

Appendix A

WORK CONTRACTS, CHILD LABOR LAWS, LIABILITY AND INSURANCE

WORK CONTRACTS

Education Training Agreement -

Students and employers participating in an approved youth apprenticeship program must have a *signed Education/Training Agreement (ETA) on file with both the school AND the employer.* Employers without a valid ETA may be assessed (a) double compensation in the event of injury on the job, and/or (b) fines ranging from \$25 to \$1,000 for every day without a permit for a first offense to \$250 to \$5,000 for every day without a permit for a second offense within a five year period. The Local Youth Apprenticeship Coordinator will provide the employer with a copy of the ETA. This form is also available from the Department of Workforce Development at http://dwd.wisconsin.gov/youthapprenticeship/forms_pubs.htm

Work Permits -

Students and employers participating in an approved youth apprenticeship program do not need to obtain a separate work permit for the work to be performed as a part of the youth apprenticeship program, **although it is highly recommended.** If employers hire the youth apprentices to perform other work duties outside of their youth apprenticeship duties, a work permit will be required. Employers without a valid work permit (if applicable) may be assessed (a) double compensation in the event of injury on the job, and/or (b) fines ranging from \$25 to \$1,000 for every day without a permit for a first offense to \$250 to \$5,000 for every day without a permit for a second offense within a five year period.

CHILD LABOR LAWS

Youth apprentices enrolled in approved youth apprenticeship programs and their employers are subject to all state and federal child labor laws regarding the employment of minors. The Department of Workforce Development (DWD) will review all statewide youth apprenticeship curriculum for compliance with the child labor laws and will clarify the laws whenever necessary to allow for program implementation. Youth apprentices *are allowed* to work in **some prohibited** occupations because they meet the criteria of "**student learner**" **AND** the work performed is **incidental** to their training **and** is for **intermittent and for short periods of time** (DWD 270.14(3)(c)1). However, they are **not exempt** from the child labor laws by virtue of being enrolled in a youth apprenticeship program. Students and employers must comply with child labor laws with regard to daily/weekly hours, time of day, employment, etc.

While DWD can interpret the law, DWD cannot exonerate employers from liability should an accident occur on the job which results in injury to an employee and a subsequent lawsuit. Determining liability for an accident can only be settled in a court of law. DWD can assure employers that they will not be cited (by DWD) for illegally employing a minor in a prohibited occupation as long as the students are enrolled in a DWD approved youth apprenticeship program and a signed Education/Training Agreement is on file with both the student's high school and the employer. This means that employers will not be assessed treble fines should an injury occur which results in the employer being cited.

Readers should refer to DWD 270.12 and 270.14 [Child Labor Laws](#) for descriptions and definitions of the occupations or activities which are normally prohibited to minors.

Architecture and Construction -

Youth apprentices who are 16-17 years old can perform the following tasks, *only after appropriate operation/safety training AND only as indicated below*. The **student learner exception** limits the minor to *using hazardous equipment* on an incidental basis [less than 5% of their work time] and only occasionally [can't be a regular part of their job]. For example, the student learner exception works better in a job like carpentry where most of the work is acceptable but once in a while you might need the minor to use a portable saw to cut a piece to fit. Further interpretation or clarification of Child Labor Laws should be directed to the Department of Workforce Development (DWD) Labor Standards Bureau Director.

- **Excavation Operation (270.12(9)) -**
 - Students may manually excavate or manually backfill trenches **only if** they do not exceed 4 feet in depth at any point, or are working in trenches that do not exceed 4 feet in depth at any point.
 - Students may manually excavate **only if** the depth does not exceed 4 feet below any ground surface adjoining the excavation, or the excavation does not exceeding such depth, or the side walls are shored or sloped to the angle of repose.
 - Students may work within tunnels **only if** all driving and shoring operations are complete.
 - Student may work within shafts **only if** all sinking and shoring operations are complete.

- **Woodworking Power-drive Machine Use (270.12(27)) -**
 - Minors may operate power-driven woodworking machines **only if** placing of material on a moving chain or in a hopper or slide for automatic feeding. *All other types are considered hazardous.*
 - "*Power-driven woodworking machines*" means all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

- **Saws and guillotine shears (270.12(25)) -**
 - Students may operate or assist on these types of machines **only if** they are equipped with automatic feed and ejection. *All other types are considered hazardous.*

- **Metal forming, punching and shearing power-driven machines (270.12(19))-**
 - Students may operate or assist on pressing or punching machines such as punch presses machines **only if** they are equipped with automatic feed and ejection, as well as, a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; and plate punches. *All other types are considered hazardous.*

- **Roofing or on or about a Roof (270.12(24)) -**
 - Students are **not allowed** to work in roofing operations or on or about a roof.

- "On or about a roof" includes all work performed upon a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs; gutter and downspout work; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed upon or about roofs.

However, student learners may work in roofing operations in accordance with an approved student learner agreement.

- Student Learner (DWD 270.14(3)(a))-
Except as provided in paragraph (f), a **student learner shall be exempt** from the prohibitions in DWD 270.12 and 270.13 **if** the student learner is **performing service within a bona fide** school–work training program sponsored by an accredited school and authorized and approved by the state department of public instruction, the technical college system board, or the **department's youth apprenticeship program**.
- **Hoists and Hoisting Apparatus (270.12(12)) -**
 - Students age 16 and 17 years old are allowed to operate an elevator, crane, derrick, hoist or high-lift truck (including hoists commonly used on tow trucks and other hoists), **only if** it is an air operated hoist not exceeding one-ton capacity. *All other types are considered hazardous.*
 - Students may perform work that involves riding on a man lift or on a freight elevator **only if** the freight elevator operated by an assigned operator
 - Students under age 18 may operate an automatic elevator and an automatic signal operation elevator under certain conditions. (Refer to DWD 270.12 and 270.14).
- **Motor Vehicle Driver and Outside Helper (270.12(21)) -**
A minor, **age 17**, may operate a motor vehicle as a part of employment **only if**:
 - the vehicle does not exceed 6,000 pounds gross weight;
 - driving is done during daylight hours only;
 - the driving amounts to no more than 20% of the work week or 1/3 of the work day;
 - the student has attended drivers' education training and holds a valid driver's license;
 - the driving takes place within a 30-mile radius of the minor's place of employment;
 - the minor has no record of any moving violations at the time of hire; and
 - the driving does not involve: towing of vehicles, route deliveries or sales, transportation for hire, urgent time-sensitive deliveries, transporting more than 3 passengers who are employees of employer at one time.

Student Learner Criteria -

In order to be considered a student learner, youth apprentices must meet the following criteria:

1. They are enrolled in a youth apprenticeship program approved by DWD;
2. They are enrolled in school and receiving school credit for program participation;
3. They receive appropriate safety instruction at the school and at the workplace;
4. The work performed is under direct and close supervision of a qualified and experienced person;
5. The **work performed in any occupation declared hazardous** is **incidental** to their training **and** is for **intermittent and short periods of time** (refer to DWD 270.14(3)(c)1; and

6. There is a schedule of organized and progressive work processes to be performed on the job (i.e. the worksite is following the state curriculum).

Hours of Work -

The hours an apprentice spends working in the program *during* the hours school is in session during the day DO NOT COUNT towards the limitation on total hours a minor may work. See the DWD [Child Labor](#) web site for applicable hours and times of the day that minors may work in Wisconsin.

LIABILITY AND INSURANCE

As employees of the company, youth apprentices are covered by worker's compensation in the event of injury on the job. Employers should review their specific liability coverage to ensure there are no restrictions on employing minors and/or on coverage of minors operating particular machinery. Schools are not allowed to cover youth apprentices through their own workers' compensation policy while the youth apprentice is an employee of the local business.

As stated previously, DWD and/or local schools cannot exonerate employers from liability if a youth apprentice is injured on the job and a subsequent lawsuit is filed against the employer. Determining liability for an accident can only be settled in a court of law and will be based on the specific circumstances for each case. It is important that a signed ETA be on kept on file by both the school and the employer to ensure that employers will not be cited for illegally employing a minor in a prohibited occupation.

General Liability –

An employer is liable for the service provided at their facility. In general an employer has adequate general liability and workers compensation coverage, no additional liability is required as a result of the Youth Apprenticeship program. However, before participating in the program, an employer may wish to consult with their insurance carrier.

Transportation –

In general, the party responsible for transportation is liable in case of an accident. Youth apprentices responsible for their own transportation to and from the worksite are responsible for their own insurance. In instances where the school provides transportation for the youth apprentices, the school is responsible for insurance coverage. Only if the facility provides transportation to and from work for the youth apprentice is the facility responsible for this insurance coverage.

Workers Compensation –

Once a youth apprentice becomes a paid employee they must be covered by the employer's workers compensation coverage.

Unemployment Compensation –

If a youth apprentice is enrolled full-time in a public educational institution and receives school credit for their participation in the YA program, then they are NOT eligible to file for unemployment compensation from the employer. Youth apprentices who do NOT meet these criteria may be eligible for unemployment compensation benefits.

Worker Displacement –

No employer may hire a youth apprentice who will displace any currently employed worker, including a partial displacement, such as reduction in the hours of non-overtime work, wages, or employment benefits.

Layoffs/Strikes –

A youth apprentice cannot be hired when any other individual is on temporary layoff, with the clear possibility of recall, from the same or equivalent job OR if the employer has terminated the employment of any regular employee, or otherwise reduced the workforce, with the intention of filling the vacancy created with a youth apprentice. Local bargaining units should determine the status of youth apprentices already working in the facility in the event of a layoff. Youth apprentices may be laid off or transferred to work areas to take the place of laid off workers. Child labor laws prohibit youth apprentices from working in a company where a strike or lockout is in active progress.

Collective Bargaining Agreements –

The youth apprenticeship program should not impair existing contracts for services or collective bargaining agreements. Any youth apprenticeship program that would be inconsistent with the terms of a collective bargaining agreement shall be approved only with the written concurrence of the labor organization and employer involved.