



## Liability and Insurance with Youth Nervous about hiring youth?

### FIRST

*In Wisconsin, State Certified Skills Standards Co-op and Youth Apprenticeship (YA) are "student learner" programs.*

### THEN

#### ASK!

- Call your insurer
- Points to address when talking to insurers about work-based learning programs:
  - YA/Skills Co-op only applies to 16-17 year olds
  - YA/Skills Co-op students are required to be "trained" and "paid" employees in safety and processes they will be doing - just like all other adult employees
  - YA/Skills Co-op students are not allowed to perform activities prohibited by child labor laws
  - Worker's Compensation Insurance has to be carried on them- just like all other trained workers for the same tasks
  - \*\*A SPECIAL Human Resources (HR) worker classification can be created by the company and insurer for YA /Skills Co-op students in order to distinguish them from any other 16-17 year old walking in "off the street" as participating in a **state-standardized & school-sanctioned** work-based learning program that has been aligned to industry standards, reviewed by child labor laws, and vetted by employers.
  - Call other YA Employers to discuss how they handle the insurance and liability concern.  
YA Employer References

### GENERAL INFORMATION

#### General Liability

An employer is liable for the finished product produced or the service provided. In general, if an employer has adequate general liability and workers compensation coverage, no additional liability is required as a result of hiring youth as a **student learner**. However, before hiring youth and/or participating in a work-based learning program, an employer may wish to consult with its insurance carrier. Ultimately, final determination of liability in a particular situation will be determined by a court of law after review of the specific circumstances.

#### Transportation

In general, the party responsible for transportation is liable in case of an accident. Minors responsible for their own transportation to and from the worksite are responsible for their own insurance. In instances where the school provides transportation for **student learner**, the school may be responsible for insurance coverage. Only if the employer provides transportation to or from work for youth may the employer be responsible for this insurance coverage.

#### Worker's Compensation

When a minor becomes an employee of a company, they must be covered by the employer's worker's compensation coverage. For agricultural employers, farmers need to carry worker's compensation insurance if they have 6 or more employees. DWD's Worker's Compensation web page for more information.

## **Injuries**

While DWD's Labor Standards Bureau can interpret the child labor law, it cannot exonerate employers from liability should an accident occur on the job which results in injury to the employee. Determining liability for an accident can only be settled through the worker's compensation process.

## Double Compensation

When a minor is injured, primary worker's compensation is due. IF the minor is employed in legal (non-hazardous) employment, **BUT without a work permit or Youth Apprenticeship Education Training Agreement**, the employer must match the primary compensation, and pay this amount to the Work Injury Supplemental Benefit Fund (WISBF). This is sometimes referred to as double compensation.

## Treble Compensation

Where primary worker's compensation is due, AND the minor is **employed in a prohibited (hazardous) occupation**, the employer may be required to double the primary compensation, and pay this amount to the Work Injury Supplemental Benefit Fund (WISBF). This is referred to as treble compensation.

Primary compensation is normally paid by the insurance company. The extra compensation is primarily the responsibility of the employer.

## **Unemployment Compensation**

Minors can file for unemployment compensation; however, if a minor is enrolled full-time in a public educational institution, and receives school credit for their participation in a work-based learning program, the student learner is generally not eligible for unemployment compensation. Contact Wisconsin DWD Unemployment Insurance for more information.

## **Worker Displacement**

No employer may hire a **student learner** 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**

Minors 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 student learner. **Student learners** may be laid off or transferred to work areas to take the place of laid off workers. Child labor laws prohibit minors from working in a company where a strike or lockout is in active progress.

## **Collective Bargaining Agreements**

**Student learner** programs should not impair existing contracts for services or collective bargaining agreements. Any student learner program that would be inconsistent with the terms of a collective bargaining agreement should be approved with the written concurrence of the labor organization and employer involved.