

Appendix A

WORK CONTRACTS, CHILD LABOR LAWS, LIABILITY & 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** (Wis. Admin. Code DWD 270.14(3)(c)1 at http://docs.legis.wisconsin.gov/code/admin_code/dwd/270.pdf). 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 restrictions, 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 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 (http://dwd.wisconsin.gov/er/labor_standards_bureau/child_labor_laws.htm) for descriptions and definitions of the occupations or activities which are normally prohibited to minors.

Manufacturing -

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 may apply in a situation, such as 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 at 608-266-6860.

Forklift Operation-

- **Prohibited** to students

Hoists and Hoisting Apparatus (270.12(12))-

- **Prohibited** to students:
 - operating an elevator, crane, derrick, hoist or high-lift truck (including hoists commonly used on tow trucks and other hoists);
 - perform work that involves riding on a man lift or on a freight elevator, **except** a freight elevator operated by an assigned operator;
 - assist in the operation of a crane, derrick or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers and like occupations.
- Students may operate an unattended automatic operation passenger elevator OR an electric or air-operated hoist not exceeding one-ton capacity

Metal Forming, Punching, and Shearing Power-Driven Machines (270.12(19))-

- Students may operate pressing and punching machines equipped with automatic feed and ejection, with a fixed barrier to prevent hands or fingers from entering the area between the dies, power presses, and plate punches.

- Students are **prohibited** from operating rolling machines, bending machines, hammering machines, and shearing machines.
- Students may set up, adjust, repair, oil, and clean machines provided the tasks are completed electronically OR in a manner so that the student is not accessing sharp or moveable parts.

Power-Driven Machinery (light) (270.13(15))-

- Students may operate drill presses, grinder wheels, lathes, and portable power-driven machinery such as drills, sanders, floor polishers, and floor scrubbers.

Saws and guillotine shears (270.12(25))-

- Students may operate or assist on these types of machines **only if** they are equipped with full automatic feed and ejection and fixed guards.
- Setting up, adjusting, repairing & cleaning is allowable provided the tasks are completed electronically OR in a manner so that the youth is not accessing sharp or moveable parts.

Welding (270.13(15))-

- Students may do light or spot welding.

Woodworking (270.12(27))-

- Students are **prohibited** to operate power-driven woodworking machines such as those that cut, shape, form, nail, stitch, and fasten.

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.
(http://dwd.wisconsin.gov/er/labor_standards_bureau/child_labor_laws.htm)

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 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 insurance.

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 this criterion 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.