

# LEGAL ISSUES

After extensive input from Kentucky school districts and other local stakeholders, in 2006 the Kentucky Board of Education (KBE) amended 704 KAR 3:305 ([www.lrc.ky.gov/kar/704/003/305.htm](http://www.lrc.ky.gov/kar/704/003/305.htm)) to establish new minimum high school graduation requirements to ensure that a system of high standards and high expectations are put in place for all students. At the heart of that action was the need to ensure every student persists to graduation—proficient and prepared to succeed at the next level of education and career. With the flexibility provided in the manner in which credits may be earned and how learning may be credentialed, performance-based credit offers an alternative to the traditional Carnegie-unit seat-time model. As school districts foster new learning environments that have greater capacity to engage the disengaged and to stretch the learning of every student, credit bearing work-based opportunities such as internships, cooperative learning experiences, and other school district supervised experiences in the school and community deserve serious consideration. As that process is launched, school districts are well-advised to first address key legal issues.

When looking at the relationship that exists between employers and employees, it is important to know and understand state and federal statutes and regulations that protect various aspects of the employment relationship, including wage and hour laws, child labor laws, safety and health laws, and workers' compensation. These are the primary areas highlighted in this chapter. State and federal documents are included as a reference at the end of this chapter.

Prior to placing any student in a work- based learning environment, it is important to become familiar with both state and federal requirements. This chapter provides information about both the state and federal laws that could impact work-based learning experiences. **It is also important to keep in mind that when both state and federal laws apply, in general the more stringent of the two must be followed.** This will ensure that all work-based learning efforts are operated within the guidelines of the law.

It is the responsibility of each administrator, principal, or director to be aware of and in compliance with all legal aspects related to student employment. It is the direct responsibility of the teacher/coordinators to promote compliance with all state and federal laws and regulations in the placement of students in work-based programs. This chapter provides guidelines for program operation and addresses a variety of requirements from equal access to labor laws. Guidelines will briefly outline key areas that need to be explored prior to implementing a work-based learning experience. This chapter is intended to facilitate discussions that need to take place before putting a student in an actual work-

based learning setting. The information is provided to inform **all responsible school personnel** of various legal issues. For the safety of all involved, when exploring work-based learning sites, only those sites that are in compliance with all existing laws should be considered.

### **Employer-Employee Relationship**

Activities occurring in the workplace that do not involve the performance of work are not “employment” subject to the state and federal wage and hour and child labor laws. Some examples of these activities include career awareness and exploration, a field trip to a worksite, an employer and or employee classroom presentation and job shadowing whereby a student performs no work but follows and observes an employee in his or her daily activities. Students under age 14 may participate in the education and training activities specified above; **however, employment subject to state and federal laws cannot be a part of their work-based learning experience.**

Any work-based learning experience that creates an employment relationship must be in compliance with both state and federal child labor laws and wage and hour laws. An employee is defined by Kentucky law as “any person employed by or suffered or permitted to work for an employer.” Kentucky law defines an employer as “any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee.” ([www.lrc.ky.gov/KRS/337-00/010.htm](http://www.lrc.ky.gov/KRS/337-00/010.htm)) Deciding whether an employer-employee relationship exists depends upon all the circumstances surrounding the relationship and must be looked at very closely to make an accurate determination.

803 KAR 1:005 ([www.lrc.ky.gov/kar/803/001/005.htm](http://www.lrc.ky.gov/kar/803/001/005.htm)) goes into detail outlining an employer-employee relationship and specifically addresses whether trainees and student-trainees are subject to the wage and hour laws. In order to determine whether an employment relationship exists, all factors surrounding the work-based learning experience have to be reviewed and evaluated according to the following set of criteria. When all six components of the criteria apply to a work-based learning experience, an employment relationship **does not exist**; therefore, the wage and hour and child labor laws would not apply to that particular experience. If all six components of the criteria do not apply to a work-based learning experience, an employment relationship **does exist**; therefore, the wage and hour and child labor laws would apply to that experience. The six criteria relating to trainees and student-trainees are as follows:

1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
2. The training is for the benefit of the trainees or students;
3. The trainees or students do not displace regular employees, but work under their close observation;

4. The employer who provides the training derives no immediate advantage from the activities of the students or trainees, and on occasion, his operation may actually be impeded;
5. The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and
6. The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

Even in the absence of an employment relationship, it is very important to closely monitor the activities of the student to assure that a safe working environment is maintained. It is important to remember that the safety of the student and individuals working in close proximity to the student is the most important factor in effective work-based learning.

### **Hours Restrictions**

Once it has been determined that an employment relationship exists, there are certain restrictions on the employment of minors. The state's restrictions on hours are divided into two categories. There are specific hours restrictions for 14 and 15 year olds and there are other restrictions for 16 and 17 year olds. The state's hours restrictions are detailed in 803 KAR 1:100 ([www.lrc.state.ky.us/kar/803/001/100.htm](http://www.lrc.state.ky.us/kar/803/001/100.htm)) and are as follows:

#### 14 and 15 year olds may work...

- Outside school hours (a minor who is enrolled in a school supervised and administered work experience or career exploration program may work during school hours if the employment does not interfere with the minor's schooling, health or well-being)
- No more than 3 hours a day Monday through Friday when school is in session
- No more than 8 hours a day on Saturday and Sunday when school is in session
- No more than 18 hours total in any week in which school is in session
- No more than 8 hours a day and up to 40 hours total in any week in which school is not in session
- Between the hours of 7 a.m. and 7 p.m. (between June 1 and Labor Day they may work as late as 9 p.m.)

#### 16 and 17 year olds may work...

- No more than 6 hours a day Monday through Friday when school is in session
- No more than 8 hours a day on Saturday and Sunday when school is in session
- No more than 30 hours total in any week in which school is in session (except that a minor may work up to forty (40) hours in any one (1) work week if a parent or legal guardian gives permission in writing, and the principal or head of the school the minor attends certifies in writing that the minor has maintained at least a 2.0 grade point average in the most recent grading period. School certification shall be valid for one (1) year unless revoked sooner by the school authority. The parental permission and school certification shall remain at the employer's place of business.)
- No earlier than 6 a.m. when school is in session
- No later than 10:30 p.m. on school nights (Sunday through Thursday evening) when school is in session
- No later than 1 a.m. on Friday and Saturday nights when school is in session

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- Unlimited hours when school is out of session

The definition of school in session is that time as established by local school district authorities pursuant to KRS 160.290 ([www.lrc.state.ky.us/KRS/160-00/290.PDF](http://www.lrc.state.ky.us/KRS/160-00/290.PDF)). If a minor is required to be in school for any day or portion of a day, school is in session for the day and the entire week for purposes of child labor compliance.

The U.S. Department of Labor has the same hours restrictions for 14 and 15 year olds; however, they do not have any hours restrictions for 16 and 17 year olds.

### **Hazardous Duties**

In addition to the hours restrictions for minors, there are some occupations and specific job duties that have been declared too hazardous for minors to perform at a place of employment. The Hazardous Occupations (HOs) are as follows:

HO 1	Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components
HO 2	Motor vehicle driver and outside helper
HO 3	Coal mine occupations
HO 4	Logging or sawmill operations
HO 5 *	Operation of power-driven woodworking machines, including the use of saws on construction sites
HO 6	Exposure to radioactive substances
HO 7	Operation of power-driven hoisting apparatus, including the use of fork lifts, cranes and nonautomatic elevators
HO 8 *	Operation of power-driven metal forming, punching and shearing machines (HO 8 does permit the use of a large group of machine tools used on metal, including lathes, turning machines, milling machines, grinding, boring machines and planing machines)
HO 9	Mining, other than coal
HO 10 *	Slaughtering, meat packing, processing, or rendering, including the operation of power-driven meat slicers in retail stores
HO 11	Operation of bakery machines
HO 12 *	Operation of paper products machines, including the operation and loading of scrap paper balers in grocery stores
HO 13	Manufacture of brick, tile and kindred products
HO 14 *	Operation of circular saws, band saws, and guillotine shears
HO 15	Wrecking, demolition, and shipbreaking operations
HO 16 *	Roofing operations
HO 17 *	Excavating operations
HO 18	In, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed
HO 19	Pool or billiard room

The U.S. Department of Labor has declared that the occupations from HO 1 through HO 17 are hazardous for employees under the age of 18 to perform. Hazardous Orders with a \*

notation contain exemptions for 16 and 17 year old apprentices and student learners provided they are employed under the conditions outlined in Child Labor Bulletin 101 which can reviewed at [www.dol.gov/esa/regs/compliance/whd/childlabor101.pdf](http://www.dol.gov/esa/regs/compliance/whd/childlabor101.pdf).

In addition to the 19 Hazardous Occupations listed above, 14 and 15 year olds **are not allowed to work in the following occupations or specific duties:**

- Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or workplaces where goods are manufactured, mined or otherwise processed
- Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines
- Operation of motor vehicles or service as helpers on such vehicles
- Public messenger service
- Occupations in connection with the transportation of persons or property by rail, highway, air, water, pipeline, or other means
- Occupations in connection with warehousing and storage
- Occupations in connection with communications and utilities
- Construction (including demolition and repair)
- Work performed in or about boiler or engine rooms
- Work in connection with the maintenance or repair of the establishment, machine or equipment
- Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes
- Cooking and baking
- Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery type mixers
- Work in freezers and meat coolers and all work in preparation of meats for sale
- Loading and unloading goods to and from trucks, railroad cars or conveyers
- All occupations in warehouses except office and clerical work

### **Proof of Age**

In the state of Kentucky, work permits are not required for the employment of individuals under the age of 18 (minors). Employers are however required to keep on file proof of age for each minor as outlined in KRS 339.450 ([www.lrc.ky.gov/KRS/339-00/450.PDF](http://www.lrc.ky.gov/KRS/339-00/450.PDF)). The employer should obtain a copy of a birth certificate, a driver's license or another official government document stating the date of birth for the minor to satisfy the state's proof of age requirement.

### **Recordkeeping**

KRS 339.400 ([www.lrc.ky.gov/KRS/339-00/400.PDF](http://www.lrc.ky.gov/KRS/339-00/400.PDF)) requires that employers employing minors keep a record of the names, ages, and addresses of each minor, along with the time of the commencing and stopping of work for each day, and the time of the beginning and ending of the daily meal period. The employer is also responsible for posting the child labor laws in a conspicuous place for all minors to view. KRS 337.320 (<http://www.lrc.state.ky.us/KRS/337-00/320.PDF>) requires employers to maintain time and payroll records for all employees for one year from the date of entry.

### **Lunch Breaks**

KRS 339.270 ([www.lrc.ky.gov/KRS/339-00/270.PDF](http://www.lrc.ky.gov/KRS/339-00/270.PDF)) states that employees under the age of 18 are not permitted to work more than five hours continuously without at least a thirty minute uninterrupted lunch break. A lunch break of anything less than thirty minutes does not satisfy the requirement. Minors do not have the opportunity to waive the required lunch break. It is important to reemphasize that it is the employer's responsibility to document the beginning and ending time of the minor's lunch break.

### **Miscellaneous**

Minors who are participating in a work-based learning experience which is determined to be an employment relationship are entitled to minimum wage for the hours worked for the employer pursuant to KRS 337.275 ([www.lrc.ky.gov/KRS/337-00/275.PDF](http://www.lrc.ky.gov/KRS/337-00/275.PDF)). Kentucky's minimum wage was increased to \$5.85 an hour on June 26, 2007 with a built-in incremental change to \$6.55 an hour beginning July 1, 2008 and \$7.25 an hour beginning July 1, 2009. Minors are also entitled to the other wage and hour protections afforded to adult employees such as overtime, rest breaks, timely payment of wages, a statement of deductions, etc.

This chapter is for informational purposes only. Due to statutory and regulatory changes, administrative proceedings, court decisions, and legal opinions, the information contained herein is subject to change. For current information on the child labor and wage and hour laws, please contact the following agencies:

Kentucky Labor Cabinet  
Division of Employment Standards, Apprenticeship and Mediation  
1047 U.S. 127 South, Suite 4  
Frankfort, Kentucky 40601  
502-564-3534

United States Department of Labor  
ESA Wage and Hour Division  
Gene Snyder US Courthouse and Customhouse, Room 31  
601 West Broadway  
Louisville, Kentucky 40202-9570  
502-582-5226

### **Safety and Health Laws**

While implementing work-based learning experiences it is important to remember that the safety and health of the students is of paramount importance. Each party involved must take every step necessary to ensure that students are participating in safe learning environments.

A Kentucky Occupational Safety and Health Program is established by Chapter 338 (<http://www.lrc.state.ky.us/KRS/338-00/CHAPTER.HTM>) of the Kentucky Revised Statutes.

In 1973, the U.S. Department of Labor approved Kentucky's plan for providing job safety and health protection for workers across the state; therefore, in the state of Kentucky, the enforcement authority for all occupational safety and health laws is housed within the Kentucky Labor Cabinet.

Employers are required to provide each employee a place of employment free from recognized hazards that are causing or are likely to cause death, illness, or serious physical harm to any employee. Occupational safety and health standards are in effect to achieve this end result.

Parties interested in finding out specifics about the safety and health standards that are applicable can call:

Division of Education and Training  
Kentucky Occupational Safety and Health Program  
Kentucky Labor Cabinet  
1047 U.S. 127 South, Suite 4  
Frankfort, Kentucky 40601  
(502) 564-3536

### **Workers' Compensation Laws**

Prior to placing a student in a work-based learning experience, it is imperative that the issues related to workers' compensation be reviewed. Chapter 342 of the Kentucky Revised Statutes (<http://www.lrc.state.ky.us/KRS/342-00/CHAPTER.HTM>) requires employers with one or more employees to purchase workers' compensation insurance to cover an employee's income loss that occurs because of a work related injury. It is worth noting that it is the employer's responsibility to acquire and pay for the insurance coverage for each and every employee.

Work-based learning experiences will take a variety of forms. Depending upon the specifics of each instance, a determination can be made as to whether an employer is required to obtain the insurance coverage for a particular student. For example, it is clear that if a student is in a paid employment situation, the insurance requirement is applicable, whereas, if a student is strictly an observer and is not an employee of the establishment, the law does not require workers' compensation coverage for that student.

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Because of the complexity of the issues related to workers' compensation, specific questions need to be directed to:

Office of Workers' Claims  
Kentucky Labor Cabinet  
657 Chamberlin Avenue  
Frankfort, Kentucky 40601  
502-564-5550

### **Work-Based Learning and Insurance**

Liability issues include such areas as insurance, workers' compensation, and safety. It is critical that students, employers, school districts, and staff involved in work-based programs have accidental and liability coverage prior to students' placement at the work sites.

Three general categories of liability issues include the student's transportation to and from the work site, the time spent at the work site, and safety at the work site. Transportation insurance must be provided to cover transportation to and from the work site. If the school is transporting the student by school bus, then school bus coverage applies. The same is true if the employer provides transportation. If a student drives to and from a work site, the student's personal or family insurance is to provide the necessary coverage.

Students may have coverage for accidental death and dismemberment as well as accidental medical expense benefits that will pay when other insurance is not available or does not respond for whatever reason. Students involved in paid work experience with an employer-employee relationship are to be covered under the employer's Workers' Compensation Coverage. The student's coverage would respond in those instances involving non-paid work experience.

Student's participation in a non-paid work-based learning program at work sites away from the school campus will need to be covered under a specific insurance policy that is provided by the school district.

In addition to insurance and workers' compensation, the workplace needs to provide adequate, safe equipment and a safe, healthful workplace in conformity with health and safety standards congruent with federal/state laws. The workplace environment is to provide all other safeguards identified by the Kentucky Labor Cabinet.

Please refer to the Work-Based Learning Liability Checklist in this chapter, pages 1-17 and 1-18.

## **Other Legislation Impacting Work-Based Learning**

Carl D. Perkins Career & Technical Education Act of 2006 (PL 109.270)

### **Sec. 2. PURPOSE.**

The purpose of this Act is to develop more fully the academic and career and technical skills of secondary education students and postsecondary education students who elect to enroll in career and technical education programs by---

- (1) building on the efforts of States and localities to develop challenging academic and technical standards and to assist students in meeting such standards, including preparation for high wage, or high demand occupations in current or emerging professions;
- (2) promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education for participating career and technical education students;
- (3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve career and technical education, including tech prep education;
- (4) conducting and disseminating national research and disseminating information on best practices that improve career and technical education programs, services, and activities;
- (5) providing technical assistance that---
  - a. promotes leadership, initial preparation, and professional development at the state and local levels; and
  - b. improves the quality of career and technical education teachers, faculty, administrators, and counselors;
- (6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries; and
- (7) providing individuals with opportunities throughout their lifetimes to develop, in conjunction with other education and training programs, the knowledge and skills needed to keep the United States competitive.

### **Sec. 3. DEFINITIONS**

**Career and Technical Education.**---The term 'career and technical education' means organized education activities that---

- (A) offer a sequence of courses that---
  - (i) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;
  - (ii) provides technical skill proficiency, an industry-recognized credential, certificate, or an associate degree; and
  - (iii) may include prerequisite courses (other than a remedial course) that meet the requirements of this subparagraph; and
- (B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability

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skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

### Section 121

Each eligible agency desiring assistance from this legislation is required to develop a State Plan and submit to the U.S. Department of Education, Office of Vocational and adult Education

Section 134 stipulates that an eligible recipient desiring financial assistance under this part shall in accordance with requirements established by the eligible agency submit a local plan. Each local plan shall:

- (1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;
- (2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;
- (3) describe how the eligible recipient will---
  - a. offer the appropriate courses of not less than 1 of the career and technical programs of study described in section 122(c)(1)(A);
  - b. improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education programs to ensure learning in career and technical education subject
  - c. provide students with strong experience in, and understanding of, all aspects of an industry;
  - d. ensure that students who participate in such career and technical education programs are taught to the same coherent and rigorous content aligned with challenging academic standards as are taught to all other students; and
  - e. encourage career and technical education students at the secondary level to enroll in rigorous and challenging courses in core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965);
- (4) describe how comprehensive professional development (including initial teacher preparation) for career and technical education, academic, guidance, and administrative personnel will be provided that promotes the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education (including curriculum development);
- (5) describe how parents, students, academic and career and technical education teachers, faculty, administrators, career guidance and academic counselors, representatives of tech prep consortia (if applicable), representatives of the entities participating in activities described in section 117 of the Public Law 105-220 (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this title, including career and technical programs of study;

- (6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;
- (7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;
- (8) describe how the eligible recipient will---
  - a. review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations;
  - b. provide programs that are designed to enable the special populations to meet the local adjusted levels of performance; and
  - c. provide activities to prepare special populations, including single parents and displaced homemakers, for high skill, high wage, or high demand occupations that will lead to self-sufficiency;
- (9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;
- (10) describe how funds will be used to promote preparation for non-traditional fields;
- (11) describe how career guidance and academic counseling will be provided to career and technical education students, including linkages to future education and training opportunities; and
- (12) describe efforts to improve---
  - a. the recruitment and retention of career and technical education teachers, faculty, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and
  - b. the transition to teaching from business and industry.

### **Section 135. Local Uses of Funds**

Eligible recipients are to develop a local plan for the use of funds provided through this legislation. The Act identifies required and permissive use of funds.

Required uses of Funds are:

1. Strengthen the academic and career and technical skills of students participating in CTE programs through the integration of academics with CTE programs.
2. Link CTE at the secondary level and the postsecondary level, including by offering the relevant elements of not less than one program of study described in Section 122 (c)(1)(A).
3. Provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences.
4. Develop, improve or expand the use of technology in career and technical education, which may include
  - a. Training to use technology
  - b. Providing students with the skills needed to enter technology fields
  - c. Encouraging schools to collaborate with technology industries to offer internships and mentoring programs.
5. Provide in-service and pre-service professional development programs to teachers, faculty, administrators and career guidance and academic counselors who are involved in integrated CTE programs on topics including:
  - a. Effective integration of academic and CTE
  - b. Effective practices to improve parental and community involvement

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- c. Effective teaching skills based on research
- d. Effective use of scientifically based research and data to improve instruction  
Professional development should also ensure that teachers and personnel stay current with all aspects of an industry; involve internship programs that provide relevant business experience; and train teachers in the effective use and application of technology.
6. Develop and implement evaluations of the CTE programs carried out with Perkins funds, including an assessment of how the needs of special populations are being met.
7. Initiate, improve, expand and modernize quality CTE programs, including relevant technology.
8. Provide services and activities that are of sufficient size, scope, and quality to be effective.
9. Provide activities to prepare special populations, including single parents and displaced homemakers who are enrolled in CTE programs, for high-skill, high-wage or high-demand occupations that will lead to self-sufficiency.

Having met the nine requirements, local educational agencies have options of using funds for programs and services identified in a permissive category. (Section 153 (c))

Components of the local plan including Work-Based Learning are to:

- Be based on current and/or emerging occupation.
- Show continuous improvement in students academic and technical skills
- Show and provide equitable access for students to participate in career and technical education work-based learning according to section 427 of the General Education Provisions Act (gender, race, color, national origin, disability or age)
- Not discriminated on the basis of race, gender, color, national origin, disability or age.
- Provide opportunities for students attending private, religious or home schools to participate in career and technical programs and activities.
- Identify that funds made available under the Act may be used to pay for the costs of career and technical education services required in an Individualized Education Program developed pursuant to Section 614(d) of the Individuals with Disabilities Education Act or to Section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to career and technical education. [Section 324(c)]

### Equal Access Legislation

Discrimination on the basis of race, color, national origin, sex, and disability is prohibited in CTE programs, activities, and employment. The civil rights statutes and regulations apply in career and education programs. Discrimination is prohibited in admission, recruitment, academic requirements, financial and employment practices; nonacademic services or activities; and health, welfare, and social services. Such legislation includes:

1. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in any program or activity receiving federal financial assistance. The Department of Education issued directions for implementing Title VI. For additional information, contact local school district regarding plans for implementing Title VI per KRS 344.015. <http://www.ed.gov/policy/rights/reg/ocr/index.html>
2. Title VII of the Civil Rights Act of 1964 prohibits the use of an individual's race, color, religion, national origin, or sex as a basis for compensation, terms, condition, or privileges of employment where there are 15 or more employees ---344.040 of the Kentucky Civil Rights <http://www.eeoc.gov/policy/vii.html>

3. The Kentucky Civil Rights Act, KRS Chapter 344 prohibits the use of an individual's race, color, religion, national origin, sex, familial status, age forty (40) and over, or because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as a basis for compensation, terms, condition, or privileges of employment where there are eight or more employees -344.040. Therefore, the Kentucky law is more stringent than the federal law. (amended 1994) <http://kchr.ky.gov/about/kycivilrightsact.htm>
4. Age Discrimination in Employment Act of 1967 protects employees 40 years of age or older. The law prohibits age discrimination in hiring, discharge, pay, promotions and other terms and conditions of employment. <http://www.eeoc.gov/policy/adea.html>
5. Equal Pay act of 1963 protects men and women who perform substantially equal work in the same establishment (sex-biased wage discrimination). <http://www.eeoc.gov/policy/epa.html>
6. Wage Discrimination Because of Sex, KRS 337.420 to 337.433 and KRS 337.990 (14). The employer is prohibited from discriminating between employees of opposite sexes in the same establishment by different wage rates for comparable work on jobs which have comparable requirements. <http://www.lrc.state.ky.us/KRS/337-00/423.PDF>
7. Title IX is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. (1972). <http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>

The Office for Civil Rights issued guidelines for elimination, discrimination, and denial of service in vocational education programs and activities on the basis of race, color, national origin, sex, and disability in eligibility and admission requirements to all programs and activities, Compliance reviews and surveys of enrollments are required for all education. <http://www.ed.gov/about/offices/list/ocr/docs/vocre.html>

### **Americans with Disabilities Act of 1990**

1. Title I, Employment covers all aspects of employment, including the application process and hiring, on-the-job training, advancement wages, benefits and employer-sponsored social activities.
2. Title II, Public Service and Transportation prohibits state and local governments from discriminating against disabled people in their programs and activities. It requires bus and rail transportation to be accessible to disabled passengers. Airline transportation and public school transportation are not covered under Title II. In addition, the Individuals with Disabilities Education Act (IDEA) presents specific requirements for public school transportation of children with disabilities.
3. Title III, Public Accommodations prohibits privately operated accommodations (i.e., inns, hotels, motels, restaurants, bars, motion picture houses, theaters, stadiums, auditoriums, convention centers, lecture halls, bakeries, grocery stores, clothing stores, hardware stores, shopping malls, laundromats, dry cleaners, banks, barber shops, beauty shops, travel services, shoe repair shops, funeral parlors, gas stations, lawyer offices, pharmacies, insurance offices, health care providers, hospitals, terminals, depot or other stations, museums, libraries, galleries, parks, zoos, amusement parks, nurseries, and PRIVATE elementary, secondary, undergraduate or post graduate schools) from denying goods, programs, and services to people based on their disabilities. Among these are private bus lines and hotel vans. Airline transportation is not covered under Title III.
4. Title IV, Telecommunications requires telephone companies to provide continuous voice transmission relay services that allow hearing and speech impaired people to communicate over the telephone. Federal funded television public service messages must be close-captioned for hearing impaired viewers.

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5. Title V, Other Provisions include miscellaneous provisions such as accessibility standards for architects and transportation boards, attorneys' fees, technical assistance and it is specific that currently illegal drug users are not protected under the act.

[http://www.workworld.org/wwwwebhelp/americans\\_with\\_disabilities\\_act\\_ada\\_.htm](http://www.workworld.org/wwwwebhelp/americans_with_disabilities_act_ada_.htm)

### **Rehabilitation Act of 1973 (revised 1998) PL 105-569**

Section 503 of the Rehabilitation Act of 1973 prohibits discrimination and requires employers with federal contracts or subcontracts that exceed \$10,000 to take affirmative action to hire, retain, and promote qualified individuals with disabilities. All covered contractors and subcontractors must also include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.

Section 504 of the Rehabilitation Act of 1973 states that "no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under "any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service." Each Federal agency has Section 504 regulations that apply to its own programs as well as any entities that receive Federal Aid.

<http://www.ed.gov/policy/speced/leg/rehabact.doc>

### **Technical Assistance**

The following persons in the Work Force Development Cabinet and the Department of Education have been designated to provide technical assistance regarding the various federal and state laws for civil rights.

#### **Equal Educational Opportunity Coordinators (Updated 2-15-08)**

##### **Education Cabinet**

Priscilla McGowan (502) 564-3548  
Division of Human Resources  
2<sup>nd</sup> Floor Capital Plaza Tower  
Frankfort, KY 40601

##### **Department of Education (KDE)**

Vanessa Corrente (502) 564-3716  
Room 1615, Capital Plaza Tower  
Frankfort, KY 40601

##### **Office of Career and Technical Education**

Bill Denton (502) 564-4286  
Room 2007, Capital Plaza Tower  
Frankfort, KY 40601

##### **Office of Employment and Training**

Carla Combs (502) 564-5360  
3<sup>rd</sup> Floor, Executive Bldg.  
209 St. Clair Street  
Frankfort, KY 40601

**Kentucky Adult Education**

Patricia Sawyer (502) 564-1555  
Room 202, Capital Plaza Tower  
Frankfort, KY 40601

**Office of Vocational Rehabilitation**

Joyce Lee (502) 564-4440  
209 St. Clair Street  
Frankfort, KY 40601

**Office for the Blind**

Trina Roberts (502) 564-4754  
209 St. Clair Street  
Frankfort, KY 40601

**Commission of Deaf and Hard of Hearing**

Rachael Morgan (502) 573-2604  
632 Versailles Road  
Frankfort, KY 40601

**Americans with Disability Act**

Norb Ryan (502) 564-3850  
State ADA Coordinator  
Room 215 Capital Plaza Tower  
Frankfort, KY 40601

**Section 504 Rehabilitation Act**

Angie Fisher (502) 564-4286  
Room 2015, Capital Plaza Tower  
Frankfort, KY 40601

Sammie Lambert (502) 564-4970  
Room 826, Capital Plaza Tower  
Frankfort, KY 40601

Gwen Buffington (502) 564-4970  
Room 815, Capital Plaza Tower  
Frankfort, KY 40601

### **Individuals with Disabilities Education Act (IDEA) PL 108-446**

IDEA is a federal law that outlines rights for students with disabilities who require special education and related services as part of their educational program. IDEA first went into effect in 1975 as the Education of All Handicapped Children Act (PL 94-142). Prior to 1975, millions of students with disabilities were excluded from public school. The purpose of the 1975 law was to guarantee students with disabilities access to a Free Appropriate Public Education (FAPE) by ensuring that they were properly evaluated and placed in special education, in a setting appropriate to their needs.

Education for students with disabilities has dramatically changed over the past 30 years. The emphasis of the law has also changed, from one of ensuring school access to an emphasis on improving educational outcomes. The 2004 IDEA Reauthorization requires that States improve student outcomes in a variety of areas, such as proficiency on statewide assessments, graduation and dropout rates, and parent satisfaction. However, no outcome is ultimately more important than whether students with disabilities are achieving post-secondary success after graduation from high school.

Schools and parents begin considering post-secondary issues through a process called secondary transition. In Kentucky, secondary transition begins for students with disabilities in the eighth grade and no later than at age fourteen (and younger if appropriate). The student's educational plan, known as the Individualized Education Program (IEP), contains a statement of the student's transition service needs that is similar to a course of study. By looking at the student's needs in middle school, the process of putting educational services in place begins early enough to assist the student in making a successful transition to adult life.

By age sixteen, the student must have transition assessments resulting in transition goals on the IEP. The IEP transition goals must be measurable and related to employment, training, education and, if appropriate, independent living skills. The IEP must also contain transition services including specialized instruction or related services in order for the student to reach the IEP goals. Outside agencies have a critical role in assisting schools in providing appropriate transition services when the student reaches the age of sixteen.

IDEA also requires that students be invited to meetings in which the statement of transition services is developed. In Kentucky, students must also be invited to meetings in which the statement of transition service needs is addressed on the IEP when the student is in the eighth grade or turns fourteen. The gradual inclusion of students in the IEP decision-making process leads the student to be prepared to make his or her own decisions when reaching the age of eighteen.

More information on Individuals with Disabilities Education Act (IDEA) can be found at the federal statute (<http://idea.ed.gov/download/statute.html>) (20 USC §1400 *et al*). The federal regulations are located at 34 CFR 300 *et al* (<http://idea.ed.gov/download/finalregulations.pdf>) with the corresponding state regulations at 707 KAR Chapter 1 (<http://www.lrc.ky.gov/kar/TITLE707.HTM>).

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## WORK-BASED LEARNING LIABILITY CHECKLIST

This information has been prepared to provide guidance to individuals responsible for implementing work-based learning. Accident and liability insurance coverage are essential for the protection of students, staff, and employers. However, there are various options available to provide such coverage. It is the responsibility of school district staff and participating employers to ensure that adequate insurance is provided.

### **I. Students participating in work-based learning**

Participation of a student in work-based learning activities is contingent upon coverage of accident insurance. This coverage may be provided through school insurance purchased by the student or personal family insurance. Students being covered by personal family insurance must provide a certificate of insurance to school staff to certify in writing they have personal/family insurance and that the insurance will be active for the entire period of the student participation in the work-based learning activity.

Administrative Regulation 780 KAR 2:110 authorizes “the Commissioner for the Department of Technical Education to provide medical and accident insurance for students enrolled in the state secondary area technology centers.” This policy is to be a full access policy and is to serve as a secondary provider of insurance. Kentucky TECH means the system of state-operated secondary technical education programs <http://www.lrc.state.ky.us/kar/780/002/110.htm>

### **II. Checklist**

- \_\_\_\_\_ 1. Students participating in work-based learning activities such as cooperative education and internship must be covered by accident insurance. This coverage may be provided through school insurance purchased by student or personal family insurance. Students being covered by personal family insurance must provide a certificate of insurance to school staff to certify that they have personal/family coverage.
- \_\_\_\_\_ 2. All students participating in paid work-based learning are to be covered by Workers’ Compensation Insurance (KRS 342.620) while on the job.
- \_\_\_\_\_ 3. Students participating in non-paid work-based learning are not covered by Workers’ Compensation. These students must be covered by parental health insurance, student accident insurance, or group coverage by the school per paragraph 1.
- \_\_\_\_\_ 4. Work sites must provide liability insurance and certify to the schools that they have such coverage.

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- \_\_\_\_\_ 5. Students driving to a work-based learning site must provide proof of valid driver's license and auto liability insurance.
- \_\_\_\_\_ 6. Students being transported to the work site by a vehicle owned by the school board are to be covered by the provisions of the insurance coverage of the local school board.
- \_\_\_\_\_ 7. In addition to insurance and Workers' Compensation, the workplace needs to provide adequate and safe equipment and a safe, healthy workplace in conformity with health and safety standards congruent with federal/state laws.
- \_\_\_\_\_ 8. Training Plans/Agreements are to be reviewed for completeness, signed by all parties, and a copy kept on file at the school.
- \_\_\_\_\_ 9. It is recommended that school/district policies determine the need for a criminal background check for the individual who will serve as a work site supervisor/mentor for students participating in work-based learning.