

NEBRASKA

Work Based Learning Manual

PART IX

LEGAL ISSUES GUIDE



This guide is intended as a reference and resource booklet, not as a legal interpretation, and is not a substitute for legal advice. It is in no way a complete statement of the child labor laws, but a simplified interpretation intended for use by educators, employers, policy makers, and parents as they plan and implement work based learning opportunities. For more complete information regarding state and federal law, contact any of the offices listed in the Resources Section. Those needing legal advice should consult an attorney.

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Work Based Learning LEGAL ISSUES GUIDE

Purpose of this Guide

This document covers issues involving insurance, health and safety, transportation, and labor laws as they affect the planning of work based learning opportunities. It is provided as a general guide and is **not** intended to be a comprehensive source of legal interpretation of all the legal issues surrounding work based learning. The intent is to alert employers and educators of areas where they need to take special action, obtain additional information, or seek the assistance of other individuals or agencies. The profusion of laws, regulations, liability and risk management issues that face business and industry present a compelling case for a ready source of information regarding the basic provisions of child labor, safety and health, and liability.

Employers, schools, and students are impacted by a number of labor laws as they participate in work based learning activities. The degree to which coverage is mandated is dependent on the individual situation. Coverage is principally affected by the determination of whether or not an employer-employee relationship exists between the employer and student. In most cases a student-learner who is engaged in activities beyond simply observing at the worksite may be considered an employee. The responsible entity should check with their board, legal counsel, insurance carrier(s), and the state or federal regulatory agencies who administer these laws to determine the status of a student in a work-based learning activity. Keep in mind that state and federal labor laws often differ. When a difference occurs, the stricter standard always applies.

Unfortunately, this guide will not provide all the answers. Liability rules vary by industry sectors, insurance needs are specific to the type of program activities, and risk management strategies need to be jointly developed with school partners. The objective in developing this guide is to identify potential problems and provide guidelines and resources for developing solutions. Information in this guide is general description only and does **not** carry the force of legal opinion. Any risk management plan developed for a work based learning program should always be reviewed by legal and risk management experts before implementation.

Labor law, as it applies to work-based learning situations, is continually being reviewed by U. S. Departments of Labor and Education personnel. Any changes affecting the information in this document will be provided when available.

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Overview

Work-based learning is a combination of school site preparation and actual work site experiences designed to enable students to acquire attitudes, skills, and knowledge for career and other life roles in real work settings. Work based learning is acclaimed for its ability to help youth and adults:

- ◆ strengthen broad social and technical skills
- ◆ develop personal responsibility
- ◆ explore career options
- ◆ gain job/site specific skills
- ◆ foster positive relationships with adults
- ◆ understand the relevance of and application to academic learning

Definitions

The *Work-Based Learning* (WBL) component of School-to-Work (STW) consists of five mandatory elements: work experience (paid or unpaid), job training, workplace mentoring, instruction in workplace competencies and instruction in all aspects of the industry. (20 USC 6101 et. seq., P.L. 103-239, *The School-to-Work Opportunities Act of 1994*, Section 103). It includes a planned program of job training and work experience at progressively higher levels, is related to the career major of a student, and is coordinated with the *School-Based Learning* component.

A *student-learner* is one who is enrolled in a course of study and training in a cooperative training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school (29 USC 520.2(a)). An *apprentice* is a participant in an apprenticeship program legally registered by the Department of Labor's Bureau of Apprenticeship and Training (29 USC 521.2(a)).

Program Models

There is an extensive range of operational patterns, purposes, and program titles of school- and community- sponsored programs that are considered work based learning. Work based learning can involve youth and adults as **observers**, **trainees**, or **employees** and can be for time periods ranging from an hour a day to half-day sessions, to several days, one to three weeks, a semester, an entire school year, or during summer months.

Paid work based learning experiences are usually at least one semester in length.

Unpaid work based learning programs involve students as observers or trainees in situations ranging from an hour, a day, three weeks, to as long as one semester in length.

Roles of Youth at the Work Site

The applicability of many of the employment and child labor laws depends on whether a participant involved in work based learning has the role of a **student, apprentice, volunteer, trainee, and/or employee**. The participant's status is critical in the design, implementation, and monitoring of all work based experiences. Participant will usually have one of the worksite roles outlined in the following charts.

Roles of Youth at the Work Site		
PAID ROLES (considered employees)		
<i>Work Site Role</i>	<i>Definition</i>	<i>Program Examples</i>
STUDENT/ LEARNER	<p>Participant is enrolled in a course of study and training in a cooperative training program under a recognized state or local educational authority or private school.</p> <p>Key Points</p> <ul style="list-style-type: none"> • Training agreement in place • Training plan in place • Supervised by school personnel • Concurrent related instruction provided • Educational credit given • Must comply with state and federal child labor law provisions • Hazardous exemptions allowed under certain conditions • Covered by Workers' Compensation Insurance • There is a beginning and ending date for the employment 	<ul style="list-style-type: none"> • Clinical Work Experience • Cooperative Education • Internship (paid) • WECEP - Work Experience Career Exploration Program • Work Study (Special Education)
APPRENTICE	<p>Participant is employed in a craft recognized as an apprenticeable trade and is registered by the Bureau of Apprenticeship and Training.</p> <p>Key Points</p> <ul style="list-style-type: none"> • Student must be at least 16 years of age • Training agreement in place • Training plan in place • Monitored by school personnel • Concurrent related instruction provided • Educational credit given • Must comply with state and federal child labor law provisions • Hazardous exemptions allowed under certain conditions • Covered by Workers' Compensation Insurance • Sponsored by employers or labor/management 	<ul style="list-style-type: none"> • Youth Apprenticeship • Pre-Apprenticeship • Registered Apprenticeship
EMPLOYEE	<p>Participant is hired by private or public employer to perform work. No structured relationship exists between school and work.</p> <p>Key Points</p> <ul style="list-style-type: none"> • Must comply with state and federal child labor law provisions • Employment has no ending date • No educational credit given • Covered by Workers' Compensation Insurance 	<ul style="list-style-type: none"> • Part-time Work • Full-time Work

Adapted from *A Guide to Work-Based Learning: Business and Industry Risk Management Plan*, September 1996, Michigan Department of Education

Roles of Youth at the Work Site		
UNPAID ROLES (not considered employees)		
<i>Work Site Role</i>	<i>Definitions</i>	<i>Program Examples</i>
STUDENT/ VISITOR/ OBSERVER	<p>Participant visits the work site to observe and learn about a career, work activity, or other aspects of an industry.</p> <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • School sponsored • Guidelines established • Roles and responsibilities detailed • Parent permission obtained • Designed to be part of school or guidance curriculum • Work site activities detailed • Educational credit may be given for a class project 	<ul style="list-style-type: none"> • Day-on-the-Job • Field Trip • Job Shadowing • Mentoring • Work Observation
VOLUNTEER	<p>Participant serves unpaid for public service or humanitarian objectives.</p> <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • Sponsored by non-profits only • Commercial businesses may not use unpaid volunteers • Participants cannot be required to volunteer by the business or entity they are volunteering at • Roles and responsibilities detailed • Activities detailed • Educational credit may be given 	<ul style="list-style-type: none"> • Service Learning Activity • Service Clubs (4-H, Scouts) • Volunteer Program (Hospital, Nursing Home, Government Agency)
UNPAID TRAINEE	<p>Participant is trained at a business/industry work site without compensation. Company permits student to work under direct supervision to gain exposure to a particular occupation. Six criteria of a trainee must be continually met.</p> <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • Six criteria must be met:* <li style="margin-left: 20px;">1. Progressive training <li style="margin-left: 20px;">2. Benefit of trainee <li style="margin-left: 20px;">3. No displacement of regular employees <li style="margin-left: 20px;">4. No direct benefits to employer <li style="margin-left: 20px;">5. No job entitlement <li style="margin-left: 20px;">6. No wage entitlement • Guidelines established • Roles and responsibilities detailed • Work site activities detailed & monitored for compliance • Contract/agreement between employer and school • Educational credit given • Six criteria must be met for students with disabilities: <ol style="list-style-type: none"> 1. Student placed according to his/her IEP 2. Time per week at worksite limited by IEP** 3. Student supervised by school or business rep. 4. No displacement of regular employees 5. No direct benefits to employer 6. No job entitlement 	<ul style="list-style-type: none"> • Contracted Instruction (Less-than-class size, Individualized Vocational Training - Special Ed) • Exploratory Experience • Unpaid Internship • Unpaid Work Experience <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>* Source: Dept. of Labor Wage and Hour Opinion Letter of January 6, 1969</p> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>** Unpaid students with disabilities may spend:</p> <ul style="list-style-type: none"> • up to 5 hrs/business for vocational exploration, • up to 90 hrs/worksites for vocational assessment; and • up to 120 hrs/job experience for vocational training. </div>

Applicability of Laws

Applicability of federal and state employment laws depends on each statute's definition of an "employee" (a participant may be considered an employee for one law but not for another). The following guidelines and terminology should be used in determining which would apply in particular work based programs. Please refer to the detailed explanation of each of these statements provided throughout this guide.

- ◆ **Fair Labor Standards Act (FLSA).** Participants who are involved in activities occurring at the workplace that do not involve performance of work are not "employees" subject to the FLSA (i.e., field trips, job shadowing).
- ◆ **Fair Labor Standards Act (FLSA).** Participants may work at a workplace as an **"unpaid trainee"** under the FLSA. **IF all** six criteria of a trainee apply, then provisions of the FLSA would **not** apply.
- ◆ **Federal/State Child Labor Laws.** Occupational and hours standards established for minors by federal and state child labor laws technically apply to only "employed" participants, but employers should follow these standards as a means to prevent injuries to minors.
- ◆ According to the **Occupational Safety and Health Act (OSHA)** the term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce (29 USC Sec. 652).
- ◆ The **Nebraska Employment Security Law** provides for coverage of part-time employment by students. However, it excepts from coverage:
 - (1) Services performed as part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or any agency of a state or political subdivision thereof, by an individual receiving such work relief or work training [Nebraska Revised Statute 48-60 (g) (v)],
 - (2) Work study students and their spouses [Nebraska Revised Statute 48-604 (6) (j)] and
 - (3) Students employed as part of a program that combines academic credit and work experience that is taken for credit [Nebraska Revised Statute 48-604 (6) (o)].

An exception from coverage means the employer pays no tax and the student is not eligible to draw benefits based upon those earnings.

- ◆ **Workers' Compensation Laws** provide a means of recovery for workers where an employee/employer relationship exists. Exceptions are federal employees, railroad employees, most volunteers, and independent contractors. Volunteers and unpaid trainees would normally not be included unless such persons met the definition of employee for workers' compensation purposes. (Section 48-115 of the *Nebraska Revised Statutes*).

A. INSURANCE/LIABILITY

A **Risk Financing Plan** provides for the financing of a potential loss. A complete risk management plan requires adequate insurance coverage and use of liability shields.

Insurance Coverage

Adequate insurance coverage for any type of work based learning programs can be arranged (negotiated) by working in conjunction with an agent or broker who is familiar with the program(s) and with the schools or agencies who may be parties to the program. The first step would be to determine the extent to which present insurance policies provide sufficient protection and the need for obtaining additional coverage for any unprotected risk.

The following is an overview of the types of insurance that need to be in place to cover the activities in work based learning.

Type of Coverage	Work Based Learning Explanation
<p>Workers' Compensation</p>	<p>State law will govern the issue of workers' compensation for paid participants in work based learning. The purpose of the Workers' Compensation Act in Nebraska is to provide coverage to employees when they sustain injuries that arise out of, and in the course of employment.</p> <ul style="list-style-type: none"> • Workers' compensation laws provide a means of recovery for workers where an employee/employer relationship exists. This relationship exists if there is a contract for hire, either formal, informal or assumed between the individual and entity, and if the individual receives some type of compensation. <ul style="list-style-type: none"> • Exceptions are federal employees, railroad employees, most volunteers, and independent contractors. • Farm and ranch laborers and household domestic servants are covered under the Act only if the employer elects to provide worker' compensation insurance for them. • In the case of a volunteer or unpaid trainee, the entity for whom the volunteered services are performed may choose to provide workers' compensation insurance for its volunteers. However, this extension of coverage is not binding on the volunteer and the individual may choose to pursue an action in District Court. • Employers are required to carry workers' compensation insurance when they have one or more employees. These employees may be full-time for part-time. • Paid cooperative education and apprenticeship participants would be covered under the Workers' Compensation Act. • Unpaid trainees and volunteers who are actually performing service without compensation are not ordinarily covered under the Act. • Coverage under the Workers' Compensation Act also provides protection to the employer as well as the workers. Employers limit their liabilities under the Act because the benefits to the worker are limited by statute. <p>This law is administered by: Workers' Compensation Court, 525 South 13th Street, PO Box 98908, Lincoln, NE 68509-8908, 1-800-599-5155.</p>
<p>Injury to Participants</p>	<p>Participants injured at the work site may need medical attention.</p> <ul style="list-style-type: none"> • If they are considered "employees" under the Worker's Compensation Act, expenses will ordinarily be paid by the sponsoring companies' worker's compensation policy. • For student/visitors, volunteers, or unpaid trainees, expenses are usually paid by the injured individual's (or parents') health insurance policy. • The "medical payments" provision of the sponsoring company's general liability policy would also provide similar coverage for non-employee participants.

Type of Coverage	Work Based Learning Explanation
Coverage for Lawsuits	A sponsoring company's general liability policy pays claims and provides legal defense against most types of suits brought against a company and its employees, but such policies do not usually cover student/visitors, volunteers, or certain unpaid trainees. Endorsements may extend the coverage to student/visitors, volunteers, and unpaid trainees.

Liability Shields

Liability shields are used to assign responsibility from a business to another person or organization in case of an accident or property damage. Liability shields are used to protect both the finances of the company and good will in the community. The four common liability shields are waivers, consent forms, permission slips, and indemnification agreements.

The following is an overview of the types of liability shields that need to be in place to cover the activities in work based learning.

Type of Liability Shields	Work Based Learning Explanation
Waivers	<p>Waivers are documents in which participants sign away their right to bring a lawsuit in the event of injury or damage. Waivers are not effective tools to use in working with young people because courts seldom allow them to excuse negligence or a duty owed a minor.</p> <p><i>No agreement by an employee to waive his or her rights to compensation under the Nebraska Workers' Compensation Act shall be valid.</i></p>
Consent Forms	<p><i>Informed</i> consent forms are documents that apprise the participant (and parents or guardians) in detail of the risks involved in the activity that he/she is about to perform. Participants sign the document indicating that they have read and understand the risks involved and agree not to bring a lawsuit for any harm resulting from the <i>identified</i> risks. Consent forms are generally upheld by courts, but they do not excuse a company/school from responsibilities for its own negligence. Examples would be consent forms to allow students to ride with a parent volunteer on a field trip, or use of a training agreement for a teen to work as an unpaid trainee.</p>
Permission Slips	<p>Permission slips are documents that inform parents and guardians about the nature, location, and details of an activity. Permission slips are helpful as a form of protection to a company—a well-informed parent or guardian may not be as likely to bring suit. Permission slips would be used to inform parents and guardians about student field trips and job shadowing events.</p>
Indemnification Agreements	<p>Indemnification agreements are used to shift financial burden for injuries or damages arising from activities from one party to another. The organization that signs the agreement must have both an insurance policy and the proper funds to honor the commitment to indemnify. Legal counsel or risk management representatives should be consulted before signing an indemnification agreement.</p>

B. TRANSPORTATION

Insurance liability issues arise in work site learning activities because students are required to leave school premises in order to continue learning at the workplace. Individuals should seek legal advice on issues regarding transporting students. In general, the party responsible for transportation is also liable in the case of an accident. If the school is transporting the student, the school transportation policies apply. The same is true if the employer provides transportation.

Some programs have students sign an agreement at the beginning stating that they are responsible for their own transportation. In case of a student driving him/herself to the workplace during the school day, there should be no difference from liability issues for students getting to school or an extra-curricular activity. The following are the most common forms of student transportation to and from the worksite and the coverage that will, in most situations, apply.

Transportation	Liability Coverage
School transports the student on school bus.	School bus insurance coverage extends.
Employer provides van to transport student employees.	Employer's insurance coverage extends.
Student uses public transportation.	Transporter's insurance coverage extends.
Student drives own vehicle.	Student's personal auto insurance coverage extends.

In all cases, transportation agreements should be signed by parents (secondary students) before students are permitted to travel to and from work sites. When students drive personal vehicles, conditions of transportation should be reviewed and defined. Typically, these conditions include:

- verification of student driver's license and insurance coverage;
- limiting transportation to student driver (e.g. no passengers); and
- limiting transportation for the sole purpose of getting to and from the worksite.

C. HEALTH/SAFETY

For additional information regarding health and safety issues that affect the planning of work based learning opportunities for minors under the age of 18, please contact the following agencies: Nebraska Department of Health and Human Services, Immunization Program, 402-471-6423; Nebraska Workforce Development, Department of Labor, Office of Safety and Labor Standards, Lincoln, 402-471-2239 or Omaha, 402-595-3095.

Medical

Immunizations and protection from disease are important for your students and the people they are in contact with during their work experience. Student health and safety measures in health occupations may require that students be tested for tuberculosis and have up to date immunizations including Hepatitis B. Employers pay the cost of these tests. Instructors in these programs will need to follow what the health care facilities require of students.

BLOOD BORNE PATHOGENS

Blood borne pathogens means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to Hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

It is recommended that students doing work based learning in facilities where there is potential for exposure to blood and body fluids be inoculated with the Hepatitis B series vaccine.

The following was 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, however, sign a copy of OSHA's hepatitis B vaccine declination. 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.**

Some employees may be exempt from the vaccination requirement. These include:

- ◆ People who have previously received the complete vaccination series;
- ◆ People who have been shown to be immune to HBV; and
- ◆ People for whom the vaccine is medically contraindicated.

It is advised that secondary students involved in similar clinical experiences adhere to the above requirements. Note that it is the responsibility of the college (or secondary school) to maintain records of compliance to OAR 581-43-800. It is recommended that the work experience coordinator keep these records in the student's file.

FOOD HANDLERS CARDS

Cards are issued by the city or county where one is employed. A food handlers card may be required in restaurants, child care, hospitals, and other facilities where food is handled. Check with your local health department for requirements, exams, fees, and processes for obtaining a food handlers card.

Safety Instruction

Every precaution must be taken to ensure a student-learner's safety. It is imperative that worksite selection include a commitment to activities that are educationally sound and not injurious to a student-learner and his/her health or well being.

A training plan is recommended that identifies all safety instruction being provided by any party. A written checklist as part of the training plan indicates when such safety instruction was provided, and by whom.

Basic safety rules include:

- instructing student-learners regarding the proper procedures in case of fire, accidents, etc.
- never permitting students to operate equipment without first being trained. The training should be documented (time, date, place, etc.) and checked out under supervision.
- complying with all safety rules.
- knowledge of how and to whom to report unsafe conditions immediately.
- wearing protective equipment or clothing.
- using the correct tool for the job.
- keeping the work area clean and orderly.

At the worksite, students must follow the same health and safety rules governing regular employees. To ensure student safety on job sites, coordinators should arrange for student use of any required special safety or health gear such as goggles, welding outfits, hard hats, or safety shoes. Work sites, local businesses, or labor groups may wish to provide these items to students.

D. CONFIDENTIALITY/PRIVACY

Student records and information are protected from public disclosure under the Federal Family Educational Rights and Privacy Act. When working with students in work based learning sites, it is important to be able to release student information such as classes taken, skills, grades, etc. to employers. This may only be done with the signed permission of the student (age 18 and over) or the student's parent or legal guardian (under age 18). Similar information may be released to parents and legal guardians of students under the age of 18. Social Security numbers for identification/record keeping purposes cannot be used or released to an employer without authorization. A release statement may be contained in the contract/agreement or a separate signed information release form may be practical previous to entering the program.

E. SEXUAL HARASSMENT

Sexual harassment and/or abuse is a difficult situation when dealing with students and employers in work based learning situations. Adults and young people are very uncomfortable talking about sex and sexual situations. There are a series of precautions and responsibilities with which the work based learning coordinator and/or instructor are obligated to comply.

Every agreement/contract used for work based learning student participation needs to indicate that an employer is expected to maintain a safe working environment. A safe working environment includes protection from discrimination and sexual harassment and the school has the right to terminate the agreement at any time if there is a breach in the above stipulated items.

F. EQUAL EMPLOYMENT OPPORTUNITY LAWS

State and federal laws make it illegal for employers to discriminate in hiring or promoting an employee and in all other terms and conditions of employment on the basis of race, color, sex, religion, disability, or national origin. Following are the major laws affecting the hiring and promotion of workers. For more information contact: Nebraska Equal Opportunity Commission, 301 Centennial Mall South, PO Box 94934, Lincoln, NE 68509, 1-800-642-6112.

The Americans With Disabilities Act (ADA)

Civil rights legislation extends protected status to covered individuals with disabilities as defined by the ADA. It prohibits discrimination on the basis of disability — whether they are persons hired by the school district or students employed in cooperative or other work programs. This law is administered by the Equal Employment Opportunity Commission. Students with disabilities are to have available work based learning opportunities. Participating employers are expected to provide reasonable accommodation for these students as they would for all employees.

The Nebraska Fair Employment Practices Act (FEPA)

This act, similar to ADA, contains provisions on discrimination in employment and is administered by the Nebraska Equal Opportunity Commission (NEOC).

Civil Rights Act (1964) - Education Amendments of 1972 - Title IX

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in all educational institutions that receive Federal financial assistance, in Federally funded education programs in non-educational institutions, and in institutions whose students receive Federal financial aid. Protects students and employees. Options for filing a complaint under Title IX include (1) file through Title IX grievance procedures at the school site, (2) file a complaint directly with the Office for Civil Rights or equivalent State agency; or (3) file a civil suit. For information contact: Nebraska Department of Education, 301 Centennial Mall South, PO Box 94987, Lincoln NE 68509-4987, (402) 471-2295, Fax: (402) 471-0117.

Nebraska Revised Statute Sections 79-2,114 through 79-2,124

This statute, like Title IX of the Civil Rights Act, prohibits discrimination in education on the basis of gender.

G. EMPLOYMENT SECURITY LAW

This law provides for unemployment insurance in the event a worker is out of work through no fault of their own. The worker must have earned sufficient wages in covered employment and be able, available and seeking employment and meet all other personal eligibility requirements of the law.

It is a federal-state cooperative program. Each state has its own laws and is responsible for determining who is eligible for benefits, how much they receive, and for how long. Benefits are paid as a matter of right, and are not based on need. Unemployment insurance benefits are financed entirely by payroll taxes paid by employers except in three States, Alabama, Alaska and New Jersey. In these States, employees also contribute. As a general rule, however, an employer may not require employees to contribute to an unemployment insurance fund.

- ◆ **Exemption.** An exemption from coverage means the employer pays no tax and the student is not eligible to draw benefits based upon those earnings.
- ◆ **Disqualified** means that the student has covered earnings that an employer has paid tax on, but the student cannot draw upon those wages while still a full-time student. Once their full-time student status ends, they will be eligible to draw benefits based upon those wages.
- ◆ **Non-covered** employment means that the wages are not taxed and the worker cannot ever draw benefits based upon those earnings.

Part-time employment by students is **covered** by the Nebraska Employment Security Law. However, it **excepts from coverage**:

- (1) Services performed as part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or any agency of a state or political subdivision thereof, by an individual receiving such work relief or work training [Nebraska Revised Statute 48-60 (g) (v)],
- (2) Work study students and their spouses [Nebraska Revised Statute 48-604 (6) (j)] and
- (3) Students employed as part of a program that combines academic credit and work experience that is taken for credit [Nebraska Revised Statute 48-604 (6) (o)].

*Student-learners in bona fide State approved training programs are **not eligible** for unemployment insurance compensation.* A student is disqualified for benefits if he/she registered for full attendance at, and regularly attending an established school, college or university, or has so attended during the most recent school term. The student disqualification does not apply if the student's major portion of wages for insured work during the base period was for services performed while attending school.

Attendance for vocational training or retraining under a plan approved by the Commissioner of Labor is **not disqualifying**. However, **training in an approved cooperative education program is disqualifying**. Student-learners *are not* eligible to receive benefits for wages earned during this training period.

Please refer questions about unemployment coverage and eligibility to your Nebraska Workforce Development Office, Department of Labor, Unemployment Claims Center, 402-458-2500.

H. FAIR LABOR STANDARDS ACT (FLSA)

Overview

The FLSA covers minimum wage, overtime pay, child labor, and more. Within this law are specific sections which apply to student-learners. These sections specify what conditions must exist for nonpaid wage status, hours minors can work, and the jobs they can perform or not perform. This law impacts work based learning to the greatest degree of all the labor laws and cannot be waived. The FLSA is administered by the U. S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Fair Labor Standards, 111 South 18th Plaza, Suite 2238, Omaha, NE 68102-1321, (402) 221-4682.

Who Is Covered?

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

- engaged in interstate commerce.
- producing goods for interstate commerce.
- handling, selling, or otherwise working on goods or materials that have been moved or produced for interstate commerce.

U.S. Departments of Education and Labor, *STW Opportunities and the Fair Labor Standards Act. A Guide to Work-Based Learning, Federal Child Labor Laws, and Minimum Wage Provisions.*

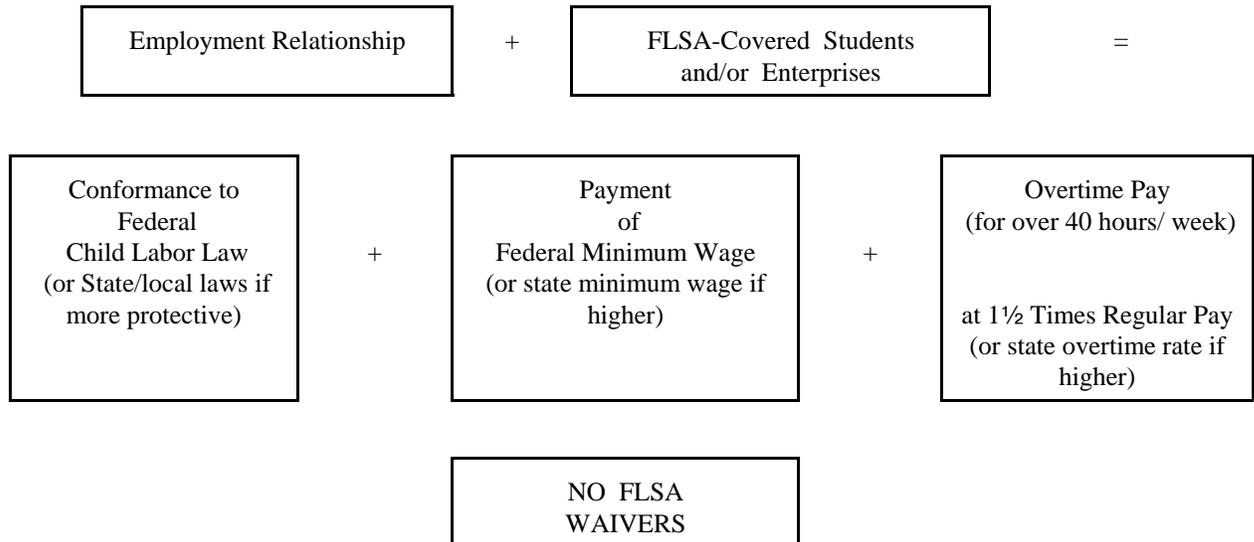
Who Does it Apply To?

The FLSA applies to:

- All 50 States and
- 90% of all non-agricultural businesses (all businesses with annual gross sales of \$500,000 or more and all hospitals, schools and public agencies)

Work Based Learning and the FLSA: What You Need to Know

If an employment relationship exists *and* the student-learner or employer is covered by the FLSA, the employer must conform to Federal and State child labor laws and pay minimum wage including overtime for over 40 hours/week. There are no waivers to compliance with the FLSA.



I. WAGE AND HOUR LAWS

Federal Wage and Hour Law (Part of the FLSA)

Employers covered by the FLSA must comply with the provisions of this act if an employment relationship exists.

Employment Defined

To employ is defined under the Act as “to suffer or permit to work” (29 U.S.C. 203). In general, where a person who is not an independent contractor performs work for an employer with the employer’s knowledge, an employment relationship exists and the employer must comply with the FLSA. The FLSA does not apply, however, if work is performed in the course of training rather than employment. Criteria for determining whether an individual performing work is an employee or a trainee are discussed below under Unpaid Work Learning Experience.

Most work based learning experiences are paid and are covered by the Federal FLSA or Nebraska Wage and Hour Law. However, unpaid work based learning is possible.

UNPAID Work Learning Experiences

To insure that a work based learning experience is acceptable as **unpaid** under the FLSA it must meet the following criteria according to the U.S. Departments of Education and Labor document, *School-to-Work Opportunities and the Fair Labor Standards Act. A Guide to Work-Based Learning, Federal Child Labor Laws, and Minimum Wage Provisions*.

1. A planned program of job training and work experience for the student, appropriate to the student’s abilities, which includes training related to pre-employment and employment skills to be achieved at progressively higher levels that are coordinated with learning in the school-based learning component and lead to the awarding of a skill certificate.
2. The learning experience encompasses a sequence of activities that build upon one another, increasing in complexity and promoting mastery of basic skills.
3. The learning experience has been structured to expose the student to all aspects of an industry and promotes the development of broad, transferrable skills.
4. The learning experience provides for real or simulated tasks or assignments which push students to develop higher-order critical thinking and problem-solving skills.

The two major classifications of unpaid work experiences are Student-Learners and Volunteers:

Student-Learners. A student enrolled in a learning experience would not be considered an employee within the meaning of the FLSA, if all of the following additional criteria were met. (U.S. Department of Labor WH Publication 1297)

1. The student receives on-going instruction at the employer’s worksite and receives close on-site supervision throughout the learning experience, with the result that any productive work that the student would perform would be offset by the burden to the employer from the training and supervision provided.
2. The training is similar to that given in a vocational school.
3. The placement of the student at a worksite during the learning experience does not result in the displacement of any regular employee — e.g., the presence of the student at the worksite cannot result in any employees being laid off, cannot result in the employer not hiring an employee it would otherwise hire, and cannot result in an employee working fewer hours than he/she would otherwise work.

4. The training is for the benefit of the student-learner (trainee).
5. The student is not entitled to a job at the completion of the learning experience — but this does not mean that employers are to be discouraged from offering employment to students who successfully complete the training.
6. The employer, student, and parent or guardian (secondary students) understand that the student is not entitled to wages or other compensation for the time spent in the learning experience — although the student may be paid a stipend for expenses such as books or tools.

If **all** the foregoing criteria were met, an employer would not be required to pay wages to a student enrolled in a work based learning experience. If, however, some of the above criteria were not met, it is still possible that a work based learning participant would not be an employee under the FLSA; however, all of the facts and circumstances would have to be considered.

Volunteer. Volunteer positions are outside of the FLSA and students in such positions are not considered employees and need not be paid. The U.S. Department of Labor has enforced a general presumption that a worker cannot volunteer to do the same job he or she is paid to do. But true volunteers, who are motivated by civic, public-spirited or partisan political concerns, are not likely to be considered to have an employment relationship, provided they are treated as volunteers and not as employees. Accordingly, they should be unpaid (although, perhaps expense reimbursement is permitted). They should not be subject to discipline or coercion in the event of tardy attendance or absence. They should not become dependent on the employer, and, instead, should be real volunteers who volunteer for their own purposes and are treated accordingly. If these factors are not present, the worker is required to be paid the minimum wage and overtime premiums due.

Volunteer Work Experiences Pursuant to IEPs. The U.S. Department of Labor and U.S. Department of Education are committed to the continued development and implementation of individual education programs, in accordance with the Individuals with Disabilities Education Act (IDEA), that will facilitate the transition of students with disabilities from school to employment within their communities. This transition must take place under conditions that will not jeopardize the protections afforded by the Fair Labor Standards Act to program participants, employees, employers or programs providing rehabilitation services to individuals with disabilities.

Where ALL of the following criteria are met the U.S. Department of Labor will NOT assert an employment relationship for purposes of the Fair Labor Standards Act.

- ◆ Participation will be youth with physical and/or mental disabilities for whom competitive employment at or above the minimum wage level is not immediately obtainable and who, because of their disability, will need intensive on-going support to perform in a work setting.
- ◆ Participation will be for vocational exploration, assessment or training in a community-based placement worksite under the general supervision of public school personnel.
- ◆ Community based placements will be clearly defined components of individual education programs developed and designed for the benefit of each student. The statement of needed transition services established for the exploration, assessment or training or cooperative education components will be included in the students' Individualized Education Program (IEP).
- ◆ Information contained in a student's IEP will not have to be made available; however, documentation as to the student's enrollment in the community based placement will be made available to the Departments of Labor and Education. The student and the parent or guardian of each student must be fully informed of the IEP and the community based placement component and have indicated voluntary participation with the understanding that participation in such a component does not entitle the student-participant to wages.

- ◆ The activities of the students at the community based placement site do not result in an immediate advantage to the business. The Department of Labor will look at several factors:
 - (1) There has been no displacement of employees, vacant position have not been filled, employees have not been relieved of assigned duties, and the students are not performing services that, although not ordinarily performed by employees, clearly are of benefit to the business.
 - (2) The students are under continued and direct supervision by either representatives of the school or by employees of the business.
 - (3) Such placements are made according to the requirements of the student's IEP and not to meet the labor needs of the business.
 - (4) The periods of time spent by the students at any one site or in any clearly distinguishable job classification are specifically limited by the IEP.
 - (5) While the existence of an employment relationship will not be determined exclusively on the basis of the number of hours, as a general rule, each component will not exceed the following limitation during any one school year:

Vocational exploration	5 hours per job experienced
Vocational assessment	90 hours per job experienced
Vocational training	120 hours per job experienced

- ◆ Students are not entitled to employment at the business at the conclusion of the IEP. However, once a student has become an employee, the student cannot be considered a trainee at that particular community based placement unless in a clearly distinguishable occupation.

It is important to understand that an employment relationship will exist unless all of the criteria described in this policy guidance are met. Should an employment relationship be determined to exist, participating businesses can be held responsible for full compliance with FLSA, including the child labor provisions.

Businesses and school systems may at any time consider participants to be employees and may structure the program so that the participants are compensated in accordance with the requirements of the Fair Labor Standards Act. Whenever an employment relationship is established, the business may make use of the special minimum wage provisions provided pursuant to section 14 (c) the Act.

U.S. Department of Labor and U.S. Department of Education Guidelines for Implementing Community Based Educational Programs for Students with Disabilities, 19 IDELR 90 (1993)

PAID Work Experience

If a student does not meet the FLSA criteria for unpaid wage status, they must be paid at least the Federal minimum wage.

Minimum Wage. As of September 1, 1997, the FLSA minimum wage is \$5.15 per hour. Overtime must be paid at the rate of 1.5 times the regular pay for each hour worked in excess of 40 hours per week.

Youth Subminimum Wage. Youth under 20 years of age may receive a subminimum wage of \$4.25 an hour during the first 90 consecutive calendar days of employment with an employer. Employers using a subminimum wage are prohibited from displacing any employee or reducing their hours, wages, or employment benefits.

Tip Credit. Tipped employees (e.g., waiters and waitresses) must be paid at least \$2.13 an hour, and receive at least the minimum wage per hour when combined with an employee's tips. If the combination of minimum wages and tips do not equal the minimum hourly wage, the employer must make up the difference. (109 Stat.264)

Subminimum Wage. The FLSA does allow for other wage rates below the minimum wage in training situations.

1. Full-time students employed by certified retail or service firms, agriculture, or institutions of higher education may be paid 85% of the applicable minimum wage.
2. Students with severe disabilities can be paid wages commensurate to their individual productivity under the Special Education School Work Experience Certificate. Section 29 U.S.C. 214 states that the Secretary of Labor shall, by regulation or order, provide for employment, under special certificates of special needs persons at wages which are: (a) lower than the minimum wage; (b) commensurate with those paid to non-handicapped workers, employed in the vicinity in which the individual under their certificates are employed, for essentially the same type, quality, and quantity of work; and © related to the individuals productivity.
3. Part-time Cooperative Education student-learners and apprentices may be paid 75% of the applicable minimum wage under certain conditions.
4. Apprentices in an apprenticeship registered with the Department of Labor may be paid a progressively increasing schedule of wages which average at least 50% of the journeyman's rate over the period of the apprenticeship. (29 CFR 521.3).

The special subminimum wage for student-learners should only be encouraged when it will help a student gain employment in an occupation in which they might often be disregarded. Consideration should be given to the welfare of the student and the circumstances of the training station for just cause in using the special minimum wage.

WBL coordinators must be knowledgeable of the procedures to secure a Subminimum Wage Certificate (see Appendix A) and be ready to assist employers if such a waiver is desired. If a certificate is obtained for a student-learner, the WBL coordinator should keep a copy on file for a period of three years after the student-learner graduates.

Application forms for subminimum wage certificate can be obtained from the U.S. Department of Labor by requesting Form WH-205. Contact the Wage and Hour Division of the U. S. Department of Labor, ESA Wage & Hour Division, 9990 Richmond Avenue, South Building, Suite 202, Houston, TX 77042-4546, (713) 339-5500.

Nebraska Wage and Hour Act

This act sets the minimum wage which must be paid by employers in certain types of businesses. The Nebraska Wage and Hour Act should not be confused with the Federal Wage and Hour Law described above. Those businesses covered by the Federal law are required to pay the Federal minimum wage. Contact: Nebraska Workforce Development, Department of Labor, 5404 Cedar Street, 3rd Floor, Omaha, NE 68106, (402) 595-3095, <http://www.nebraskaworkforce.com>.

Employment Defined. Under this Nebraska law, an employee is an individual hired to work for an employer **or** an individual who is permitted to do work for an employer. Employers covered by this law include any individual or business which employs four (4) or more employees at any one time. An exception to this definition pertains to employers of seasonal workers if the workers are not employed more than twenty weeks in any calendar year. (Nebraska Revised Statute 48-1202)

Employment Exemptions. The following types of employment are exempt from the Nebraska Wage and Hour Act:

- individuals employed in agriculture.
- individuals employed as a baby sitter in a private home.
- persons employed in an executive, administrative or professional capacity, and other superintendents, or supervisors.
- employees of the United States government, State government, or any other political subdivision.
- individuals engaged in the activities of an educational, charitable, religious, or nonprofit organization when the services rendered are on a volunteer basis.
- apprentices and learners as otherwise provided by law.
- a child in the employment of their parent or a parent in the employment of their child.
- any person receiving any form of Federal, State, county, or local aid; and who is physically or mentally disabled and employed in a program of rehabilitation.
- veterans in training under the supervision of the U.S. Department of Veteran Affairs

PAID Work Experience. Wages, as defined by this act, consist of all remunerations for personal services, including commissions and bonuses and the cash value of all payments in any medium other than cash.

Minimum Wage. As of September 1, 1997, the State of Nebraska minimum wage rate is \$5.15 per hour. Employers who are exempt from the Federal law but are covered by the Nebraska Wage and Hour Act must pay their employees at least this minimum rate.

Tip Credit. Persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, shall be paid wages at the minimum rate of \$2.13 per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by such a person compensated by way of gratuities shall equal or exceed the minimum wage rate. In determining whether or not an individual is compensated primarily by way of gratuities, the burden of proof rests with the employer.

Training Subminimum Wage. Youth under 20 years of age may receive a subminimum wage of \$4.25 an hour during the first 90 consecutive calendar days of employment with an employer. Employers using a subminimum wage are prohibited from displacing any employee or reducing their hours, wages, or employment benefits. An employer may pay such new employee the training wage rate for an additional 90 day period while the new employee is participating in on-the-job training which (1) requires technical, personnel or other skills which are necessary for his/her employment and (2) is approved by the Commissioner of Labor. No more than one-fourth of the total hours paid by the employers shall be at the training wage rate. (See 48-1203.1 R.R.S.)

Subminimum Wage. Any employer employing student-learners as part of a bonafide vocational training program shall pay such student-learners' wages at a rate of at least 75 percent of the minimum wage rate which would otherwise be applicable.

J. CHILD LABOR LAWS

Overview

The child labor provisions of the FLSA apply to the employment of children by covered enterprises even though establishments may be exempt from its monetary provisions. These provisions are designed to confine the employment of minors to periods which will not interfere with their schooling and to conditions which will not jeopardize their health and well-being. In addition to the Federal law, all States have child labor laws; when these other laws are applicable, the more stringent standards must be observed. Not all work based learning (WBL) experiences are subject to the child labor provisions of the FLSA.

WBL Experiences NOT Subjected to the FLSA

Activities occurring in the workplace that *do not* involve the performance of work are not “employment” subject to the FLSA.

WBL Experiences Subjected to the FLSA

The child labor provisions of the FLSA apply when it is determined that workers under age 16 are in a situation in which:

- an employment relationship exists and
- the enterprise or the student is covered by the FLSA.

The *hazardous occupations order* of the child labor provision of the FLSA also applies to 16 and 17 year olds.

Criteria Under Which a WBL Experience is Not Employment

A learning experience would **not** be employment if **all** the following criteria are met:

- Student productivity is offset by the employer’s burden to provide on-going worksite instruction and supervision.
- Training is similar to vocational school training.
- Student placement does not result in displacement of regular worker.
- Training is for the benefit of the student-learner.
- Student is not entitled to a job at the end of the learning experience.
- Employer/student/parent understand student is not entitled to wages or other compensation for their time. (May be paid a stipend for expenses such as books/tools.)

(Department of Labor Wage and Hour Opinion Letter of January 6, 1969)

Educational institutions are not responsible for determining whether an enterprise is covered by the Fair Labor Standards Act, nor are they responsible for enforcing the Federal child labor provisions. However, they are obligated to operate within the law. Although the Federal child labor provisions obviously have a more direct impact upon secondary work based learning activities, they also affect postsecondary work based learning.

Federal Child Labor Laws (Part of the FLSA)

The requirements of the child labor provisions of the FLSA have been divided into two categories: agricultural occupations and nonagricultural occupations.

Agricultural Employment

The provisions for work in agriculture are less restrictive than those for non-agricultural occupations. Be aware, however, that "agricultural," in terms of FLSA, refers to family farms, not agricultural operations that ship their products across State lines or those who work or process products other than their own.

Age Limitations

Under 12 Years of Age. Youths under 12 years old may perform jobs on farms owned or operated by parents or, with parents' written consent, outside of school hours in nonhazardous jobs on farms not covered by minimum wage requirements.

12 and 13 Years of Age. Youths 12 and 13 years old may work outside of school hours in nonhazardous jobs, either with parent's written consent or on the same farm as the parents.

14 and 15 Year Olds. Youths 14 and 15 year old youths may perform any nonhazardous job outside school hours.

16 and 17 Year Olds. Youth 16 years and older may perform any agricultural job, whether hazardous or not, and whether during schools hours or not.

Hazardous Agricultural Occupations

The following occupations in agriculture are hazardous. Minors under 16 may not be employed at any time in these occupations unless working for a parent on a farm owned or operated by that parent.

1. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or an of its parts to or from such a tractor.
2. Operating or assisting to operate any of the following machines: Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner; Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; Power post-hole digger, power post driver, or nonwalking-type rotary tiller.
3. Operating or assisting to operate any of the following machine: trencher or earthmoving equipment, fork lift, potato combine, power-driven circular, band, or chain saw.
4. Working on a farm in a yard, pen, or stall occupied by a bull, boar, or stud horse maintained for breeding purposes; sow with suckling pigs; or cow with newborn calf.
5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.
6. Working from a ladder or scaffold at a height of over 20 feet.
7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
8. Working inside a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere; an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating tractor for packing purposes.
9. Handling or applying agricultural chemicals identified by the word *poison* and the *skull and crossbones* on the label or those identified by the word *warning* on the label.
10. Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.
11. Transporting, transferring, or applying anhydrous ammonia.

Hazardous Occupations Exemptions

Fourteen and fifteen year olds who are enrolled in a bona fide vocational agriculture program may obtain an exemption from Orders 1-6.

Non-Agricultural Employment

The provisions for work in non-agricultural employment are more restrictive than those for agricultural occupations and affect the employment of nearly all working minors with a few exemptions.

Exempt Occupations/Situations

- Children under 16 years of age if employed by their parents:
 - (a) in occupations other than manufacturing or mining
 - (b) in occupations other than those declared hazardous by the Secretary of Labor (29 CFR 570.2)
- Children employed as actors or performers in motion pictures, theatrical, radio, or television productions.
- Children engaged in the delivery of newspapers to the consumer.
- Homeworkers engaged in the making of wreaths composed principally of natural holly, pie, cedar, or other evergreens (including the harvesting of evergreens).
- Domestic service employees working in or about the household of the employer.

Age Limitations

Under 14 Years of Age. Youths under 14 may work only if their jobs are exempt from child labor standards or not covered by the Fair Labor Standards Act. Exempt work includes: delivery of newspapers to consumers; performing in theatrical, motion picture, or broadcast productions; and work in a business owned by the parents of the minor, except in manufacturing or hazardous occupations. In general, minors under the age of 14 may not be employed in nonagricultural occupations. Their activities in work based learning programs must be limited to activities such as career awareness and exploration activities, classroom presentations, field trips to worksites, and job shadowing. Actual work or employment is not an option for this age group.

14 and 15 Year Olds. Students who are 14 and 15 years of age may work at jobs such as office work; various food service jobs; sales work and some other jobs in retail stores; errand and delivery work by foot, bicycle and public transportation; dispensing gasoline and oil and performing courtesy services in gas stations; and in most cleanup work. The hours of work can not exceed three hours on a school day with a limit of 18 hours in a school week; no more than eight hours on a nonschool day with a limit of 40 hours in a nonschool week; and not before 7:00 am or after 7:00 pm, except from June 1 through Labor Day, when the evening hour is extended to 9:00 pm.

14 and 15 Year Olds - WECEP Exceptions. There are exceptions to these restricted hours and occupations under the Work Experience and Career Exploration Program (WECEP) (29 CFR 570.35(a)). Under WECEP, students who are 14 and 15 years of age and enrolled in an approved program can be employed during school hours, for up to three hours on a school day, up to 23 hours in a school week, and in occupations otherwise prohibited. WECEP status is subject to the approval of the Administrator of the Wage and Hour Division of the U.S. Department of Labor and has been granted to the Nebraska Department of Education. Copies of the WECEP Guidelines and Application may be obtained from the WECEP Director, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509-4987

16 and 17 Year Olds. There are specific (and lengthy) definitions and exceptions to these prohibitions which impact "student-learners" that schools and school-to-work partnerships should take into consideration. In short, 16 to 17 year old youth can work at any time for unlimited hours and may be exempted from the hazardous occupation prohibitions if he/she is a student-learner in a bona fide cooperative education program under a written training agreement which provides that the student-learner's work is incidental to training, intermittent, for short periods of time, and under the close supervision of a qualified person; that safety instructions are given by the school and correlated with the on-the-job training; and that a schedule of organized and progressive work processes has been prepared. The signed, written training agreement must be kept on file by the employer and a school authority.

Occupational Limitations

Appendix B provides a complete description of the following 17 hazardous occupations in which minors under 18 may **not** be employed:

- HO 1 manufacturing and storing explosives
- HO 2 motor vehicle driving and outside helper
- HO 3 coal mining
- HO 4 logging and sawmilling
- HO 5 power-driven woodworking machines
- HO 6 exposure to radioactive substances
- HO 7 use of power-driven hoisting apparatus
- HO 8 power-driven metal-forming, punching and shearing machines
- HO 9 mining, other than coal
- HO 10 slaughtering, or meat packing, processing, or rendering
- HO 11 power-driven bakery machines
- HO 12 power-driven paper-products machines
- HO 13 manufacturing brick, tile and kindred products
- HO 14 power-driven circular saws, band saws, and guillotine shears
- HO 15 wrecking, demolition and ship-breaking operations
- HO 16 roofing operations
- HO 17 excavation operations

Hazardous Occupations Order Exemption Qualifications (29 CFR 570.50)

Child labor regulations allow involvement in some potentially hazardous occupations if the individual is at least 16 years old, a cooperative education student-learner or apprentice, and all of the following are properly met:

√ 16 - 17 YEARS OLD

√ STUDENT LEARNER

- Enrolled in a *state recognized course*, e.g. COOP program
- Hazardous portion of work is *incidental* to training.
- Hazardous portion of work is *intermittent* and for *short* periods of time.
- Under *direct* and *close* supervision of qualified person.
- Safety instructions given by the school and/or employer.
- Employed under *written* Training Agreement (Appendix C).
- Training Plan is developed (Appendix C).

√ APPRENTICES

- Employed in an apprenticeship program *registered* by Bureau of Apprenticeship and Training (BAT)
- Hazardous portion of work is *incidental* to training.
- Hazardous portion of work is *intermittent* and for *short* periods of time.
- Under *direct* and *close* supervision of a Journey person.

The following additional criteria are not required by the FLSA, but are recommended to insure the safety and well being of the student apprentices.

- Safety instructions given by the school and/or employer.
- Employed under *written* Training Agreement (Appendix C).
- Training Plan is developed (Appendix C).

Seven Hazardous Occupations Orders with Exemptions Applicable to Minors in Training

Sixteen and seventeen-year-old apprentices and student-learners may be exempt from the following Hazardous Occupations Orders under the federal child labor provisions for Nonagricultural Occupations:

- HO5 Work using power-driven woodworking machines, including the use of saws on construction sites.
- HO8 Work using power-driven metal forming, punching, and shearing machines (but HO8 permits the use of a large group of machine tools used on metal, including lathes, turning machines, milling machines, grinding, boring machines, and planing machines).
- HO10 Work involving slaughtering or meat-packing, processing, or rendering including the operation of power-driven meat slicers in retail stores.
- HO12 Work using power-driven paper-products machines, including the operation and loading of paper balers in grocery stores.
- HO14 Work involving the use of circular saws, band saws, and guillotine shears.
- HO16 All work in roofing operations.
- HO17 All work in excavating operations, including work in a trench as a plumber.

Clarification of Hazardous Occupations Order

The term operating or assisting to operate shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

- *HO2 Motor vehicle driving and outside helper.** This order prohibits minors under 18 years of age from being employed as a motor vehicle driver or outside helper on public roadways unless the driving is occasional and incidental. **No employee under 17 years of age may drive on public roadways as part of his or her job if that employment is subject to the FLSA.**

Seventeen-year-olds may drive on public roadways as part of their employment, but ONLY if ALL of the following requirements are met:

- The driving is limited to daylight hours;
- The 17-year-old holds a State license valid for the type of driving involved in the job performed;
- The 17-year-old has successfully completed a State approved driver education course and has no record of any moving violation at the time of hire;
- The automobile or truck is equipped with a seat belt for the driver and passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle;
- The automobile or truck does not exceed 6,000 pounds gross vehicle weight.

The driving MAY NOT involve:

- Towing vehicles;
- Route deliveries or route sales;
- Transportation for hire of property, goods, or passengers;
- Urgent, time-sensitive deliveries;
- Transporting more than three passengers, including employees of the employer;
- Driving beyond a 30 mile radius from the youth's place of employment;

- More than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
- More than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer; and,
- Such driving is only occasionally and incidental to the 17-year-old's employment. This means that the youth may spend no more than one-third of the worktime in any workday and no more than 20 percent of the worktime in any workweek driving.

The above requirements apply whether the youth is driving a personal or employer-owned vehicle. Employers can guard against unwitting violations of these requirements by securing documentation from 17-year-old employees who drive as part of their job. Such documentation would include evidence of the employee's age, completion of a driver education course, clean driving record and appropriate State driver's license.

*HO2 was amended by *Public Law 105-334* effective October 31, 1998.

HO 10 Slaughtering, or meat-packing, processing or rendering. Establishments where meat or meat products are processed or handled, such as butcher shops, grocery stores, restaurants/fast-food establishments, hotels, delicatessens, and meat-locker (freezer-locker) companies, and establishments where any food product is prepared or processed for serving to customers.

HO 12 Power-driven paper-products machines. The term paper products machine shall mean all power-driven machines used in: (a) the remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or (b) the preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp product, or in nonmanufacturing establishments.

Nebraska Child Labor Laws

Nebraska Child Labor Laws, similar to the Federal provisions, were developed to confine the employment of minors to periods that do not interfere with their schooling and to conditions which will not jeopardize their health and well-being. The Federal provisions are very comprehensive and more restrictive than the Nebraska law; however, it is important for WBL coordinators to be familiar with both laws since they have a direct impact on the operation of a cooperative education program in Nebraska, and because they are often expected to serve as readily available sources of information within their communities.

Employment shall mean (1) service for wages or (2) being under a contract of hire, written or oral, express or implied. No child under the age of 16 may be employed in any work which, by reason of the nature of the work or place of performance, is dangerous to life or limb, or in which his/her health may be injured or his/her morals depraved. Any parents, guardian or other person who caused or permits a child to work under such conditions is in violation of the law.

Employment Exemptions.

- ◆ Children employed solely as a caddy on any golf course are exempt from the provisions that prohibit the employment of minors under 16 without a certificate from the Department of Labor under Nebraska Labor Law (48-302.01 R.R.S.).
- ◆ Children employed in a business that the parent or guardian own and operate are exempt from the age requirements of Nebraska Labor Law when the parents or persons standing in place of parents directly supervise the child (48-302.02 R.R.S.).

Age Limitations

Under 14 Years of Age. Children 13 years of age and under may only be employed in connection with an employment program sponsored and supervised by the school or school district the child attends. This program must be approved by the Department of Labor. A child 13 years of age or less must **not** be permitted to work before 6:00 a.m. or after the hour of 8:00 p.m.

14 and 15 Year Olds. Children 14 and 15 years of age must not be permitted to work more than eight hours a day, 48 hours a week after an Employment Certificate (see Appendix D) is issued by the Department of Labor. They are **not** permitted to work before the hour of 6:00 a.m. nor after 10:00 p.m. The Department of Labor can authorize a Special Permit (see Appendix E) that allows employment of 14 and 15 year old children before 6:00 a.m. or beyond 10:00 p.m, provided there is no school scheduled for the following day. Before issuing officers can issue such a permit, the business must be inspected by a Department of Labor representative. This Special Permit may be issued for a period not to exceed 90 days.

16 and 17 Year Olds. No limitations on the number of hours minors 16 and over may work each day, each week, or during school hours. They may work any time of the day or night. Although Employment Certificates are only required for workers under 16, it is highly recommended that employers obtain a Certificate of Age (Appendix F) for workers 16 and 17 years old as proof of the age of their minor employees.

Employment Certificates

No child under 16 years of age shall be employed or suffered to work unless the employer first obtains an Employment Certificate (see Appendix D) which can only be issued by the superintendent of schools in the school district in which the child resides. The superintendent may authorize, in writing, another person to serve as issuing officer. The superintendent, or other authorized issuing officer, shall not issue an employment certificate until they have examined:

1. The child's school record showing that he/she has completed the sixth grade of the public schools, or its equivalent, or is regularly attending night school.
2. A passport, birth certificate or baptismal certificate or other religious or official records showing the date and place of birth. (An affidavit of the parent/guardian is required only if none of the documents listed can be produced.)

The issuing officer must verify that the child can read and legibly write simple sentences in the English language and that the child has reached the normal development of a child of that age. The child must be physically able to perform the work which he/she intends to do. In situations where the issuing officer doubts the physical ability of the child, their physical fitness shall be determined by a physician provided by the Department of Labor. Once signed by the child, a copy of the Employment Certificate must be provided to the child's employer, a copy filed with the Nebraska Department of Labor, and a copy kept on file by the issuing officer. Upon termination of the employment of a child, the employer's copy must be returned to the school which issued it.

The presence of a child under 16 years of age, apparently at work, in a place of employment is prima facie evidence of his/her employment. Attendance officers shall visit the places of employment to ascertain whether any children are employed and they shall report on cases of illegal employment to the Department of Labor and the county attorney. Employers shall post a notice (Appendix G) in every room where children under 16 years of age are employed stating starting and stopping times and time allowed for meals.

Age Certificates

Although Certificates of Age for minors over 16 (see Appendix F) are not required by the Nebraska Child Labor Law nor by the Federal child labor provisions of the FLSA, they serve as a proof of age for employers in the event they are inspected by the Department of Labor. It is highly recommended that employers obtain these certificates before allowing minors to begin work. The certificates should be kept on file as long as each minor is employed. In doing so, employers can protect themselves from unintentionally violating the minimum age standards of both the Federal and Nebraska Child Labor Laws. Certificates of Age are issued by the county or city superintendent of schools or by a person authorized in writing to assume such duties. Each certificate is issued in triplicate; one copy to the employer, one to the Nebraska Department of Labor, and one copy kept on file with the issuing officer. Every person authorized who knowingly certifies or makes oath to material false statements is guilty of a Class V misdemeanor.

Special Events: Performing Arts

When the Department of Labor finds it in the best interests of the child, they may issue a special permit (see Appendix H) waiving any requirement or restriction imposed on employment of a child in the performing arts - subject to such conditions as the Department of Labor deems necessary. Performing arts means: musical and theatrical presentations and television productions, including motion picture, theater, radio and television productions. Before any such waiver is issued, the written consent of a parent or a person standing in loco parentis to the child is required.

For more information regarding Nebraska Child Labor Law, contact: Nebraska Workforce Development, Department of Labor, 5404 Cedar Street, 3rd Floor, Omaha, NE 68106, (402) 595-3095, <http://www.nebraskaworkforce.com>.

Comparison and Summary of Federal and Nebraska Child Labor Laws

When both the FLSA and the State's child labor laws regulate the same activity or conduct and their rules conflict, the stricter labor standard is the one that applies. The following pages provide a Summary of the Federal Child Labor provisions of the FLSA and a comparison of the FLSA and Nebraska Child Labor Laws. For information contact: Carol Jurgens, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509-4987, (402) 471-0948, Fax (402) 471-0117, cjurgens@nde.state.ne.us.

**Summary
FEDERAL CHILD LABOR LAW
(Part of the FLSA)**

AGE	ACCEPTABLE HOURS		OCCUPATIONAL LIMITATIONS	EXCEPTIONS TO HAZARDOUS OCCUPATIONS ORDERS
	SCHOOL DAYS	NON-SCHOOL DAYS		
Under age 14	NONE Unless employed in an occupation NOT covered by FLSA. E.g., show business, working for parents, newspaper delivery, etc.		Illegal to employ unless in FLSA- exempt employment.	NONE
14-15	Outside of school hours Up to 3 hours/day Up to 18 hours/week Between 7am and 7pm	Up to 8 hours/day Up to 40 hours/week Between 7 am and 9 pm (June 1 - Labor Day)	May not work in the following occupations: <ul style="list-style-type: none"> • cooking other than at lunch counters/ snack bars and within view of customers, • manufacturing, mining, processing, • most transportation jobs, • work in warehouses and workrooms, • on construction jobs except in the office, • in any job involving hoists, conveyor belts, power-driven lawn mowers and other power-driven machinery. 	NONE
	Exemption from hours/time of day restrictions for performing "sports-attending services" at professional sporting events, e.g., bat boy/girl.			
14-15 WECEP Special Populations	Any time during school day Up to 3 hours/day Up to 23 hours/week Between 7am and 7pm	Up to 8 hours/day Up to 40 hours/week Between 7 am and 9 pm (June 1 - Labor Day)	YES The Wage and Hour Administration permits WECEP participants employment which is otherwise prohibited. Contact the Nebraska Department of Education.	NONE
	Exemption from hours/time of day restrictions for performing "sports-attending services" at professional sporting events, e.g., bat boy/girl.			
16-17	No limitations Some states have restrictions.	No limitations	NONE Other than for Hazardous Occupations Order.	YES Exemptions for student learners & apprentices.

COMPARISON - FLSA and NEBRASKA CHILD LABOR LAWS

- The Nebraska *Occupational Limitations and Exceptions to Hazardous Occupations Orders* are essentially the same as the Federal Child Labor Laws.
- The Nebraska exceptions to the *Federal Acceptable Hours* and Nebraska requirements for *Age Certificates* are shown below in **bold** print.

AGE	AGE CERTIFICATE REQUIRED	ACCEPTABLE HOURS		OCCUPATIONAL LIMITATIONS	EXCEPTIONS TO HAZARDOUS OCCUPATIONS ORDERS
		SCHOOL DAYS	NON-SCHOOL DAYS		
Under age 14	YES - Superintendent sends request to NE Dept of Labor who authorizes certificates to be issued. (48-304).	NONE Unless employed in an occupation NOT covered by FLSA. E.g., show business, working for parents, newspaper delivery, etc. Between 6 am and 8 pm.		Illegal to employ unless in FLSA- exempt employment.	NONE
14-15	YES Superintendent sends request to Dept of Labor who authorizes certificates to be issued. (48-304).	Outside of school hours Up to 3 hours/day Up to 18 hours/week Between 7am and 7pm Between 6 am and 10 pm	Up to 8 hours/day Up to 40 hours/week Up to 48 hours/week Between 7 am and 9 pm (June 1 - Labor Day) Between 6 am and 10 pm.	May not work in the following occupations: <ul style="list-style-type: none"> • cooking other than at lunch counters/ snack bars and within view of customers, • manufacturing, mining, processing, • most transportation jobs, • work in warehouses and workrooms, • on construction jobs except in the office, in any job involving hoists, conveyor belts, power-driven lawn mowers and other power-driven machinery. 	NONE
14-15 WECEP Special Populations	YES Superintendent sends request to Dept of Labor who authorizes certificates to be issued. (48-304)	Any time during school day Up to 3 hours/day Up to 23 hours/week Between 7am and 7pm Between 6 am and 10 pm	Up to 8 hours/day Up to 40 hours/week Up to 48 hours/week Between 7 am and 9 pm (June 1 - Labor Day) Between 6 am and 10 pm.	YES The Wage and Hour Administration permits WECEP participants employment which is otherwise prohibited. Contact the Nebraska Department of Education for information.	NONE
16-17	NO Not required - but strongly recommended.	No limitations Some states have restrictions.	No limitations	NONE Other than for Hazardous Occupations Order.	YES Exemptions for student learners & apprentices.

K. ADDITIONAL NEBRASKA EMPLOYMENT LAWS

In addition to the Wage and Hour Act and Child Labor Laws, Nebraska has a number of laws that strive to protect the rights, health and well-being of its residents, including student-learners. Three of these laws are the Discrimination Law, Medical Examination Law, and Eye and Face Protective Devices Law.

Discrimination Law

According to Nebraska State Constitution, Article XV, Section 13, no person in Nebraska shall be denied employment because of membership in or nonmembership in a labor organization. A labor organization, as defined by this law, means any organization, agency or employee representation committee which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, hours of employment or conditions of work.

Medical Examination Law

This law makes it unlawful for any employer to require any job applicant to pay the cost of a medical examination required as a condition of employment. If an employer requests an applicant to submit to a medical examination, the employer must assume the cost of the examination. Under the law, employer includes any individual, partnership, association, corporation, and any common carrier or express company doing business in or operating within the State. An exception to this law involves any employment relationship entered into by the state or a political subdivision and the physical examination is required by law as a condition of employment.

Eye and Face Protective Devices Law

Passed by the Nebraska Unicameral in 1984, this statute requires every student and teacher in schools, colleges, universities or other education institutions to wear appropriate industrial-quality eye protective devices at all times while participating in or observing the following courses of instruction:

- Vocational, technical, industrial arts, chemical, or chemical-physical, involving exposure to:
 - hot molten metals or other molten materials.
 - milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials.
 - heat treatment, tempering, kiln firing of any metal or other materials.
 - gas or electric arc welding or other forms of welding processes.
 - repair or servicing of any vehicle.
 - caustic or explosive materials.
- Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated.

Such devices may be furnished by the educational institutions for all students and teachers, purchased and sold at cost to students and teachers, or made available for moderate rental fee. Under this law, students wearing contact lenses and prescription glasses (including those with photo-grey lenses) should be informed that these sight corrections devices do not provide adequate industrial-quality protection. It is important to note that a student-learner's on-the-job training is a part of his/her vocational course of instruction. Since the law states that students must wear appropriate eye protection devices at **all times** while participating or observing, teacher-coordinators should inform cooperating employers of the law and strongly encourage them to require student-learners to wear the appropriate eye protection devices.

L. COOPERATIVE EDUCATION

In contrast to other work based learning education programs, the learning experiences of a student enrolled in Cooperative Education alternate between in-class instruction and paid employment. Both experiences are coordinated by the school so that they effectively contribute to the preparation of the student for useful and gainful employment in an occupation of his/her choice. Students receive school credit for their in-class instruction and for their on-the-job training.

Program Components

The Nebraska Department of Education has established criteria or base components for quality cooperative education programs. These components are set forth in the Nebraska State Plan for Vocational and Applied Technology Education. The following are essential components of a *state-recognized* Cooperative Education Program:

- A qualified teacher-coordinator
- Selected student-learners
- Related classroom instruction
- Supervised on-the-job training
- Selected training stations
- Coordination of school-based and work based learning
- Training agreements
- Training plans
- Student evaluation
- An advisory committee

Teacher Coordinator. Teacher-coordinators are educators who coordinate school-based and work based learning experiences for students enrolled in Cooperative Education. It is highly recommended that the teacher/coordinator has a vocational education subject endorsement which includes a course in coordination techniques or a Cooperative Education/Diversified Occupations Teaching Endorsement (see Appendix I). If any students in the program are employed in one of the Hazardous Occupations Orders Exceptions available to 16 and 17 year olds, the teacher/coordinator must hold one of these endorsements in order for the program to meet the **approved** status.

Selected Student-Learners. Student-learner is the name given to students enrolled in Cooperative Education. Before enrolling in these programs, students must first apply and then be selected by the teacher-coordinator to participate. Three important criteria for student selection include: (1) a desire to participate, (2) a tentative career objective, and (3) an ability to benefit from on-the-job training. Only students who show a desire to learn the skills needed to succeed in an occupation of their choice and those students who can be placed in jobs that will help them attain their career goals should be selected to participate.

Related Classroom Instruction or Seminar. The related class/seminar should be taught by the teacher-coordinator, complement the student-learners' on-the-job learning experiences, and be developed to meet the specific needs of each student. It should be designed to improve personal and social skills, provide needed basic education, and develop relevant occupational skills and knowledge. Occupationally specific instruction is an important part of the related class; however, research has found that employers believe that the related class should have a broad focus and should include topics such as computational skills, communication skills, good work attitudes, appropriate work behaviors, job seeking skills, and job coping skills.

Supervised On-The-Job Training. As a part of their total educational experience, student-learners work at jobs that are related to their career interests. This training, provided by employers during their usual working hours, should involve the application of theory and specific skills common to the occupation. Indicators of quality on-the-job training include: (1) students are paid for their work, (2) the job content is meaningful, (3) adequate safety instruction is provided, (4) the job challenges the student's ability, (5) the work is related to the student's career/occupational choice, (6) the duration of the work experience is long enough for the student to perform a variety of meaningful tasks, (7) job activities foster responsibility, (8) the job provides an adequate amount of work to keep the student busy, and (9) the instruction is sequentially planned. In addition, student-learners must be employed and paid in conformity with Federal and State laws and regulations and in a manner that does not result in their exploitation.

Selected Training Stations. Businesses that provide on-the-job training experiences for student-learners are called training stations. Training stations should be selected after the teacher-coordinator has visited the potential training sites and determined that they would provide meaningful and safe learning experiences. Once selected, employers should be given the opportunity to interview and hire the student-learners of their choice. However, student-learners cannot be hired if it causes the displacement of a training station's regular workers. At each training station, a specific training sponsor is to be designated. This person will be directly responsible for supervising the student-learner while they are on-the-job.

Training Agreements. Training agreements (see Appendix C) should include student's name, address, phone number, date of birth, age, social security number; date employment begins; program completion date; starting rate of pay; student-learner's job title; employer's name, address, phone number; student-learner's supervisor; conditions for employment; an equal opportunity statement; and signatures of the student, parent, teacher/coordinator, and employer.

Training Plans. The alternation of study and work through Cooperative Education must be well planned to ensure that student-learners acquire the skills needed for employment. The teacher-coordinator, student-learner, and training sponsor should develop a list which spells out the attitudes, skills, and knowledge which are needed by the student-learner to successfully obtain his/her occupational objective. Once these competencies have been identified, the coordinator and the training sponsor should decide if they are to be learned in the related class, on-the-job, or both. This detailed outline of sequentially planned tasks becomes the training plan (see Appendix C). Documentation of safety instruction is a critical part of the training plan. Both the training sponsor and the teacher-coordinator must recognize the part they will play in providing this instruction. In addition, the student-learner should be informed of the acceptable levels of competency that he/she will be required to demonstrate.

Coordination. Each student-learner's school experiences and on-the-job training must be coordinated if both are to contribute effectively to the student-learner's education and employability. Although structured training plans provide the foundation for this coordination, close supervision is necessary for successful implementation. Teacher-coordinators are responsible for the health, safety, welfare and educational progress of their students. A teacher-coordinator work schedule that permits adequate supervision of student-learners while they are on-the-job is essential. Coordinators must maintain written schedules of regular visits to training stations and keep records of training station visits. These visitation reports should include: times, places and dates; topic or reason for the visit; length of the visit; person(s) contacted; training sponsor's comments and suggestions; and teacher-coordinator's comments.

Teacher-coordinators should keep on file for a minimum of **five years** the following documents:

- Training agreements
- Student-learners' earnings reports
- Training station visitation reports
- Documentation of safety instruction (lesson plans, student-learners' tests, etc.)
- Training plans
- Student-learners' evaluations
- Age certificates

Evaluation. The awarding of credit for related class progress and on-the-job performance is recommended for cooperative education student-learners. Secondary student-learners must receive a separate grade for the related class/seminar and for their on-the-job training. The training sponsor should assist the coordinator when evaluating a student-learner's on-the-job performance, although the ultimate responsibility remains with the teacher-coordinator. The training plans developed for each student-learner should be used as the bases for these evaluations.

Advisory Committee. When utilizing Cooperative Education, input from representatives of business, industry, and the community, is essential. An advisory committee comprised of representatives from these groups can assist a teacher-coordinator in a number of ways including: identifying possible program goals and objectives, reviewing the instructional program, determining expected program outcomes, assisting with student placements, furnishing equipment and supplies, gaining support and assistance for public relations efforts, promoting the program, identifying community problems and training needs, updating the teacher-coordinator, and providing community feedback.

Cooperative education is covered in detail in this manual, *Part VIII - Work Site Career Applications Guide*. For further information regarding cooperative education programs in Nebraska, contact the Director of Cooperative Education, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509-4987, (402) 471-0948

M. APPRENTICESHIP

Youth Apprenticeship. Youth Apprenticeship is a learning experience which integrates academic courses, occupational instruction and structured work based learning in a specific occupational area or occupational cluster, and is designed to lead directly into either a related postsecondary program, entry-level job, registered apprenticeship, or four year college. It may or may not meet all the requirements of the industry for that “trade.”

It is an intensive learning experience requiring a signed apprenticeship agreement. Youth apprentices generally begin learning on-the-job training at age 16, and some classroom aspects of the program may begin as early as the 11th grade. It is a paid experience lasting from one-four years. Youth apprenticeship requires mastery of work skills and provides business/industry certification or generally recognized occupational credentials. Educational credits such as course credit (HS), HS diploma, vocational certificate or possibly an associate degree may be awarded the apprentice. A program less than one calendar year does not qualify under youth apprenticeship. There are circumstances where youth apprenticeship programs may be registered with the U.S. Department of Labor’s Bureau of Apprenticeship and Training (BAT).

Pre-Apprenticeship. Pre-apprenticeship refers to a familiarization with a particular occupation to enable the student to be productive on the first day of apprenticeship. Students and/or adults interested in learning a skilled trade will be provided with information and knowledge of the content of the trade, told what apprenticeship is, how to meet requirements, and taught initial skills for the trade.

Registered Apprenticeship. A registered apprenticeship is one registered with BAT. Depending on the trade, the duration of a registered apprenticeship can be one to six years and may begin in the 11th grade at age 16. The apprenticeship includes all the skills, knowledge and demonstrated proficiencies identified by the industry nationwide as necessary to perform in this “trade”. A registered apprentice is a paid position. A registered apprenticeship is the most formal and defined work based learning experience. The student may earn course credit (HS), HS diploma, vocational certificate, journey worker certificate, and possibly an associate degree.

During their apprenticeship, individuals receive on-the-job training in a factory, shop, or other appropriate work site under the close supervision of certified journey workers. Apprenticeship programs are usually registered with the Bureau of Apprenticeship training or with the State apprenticeship agency.

Apprenticeship programs may be sponsored by individual employers, groups of employers or joint efforts of labor and management. Joint efforts of labor and management most often result in joint apprenticeship committees, which are represented by both management and labor. In addition, national trade committees exist to represent national organizations. With the help of the Bureau of Apprenticeship and Training, these national committees formulate policies on apprenticeship in the various trades and issue basic standards to be used by affiliated organizations.

Nebraska’s School-to-Apprenticeship program is a cooperative venture between the Bureau of Apprenticeship and Training, the Nebraska Department of Education, and local school districts. Its aim is to bridge the gap between school and the world of work utilizing an innovative approach that allows Cooperative Education student-learners to be registered as part-time apprentices while they complete their education. To be eligible to participate in this program, a student-learner must be employed in an apprenticeable trade. Full-time indentureship as an apprentice with the participating employer is the expected result once the student-learner graduates.

Apprenticeships are covered in detail in this manual, *Part VIII - Work Site Career Applications Guide*. For further information regarding apprenticeships in Nebraska, contact the Bureau of Apprenticeship and Training (BAT), 111 South 18th Plaza, Suite C49, Omaha, NE 68102-1322, (402) 221-3281, www.workforce.state.ne.us/bat/default.htm.

N. RESOURCES

Bureau of Apprenticeship and Training (BAT), 111 South 18th Plaza, Suite C49, Omaha, NE, 68102,
Phone: 402-221-3281, <http://www.workforce.state.ne.us/bat/default.htm>.

National School-to-Work Office, 400 Virginia Avenue SW, Room 210, Washington, DC 20024, Phone: 800-251-7236,
Fax: 202-401-6211, E-mail: stw-lc@ed.gov, Internet: <http://www.stw.ed.gov>. The following publications are available.

- *A Guide to Work-Based Learning, Federal Child Labor Laws, and Minimum Wage Provisions.*
- *School-to-Work and Employer Liability: A Resource Guide.*

Nebraska Department of Education, Cooperative Education Director, 301 Centennial Mall South, PO Box 94987,
Lincoln, NE 68509-4987, Phone: 402-471-0948, Fax: 402-471-0117.

Nebraska Department of Education, Equity Director, 301 Centennial Mall South, PO Box 94987, Lincoln, NE
68509-4987, Phone: 402-471-2295, Fax: 402-471-0117.

Nebraska Workforce Development, Department of Labor, 5404 Cedar Street, 3rd Floor, Omaha, NE 68106-1898,
Phone: 402-595-3095, <http://www.nebraskaworkforce.com>.

Nebraska Equal Opportunity Commission, 301 Centennial Mall South, PO Box 94934, Lincoln, NE 68509,
Phone: 402-471-2024 or 800-642-6112, Fax: 402-471-4059, <http://www.nol.org/home/NEOC>.

U. S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Fair Labor Standards,
200 Constitution Avenue, N W, Washington, D.C. 20210, Phone: 202-219-4907, <http://www.dol.gov>.

U.S. Department of Labor, Nebraska Office, 11 South 18th Plaza, Suite 2238, Omaha, NE 68102-1321,
Phone: 402-221-4682, http://www2.dol.gov/dol/esa/public/whd_org.htm. The following publications are available:

- *Handy Reference Guide to the Fair Labor Standards Act*, WH Publication 1282.
- *Employment Relationship Under the Fair Labor Standards Act*, WH Publication 1297.
- *Interpretive Bulletin, Part 785: Hours Worked Under the Fair Labor Standards Act of 1938, As Amended.*
- *The Child Labor Requirements in Nonagriculture Occupations Under the Fair Labor Standards Act*, Child Labor Bulletin No. 101.
- *The Child Labor Requirements in Agriculture Under the Fair Labor Standards Act*, Child Labor Bulletin No. 102.

Vocational Rehabilitation, 301 Centennial Mall South, PO Box 94987, Lincoln, NE 68509-4987, Phone: 402-471-3649,
Fax: 402-471-0117, <http://vocrehab.state.ne.us>.

Workers' Compensation Court, 525 South 13th Street, PO Box 98908, Lincoln, NE 68509-8908, Phone: 402-471-6468 or
800-599-5155, <http://www.nol.org/workcomp>.

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- Academies in Context*, CORD Communication, Vol 3, No. 4, Aug/Sept., 1997, PO Box 21206, Waco, TX 76702-1206, Phone: 817-772-8756
- Career Academies Presentation*, December 1997, GMS Partners, Inc., National Career Academy Coalition, 1122 Kersey Road, Silver Spring, MD 20902
- Career Academies: Communities of Support for Students and Teachers—Emerging Findings from a 10-Site Evaluation*. James J. Kemple, Manpower Demonstration Research Corporation, December 1997, MDRC, 16 East 34 Street, New York, NY 10016-4326
- Career Opportunity Fair 1997*, Beatrice Chamber of Commerce, 226 South 6th Street, Beatrice, NE 68310, Phone: 402-223-2338
- Consensus Framework for Workplace Readiness*, CCSSO Workplace Readiness Assessment Consortium, July 1995, Council of Chief State School Officers, One Massachusetts Avenue, N.W., Washington, D.C. 20001
- Designing Marketing Tools*, Steve Walter, Tri-County Technical College, Pendleton, SC, Phone: 803-646-8361, X2253, Copyright 1994
- Developing and Implementing School-to-Work in South Carolina*, South Carolina Department of Education, 1429 Senate Street, Columbia, SC 29201, Phone: 803-734-8492, Fax: 803-734-8624
- Getting to Work: A Guide for Better Schools*, MPR Associates, Inc., 2150 Shattuck Avenue, Suite 800, Berkeley, CA 94704, Phone: 510-549-4551
- Holland's Self-Directed Search (SDS) Six Personality Types*, Psychological Assessment Resources, Inc., PO Box 998, Odessa, FL 33556
- Nebraska Innovative School-to-Work Strategies 1997*, Nebraska Department of Education, 301 Centennial Mall South, Lincoln, NE 68509-4987, Phone: 402-471-0948
- Opening Minds, Opening Doors: The Rebirth of American Education*, CORD Communications, PO Box 21206, Waco, TX 76702-1206, Phone: 817-772-8756
- Oregon Work-Based Learning Manual*, March 1996, Lane Community College, Cooperative Education Department, 4000 East 30th Avenue, Eugene, OR 97405-0640, Phone: 541-726-2203, Fax: 541-744-4168
- The School-to-Work Glossary of Terms*, National School-to-Work Office, Washington, DC, July 1996
- Teacher Externship Guide: Step-by-Step Procedures for Designing Externships*, Boston Public Schools, 26 Court Street, Boston, MA 02108
- Workplace Learning Strategies Manual*, Allan Hancock College, 800 S. College Drive, Santa Maria, CA 93454, Phone: 805-922-6966, EXT 3613

APPENDICES

SUBMINIMUM WAGE CERTIFICATES
 Issued Under the FLSA Which Can be Used for Students

CERTIFICATE	REGULATION	LOWEST % OF FEDERAL MINIMUM WAGE	LIMIT TO HOURS AT CERTIFICATE RATE?	APPLICATION FORM
FULL-TIME STUDENTS Worker attends school primarily in the daytime in a bona fide educational institution. Can be issued to retail and service establishments, agricultural employment, or to institutions of higher education.	Part 519	85%	Yes: See Regulations	WH-200MIS Contact: W/H Office
STUDENT LEARNERS Age 16 or older. Worker is receiving instruction in an accredited school, college or university and is employed on a part-time basis pursuant to a bona fide vocational training program with organized plan of instruction in technical and industrial areas requiring substantial learning period.	Part 520	75%	Yes: See Regulations	WH-205
APPRENTICES IN SKILLED TRADES Generally, age 16 or older. Allows for the employment of apprentices in skilled trades. The minor must be employed in a craft recognized as an apprenticeable trade. The apprenticeship must be registered with the DOL.	Part 521	50% of the journeyman's rate per the apprenticeship agreement authorized by a registered apprenticeship program.	Yes: See Regulations	Application is the apprenticeship agreement
LEARNER'S IN SPECIFIED INDUSTRIES Applicable to employment of learners in specified industries where an adequate supply of qualified experienced workers is available for employment. Learner is a worker whose total experience in the industry within the past three years is less than the period of time allowed as a learning period for that occupation.	Part 522	Authorized wage rates are industry specific.	Yes: See Regulations	WH-209 WH-208 WH-359
MESSENGERS Allows for the employment of messengers to be engaged primarily in delivering letters and messages.	Part 523	There have been no messenger certificates issued in many years.	N/A	No application form is available.
SHELTERED WORKSHOP/WORKERS WITH DISABILITIES Worker's earning capacity is impaired by disability for the work to be performed. Issued to most types of establishments and school work experience programs. Sheltered workshop or work centers meaning a program providing workers with disabilities with employment or other occupational rehabilitating activity.	Part 525	Commensurate wages; no minimum	No	WH-226MIS
STUDENT WORKERS Age 16 or older The occupation for which the student-worker receives training must require a sufficient degree of skill to necessitate an appreciable learning period. Student-worker is a student who is receiving instruction in an educational institution and who is employed on a part-time basis in shops owned by the educational institution for the purpose of enabling the student to defray part of school expenses.	Part 527	75%	Yes: See Regulations	For application contact ESA, Wage-Hour Branch of Special Employment Programs Office

APPENDIX B: HAZARDOUS OCCUPATIONS ORDERS

Hazardous Occupational Orders U.S. Department of Labor

Following are conditions deemed hazardous for the employment of minors between 16 and 18 years of age. Occupations with an * are exempt from child labor laws for apprentices and student learners under the conditions (e.g., incidental to the training, intermittent and for brief periods of time, under close supervision, etc.) set forth on the first page of the training plan. Exemptions do not apply to student learners under age 16.

1. Manufacturing, storing, handling or transporting explosives or articles containing explosives (ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder). Exceptions are retail establishments and nonexplosive areas.
2. Engaged as a motor-vehicle driver or outside helper (in The use of an automobile, truck, truck-tractor, trailer, semitrailer, motorcycle of similar vehicle on a public road, highway, near a mine, near logging or sawmill, or in an excavation) except incidental and occasional driving
3. Engaged in coal mining, including all work underground, in open-pit, or at a surface contributing to extraction, grading, clearing or other handling. Exceptions are picking slate or other refuse at a table or chute in a tippie or breaker, working in surface offices or maintenance or repair shops.
4. Work in all logging occupations or in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill. Exceptions include work in offices or in repair or maintenance shops; construction, operation, repair, or maintenance of living and administrative quarters; work in timber cruising, surveying or logging-engineering parties; repair or maintenance of roads, railroads or flumes; clearing fire trails or roads, piling and burning slash; maintaining fire-fighting equipment; constructing and maintaining telephone lines; acting as fire lookout or fire patrolman away from logging operations; peeling of fence posts, pulpwood, chemicalwood, excelsior wood, cordwood, or similar products when not done in conjunction with and at the same place as logging functions; and feeding or caring for animals. (Note: Exceptions shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives and work on trestles.)
- *5. Operating power-driven woodworking machines (feeding material into fixed or portable machines used or designed for doing any of the following to wood or veneer: cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, otherwise assembling, pressing, printing, or removal of materials directly from the point of operation of circular saws and guillotine-action veneer clippers.)
6. Exposure to radioactive substances and to ionizing radiations. Includes storing or using radium; making, using, storing, processing, or packaging self-luminous compounds and incandescent mantles; and exposure to other radioactive substances and ionizing radiations that exceed federal standards.
7. Operating or assisting in the operation of power-driven hoisting apparatus (elevator, crane, derrick, hoist, and high-lift truck), including functions performed by crane hookers, crane chasers, and riggers. Exceptions include operating an unattended automatic passenger elevator or electric or air-operated hoist not exceeding one-ton capacity, and riding on a freight elevator operated by an assigned operator.
- *8. Operating power-driven metal forming, punching and shearing machines (*metal-working machines* [e.g., dies, rolls, knives mounted on rams, plungers], *rolling machines* [e.g., beading, straightening, corrugating, flanging, bending rolling mills], *pressing and punching machines*. [e.g., full automatic feed and ejection punch presses with fixed barrier guards, power presses, plate punches], *bending machines* [e.g., apron brakes, press brakes, hammering machines, drop hammers, power hammers, shearing machines, guillotine shears, squaring shears, alligator shears, rotary shares]).
9. Engaged in mining, other than coal. Exceptions are work in an office, warehouse, supply house, change house, laboratory, repair or maintenance shop not underground. Other exceptions include operating and maintaining living quarters; surveying, road work, general clean-up outside the mine; building and maintaining railroad track when no mining or hauling is ongoing; surface placer operations other than dredging and hydraulic; metal millwork other than mercury recovery or using cyanide; operating jigs, sludge tables, flotation cells, drier filters; hand sorting at picking table or belt.
- *10. Operating power-driven meat processing machines (meat patty forming machines, meat and bone cutting saws, knives, headsplitters, guillotine cutters, snoutpullers and jawpullers, skinning machines, horizontal rotary washing machines, casing-cleaning machines, crushing machines, stripping machines, finishing machines, grinding machines, mixing machines, chopping machines, hashing machines, or presses machines).
11. Operating bakery machines (dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicer/ wrapper; cake cutting band saw; setting up or adjusting [only] cookie or cracker machine).
- *12. Operating, assisting with, setting up or maintaining power-driven paper-products machines (arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or double-facing machine, envelope die cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap paper baler, vertical slotter, hand-feed platen die-cutting, platen printing and punch presses).
13. Manufacturing of brick, tile, and kindred products. Exceptions include work in offices, laboratories and storerooms, storage and shipping, and drying departments for sewer pipe.
- *14. Operating circular saws, band saws and guillotine shears. (Note: Apprentices and student learners restricted to machines equipped with full automatic feed and ejection).
15. Engaged in wrecking, demolition and shipbreaking, including cleanup and salvage done at razing, demolishing, or dismantling of building, bridge, steeple, tower, chimney, other structure, ship, other vessel.
- *16. Engaged in roofing (applying weatherproofing materials and substance to roofs, the installation of roofs [including flashing], alternations, additions, maintenance, or repair [including painting and coating]). (Note: Apprentices and student learners also may engage in gutter and downspout work, construction for sheathing or base of roofs, installation of television antennas, air conditioners, exhaust and ventilating equipment and similar appliances).
- *17. Engaged in excavation (working in or backfilling trenches, building excavations, tunnels or shafts). (Note: Apprentices and student learners restricted to depths of no more than four feet, excavations whose side walls are shored or sloped to the angle of repose, and tunnels or shafts after all driving or sinking and shoring operations are completed.)

APPENDIX C: SAMPLE TRAINING AGREEMENT / TRAINING PLAN (1 of 7)

**WORK BASED LEARNING (WBL)
TRAINING AGREEMENT**

Student Name: _____ Telephone: _____
Street: _____ Date of Birth: _____ Social Security #: _____
City: _____ State: _____ Zip: _____
Parent's Name: _____ Address _____ State: _____ Zip: _____
Employer Name: _____ Telephone: _____
Employer Address: _____

Days per Week: _____ Hours per Day: _____ Hours _____ A.M. and _____ P.M.
School Name: _____ School Location: _____
Career Cluster: _____ Training/Occupation Title: _____

Work based Learning Activity: (Check all that apply)

- | | | |
|--|---|--|
| <input type="checkbox"/> Youth Apprenticeship | <input type="checkbox"/> Field Trip | <input type="checkbox"/> Service Learning Projects |
| <input type="checkbox"/> Preapprenticeship | <input type="checkbox"/> Internship/Practicum | <input type="checkbox"/> WECEP |
| <input type="checkbox"/> Registered Apprenticeship | <input type="checkbox"/> Job Shadowing | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Clinical Work Experience | <input type="checkbox"/> Mentorship | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Cooperative Education | <input type="checkbox"/> Part Time Work | <input type="checkbox"/> Other _____ |

EMPLOYER'S RESPONSIBILITIES. The employer agrees to place the student learner in the activity specified above for the purpose of providing occupational experience of instructional value. The activity will be under the supervision of a qualified supervisor and will be performed under safe and hazard free conditions. The student learner will receive the same consideration given employees with regard to safety, health, social security, general work conditions and other policies and procedures of the firm. Safety instruction will be coordinated by the school and correlated by the employer. The employer will adhere to all State and Federal Regulations regarding employment, child labor laws and minimum wages, and will not discriminate in employment policies, educational programs or activities for reasons of race, sex, color, religion, national origin, marital status, age or handicap. The student learner will not displace a regular worker.

WBL COORDINATOR'S RESPONSIBILITIES. The WBL coordinator agrees to work with the employer in developing a written training plan that includes progressive work processes to be performed on the job. The coordinator will visit each student learner at the training station and continue a close working relationship with the person to whom the student learner is responsible while on the job. The coordinator shall attempt to resolve any complaints through the cooperative efforts of all parties concerned. The coordinator will meet with each student learner's parent and/or guardian prior to placement and during the school year. The local education office and employer will keep each student learner's Training Agreement on file for three (3) years.

PARENT'S/GUARDIAN'S RESPONSIBILITIES. Parent and/or guardian agree for the student to participate in a WBL opportunity provided by the public schools.

STUDENT'S RESPONSIBILITIES. The student learner is enrolled in a WBL course of study and agrees to follow rules and guidelines established by the school, employer and WBL coordinator with regard to hours of work, school attendance and reporting procedures.

HAZARDOUS OCCUPATIONS EXCEPTION. Will the student be involved in a hazardous occupation as defined under the Federal Child Labor guidelines? _____YES _____NO (If yes, the **Student Learner Exemption Agreement** must be completed.)

Parents agree to arrange transportation for their child to and from the work site. By signing this form they are giving permission for their child to receive emergency medical treatment in case of injury or illness. They also understand that school personnel will not be present when the student is at the site and will not be responsible for their child. All signatories agree to comply with the responsibilities specified in the training agreement.

_____ Date _____	_____ Date _____
Student	WBL Coordinator
_____ Date _____	_____ Date _____
Parent or Guardian	Employer
_____	_____
Employer's Insurance Carrier	Carrier's Contact Person

**WORK BASED LEARNING (WBL)
Federal Child Labor Law Hazardous Occupation
STUDENT LEARNER EXEMPTION AGREEMENT**

STUDENT/WORK SITE DATA

Student's Name _____ SS # _____ Age _____
Address _____ City _____ State _____ Zip _____
Home Phone _____ Date of Birth _____ Grade Level _____
WBL Coordinator _____ Phone # _____
School _____
Parent Guardian _____ Phone # _____
Apprenticeship Site _____ Phone # _____ Address _____
Date Assignment Starts _____ Planned Ending Date _____
Travel Arrangements _____

16 and 17 Year Old Student Learners

With the *Student Learner Exemption Agreement* students can be employed in specific occupations declared hazardous by the Federal Child Labor Law. This agreement may only be executed in approved WBL programs that provide specific skills training and result in placement of students in employment specifically related to that training. This agreement only applies to 16- and 17-year old student learners and specific occupations.

CHECK THE HAZARDOUS OCCUPATION(S) FOR WHICH THE EXEMPTION APPLIES:

- _____ On a scaffolding, roof, superstructure, residential building construction, or ladder above 6 feet.
- _____ In the operation of power-driven woodworking machines.
- _____ In the operation of power-driven metal forming, punching, or shearing machines.
- _____ Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. part 570.61 (c).
- _____ In the operation of power-driven paper products and printing machines.
- _____ Excavation operations.
- _____ Working on electric apparatus or wiring.
- _____ Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any activity involving physical contact associated with operating tractors over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

In accordance with Section 450.061 (2), the undersigned attest to the following:

- (1) The student learner is enrolled in a youth vocational training program under a recognized state or local educational authority.
- (2) The work of the student learner in the occupation declared particularly hazardous is incidental to the training received.
- (3) The work performed shall be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person.
- (4) That safety instructions shall be given by the school and correlated by the employer with on-the- job training.
- (5) That the student has a schedule of organized and progressive work processes to perform on the job.

Student's Name (type or print)

Student's Signature

Parent's/Guardian's Name (type or print)

Parent's/Guardian's Signature

Employer's Name (type or print)

Employer's Signature

Coordinator's Name (type or print)

Coordinator's Signature

Principal's Name (type or print)

Principal's Signature

Optional: Superintendent's Name (type or print)

Optional: Superintendent's Signature

A copy of this agreement shall be maintained by the employer and the school.

**WORK BASED LEARNING (WBL)
TRAINING PLAN AND PROGRESS REPORT**

The Coop Program is designed as an educational partnership between _____
(School/Partnership), and _____ (Employer).

STUDENT/WORK SITE DATA

Student's Name _____ SS # _____ Age _____

Address _____ City _____ State _____ Zip _____

Home Phone _____ Date of Birth _____ Grade Level _____

WBL Coordinator _____ Phone # _____

School/Address _____

Parent Guardian _____ Phone # _____

Student Career Objective _____

COOP Site _____ **Phone #** _____ **Address** _____

Work Site Supervisor _____ **Phone #** _____

Date Assignment Starts _____ **Planned Ending Date** _____

Travel Arrangements _____

GENERAL REQUIREMENTS

STUDENT TRAINING PLAN: The student training plan will include competencies to be mastered, connection of school site and work site competencies, career development information, and training activities scheduled for the school year.

WAGES: Wages must be paid during the training program in accordance with state and federal labor laws.

SCHEDULE OF CLASSES: Students participating in the program may train at the work site up to four hours a day, 20 hours per week. Training schedules will generally follow the school schedule regarding school days and holidays.

EXPECTATIONS: Upon graduation from high school, the student successfully completing the program will receive a high school diploma and may receive a certificate of mastery upon successfully completing the expected competency levels. The student will be prepared to enter the work force, pursue an associate degree at a two-year college, or apply for admission to a four-year college or university.

OBJECTIVES

The objective of the program is to give students the opportunity to gain work experience through the school-to-career setting, which may lead to a certificate of mastery. This would be accomplished by placing the student learners in part time employment approximately 5 to 20 hours per week. Credit towards completion of an associates degree may be concurrently earned by the student learner.

RESPONSIBILITIES

THE STUDENT WILL:

- ◆ Be prompt and maintain regular attendance at school and the training site.
- ◆ Obey all rules and regulations at school and the training site.
- ◆ Maintain high academic and training standards.
- ◆ Call appropriate school and training personnel if late or absent for reasons beyond the student's control.
- ◆ Arrive at training site appropriately dressed.
- ◆ Communicate openly with school coordinator or training mentor concerning any problems, concerns, or conditions that are interfering with progress at school or the training site.

THE PARENT(S) OR GUARDIAN WILL:

- ◆ Grant permission and give support for school-to-careers participation.
- ◆ Inform instructor/coordinator of information vital to the performance and success of the student.
- ◆ Provide transportation to and from the training site.
- ◆ Attend any meetings or activities to promote or monitor the student's progress.
- ◆ Provide appropriate medical insurance coverage.

EMPLOYER TRAINING PARTNER WILL:

- ◆ Interview and select students for the program.
- ◆ Provide a comprehensive training plan developed in coordination with the school districts. The plan includes work site competencies and school site competencies (see attached lists).
- ◆ Appoint a training supervisor/mentor for the student.
- ◆ Provide appropriate training space and equipment.
- ◆ Ensure that appropriate accident, liability, and workers' compensation insurance coverage is provided .
- ◆ Assess student's progress on a regular basis.
- ◆ Notify the sending school if the student is absent without notification.
- ◆ Provide safety instruction for student training.
- ◆ Permit the school's representative(s) to visit the student and supervisor at training site.
- ◆ Not displace a regular employee.
- ◆ Maintain appropriate records.

THE SCHOOL WILL:

- ◆ Appoint a coordinator to assist students at school and the training site.
- ◆ Work with the employer training partner in developing a comprehensive training plan that includes work based and school-based competencies.
- ◆ Monitor each student's progress at the training site periodically.
- ◆ Assist students in planning and integrating school curriculum and training with emphasis, where possible, on applied academics and related occupational courses.
- ◆ Adjust class schedules when necessary to accommodate students.
- ◆ Provide individual career guidance to assist the student in deciding the next career progression step after high school.
- ◆ Assess student performance.
- ◆ Award school credit for the education/training.
- ◆ Ensure that appropriate accident, liability, and workers' compensation insurance coverage is provided .
- ◆ Maintain appropriate records.

APPENDIX C: SAMPLE TRAINING AGREEMENT / TRAINING PLAN (5 of 7)

WORK SITE COMPETENCIES

4=Skilled 3=Moderately Skilled 2=Limitedly Skilled 1=Unsuccessful 0=No Exposure

WORK COMPETENCIES	GRADING PERIODS					
	1	2	3	4	5	6
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						
18.						
19.						
20.						
21.						
22.						

If additional space is needed, attach an extra sheet of paper.

APPENDIX C: SAMPLE TRAINING AGREEMENT / TRAINING PLAN (6 of 7)

SCHOOL SITE COMPETENCIES

4=Skilled 3=Moderately Skilled 2=Limitedly Skilled 1=Unsuccessful 0=No Exposure

SCHOOL COMPETENCIES	GRADING PERIODS					
	1	2	3	4	5	6
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
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19.						
20.						
21.						
22.						

If additional space is needed, attach an extra sheet of paper.

APPENDIX C: SAMPLE TRAINING AGREEMENT /TRAINING PLAN (7 of 7)

TERMINATION

This agreement may be terminated for any of the following reasons: nonperformance on the part of the student or employer, relocation of either the student or employer, or change in the student's career choice. The employer and student must be notified prior to termination by the student.

SIGNATURES

_____ Student	_____ Date	_____ Parent/Guardian	_____ Date
_____ High School Principal	_____ Date	_____ Worksite Supervisor	_____ Date
_____ School Site Instructor	_____ Date	_____ School/District WBL Coordinator	_____ Date

NOTE: It is the policy of the school district that no person on the basis of race, color, religion, national origin or ancestry, age, sex, marital status, handicap, or disadvantage should be discriminated against, excluded from participation in, denied the benefits of or otherwise be subjected to discrimination in any program or activity

APPENDIX D

One Copy to Employee
One Copy to Nebraska Department of Labor
One Copy to Issuing Officer

Federal Hour Restrictions
Not more than 3 Hours on a School Day
Not more than 18 Hours in a School Week
Not More than 8 Hours on a Non-school Day
Not more than 40 Hours in a Non-school Week
Not Before 7 a.m. nor After 7 p.m.

Nebraska Hour Restrictions
Not More than 8 hours in One Day
Not More than 48 Hours in One Week
Not Before 6 a.m. nor After 10 p.m.

**NEBRASKA WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR**

5404 Cedar Street, 3rd Floor * Omaha, Nebraska 68106 * (402) 595-3095

**Employment Certificate
(For Minors 14 and 15 Years of Age)**

Employment During School Year

Employment During School Vacations

Date of Issue _____, 200__

This certificate authorizes the employment of _____

(NAME OF MINOR)

_____ by _____

(ADDRESS OF MINOR)

(NAME OF EMPLOYER)

(ADDRESS OF EMPLOYER)

(NATURE OF BUSINESS)

(EMPLOYER'S TELEPHONE NUMBER)

(WORK TO BE DONE BY MINOR)

_____ Days per week; _____ Hours per week; _____ Hours per day \$_____ Hourly wage

Day's work to start at _____ A.M. P.M.

Minor's Sex: Female Male

Day's work to end at _____ A.M. P.M.

Minor's Age _____ Date of Birth _____

Certificate valid from _____, 200__ to _____, 200__

Evidence of age accepted _____ Grade Completed _____

(Specify)

Place of Birth _____

(City)

(State)

Color of Hair _____ Color of Eyes _____ Height _____ feet _____ inches Weight _____ pounds

Distinguishing facial marks _____

Name of Parent(s) _____ Telephone Number _____

Certificate is valid for one year.

Sign here → _____

(SIGNATURE OF MINOR)

This is to certify that I have examined, approved and filed the papers required, and that the minor has been examined and has signed this certificate in my presence.

NOTE: State and Federal Child Labor Laws are different. It is the responsibility of the employer to be aware of which law applies and to be governed by the more restrictive. Information regarding Federal Child Labor Laws may be obtained from the U.S. Department of Labor, Wage and Hour Division, Omaha, NE, (402) 221-4682.

(Issuing Officer's Signature)

(Title) (Telephone No.)

(Name of School) (County)

(Address of School)

(City) (Zip)

Rev. 7/01

The employer must keep the Employment Certificate on file and return the certificate to the school issuing the same when the child leaves employment. The Certificate is issued in triplicate: white copy to business, yellow copy to Nebraska Department of Labor, pink copy for files of issuing officer.

If the Employment Certificate is downloaded from the Internet, all copies may be in white.

The employer must keep posted in the room where the child works, a printed notice stating the hours of work of the child.

Children fourteen and fifteen years of age shall not be permitted to work more than eight hours a day, forty-eight hours a week, before the hour of 6:00 a.m. or after the hour of 10:00 p.m.

The Department of Labor is authorized to issue a special permit to allow the employment of 14 and 15 year old children before 6:00 a.m. and after 10:00 p.m. provided there is no school scheduled for the following day and after an inspection of the working conditions at the business premises. The special permit may be issued for periods not to exceed ninety days and may be renewed only after reinspection. The fee for each special permit or renewal shall be ten dollars. **Special Permits can not be issued if the business falls under Federal Law.**

Children under sixteen years of age may not be employed in any work which by reason of the nature of the work is dangerous to life or limb, or in which the child's health may be injured or their morals depraved.

The presence of a child apparently at work is prima facie evidence of employment.

**NEBRASKA WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR
OFFICE OF SAFETY & LABOR STANDARDS**

LINCOLN OFFICE
State Office Building
301 Centennial Mall South
PO Box 95024
Lincoln, Nebraska 68509-5024
(402) 471-2239

OMAHA OFFICE
State Office Building
5404 Cedar Street
3rd Floor
Omaha, Nebraska 68106-2365
(402) 595-3095

Web Site://www.nebraskaworkforce.com

APPENDIX E

SPECIAL PERMIT (For Minors 14 and 15)

The Nebraska Department of Labor is authorized to issue a **special permit** to employers who have applied for **an extension of the working hours** of a child 14 or 15 years of age. The employer who applies for the permit must have an Employment Certificate on file, signed by the child and parent/guardian stating that the child agrees to work before 6:00 A.M. or after 10:00 P.M.

The child may only work after **10:00 P.M.** if no school is scheduled the following day. The Nebraska Department of Labor inspects the business premises of the employer for the working conditions, safety, healthfulness, and general welfare of the child. **Special Permits are not issued if Federal Child Labor Laws apply to the business.**

The permit is issued for a period of not more than 90 days and a fee of **\$10.00** is charged the employer. The permit is renewable only after reinspection of the business premises. The permit is only issued by the Nebraska Department of Labor, Office of Safety and Labor Standards.

Performing Arts Special Permit: When the Department of Labor finds it to be in the best interest of the child, the Department of Labor may issue a special permit waiving any requirement or restriction imposed on employment of a child pursuant to sections 48-301 to 48-313 for any child employed as a performer in the performing arts subject to such conditions as the Department of Labor deems necessary. Performing arts means musical and theatrical presentations and productions, including motion picture, theater, radio, and television productions. Before any such waiver is issued, the written consent of a parent or a person standing in loco parentis to the child is required. A fee of **\$10.00** is charged for each special permit/waiver issued.

**EMPLOYER'S SPECIAL PERMIT
To Employ Minors**

Before 6:00 a.m. or After 10:00 p.m.

Performing Arts Waiver

STATE OF NEBRASKA

Nebraska Department of Labor

Nebraska Workforce Development
301 Centennial Mall South L.L.
Lincoln NE 68509-5024
(402) 471-2239



Nebraska Workforce Development
5404 Cedar Street, 3rd Floor
Omaha NE 68106-2365
(402) 595-3095

PERMIT NO.

Pursuant to the provisions of the Nebraska Child Labor Law, Sections 48-301 to 48-313, Compiled Statutes of Nebraska, as amended, and the report of investigation made by the Department of Labor as contained in the files of the Department and the payment of the statutory fee of ten dollars (\$10.00), permission is hereby granted to:

(NAME OF EMPLOYER)

(ADDRESS OF EMPLOYER)

to employ the minor listed below, subject to the special conditions hereinafter set forth; _____

(NAME OF MINOR)

(ADDRESS OF MINOR)

CONDITIONS:

This permit shall continue in full force and effect for a period of ___ days beginning on _____, 20__
And expiring on _____, 20__.

Violation of any of the provisions of said law or of the special conditions set forth above shall be sufficient cause for revocation of this permit and may result in prosecution for violations of the Nebraska Child Labor Law.

Issued this _____ day of _____, 20__.

Commissioner of Labor

APPENDIX F

CERTIFICATE OF AGE (FOR MINORS 16 AND OVER)

The Certificate of Age is issued so the employer may have evidence of the minor's age. The Certificate of Age is issued by the Superintendent of Schools or by a person authorized by him or her writing. The Certificate of Age is issued to minors 16 years of age or over. The certificate is issued in triplicate: white copy to business, yellow copy to Nebraska Department of Labor, pink copy for files of issuing officer.

The Certificate of Age is not required by the Nebraska Child Labor Laws, but serves as proof of age for the employer in the event an inspection or investigation is conducted by the Nebraska Department of Labor.

Certificate of Age forms are furnished to the issuing officer by the Nebraska Department of Labor.

NEBRASKA WORKFORCE DEVELOPMENT DEPARTMENT OF LABOR OFFICE OF SAFETY & LABOR STANDARDS

LINCOLN OFFICE
State Office Building
301 Centennial Mall South
PO Box 95024
Lincoln, Nebraska 68509-5024
(402) 471-2239

OMAHA OFFICE
State Office Building
5404 Cedar Street
3rd Floor
Omaha, Nebraska 68106-2365
(402) 595-3095

Web Site://www.nebraskaworkforce.com



**NEBRASKA WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR**

5404 Cedar Street, 3rd Floor * Omaha, Nebraska 68106 * (402) 595-3095

Certificate of Age

Date of Issue _____

(NAME OF MINOR)

(NAME OF BUSINESS)

(ADDRESS OF MINOR)

(ADDRESS OF BUSINESS)

_____, NEBRASKA
(CITY) (ZIP)

_____, _____, _____
(CITY) (STATE) (ZIP)

(DATE OF BIRTH) / (AGE) / (SEX)

(TELEPHONE NO. OF BUSINESS)

(TELEPHONE NO. OF MINOR)

(SIGNATURE OF ISSUING OFFICER)

(POSITION SECURED) (HOURLY WAGE)

(TITLE)

(SPECIFY EVIDENCE OF AGE ACCEPTED)

(NAME OF SCHOOL)

(NAME OF PARENT OR GUARDIAN)

(SCHOOL TELEPHONE NO.)

(CITY) (COUNTY)

(ADDRESS)

(SIGNATURE OF MINOR)

(CITY) (COUNTY)

(For Minors 16 Years of Age or Over)

NOTICE TO EMPLOYER

The Certificate of Age is not required by the Nebraska Child Labor Laws, but serves as proof of age for the employer. This certificate is issued so the employer may have evidence of the minor's age acceptable under the Fair Labor Standards Act of 1938. The employer should obtain this certificate before allowing the minor to start work, and it should be kept on file as long as the minor is employed. Information concerning Nebraska Child Labor Laws may be obtained from the address listed above.

Under the Federal Law (Fair Labor Standards Act) there are no restrictions on the hours of work for 16 and 17 year olds, neither during nor outside school hours. They may work on any farm job. They may work on any non-farm job, except those declared hazardous by the U.S. Secretary or Labor. Information concerning Federal Laws may be obtained by calling the U.S. Department of Labor, (402) 221-4682.

APPENDIX G

POSTING OF NOTICE

Every employer shall post in a conspicuous place in every room where children under 16 years of age are employed, a printed notice stating the hours required of them each day, the hours of commencing and stopping work and the time allowed for meals.

Every employer shall also keep two complete lists of all such children employed therein, one of file and one conspicuously posted near the principal entrance of the building in which such children are employed.

The printed form of such notice is furnished by the Nebraska Workforce Development, Department of Labor, Office of Safety and Labor Standards.

APPENDIX G

FORM NO. 110

NOTICE

HOURS OF EMPLOYMENT FOR CHILDREN UNDER SIXTEEN YEARS OF AGE

In conformity with the provisions of section 48-310, compiled statutes of Nebraska, notice is hereby given that the number of hours which employees under the age of sixteen years employed in this room are required to work each day, the hours of starting and stopping work and the time allowed for meals are as follows:

Name of Employee	Hours Required Each Day	Starting Time	Stopping Time	Time Allowed For Meals

Employer or Employer's Agent

Form developed by Nebraska Workforce Development, Department of Labor, Safety and Labor Standards – 5404 Cedar Street, 3rd Floor, Omaha, NE, 68106, (402) 595-3095.

APPENDIX H

Instructions for Obtaining Required Permits/Employment Certificates for Minors Under 16 Employed in the Performing Arts Industry.

1. For minors age 13 and under, *the Request for Permission to Employ Minors in the State of Nebraska* form must be completed by the employer and the parent or guardian of the minor and signed by both the employer and the parent or guardian.
2. The completed form will then be provided to the Nebraska Department of Labor, Office of Safety and Labor Standards with a \$10.00 fee for each minor. The Department will then issue an *Employer's Special Permit To Employ Minors, Performing Arts Waiver*.
3. For Minors 14 and 15 years of Age an *Employment Certificate* is required (unless the option in item 5 below is taken). This certificate is issued by the schools. There is no fee for this certificate. NOTE: If the 14 or 15-year-old works before 6 a.m. or after 10 p.m. they will need to obtain the *Employer's Special Permit* mentioned in item 3 above. If they work within these hours, no other documentation is required.
4. If desired, the *Employer's Special Permit To Employ Minors, Performing Arts Waiver* may be issued to 14 and 15-year-olds in lieu of the *Employment Certificate*. Please follow the directions in items 1 through 3 above.
5. For further information, please call (402) 595-3095.

**Nebraska Workforce Development – Department of Labor
Office of Safety and Labor Standards
5404 Cedar Street, 3rd Floor
Omaha, NE 68106
Phone (402) 595-3095 FAX (402) 595-3999**

APPENDIX I

Proposed Cooperative Education-Diversified Occupations Endorsement (Formerly Diversified Occupations/School to Work Endorsement)

006.11 Cooperative Education – Diversified Occupations (formerly Diversified Occupations/School to Work Endorsement)

006.11A Grade Levels: 7-12

006.11B Endorsement Type: Supplemental endorsement only. This endorsement requires an applicant to have, or earn concurrently, an endorsement in a subject or field.

006.11C Persons with this endorsement may coordinate, teach, and supervise programs of instruction that develop job-related skills applicable to a variety of careers.

006.11D Certification Endorsement Requirements: This endorsement shall require a minimum of 9 semester hours in professional vocational education, including foundation, organization, and administration of vocational education; coordination techniques; and vocational special needs.

006.11E Work Experience: The endorsement is available only to those who have either (A) 1,000 verified hours of paid, volunteer, or internship work experience, or (B) at least 300 hours of supervised work experience under the direction of the college or university recommending the endorsement.

006.11F Endorsement Program Requirements: Nebraska teacher education institutions offering this endorsement program must have on file, within the institution, a plan which identifies the courses and the course completion requirements which the institution utilizes to grant credit toward completion of this endorsement.

Through the courses identified in its plan, the institution should prepare prospective teachers to demonstrate the ability to be responsible for the ten essential components of cooperative education-work based learning which are: (1) a qualified teacher-coordinator, (2) selected student learners, (3) related classroom instruction, (4) supervised on-the-job training, (5) selected training stations, (6) training agreements, (7) training plans, (8) coordination of school-based and work based learning, (9) student evaluation, and (10) utilization of an advisory committee. The institution should also prepare prospective teachers to be able to demonstrate the following criteria:

A. Demonstrate teacher coordinator knowledge and skills, including being able to:

1. Coordinate students' school site and work site learning experiences to ensure that both are contributing to their education and employability;
2. Coordinate school-based and work-based learning experiences for all students that embrace multiple approaches to learning and thereby meet the needs of students;
3. Select students based on their desire to participate, interest in selecting a tentative career focus, and ability to benefit from the on-the-job learning experience;
4. Teach a related class that supplements the students' on-the-job learning experience;

5. Supervise students' on-the-job learning experiences;
 6. Select training stations that provide a meaningful and safe learning environment;
 7. Initiate training agreements between students, parents, employers, and the school;
 8. Design and monitor training plans that specify the knowledge and skills needed by the student to achieve his/her occupational objective;
 9. Evaluate students' school site and work site learning performance in cooperation with their on-the-job supervisor;
 10. Utilize an advisory committee comprised of representatives from business, industry, and the community; and
 11. Interpret for students, employers, parents, and administrators the legal issues surrounding the employment of minors;
- B. Demonstrate the ability to develop, implement, and evaluate curricula that prepares students for a dynamic and rapidly changing workplace, including:
1. Attainment of workplace readiness skills;
 2. Development of communication and interpersonal skills;
 3. Utilization of problem-solving and team-work skills;
 4. Application and cultivation of leadership skills;
 5. Understanding and application of work based learning legal requirements;
 6. Demonstration of occupational safety practices;
 7. Demonstration of occupational competence;
 8. Integration of academic skills in the workplace; and
 9. Utilization of appropriate technology in school-based and work-site learning experiences.

Committee Members: Carol Jurgens, Chair; Glen Beran, Margaret Crouse, Doug Dierks, Steven Egglund, Larry Grosshans, Jan Hess, Barbara Huls, Bob Meinig, Craig Pease, Rose Templeton, Tom Walsh, Jim Williamson, Debra Ziegler, and Dale Zikmund. *Ex Officio* non-voting members: Shirley Baum, Richard Campbell, Gregg Christensen, Bob Phelps, Bonnie Sibert, and Lois Coleman.

** Approved by the Nebraska Council on Teacher Education on October 27, 2000*

**Approved by the Nebraska State Board of Education in the fall of 2001*

APPENDIX J: FREQUENTLY ASKED QUESTIONS

Transportation/Driving

- 1. Students under 18 years of age should not drive motor vehicles as a regular part of their WBL plan, what about students driving to the job/class site?**

Permission to drive is granted under the Nebraska Motor Vehicle operating regulations. These requirements clearly state the conditions for motor vehicle operation in Nebraska.

- 2. In “rural” Nebraska, situations arise where a student needs to drive from 10-30 miles to get to the WBL experience. How do the 16-17 year olds get there? What are the legal implications?**

Work based learning in Nebraska is encouraged - not required. If students have their own transportation, provisions can be made for its use in attending WBL opportunities. If not, the school partnerships could make other transportation arrangements for the students.

- 3. Are exceptions made to the driving restrictions in Hazardous Occupations Order #2 that prohibit minors under 18 years of age from being employed as a motor vehicle driver or outside helper on public roadways?**

YES – if the driver is 17 years of age and such driving is only “occasional and incidental” to the 17-year-old’s employment. This means that the youth may spend no more than 33% of the worktime in any workday and no more than 20% of the worktime in any workweek driving. There are also other requirements and restrictions on the types of driving permitted.

- 4. If the state allows 14 and 15 year olds to have school permits, what are the laws/liabilities for these students driving from school to work sites (during the school day)?**

School Permits are regulated under the Nebraska Motor Vehicle licensure laws. These guidelines should be researched before allowing a 14 and 15 year olds to drive to a work site.

Insurance/Liability

- 5. What insurance covers volunteers driving their own car? Should volunteers be screened in any way?**

Nebraska Motor Vehicle laws require operators to have insurance. This requirement would apply to volunteers who drive their own car. Driving records of student volunteers should be reviewed and appropriate conditions for driving as part of the school-sponsored program implemented.

- 6. Are there certain insurance companies that provide assistance to businesses cooperating with schools?**

Most insurance providers will cooperate in assisting schools and businesses with adequate coverage.

- 7. What type of additional insurance, if any, is needed by the employer, schools, parents or students for WBL experiences? What happens if unpaid student gets hurt on-the-job?**

Insurance requirements depend on the type of WBL activity being provided. Job shadowing and exploration in most cases, wouldn't require additional insurance. Paid and non-paid job training

should be treated separately. Paid employees (full-time & part-time) would be covered by Workers Compensation Insurance whereas unpaid students would not have the same coverage. If an unpaid student is injured on-the-job someone has to assume liability. Liability issues should be dealt with before a student is employed for no pay. Other conditions may apply in this instance.

8. In a nonpaid WBL experience, could an employer insist that the student or school purchase a liability insurance policy?

Yes. The employer could require this or they may choose to increase their liability insurance coverage and have the student or school contribute to payment of the additional premium.

9. Is it a good idea for schools to take out an umbrella policy or rider to cover potential liability for unpaid WBL experiences?

Yes. It is usually relatively inexpensive to obtain the additional coverage.

10. Who is liable if a student has an accident at a WBL activity?

It would depend on the type of accident and whether negligence was involved. WBL students should only be placed in safe, relevant learning and earning opportunities.

11. Has the Nebraska Department of Education made any provisions for insurance to cover the liability of schools, administrators, and teachers who sponsor WBL activities? If so, what? If not, why not and when?

No, this would require legislative authority.

12. Has the Department of Education developed a generic one-size-fits-all form that explains liability and insurance issues that is also a parental consent form that would work for all workplace placements? Is it advisable to do this?

No, the Nebraska Department of Education has not developed such a form. A generic form could not cover the magnitude of issues presented here. They could provide technical assistance on guidelines for developing such forms by the WBL Partnership.

13. Can parental consent forms lessen or relieve liability?

Consent forms are a good communication tool, but they cannot overrule the "right to sue."

Wages

14. Do most Nebraska employers have to pay minimum wage?

YES. Most are covered by the Federal Wage and Hour Act which requires payment of the Federal minimum wage and 1 ½ times the regular rate for over 40 hours per week. EXCEPTION: If school/business holds a subminimum wage certificate. Eligibility: disability, student learner in vocational education program, full-time students in retail or service establishment, or institutions of higher education.

15. How often does a student with a severe disability (being paid a subminimum wage) need to be

evaluated (productivity level) on a job site?

The evaluation issue is at the discretion of the student's school district.

16. If an 18 year old works part-time for minimum wage must she/he receive overtime for hours worked over 40 hours a week?

Yes.

Time Restrictions

17. Why do we have hours that minors may work in Nebraska that conflict with U.S. laws (Nebraska: 6:00 a.m. - 8:00 p.m. Federal: 7:00 a.m. - 7:00 p.m.)?

These requirements were passed by separate legislative bodies reflective of needs at the time of passage.

18. The Federal Child Labor Law of 7:00 a.m. - 7:00 p.m. restricting the hours minors under 16 years of age can work is in conflict with the Nebraska State law of 6:00 a.m. - 8:00 p.m. I thought the State law couldn't conflict with Federal laws preempting State law, is this true?

Preempting is not an issue since the time differences affect different employers. Employers that are not covered by the Federal law must abide by State law. If employers are covered by both State and Federal law, the stricter law applies.

19. If the job is not on school time does this make a difference?

Yes, the student's age and educational program also affect student employment situations.

Other

20. How much and what kind of information about a student can be shared with an employer or mentor, such as information about aptitude scores or family issues that might affect the employer/employee relationship?

Anything that is part of a minor student's personal file requires parental permission and a signed release by the school.

21. We are on the Kansas-Nebraska border, are child labor laws similar in Kansas and are we legally allowed to use those employers in another state for our WBL program?

State lines do not restrict employment. However, state laws prevail in the state of employment, if applicable.

22. Could an employer insist on the purchase of special clothing or shoes?

Yes. The employer could require this.

23. What can be done about sexual harassment?

Standard sexual harassment policies should be followed and activated.

24. Since schools cannot legally require students to “volunteer”, how can they require community service for graduation or as a requirement for a particular class?

Volunteering and Community Service programs are not identical. If a school/class requires community service, the student cannot be considered a volunteer.