

Frequently Asked Questions about Student Work Experiences for Employers

When it comes to community employment experiences and internships for high school students with disabilities, many employers have questions about liability and legal considerations. Protections exist to ensure that you, and the student, are covered. The most important thing to keep in mind is students with disabilities are no more of a liability than students without disabilities.

What are “community employment experiences” for students with disabilities?

Community employment experiences are a set of opportunities arranged by school staff involving local employers that help youth with and without disabilities learn about jobs and explore career options so they can begin to determine their path after high school. These experiences include opportunities such as internships, on-the-job training, apprenticeship programs, and part-time work experience.

If the student is doing work tasks at my business, should I be paying the student?

Generally speaking, if the community employment experience is time-limited (e.g. one week, one month) and is *primarily for the benefit of training the student on new skills* (not for your direct benefit as the employer), then you are not required to pay the student wages. However, the benefits to the student involved in the unpaid experience should be *clearly defined by the school staff with whom you are working*. Likewise, the expressed purpose of the experience is for the student to gain job skills.

If the student can perform the job tasks independently and you begin to benefit from the tasks or assignments being done, you and the school staff have an obligation to revisit the arrangement that you set up with the student. To continue any community employment experience at your business with this same student, you must provide the student with different responsibilities and tasks to learn.

According to the Fair Labor Standards Act, you are **not** required to pay wages to the student if:

1. The student is directly trained and continually under the supervision of school staff;
2. No employees at your business have been displaced by the student - i.e. you cannot lay off or reduce the hours of other employees or choose not to hire if you otherwise would due to the presence of the student;
3. The student is not entitled to a job at the completion of the experience. However, you can offer employment to students who complete the training; and
4. You, the student, and the parents or guardians of the student understand that the student is not entitled to wages or other compensation for the time spent in the experience.

If all of these 4 criteria are not met, then you should be providing wages to the student as an employee.

Who pays the student's wages during a paid employment experience?

For part-time or summer employment, you would hire and pay the student directly. The WI Department of Workforce Development's Division of Vocational Rehabilitation (DVR) provides a hiring incentive to employers called the [DVR Youth On-the-Job Training Initiative](#). In a DVR Youth On-the-Job training arrangement, you would hire the student, pay their wages, and DVR would reimburse you for 50% to 100% of the student's wages for up to 500 hours. The details of a DVR Youth On-the-Job Training Initiative would need to be agreed upon with DVR before the student begins working. After the training agreement has ended, the student is considered a permanent employee. For other school-to-work programs such as the Employability Skills Certificate Program, WI Cooperative Education Skill Standards Certificate Program, and WI Youth Apprenticeship Program, students would be directly hired and compensated by your company or business.

What hourly wage should I pay a student?

Students should be paid at least minimum wage. Students may also be considered "Opportunity Employees." Opportunity Employees are not yet 20 years old and have been in employment status with you for *90 or fewer consecutive calendar days* from the date of initial employment. The WI Opportunity Wage is \$5.90 per hour (2012). Use of the DVR Youth On-the-Job Training Initiative requires payment of the prevailing wage which may be more than the minimum wage. Once the training agreement period has ended the prevailing wages will continue to be paid by the employer.

What about liability? Who is responsible if something happens?

For paid community employment experiences, you would provide the liability coverage just as you would for any employee you hire, *even if DVR is providing reimbursement (even if temporarily) for some or all of the students wages*. The student's school may have additional community employment experience (or 'Work-Based Learning') liability coverage that covers all their students. The school can provide you with a copy of this coverage. In case of injury at the workplace, students in paid community employment experiences would be covered by your employer's workers' compensation insurance.

For unpaid community employment experiences, the school (or youth program if one is involved) provides the liability coverage. Most schools have liability coverage that includes a community employment experience (or 'Work-Based Learning') endorsement for both paid and unpaid experiences. School staff should also verify with parents/guardians that the student has health insurance coverage.

Should we have a written agreement in place?

Yes, it is best to have a written agreement in place before starting the community employment experience. The school staff you are working with should take the lead on developing this agreement with your input. The agreement should provide specifics on the commitments and responsibilities of everyone involved, and should be signed by all parties. The DVR Youth On-the-Job Training Initiative has an established agreement form.

How many hours can a student engage in a community employment experience?

For unpaid experiences, the Fair Labor Standards Act provides these guidelines: Vocational explorations can be up to 5 hours per job experienced. Vocational assessments can be up to 90 hours per job experienced. Vocational training can be up to 120 hours per job experienced. *Best practices suggest unpaid employment experiences should be less than 40 hours total and internships should be limited to 10 hours or fewer per week.*

For paid employment, state child labor laws prohibit work during times that minors are required to be in school, except for students participating in work experience and career exploration programs operated by the school. State and federal laws do not limit the hours that minors 16 years of age or over may work. However, 14 and 15 year olds can work up to 8 hrs/day on non-school days and 3 hrs/day on school days. For more details, visit the [WI Department Workforce Development on Child Labor Laws website](#).

Where can I find more information?

Share your concerns and questions with the school staff with whom you are working. They should be able to provide you with additional resources. The Department of Labor has also created a user friendly website called [YouthRules!](#) This website has resources for employers including compliance self assessment tools and a Child Labor Rules Advisor. <http://www.youthrules.dol.gov/for-employers/index.htm>