Section C

Labor Laws and Legal Issues

...A Place to Start...

Many rules and laws have a significant impact on the functioning of educational programs that use work-based learning components. The *Work-based Learning Guide 2016* is not intended to be an authoritative or comprehensive presentation of these laws. Instead, this section alerts educators and employers to areas where they may need to work together to take special action, obtain more information, or seek assistance from other individuals and agencies.

Child labor laws were enacted to protect minors from injury in the workplace and to prevent work from interfering with education. However, it has become increasingly apparent that structured work-based learning enhances rather than detracts from education by reinforcing academic learning and by highlighting the relevance of education to goals in later life. The objective of protecting minors from workplace injuries remains as strong as ever, which means that additional legal obligations must be considered when providing work-based learning opportunities to students.

Educators, Employers, and Labor Law

Employers are required by law to maintain a healthy and safe working environment and to follow provisions of laws that govern employment. Educators can serve as a source of information for employers who may need to make changes in their workplace procedures in order to offer safe and effective work-based learning opportunities for students, since several special provisions apply to the employment of workers under the age of 18. As student advocates, educators have a professional responsibility to be familiar with those provisions and to do everything possible to provide for the safety and health of students enrolled in their programs. If an employer refuses to comply with regulations established by state or federal law, teacher-coordinators should terminate the relationship and find another training station.

Although federal and state regulations provide some exemptions for students involved in work-based learning programs, educators and employers must keep their programs and requirements for student participation within the bounds of the law. While employers who provide work-based learning opportunities must be aware of their legal obligations, compliance obligations for employers who participate in work-based learning programs are no greater than when hiring minors under other circumstances.

Constitutional Basis for Labor Law
Section Eight of the United States Constitution authorizes Congress to regulate interstate commerce. With this constitutional basis and a long history of judicial decisions, the Fair Labor Standards Act (FLSA) was enacted in 1938, establishing minimum wage, overtime pay, recordkeeping requirements, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

Most states had enacted child labor laws before the 1938 passage of the FLSA, and many states continue to provide a higher level of protection to employees within a state than that identified by the FLSA. ***Where both state and federal labor standards have been enacted on an issue, the stricter standard must be observed.*** State laws, including those that affect compulsory schooling and child labor, also regulate wages and similar standards regarding the kind of work that may be performed by students. In Iowa, Chapter 92 of the Iowa Code governs child labor and identifies the requirements that must be met by employers and work-based learning programs that involve students under 18. When in doubt about specific laws affecting student employment, consult Iowa Code Chapter 92 and Iowa Administrative Code, Chapter 32.

Workplace Learning vs. Employment Subject to FLSA
What kind of activity is considered a *workplace learning experience* and what is considered *employment* under current labor law?

Workplace or work-based learning is a learning experience for students at an employer's work site. Included are work experiences (both paid and unpaid), workplace mentoring, and broad instruction, to the extent practical, in all aspects of an industry. The workplace component must be a planned program of job training and work experience that progresses to higher and higher levels of competence, and it must coordinate what is learned in school with what is learned on the job. Instruction in general workplace competencies – such as developing positive work attitudes, employability skills, and participation skills – is part of the workplace learning component.

Workplace activities that do not involve the performance of work are not considered *employment* subject to the FLSA. Examples are career awareness and exploration, field trips to work sites, and job shadowing where students follow and observe employees in daily duties but perform no work.

Consider…

- Each problem or situation is unique and should be decided on an individual basis.
- Every individual is responsible for his/her own actions. Do not use the excuse that regulations are "someone else's rules."
- One cannot be held responsible for what one cannot predict. Time and circumstances are important elements in predicting actions. Circumstances play a critical role in determining negligence, where *negligence* means doing something that a reasonable and prudent person would not do under the circumstances or not

doing something that a reasonable and prudent person would do under the circumstances.

- One cannot sign away the rights of others.
- Be sure vehicles are adequately covered by insurance if they will be used for transporting students.
- Carefully scrutinize all workstations before placing students in employment situations. Check the safety and health record of each firm, including OSHA 300 logs and first reports of injury. Provide any needed safety instruction and provide proof that safety instruction has been given in the related-instruction classroom.
- Liabilities for students going to and from work are the same as for students going to and from school. Use a signed training agreement to provide proof that parents are aware that their children are in a cooperative education/work-based learning program and are driving to and from work.

Labor Laws Affecting Border Districts

In border districts, local schools are responsible for knowing about and complying with laws of surrounding states when placing students in work-based learning experiences outside Iowa. Information about labor laws in specific states bordering Iowa can be found at the following Web sites:

Illinois
http://www.illinois.gov/idol/Laws-Rules/FLS/Pages/child-labor-law.aspx

Missouri
http://labor.mo.gov/laws or http://www.dol.gov/dol/topic/youthlabor/index.htm

Nebraska
http://www.dol.nebraska.gov/resources/Statutes/Child%20Labor%20Law.pdf

South Dakota
http://dlr.sd.gov/wagehrs/youthemployment.aspx

Minnesota
http://www.dli.mn.gov/LS/ChildLabor.asp

Wisconsin
http://dwd.wisconsin.gov/er/labor_standards_bureau/child_labor_laws.htm