

*** Work-based Learning Programs Meeting the Fair Labor Standards Act Agreement**

Unpaid Worksites

1. Participants

- Students are 14 years old or older
- Participants are youth for whom competitive employment is not immediately obtainable and need intensive support
- Participants are generally supervised by school personnel

2. IEP Documentation

- The IEP documents participation and enrollment in a work-based learning experience
- The IEP documents the periods of time to be spent at each site
- The IEP documents the components of the WBL
 - Career exploration (5 hours per job)
 - Career Assessment (90 hours per job)
 - Work-related Training (120 hours per job)
- The IEP includes notification of a change of placement reflecting the amount of time student is involved in WBL setting
- IEP includes instruction and training goals and objectives relevant to work-based learning experience
- IEP goals, objectives should not specify the specific location or setting where the WBL will occur but must list general goals related to career exploration, assessment, and training.

3. Program Documentation

- Parents, students, employers are fully informed of the WBL placement and have indicated voluntary participation in the program
- Parents, students, employers are fully informed that participation does not entitle the student to wages or compensation for duties performed on the worksite.
- A written WBL Experience Agreement is signed by all participants (school, parents, student, employer) that specifies:
 - The WBL experience the student will complete (exploration, assessment, training)
 - List all terms associated with the WBL experience (employer receives no benefit, student does not displace regular employee, all parties understand no compensation, all parties understand student not entitled to a job)
 - Specific responsibilities of each party (worksite, school, parents, student) are specified in the Agreement
 - The agreement is included in the student's file, along with the Individual Training Plan
- An Individual Training Plan is developed for each student that details the specific job settings, tasks, experiences (exploration, assessment, training) along with the specific periods of time associated with each experience

* This document is not approved or vetted by the Department of Labor, Department of Education or any other federal agency that may oversee the policies and regulations associated with the WBL and FLSA.

- Records are maintained regarding student engagement and progress in the WBL experience including but not limited to:
 - Log of hours spent in WBL activities
 - Progress reports
 - Observation reports
 - Performance evaluations
- Adequate records documenting program compliance with FLSA guidelines for WBL are maintained and available to the DOL if requested.
- Sharing WBL program records with other agencies (e.g., VR) requires appropriate confidentiality procedures as determined under Section 300.560.-300.577, IDEA regulations)

4. Performance on the worksite

- The activities of the student do not result in an immediate advantage to the business
 - No displacement of employees or leaving vacant positions open
 - Students are under continued and direct supervision by school and/or employees of the business
 - Students receive instruction and close supervision at the worksite to the degree that any resulting tasks performed by the student are offset by the burden to the employer providing ongoing training and supervision.
- Business not allowed to place a student in a specific job or station other than those already agreed upon as delineated in the written Training Plan
- Business allowed to remove a student from the specific job or site for safety or other reasons.
- Schools are responsible for revising/changing a Training Plan should there need to be a change of jobs, tasks, or stations within the business.
- Schools must move a student if they have reached the maximum number of hours in an unpaid training site/work station/occupational setting
- Schools may move the student to a new business but continue to work on similar job skills and work tasks (e.g., clerical tasks in bank and office)
- Schools are responsible to monitor student placement and work on the job site including:
 - Maintaining that employees are not displaced or vacancies left unfilled because of the WBL experience.
 - Maintaining that students are not providing a service of benefit to the business
 - Maintaining all records and data associated with the WBL, individual student plan, and requirements under the FLSA

Developed by: Mary E. Morningstar (2014, April 3). Ensuring that Work-based Learning Aligns with the Fair Labor Standards Act Training Agreement. Transition Coalition, University of Kansas.

Note: developed from *Handbook for Implementing a Comprehensive Work-based Learning Program According to the Fair Labor Standards Act* (2005). National Center on Secondary Education and Training, University of Minnesota.
www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf