
LEGAL QUESTIONS AROUND YOUTH WORK-BASED LEARNING

Our goals are to design and implement work-based learning experiences that are:

- Meaningful and valuable to the student and business;
- Safe for the student and everyone at the workplace; and,
- Opportunities for students to learn valuable technical and professional skills and earn wages and/or credit.

When students participate in work-based learning at a workplace outside of school, questions and concerns often arise around legal issues, and particularly regarding liability and insurance. Schools and businesses will generally find that they already possess the necessary insurance coverage to engage in student work-based learning with limited added risk. The best way to reduce risk is to ensure that students, businesses, and parents/guardians are fully aware of the nature of the work-based learning and additional risks, and prepared in terms of knowledge and skills that will limit potential for injury or accident. Additionally, paid work-based learning opportunities create an employer-employee relationship and employers should provide clear recourse should accidents occur.

AGE RESTRICTIONS

Students 16+ can engage in work-based learning, and businesses should follow child labor laws around hours worked and hazardous occupations when designing these opportunities.

Recommendation: Work-based learning should be designed for students 16 and over. For students under 16, there are other options for opportunities to introduce students to the work place.

LIABILITY OF BUSINESSES

The issue of liability arises whenever any business has individuals on its work site. A business' Comprehensive General Liability (CGL) policy should cover students and volunteers engaging in work-based learnings, whether paid or unpaid. Exposure to liability is generally no different than what exists relative to employees and the general public, such as when visitors enter the workplace; and CGL policies should not increase in cost because of minors at the work-site. If students are paid and considered employees of the business, students and the business are protected as in any other employer-employee relationship, and the student would be eligible for Workers' Compensation benefits should he/she be injured during the work-based learning. Workers' Compensation costs are based on wages, and not the age of the employee, therefore Workers' Compensation premiums should not increase substantially because wages for student interns will be low. If the student is unpaid, the business' CGL policy should cover what the student's personal health insurance will not in the case of injury. **See Workers' Compensation note*

Recommendation: To participate in paid or unpaid work-based learning, businesses must have Comprehensive General Liability (CGL) policies and must ensure that those policies will cover student interns. Whenever possible, students should be paid for their work experiences, and paid students must be covered by the employer's Workers' Compensation insurance. For unpaid work-based learning, it is



recommended that schools and work-based learning hosts enter into “Indemnification, Hold Harmless” contracts in which schools extend their liability policies to businesses to provide added peace of mind. Unpaid work-based learnings should also follow the criteria as put forth by the U.S. Department of Labor.



LIABILITY OF SCHOOLS

School liability policies generally do cover school-sponsored activities off-site, including work-based learning. Schools, school staff, and school committee members are generally protected under school liability policies if students are hurt, injure another employee, or do damage at a worksite. School liability policies typically do not cover individual students for any activities, in the event that they are injured or cause damage. *See *Workers' Compensation note*

Recommendation: Schools should have liability insurance policies and ensure with their provider that those policies cover off-site school-sponsored work-based learning. Schools should also consider offering basic accident or catastrophic insurance to students as added protection in the case of accident or injury.

SAFE AND INFORMED EXPERIENCES

Above all, students, parents/guardians, and businesses should be fully aware of the opportunities and risks of work-based learning, and should be clear on the expectations of the experience. Businesses should be expected to maintain safe working environments in terms of physical safety and discrimination and harassment. Students should be fully prepared for the experiences and expected to follow the norms and expectations of their worksite.

Recommendation: Schools and/or intermediaries managing work-based learning should hold comprehensive orientations for businesses and students covering topics such as workplace safety, workers' rights, and discrimination and harassment, and should provide clear lines of recourse in case any situations should occur relating to these issues. Parents should sign permission forms and waivers for their students to engage in work-based learning and acknowledge the added risks of these activities. Parents and guardians should also give permission for transportation to the work-based learning sites, whether that is through public transportation, school transportation, or students transporting themselves. Schools and/or intermediaries may also want to request and confirm student medical and auto insurance coverage, if applicable.

***Workers' Compensation** is handled by Nebraska's Workers' Compensation Court.

For general information, please visit their website at www.wcc.ne.gov and view the *Rights and Obligation under the Nebraska Workers' Compensation Law sheet* available at: www.wcc.ne.gov/publications/rightsobligations_information_sheet.pdf. For specific questions, please contact your individual insurance provider.

This document does not substitute for the advice of an attorney or of the government agencies charged with administering and enforcing the laws.