The Secretary of Labor has designated Hazardous Occupations that apply to 14 and 15 year olds engaged in agricultural work, and to those younger children permitted to work on farms under limited circumstances:

- Operating or assisting in the operation of specified machinery and equipment;
- Working in a yard, pen, or stall occupied by specified animals;
- Felling, loading, bucking or skidding timber more than six inches in diameter;
- Working from a ladder or scaffold at a height of over 20 feet;
- Driving a vehicle transporting passengers or riding on a tractor;
- Working in certain silos, storage areas and manure pits; and
- Handling toxic chemicals, blasting agents and anhydrous ammonia.

EXEMPTIONS: Exemptions from the hazardous occupations order applying to tractors and certain other farm machinery apply to 14 and 15 year old students enrolled in state approved career and technical education programs and holders of a certificate completion of training under 4-H programs.

WAGES: Students engaged in agricultural work must be paid the minimum wage unless an exception applies. Full-time students engaged in agricultural work may be paid a subminimum wage of 85 percent of the minimum wage. In addition, under the exemptions listed in Section 13 of the FLSA, small farmers, who employed fewer than 500 person days the previous quarter, may be exempt from paying their employees the minimum wage.

Child Labor Bulletin 102: Youth Employment Provision for Agricultural Occupations under FLSA; (Revised May 2004) contains detailed information on laws specific to youth employed in agricultural occupations.

Child Labor Laws Agricultural Employment

Agricultural work includes farming in all branches, such as the cultivation and tillage of soil; the production, cultivation, growing and harvesting of any agricultural or horticultural commodities; dairy production; the raising of livestock, bees, fur-bearing animals or poultry; and any practices (including forestry or lumbering operations) performed by a farmer or on a farm as incidental to, or in conjunction with, such farming operations, including the preparation for market, delivery to storage, market or carriers for transportation to market.

(A more detailed explanation of agricultural work activities and exemptions can be found in 29 CFR 780. The U.S. Department of Labor, Wage and Hour Division Office can assist in determining whether proposed jobs for students in an agricultural career field will constitute agricultural work for purposes of the FLSA.)

Eligibility for exemptions must adhere to the following criteria:

Student-learners must be employed under a signed written agreement among the school, employer, student and parent/guardian that provides for:

- Any work in a hazardous occupation to be incidental to the training;
- Any work in a hazardous activity to be intermittent and for short periods only under the direct and close supervision of a qualified person;
- · On-going safety instruction; and
- A specific schedule of progressive work processes.

Hours of Work for Minors

- Persons 16 years of age and older may be employed in any farm job at any time.
- Persons 14 and 15 years of age may be employed outside school hours in any agricultural occupation not declared hazardous.
- With written parental consent, 12 and 13 year olds may be employed outside school hours in any nonhazardous job on the same farm where their parents are employed.
- Minors under 12 years of age may be employed outside school hours in any hazardous job with written parental consent but only on farms not subject to the minimum wage provision of the FLSA.

Minors of any age may perform work at any time on a farm owned or operated by the minor's parents or person standing in place of the parents.

Affirmative Action

Protected minority groups, as defined under Federal Executive Order, include African Americans, Asian Americans, Hispanic Americans, American Indians, and women. Educational institutions and employers must not discriminate on the basis of race, religion, ethnicity, national origin, age, disability, sex, marital, or veteran status. Written training agreements between schools and businesses should include an affirmative action statement.

Sexual Harassment

All employees and students participating in a WBL program have the right to work in an environment which respects human dignity and is free from sexual harassment.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:

Submission to that conduct or communication is made a term or condition of obtaining employment/participation in the program;

OR

Submission to or rejection of that conduct or communication is used as a factor in decisions affecting the individual's employment/participation in the program;

OR

❖ That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile, or offensive employment environment, and company management knows or should know of the existence of the harassment and fails to take timely and appropriate action.

Students should be taught how to recognize sexual harassment and abuse.

They should also receive training regarding the school's and business's sexual harassment policy and reporting procedure.

ADDITIONAL LEGAL REQUIREMENTS

Americans with Disabilities Act

Employers with 15 or more employees must comply with the requirements of the Americans with Disabilities Act (ADA). The ADA requirements which relate to work-based learning are briefly outlined here.

General Requirements

- All government facilities, services and communications must be accessible and consistent with the requirements of Sec. 504 of the Rehabilitation Act of 1973.
- Public accommodations such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers, may not discriminate on the basis of disability.
- Private clubs and religious organizations are exempt.
 Reasonable changes in policies, practices, and procedures must be made to avoid discrimination.

Physical Barriers

- Physical barriers in existing facilities must be removed, if removal is readily achievable. If not, alternative methods of providing the services must be offered, if they're readily achievable.
- All new construction in public accommodations, as well as in "commercial facilities" such as office buildings, must be accessible.
- Alterations must be accessible.

Auxiliary Aids

- Auxiliary aids and services must be provided to individuals with vision or hearing impairments or other individuals with disabilities, unless an undue burden would result.
- Companies offering telephone service to the general public must offer telephone relay service to individuals who use telecommunications devices for the deaf (TDDs) or similar devices.

Employment

- Employers may not discriminate against an individual with a disability in hiring or promotion if the person is otherwise qualified for the job.
- Employers can ask about one's ability to perform a job, but cannot inquire if the person has a disability, or subject a person to tests that tend to screen out people with disabilities.
- Employers will need to provide "reasonable accommodations" to individuals with disabilities. This includes steps such as job restructuring and modification of equipment.
- Employers do not need to provide accommodations that impose an "undue hardship" on business operations.

FACT SHEET #8 (continued)

Data Privacy

The Federal Family Educational Rights and Privacy Act (FERPA) protects information about students and their records from public disclosure. It is important for employers to receive information (e.g., social security numbers, school grades, and courses taken) prior to a student entering or while they are participating in a WBL program. This information cannot be provided to the employer without a proper release of information being signed. When the student is under 18 years of age his/her legal guardian must sign the Release of Information Form. Students over 18 years of age (as long as they are their own guardian) may sign their own release of information form. Electronic Privacy Information Center.

Medical

It is recommended that students involved in WBL activities in areas where there is potential contact with body fluids or wastes receive the Hepatitis A and B series vaccine. Students working in the food service area are also recommended to have the Hepatitis A vaccine.

The following is an excerpt taken from the AMA's Administrative Guide titled: *For your Protection OSHA Regulations on Blood Borne*

Pathogens: Employers are required to offer the Hepatitis B vaccine free of charge to personnel at risk. Employees, however, are not obligated to receive the vaccine. Any at-risk employee who wishes not to receive it must sign a copy of the OSHA's Hepatitis B vaccine declination. (Legal guardians must sign for a WBL student who is under 18 years of age.) If the person later decides to receive the vaccine, the employer must again offer the series free of charge. Technically, in non-paid work experiences the school is the employer and must provide the vaccine.





Types of Work Most Often Hazardous to Young People*

- Work in or around motor vehicles
- Operation of tractors and other heavy equipment
- Work near electrical hazards e.g. overhead power lines while using poles, ladders, pipes or cranes
- Work performed in retail and service businesses where there is a risk of robberyrelated injury
- Work on ladders, scaffolds, roofs or construction sites
- Work around cooking appliances
- Continuous manual lifting and lifting of heavy objects

*The majority of these are considered by the FLSA to be hazardous occupations and are not permitted.



SAFETY and MANAGING THE RISKS

Safety First

Young people often lack the life experiences and workplace exposure of older employees resulting in a lack of knowledge and common sense regarding safety issues. Employers who hire young people should take the following safety precautions:

- Comply with all child labor laws and occupational safety/health regulations that apply to your business.
- 2. Assess and eliminate hazards for young workers.
- Train young people to recognize hazards and how to use safe work practices. Routinely verify they are using safe practices.
- 4. Evaluate equipment used by young people to be sure it is legal and safe to use.
- 5. Make sure young people are appropriately supervised. This will help prevent injuries and exposure to hazardous situations.
- 6. Ask supervisors and experienced workers to help develop an injury and illness prevention program and to identify/resolve safety and health problems.

Employer Risk Management

A risk management program generally includes addressing the following elements:

- 1. Identify the perils and hazards of the activities/tasks.
- 2. Estimate the frequency and severity of potential loss.
- 3. Implement strategies to eliminate or control the potential for loss.
- 4. Ensure adequate resources are in place to redress loss that does occur.

FACT SHEET #9 (continued)

Sample Young Worker Safety and Health Checklist For use by Employer and Employee

Employers have a responsibility to provide safe and healthful workplaces for their employees. To achieve this, it is important for each employer to ensure that each employee, upon arriving in the workplace, is fully briefed on the safety and health practices, hazards applicable to the workplace, and means of protection against exposure to those hazards. You are not required to complete or submit this voluntary checklist, but we believe you will find it helpful in achieving workplace safety.

Workplace Safety Checklist	Training Received			Comments
Workplace datety offecklist	Yes	No	N/A	
Do any Fair Labor Standards Act (FLSA) provisions on youth employment apply?				
Are work hours age-appropriate? Are tasks age-appropriate?				
Have activities that the worker is prohibited from performing (due to age, insufficient skill/training, lack of qualification, etc.) been clearly identified?				
Have workplace safety policy, rules and values been explained?				
Have emergency evacuation procedures been reviewed, including: Exit routes? Assembly/Meeting Locations? Shelter In Place Procedures?				
If any personal protective equipment will be used, has the following been reviewed: Where to obtain the PPE? When to use it? How to use it? How to maintain it?				
Has how to report an accident/incident been reviewed, including: What must be reported? Whom to report it to? When to report it?				
Has the importance of workplace cleanliness, (good housekeeping) been explained?				
Have proper lifting/carrying techniques been demonstrated?				
Has the location of the area where notices to employees are customarily posted (e.g. equal opportunity protection) been identified?				
Have safe transportation guidelines for driving to and from work been explained?				
Has a person been identified as a contact for responding to questions regarding the appropriate manner to perform work tasks (and other workplace issues)?				

For detailed FLSA information, visit Youth Rules website.

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KEY COMPONENTS OF WORK-BASED LEARNING EXPERIENCES

The **key components** for any work-based learning experience are:

- A. Applied, contextual learning
- B. Integration of worksite instruction with technical and school based instruction
- C. Alignment of academic standards with industry and national skill standards
- D. Meaningful learning experiences with well-defined tasks and outcomes
- E. Links to continued employment and/or further education

The work-based learning coordinator in collaboration with an employer is responsible for the operation and management of a program including essential written documentation on each student enrolled in the program. The documentation that needs to be maintained for each student is an Individual Training Agreement, Individual Training Plan, Student Performance Evaluations, Work-Based Learning Coordinator's Observation Reports, and Safety Training Records. As an employer of a student enrolled in a work-based learning program, the importance of this documentation cannot be overstated.

Individual Training Agreement

The Individual Training Agreement is a prepared document used to describe the length of the work experience, the hours and starting wages (or appropriate documentation for non-paid experiences), and the responsibilities of the student, work-based learning coordinator, employer, worksite supervisor and parent/guardian. This agreement protects all parties engaged in a work-based learning experience. This document requires the signatures of all parties prior to a student beginning at the worksite.

Standard information contained in a work-based learning training agreement should be student's name and age; school's name, address, and phone number; work-based learning coordinator's name; employer's or agency's name, contact person, and phone number; and starting wages. Specific information may be determined by local policy.

The responsibilities of the student, parent/guardian, school, employer, and supervisor need to be well defined and written in the agreement. In addition, the persons responsible for all areas of safety training need to be identified. For example:

Individual Training Agreement Type of training agreement:Cooperative Work Experience! Educational Objective:	InternshipOthe	r
Student:	Age:	SS#: (may be required by employer)
School:	•	Telephone #:
School Coordinator:		relepriorie #.
		Talankana Wa
Employer/Agency:		Telephone #:
Employer/Agency Contact Person:		
The work-based learning experience for the above named stude	nt will begin on	and end
The hours of work will be from to on (Days of week)		
Starting wages for the student will be \$per hour. The emp	loyer will determin	e incremental increases. A probationary
period of days from the date of initial employment will exist. Con		
All participating parties agree to enter into a work-based learning		
of providing education, career exploration, and training. They also		
of this agreement:	3	3
Student Agrees to: responsibilities to be listed		
Parent/Guardian Agrees to: responsibilities to be listed		
·		
School Agrees to: responsibilities to be listed		
Employer/Supervisor Agrees to: responsibilities to be listed		

FACT SHEET #10 (continued)

Individual Training Plan

The Individual Training Plan is a written document identifying the knowledge and workplace skills a student will learn during the work-experience placement. General and specific measureable goals and objectives for the individual student should be determined and reflected in the training plan. This needs to be a fluid training plan that is visited often with new goals and objectives added. Core employability skills should be a vital part of all these plans. The level of competency reached in a variety of areas should be assessed and documented by the employer/worksite supervisor on a student evaluation form. Additionally the training plan should identify the person or persons responsible for teaching the knowledge and skills to be acquired. This may occur at the worksite or during the classroom instruction. Safety training needs to be documented as well. For example:

Individual Training Plan

(Plan to be attached to the Individual Training Agreement)

Student's Name Job Title Business/Employer Assigned Supervisor Work-Based Learning Coordinator School Beginning Date: ___/ 20

Ending Date: ____/ 20 **Classroom Worksite Area/Task Assigned of Attainment Date Completed** Level 1. Identify manufacturing occupations 2. Recognize unsafe work habits 3. Utilize personal safety equipment

4. Assess need for blueprints in industry 5. Identify lines on a blueprint 6. Identify arrangement of views on a blueprint

Student Performance Evaluation

Students at a worksite need to have regular performance evaluations. This progress report should show evidence of a student's level of competency in the tasks identified in the Individual Training Plan. The evaluation would include documentation of skill and standards attainment. For example:

Technology	1 Needs	2 Competent	3 Proficient	4 Mastery	5 Not
Competency	Development				Observed
Selecting tools and procedures	Able to use procedures, tools and	Able to use procedures, tools and machines with	Able to use procedures, tools and machines	Able to determine which procedures, tools and	
	machines with supervision.	occasional supervision.	without supervision.	machines to use at appropriate times.	
Applying technology to task	Can identify problem as it relates to technology with supervision.	Can identify a problem as it relates to technology without supervision.	Identifies appropriate technology and uses it to prevent problems.	Uses technology appropriately to identify, prevent and solve problems.	