

## **Work-Based Liability Basics For Employers**

*“Most employers interested in working with young people will find that they need to make only minimal changes, if any to existing workplace policies and procedures in order to ensure compliance with state and federal laws and policies that govern access to workplaces for students under the age of 18. In many cases, the guidelines and regulations for adult employees apply to youth under 18, and thus employers and human resources departments are not required to learn substantial amounts of new information in order to accommodate high school interns.”* – What Employers Need to Know: Frequently Asked Questions About High School Students in Workplaces by Pathways to Prosperity Network.

### LIABILITY ISSUES

Iowa code addresses work-based learning in two pieces of legislation.

1. Iowa Code 85.61 (formerly known as House File 2443) relates to the use of state workers' compensation coverage for students at a community college participating in work-based learning.
2. Iowa Code 85.20 (formerly known as Senate File 361) relates to the use of state workers' compensation coverage for K-12 students participating in work-based learning.

### STUDENT INJURIES: PAID EXPERIENCES

Employers assume the liability for paid experiences, just like their other employees. Amendment SF 361 to Iowa Code 85.2 protects employers as students may not pursue other liability claims.

### STUDENT INJURIES: UNPAID EXPERIENCES

School districts assume the liability for unpaid experiences and are covered under current workers' compensation policies. Amendment SF 361 to Iowa Code 85.2 protects school districts as students may not pursue other liability claims.

### INJURIES OR DAMAGE CAUSED BY STUDENTS

Employers who sponsor work-based learning activities may be liable for the damages or injuries caused by students. Companies who participate in work-based learning should consider adding a volunteer workers endorsement to their current insurance policy, or obtaining a stand-alone policy. (See liability and insurance link for more details.)

### TRANSPORTATION

In situations where the school transports a student to work-based learning in a school vehicle, the school's auto insurance provides the liability protection. When a student transports him/herself to a work-based learning experience, he/she is responsible for his/her own liability insurance (no different than a student driving him/herself to school or work).

### STANDARDS FOR UNPAID INTERNSHIPS

Under the Fair Labor Standards Act, the U.S. Department of Labor has six criteria for determining if an intern can participate in an unpaid experience. The six items are in Fact Sheet #71, available online at the U.S. Department of Labor website (see resource links).

## APPRENTICESHIPS

When school districts establish Department of Labor registered apprenticeship agreements for students under the age of 18, both the school district and the Department of Labor must ensure the program adheres to student safety and Child Labor Laws. Employer partners, the district, and the Department of Labor must work closely together to certify the tasks and equipment that can be used by the student apprentice. Each year the safety regulations should be reviewed by district personnel, the district staff member overseeing the program, and the employer to ensure no safety violations are present.

## RESOURCES

US Department of Labor- Child Labor Field Operations Handbook (Chapter 33)

<https://www.dol.gov/agencies/whd/field-operations-handbook/Chapter-33>

US Department of Labor- Apprenticeship Toolkit

<https://www.dol.gov/apprenticeship/toolkit/toolkitfaq.htm>

Iowa Department of Labor - Ch. 92 Child Labor Laws

<https://www.legis.iowa.gov/DOCS/ACO/IC/LINC/Chapter.92.pdf>

U.S. Department of Labor- Test for Unpaid Interns (Fact Sheet #71)

<https://www.dol.gov/whd/regs/compliance/whdfs71.htm>

Iowa School-to-Work Legislation

<https://www.educateiowa.gov/sites/files/ed/documents/Iowa%20School-to-Work%20Legislation.pdf>

Iowa Department of Education- Liability and Insurance

<https://www.educateiowa.gov/sites/files/ed/documents/Liability%20and%20Insurance.pdf>

Jobs for the Future- Not As Hard As You Think: Engaging High School Students in Work-Based Learning

<https://www.jff.org/resources/not-hard-you-think-engaging-high-school-students-work-based-learning/>