

BENEFITS OF WORK BASED LEARNING FOR YOUTH

Work-based learning (WBL) enhances a student's education by reinforcing academic instruction and clarifying the relevance of learning to career goals and adult work. A WBL program for student-learners:

- Creates opportunities for youth to develop an early awareness of high-demand, high-wage jobs so they can more effectively plan their career preparation pursuits.
- Gives youth access to jobs that require more knowledge and skills than the most common "youth jobs".
- Allows youth to experience a career field as it relates to their school-based academic and technical program of study.
- Demonstrates to youth that high performance in high school "counts" in students' plans for the future.
- Clarifies the pathways available within a career cluster.

In an ideal WBL program, students engage in a progressive range of types of activities in the workplace – from career exploration and awareness activities to learning occupational and employability skills through structured work experience.

EMPLOYMENT OF YOUTH, NON-AGRICULTURAL OCCUPATIONS

Employers, schools and students are impacted by a number of labor laws as they participate in work-based learning (WBL) activities. Child labor laws were enacted to protect minors from injury in the workplace and to prevent work from interfering with education. These laws generally apply whenever an employer-employee relationship exists between the student and an employee and the student is under eighteen years of age.

This brochure focuses on the legal issues related to WBL activities that have an employment relationship. Its focus is the Fair Labor Standards Act and non-agricultural employment. For agricultural occupations, additional information can be accessed through the resources listed at the end. Be aware, however, what is presented here is not legal advice. For legal advice, hire an attorney.

FEDERAL FAIR LABOR STANDARDS ACT (FLSA) CHILD LABOR PROVISIONS

The FLSA, originally passed in 1938, is a federal law enforced by the U.S. Department of Labor's Wage and Hour Division. The law applies to all fifty states and ninety percent of nonagricultural businesses. Alaska also has child labor laws. When the FLSA and the state's child labor laws regulate the same activity, the higher, or stricter, labor standard is the one that applies. The laws are for the most part very similar, and the several instances where Alaska law differs significantly will be pointed out.

The FLSA applies only when an employment (employer/employee) relationship exists and the child labor law provisions apply only for minors under the age of eighteen. Child labor law for nonagricultural occupations regulates conditions of employment primarily by placing restrictions on age, hours, and occupation.

AGE AND HOUR LIMITATIONS (29 CFR Part 570)

Under 14 Years of Age

Youth under age 14 generally cannot be employed except in several specifically exempted occupations, such as newspaper delivery, acting, or a non-hazardous family business, and then under regulated conditions. Career awareness and exploration activities, classroom presentations by industry, field trips to worksites, and job shadowing are appropriate activities for this age.

14 and 15 Year Olds (29 CFR 570 Subpart C)

Students who are 14 and 15 years of age may work at jobs such as office work; food service jobs; retail services, non-power cleaning and the like; prohibited occupations include jobs in manufacturing, mining, processing, warehousing, transportation, utilities, construction, messenger, or any hazardous occupation. (See hazardous occupation list below.). The hours of work cannot be during school hours; cannot exceed three hours on a school day with a limit of 18 hours in a school week; cannot exceed eight hours on a nonschool day with a limit of 40 hours in a nonschool week; and cannot be before 7:00 a.m. or after 7:00 p.m., except from June 1 through Labor Day, when the evening hour is extended to 9:00 p.m. Alaska statute limits the hours on a school day to a combined 9 hours of work and school attendance (AS 23.10.340).

14 and 15 Year Olds – WECEP Exception (29 CFR 570.35(a))

There are exceptions to these restricted hours and occupations under the Work Experience and Career

Exploration Program (WECEP). Under WECEP, students who are 14 or 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 available to 16 and 17 year olds. Alaska has been approved for WECEP by the U.S. Department of Education. School districts should contact their state Carl Perkins grant contact for more detailed information if they wish to implement a WECEP program.

16 and 17 Year Olds (29 CFR 570 Subpart E)

Sixteen and seventeen year old youth can work at any time for unlimited hours under the FLSA. However, Alaska statute limits employment to no more than six days per week (AS 23.10.350). Unless they meet the criteria of a student-learner or apprentice, however, they cannot be employed in the hazardous occupations listed below.

Under 17 Year Olds (AS 23.10.332)

The state requires a work authorization permit for any minor under 17 years of age.

HAZARDOUS OCCUPATION LIMITATIONS (29 CFR 570, Subpart E)

There are seventeen Hazardous Occupations (HO) described in the law. Minors under age 18 may not be employed to work in these occupations unless they qualify for an exemption as a *student-learner* or *apprentice* as described below. If they qualify for an exemption, 16 and 17 year old students can work in HOs number 5, 8, 10, 12, 14, 16 and 17 if the exemption conditions are met. There are no exemptions allowed for HOs number 1, 2, 3, 4, 6, 7, 9, 11, 13, and 15.

HO #	Abbreviated description of occupation/activity. See regulation citation above for detailed descriptions.	Can it be Exempted ?
1	manufacturing and storing of explosives or explosives components	No
2	motor vehicle driving and outside helper (riding outside the cab)	No
3	coal mining	No
4	logging and sawmilling	No
5*	power-driven woodworking machines	Yes
6	exposure to radioactive substances	No
7	use of power-driven hoisting apparatus	No
8*	power-driven metal-forming, punching and shearing machines	Yes
9	mining, other than coal mining	No
10*	meat packing or processing	Yes
11	power-driven bakery machines	No
12*	power-driven paper-product machines	Yes
13	manufacturing brick, tile and related products	No
14*	power-driven circular saws, band saws, and guillotine shears	Yes
15	wrecking, demolition and ship-breaking operations	No
16*	roofing operations	Yes
17*	excavation operations	Yes

In addition to the above, employment of minors under 18 in positions where there is daily exposure to blood-borne pathogens is prohibited by the state. Exemptions can be obtained for health care education programs, such as Certified Nurse Assistant for example. Application must be made to your nearest state Wage and Hour Administration office for an exemption.

HAZARDOUS OCCUPATIONS EXEMPTIONS (29 CFR 570.50)

Exemptions from the prohibition are available for the seven (asterisked) occupations indicated above. Child labor regulations allow limited involvement in these occupations by 16 and 17 year olds if they are a student-learner or apprentice. In the case of a student-learner, the exemption exists (no special application needed) when *all* of the conditions listed below are met.

A student-learner is defined as a student:

- enrolled in a cooperative vocational education program under a state or local educational authority, or a substantially similar program at a private school;
- employed under written agreement with a training plan signed by the school coordinator and the employer, and which provides that the work in the hazardous occupation is:
 - ✓ *incidental* to the training,
 - ✓ *intermittent* and for *short* periods of time,
 - ✓ under the *direct* and *close* supervision by a qualified person, and
 - ✓ that safety instructions are given by the school and reinforced by the employer.

An apprentice is a person employed in an apprenticeship program registered by the Bureau of Apprenticeship and Training (BAT). An exemption for an apprentice can apply when the work in the hazardous occupation is:

- ✓ *incidental to training*;
- ✓ *intermittent and for short periods of time*;
- ✓ *under direct and close supervision of a qualified person*.

WAGES IN ALASKA

Except as provided below, under Alaska statute, minor employees under the age of 18 who work up to 30 hours per week must be paid at least the federal minimum wage. For those working more than 30 hours per week, the state minimum wage applies. (AS 23.10.065; AS 23.10.055; 8AAC 05.040).

Student-learners (as defined above) may be paid at not less than 75% of the state minimum wage. (8 AAC 15.125). For this, application must be made to the nearest office of the state's Wage and Hour division, using a form they provide.

An exemption also exists for an employee with disabilities, who must be paid at a rate not less than 50% of state minimum wage. A special certificate from the U.S. Department of Labor's regional Wage and Hour Division can be obtained, or application may be made to the state's Wage and Hour Administration on a form they provide. (8 AAC 15.120)

Contrary to common belief, children employed in their parents' business are not exempt from the state minimum wage laws, although they are exempt from the employment security tax. (AS 23.20.526 (a) 4; AS 23.10.070)

For specific questions regarding minimum wage, contact the nearest Wage and Hour Administration office, whose phone numbers are listed below.

Resources

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, 1111 Third Avenue, Suite 755; Seattle, WA 98101-3212. Phone: 206-398-8039.

The following publications are available:

- Child Labor Requirements in Nonagricultural Occupations Under the Fair Labor Standards Act. Child Labor Bulletin No. 101. Available online at: <http://www.dol.gov/esa/regs/compliance/whd/childlabor101.htm>
- Handy Reference Guide to the Fair Labor Standards Act, WH Publication 1282. Available online at: <http://www.dol.gov/esa/regs/compliance/whd/hrg.htm>

The Work Based Learning link at the Career and Technical Education section of the Alaska Department of Education and Early Development provides access to a number of web-based resources: <http://www.eed.state.ak.us/tls/CTE/>. Staff contact information can also be accessed at this site.

The web site of the Wage and Hour Administration, Labor Standards and Safety Division, Alaska Department of Labor and Workforce Development provides information for child labor and wage and hour laws: <http://www.labor.state.ak.us/lss/whhome.htm>.

Downloadable pamphlets on child labor law and other legal matters are available at this site. The regional offices can be contacted at: Anchorage: (907) 269-4900 Fairbanks: (907) 451-2886 Juneau: (907) 465-4842

This brochure is intended as a reference only, not as a legal interpretation, and is not a substitute for legal advice. It is not a complete statement or interpretation of any laws, but is instead a simplified guide to WBL issues intended for use by educators, employers, policy makers, and parents as they plan and implement work-based learning opportunities. For more complete information regarding these issues, consult the resources listed above and throughout the brochure. Those needing legal advice should consult an attorney.

This brochure is modeled on a pamphlet published by the Nebraska Department of Education and generously shared by their Director of Tech Prep/Work Based Learning, Carol Jurgens, at the 2002 National Tech Prep Network annual conference.

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**Alaska Department of Education & Early Development
&
Department of Labor**

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