

**Manual
for**

**Community Based Vocational Instruction
(CBVI)**

09/10/2012

COMMUNITY BASED VOCATIONAL TRAINING

Purpose

Community Based Vocational Training is an important component of secondary programming for students with disabilities. It helps students to determine career preference, build career-related skills, develop a resume, and prepare for transition to the adult world. It is designed to teach student's job and job-related skills in business environments where the skill is normally performed. While Community Based Vocational Training is considered a service provided by the school (as dictated by the IEP), it is subject to the Fair Labor Standards Act set forth by the U.S. Department of Labor. As such, it is important for school personnel to have knowledge of the regulation governing the Community Based Vocational Training program and to develop and implement strategies that assure compliance.

For the purpose

For the purpose of clarification, in the Brownsville Independent School District, the Community Based Vocational Training will be referred as "Community Based Vocational Instruction (CBVI)".

Specific goals of the Community Based Vocational Instruction program Include:

1. Transitioning students by providing them with a variety of on-site vocational training.
2. Teaching social skills which are prerequisites to potential employment and community adjustment
3. Increasing student's self-confidence
4. Teaching concepts related to employment upon graduation.

Consideration Prior to Placement

1. First, consideration should be; whether or not the student can participate in a career and technology education career (CATE) preparation program or career adjustment program? It is important to consider the continuum of services based on the "least restrictive environment".
2. A student's Functional Vocational Assessment including the formal assessment (MECA) should be completed and reviewed by the ARD & CBVI teacher before placement of the student in the CBVI program.
3. Is the student prepared with necessary skills to function and be successful in the Community Based Vocational Instruction program? If not, how can the student be prepared (e.g., on-campus training site, special education vocational program, etc.)?

Eligibility Criteria

1. Participants will be identified using the formal assessment software (MECA) and that they have with severe physical and/or mental disabilities for whom competitive employment at or above the minimum wage level is not immediately obtainable and who, because of their disability, will need intensive long-term support in order to achieve their vocational objectives. These experiences are not intended to replace vocational education, work study, or other school vocational programs.
2. Student must be at least 16 years of age.
3. Student must be in need of the constant supervision by the school personnel at the training site.
4. Student's individual education plan (IEP) must clearly be defined to both the parent and student before placement in the CBVI program during an ARD in which a CBVI teacher is present and agrees that CBVI is an appropriate placement. In addition the student's placement should be in aligned with the transition of the student as stated in the student's transition documents' in the IEP.

Program Guidelines

The activities of the students in the Community Based Vocational Instruction program at the training site must not result in an immediate advantage to the business. The training site management must understand that the CBVI program partnership is implemented with the following understandings:

1. There has been no displacement of employees.
2. Students are under the continued and direct supervision by either representative of school or by employees of the business.
3. Student placement is made according to the requirements of the student's IEP and not to meet the labor needs of the business.
4. The periods of time spent by the student on any one site and/or in any clearly distinguishable skill classification are specifically limited by the IEP; not to exceed 120 hours.

While the existence of an training site relationship will not be determined exclusively on the basis of the number of hours, as a general rule, each component will not exceed the following limitation during any one school year:

Vocational Exploration	5 hours per training site experienced
Vocational Assessment	90 hours per training site experienced
Vocational Training	120 hours per training experienced

Vocational Exploration is designed to provide brief exposure to a particular occupation by allowing students to observe an occupation, talk with the employees, and engage in some skill related to the occupation.

Vocational Assessment including the MECA software system allows students to sample a career in order to determine appropriate instructional objectives for the IEP. Individuals who are undergoing vocational assessment must be clearly supervised by school personnel or an employee at the training site.

Vocational Training is designed to teach students training and related skills in business environments where the skills are normally performed. Formal procedures for conducting the training and evaluating student's skills are specified. Students are closely supervised by school personnel or an employee at the training site at all times throughout training.

Students are not entitled to secure placement at the business at the conclusion of their IEP. However, business and the school system may at any time consider a participant to be a future employee and may structure the program (develop an IEP for a work study program through a VAC or CATE) so that the student is compensated in accordance with the requirement of the Fair Labor Standards Act. This change in placement must be approved through an ARD with a VAC/or CATE representative present and agreeing to the placement.

Distinguishable Occupation or Job Classification

A student cannot be considered a trainee at any particular CBVI placement training site without a clearly distinguishable occupation or job classification. The term "occupation" and "job classification" refer to the title of the job and its associated responsibilities. Examples of job occupations include custodian, food preparer, cashier, and grocery bagger. According to the labor laws, a student may not participate in any job occupation more than once during each calendar year. For example, if a student receives vocational training on bagging groceries at a different grocery store during the same calendar year.

For students with severe disabilities who do not receive training on an entire job occupation, it will be necessary to create a job occupation title which accurately reflects the student is learning. For example, the jobs of silverware roller, greeter, and table buzzer are all tasks assigned to a waitress. If a student is placed at a site to learn silverware rolling, he or she could still receive instructions on the jobs related to waitressing (e.g., bussing table, greeting customers) at another training site during the calendar year without it being considered the same occupation.

Supervision of Students

The general supervision of students participating in Community Based Vocational Instruction experiences is the responsibility of the school. Employees at the training site may along with BISD staff supervise students; however, the school still retains primary responsibility for insuring that students are appropriately monitored. Direct supervision must be provided through:

1. one to one instruction,
2. small group instruction,
3. close proximity

Students must be supervised at all times. Initially, the school personnel remain on site full time with the student.

Triple “T” Program

The Triple “T” Program is a component of the CBVI program for student who is at least 18 years old, and who can benefit from an intensive training program within a community. Typically these students are located at an off-campus facility within the community away from their zoned school setting. Placement in the Triple T is determined by ARD in which a Triple T representative is present and grants approval.

Community Based Vocational Instruction I, II, & III

1. Provide to 3rd year or 4th year eligible high school students, at least 16 years of age.
2. 36-weeks three block period local credit course (3 credits)
3. Requires ARD approval.

Triple “T” (Level I, II, III, & IV)

1. Provide to eligible high school students, 18-21 years of age.
2. 36-weeks four block period local credit course (4 credits)
3. Requires the prerequisite of at least one course of CBVI.
4. Requires ARD and Triple T staff approval before placement.

Community Based Vocational Instruction (I, II, III) Course Objectives

Each student’s IEP should reflect the selected course objectives determined through assessment like the MECA or other formal assessments. Not all students will master all the Objectives.

1. Concepts and skills related to successful skill training opportunities
The student will be able to:
 - A. Follow directions
 - B. Work with others
 - C. Work at satisfactory rate
 - D. Accept supervision
 - E. Practice punctuality and dependability
 - F. Meet the demand for quality work
 - G. Demonstrate occupational safety
 - H. Observe rules and standards of the work place.

- I. Dress appropriately
 - J. Exhibit proper grooming and hygiene
 - K. Keep correct timesheets
2. Concepts and skills related with physical-manual skills
The student will be able to:
- A. Demonstrate balance and coordination
 - B. Demonstrate manual dexterity
 - C. Demonstrate stamina and endurance
 - D. Demonstrate sensory discrimination
3. Concepts and skills related with budgeting and money management with direct relationship to their vocational goals and objectives as listed in the IEP.
The student will be able to:
- A. Identify money
 - B. Identify personal needs
 - C. Make wise job-related expenditures
 - D. Keep basic financial records and learn the concept of saving money.
4. Concepts and skills associated with recreation and leisure
The student will be able to:
- A. Participate in group activities not to exceed 6 students at any one location.
 - B. Know activities and available community resources
 - C. Understand recreational values
 - D. Use recreational facilities in the community
 - E. Plan and choose activities not to exceed 6 students at any one activity.

Triple T (Level I, II, III, IV) Course Objectives

Each student's IEP should reflect the selected course objectives. Not all students will master all objectives.

1. Concepts and skills related to successful employment through training opportunities.
The student will be able to:
- A. Follow directions
 - B. Work with others
 - C. Work at a satisfactory rate
 - D. Accept supervision
 - E. Practice punctuality and dependability
 - F. Meet the demand for quality work
 - G. Demonstrate occupational safety
 - H. Observe rules and standards of the work place.
 - I. Dress appropriately
 - J. Exhibit proper grooming and hygiene
 - K. Keep correct timesheets

2. Concepts and skills related with physical-manual skills

The student will be able to:

- A. Demonstrate balance and coordination
- B. Demonstrate manual dexterity
- C. Demonstrate stamina and endurance
- D. Demonstrate sensory discrimination

3. Concepts and skills related with money management

The student will be able to:

- A. Identify money
- B. Identify personal needs
- C. Make wise expenditures
- D. Learn the concept of how to plan for saving money.
- E. Keep basic financial records

4. Concepts and skills related to Mobility

The student will be able to:

- A. Demonstrate knowledge of traffic rules and safety practices
- B. Demonstrate knowledge & use of various means of transportation

5. Concepts and skills associated with recreation and leisure

The student will be able to:

- A. Participate in group activities not to exceed 6 students per activity.
- B. Know activities and available community resources
- C. Understand recreational values
- D. Use recreational facilities in the community
- E. Plan and choose activities not to exceed 6 students per activity.

6. Concepts and skills associated with civic activities

The student will be able to:

- A. Understand citizenship rights and responsibilities
- B. Understand registration and voting procedures

7. Concepts and skills associated in selecting and planning occupational choices

The student will be able to:

- A. Identify occupational opportunities available locally
- B. Identify requirements of appropriate and available jobs
- C. Make realistic occupational choices

8. Concepts and skills associated to seeking and securing employment

The Student will be able to:

- A. Search for a job
- B. Apply for a job
- C. Interview for a job

Community Based Vocational Instruction Teacher

The CBVI teacher is the person who provides the direct support services needed, to a student, at a training site, to enhance the success of the student within a training setting. The CBVI teacher is skills trainer, advocate, training coordinator and placement/training specialist. The CBVI teacher may also have the assistance of a CBVI teacher assistant/para-educator in performing her/his assigned duties.

CBVI Teacher Responsibilities

1. Attend the Admission, Review and Dismissal (ARD) Committee meetings for student being placed or continuing in a CBVI program and take responsibility for ARD folders assigned to him/her.
2. Analyze the training site to be performed by a student and then implement systematic instruction and data collection procedures at the training site to teach the required related skills to the student.
3. Train students in proper attitude, habits, behaviors and skills necessary for the student to perform successfully at the training site.
4. Teach career-related skills to the student.
5. Arrange and supervise transportation to and from training site.
6. Involve parents in the student's vocational training. This can include explaining the program to the parents, gaining their permission, and describing their responsibilities to them.
7. Make periodic phone calls to parents in regard to student's success at the training site.
8. Record attendance, grades, credits, student's progress, site performance evaluations, and other necessary school data pertinent to the student's file.
9. Maintain pertinent student training information.
10. Establish a rapport with the training site supervisor and site staff. Explain the student's disability, background, and behavioral characteristics to the site staff.
11. Explain training techniques and involve the supervisor and site staff in the training.

12. Establish procedures and maintain records of incentives provided to the students.
13. Coordinate student's school activities related to the vocational training program.
14. Carry out public relations activities necessary for the support and cooperation of local community members, potential employers, fellow school trainees, and administrators.
15. Discuss student's future training needs and possibilities with adult service providers.
16. Provide staff development to school personnel on vocational training related preparation skills for students and the guidelines of the CBVI program.
17. Understand and be knowledgeable of the Labor Laws affecting community based instruction training. (See Labor Laws in last tab)

CBVI Documentation

The CBVI Teacher will keep a student folder for each student in the program. The content of the student folder will include documentation of the student's training activities which will be presented to the ARD committee upon the review of the student's IEP. The folder will include the following:

- * Community Based Vocational Instruction Student Information
- * Community Based Vocational Instruction Training Site Occupation
- * Community Based Vocational Instruction Training Site Agreement
- * Community Based Vocational Instruction Weekly Training Student Evaluation
- * Community Based Vocational Instruction Student Skills Evaluation
- * Community Based Vocational Instruction Incentive Distribution Form

CBVI Weekly Training Student Evaluation

The Community Based Vocational Instruction Weekly Training Student Evaluation provides information on student's training site performance and must be completed by the CBVI teacher every week for each student enrolled in the CBVI program. The report provides useful information in reporting student progress to parents, in determining student course grade, and serves as documentation for the ARD committee and in meeting program guidelines. The original report is to be file in the CBVI student folder and a copy is to be provided to the campus department administrator and the Special Services Cluster Supervisor at the end of every 6-weeks of the program.

CBVI Student Skills Evaluation

The Community Based Vocational Instruction Student Skills Evaluation is completed by CBVI teacher to summarize the student's skills at the end of each vocational placement. The evaluation documents student growth in future job-related skills and identifies the ideal future job characteristics that will promote success for the student in future job settings. The original report is to be file in the CBVI student folder and a copy is to be provided to the campus department administrator.

CBVI Incentive Distribution Form

All monetary incentives will be distributed to the student according to their instructional minutes at the training site, and not retained by the teacher or the campus for any reason. Campus bookkeeping personnel will be directly involved in the incentive distribution each six weeks of the school year. Students and parents will sign the Incentive Distribution Form and acknowledge the understanding of the intent of the distributed incentives.

CBVI Six-Weeks Student Enrollment Report

The Community Based Vocational Instruction Six-Weeks Student Enrollment Report provides information on the enrollment of the students in the Community Based Vocational Instruction program. The information includes: student's name, age, grade, training site, training occupation, starting date of training, and the type of supervision. A copy of the Six-Weeks Student Enrollment Report is to be provided to the campus department administrator and to the Special Services Cluster Supervisor three weeks after the beginning of each six-weeks marking period.

Vocational Training

Assessing the existing competencies a student possesses prior to community based vocational training is essential to good teaching practice. Therefore, it is important that a functional vocational assessment be administered and be the basis for placement of the student in a community based vocational training program. Determining the training site should be determined based on the skill development opportunities that the site presents to the student. Each training site needs to be analyzed by the CBVI teacher based on the student's needs and preference. After selecting the appropriate training site for the student, the CBVI teacher implements a systematic method of instruction and data collection procedures to teach the required related skills to the training site.

Vocational training is provided to the student on campus (with the exception of the Triple T students) at a specific training site, Friday's are to be utilized by the CBVI teacher to teach career related skills to the students (such as money management, consumer skills, mobility, etc.)

CBVI Grading System

Community Based Vocational Instruction course grade is based on student's performance and participation and achievements at their assigned training site.

- (90-100) The student displays proper habits and attitudes that are considered to be exceptional. The student also participates and achieves great success in career related activities.
- (80-89) The student is considered to be demonstrating average skills readiness at his/her training site. The student also participates and achieves great success in training site activities.
- (70-79) The student demonstrates fair performance skills at his/her training site, but is inconsistent with skills, habits, and attitudes taught. Evaluation reports reveal many areas in need of improvement.

Incentives

Students earn incentives for the Vocational Training experiences. The incentives are not to be considered as wages received by the student for performing work activities. Rather, they serve as an instructional tool to help the student understand the value of employment, the need of maintaining employment, and money management.

The incentives are provided to the student in the form of a check. Procedures for providing the incentives to the student are the responsibility of the CBVI teacher in partnership with the campus bookkeeper. The CBVI teacher will develop a procedure (including attendance sheets, incentives instructional minutes timesheets, verification form) based on the 25th of the month. The documentation of the earned incentives will be kept by the CBVI and an incentive verification form will be submitted to the campus bookkeeper. The students will receive the incentives check based on the procedures established by the individual campus. The student receives an incentive of \$1.25 per hour for performing taught training site activities at a vocational training site. The incentives are provided by the Brownsville Independent School District, not the vocational training site business.

Skills related to identification of personal needs, purchasing of items, banking, money management and recreation/leisure are an important component of the CBVI program. The incentives earned by the student will be used as he/she determines to purchase items for personal needs for training sites through the learned skills of banking and money management.

Distribution of the incentive funds will be logged in the form signed by both parent and student acknowledging understanding of the purpose behind the distributed incentives.

Critical Elements for CBVI

1. Before consideration for placement of a special education student in a CBVI program, the ARD committee must consider placement in a District CATE regular education program and document this in the ARD documents under the section title deliberations.

2. Before a special education student is considered for placement in a CBVI program, they must be at least 16 years old.

3. CBVI teacher must be a required member of each ARD prior to consideration for placement in the CBVI program.
4. The CBVI teacher must thoroughly explain the components of the CBVI program to both the student and parent(s) and obtain parental consent on the required documents.
5. The IEP must reflect appropriate measureable program goals and objectives that meet the state standards based on information obtained from formal (MECA) and informal sources.
6. Participants in this training program are not employees nor will they be paid as such, or replace any existing employee or fill any posted vacancy at a training site.
7. Campus principals are required to assure adequate supervision at all times at each training site by assigning the appropriate number of trained staff needed to fulfill each student's goals and objectives included in their IEP. (This is a lifeskills program and staff should be utilized as needed.)
8. Students are to be supervised at all times by trained BISD staff not to exceed a 6-1 ratio. Some students may require greater supervision.
9. Teacher should conduct a formal survey with each student and a separate survey with the parent or guardian. Resources: MECA , or other parent surveys.

Forms

BROWNSVILLE INDEPENDENT SCHOOL DISTRICT COMMUNITY BASED VOCATIONAL INSTRUCTION

STUDENT INFORMATION

Name _____ Student ID # _____

School/Campus _____ Grade _____

Age _____ Sex _____ Height _____ Weight _____

Address _____

Home Phone _____ Cell# _____

Name of Father _____ Phone # _____ Cell# _____

Address _____

Place of Employment _____ Work Phone # _____

Name of Mother _____ Phone # _____ Cell# _____

Address _____

Place of Employment _____ Work Phone # _____

Family Doctor _____ Phone # _____

**BROWNSVILLE INDEPENDENT SCHOOL DISTRICT
COMMUNITY BASED VOCATIONAL INSTRUCTION
TRAINING SITE OCCUPATION**

Name of Business: _____ Phone #: _____

BusinessAddress: _____

Name of Student: _____ Student ID # _____ Age: _____

Student Assigned Occupation: _____

Duties of Occupation:

	Beginning	Ending
1		
2		
3		
4		
5		

Name of Immediate Supervisor: _____ Phone # _____

Starting Date: _____ Date of Termination: _____

Reason for Termination: _____

Comments: _____

CBVI Teacher (print)

Signature

Date

Student (print)

Signature

Date

Parent or Guardian (Print)

Signature

Date

BROWNSVILLE INDEPENDENT SCHOOL DISTRICT COMMUNITY BASED VOCATIONAL INSTRUCTION

TRAINING SITE AGREEMENT

Purpose of Program: The purpose of the Community Based Vocational Instruction (CBVI) Program is to provide students with real-life; job related learning experience in the natural environment where such skills are normally performed. Community Based Vocational Instruction is an extension of the classroom and the instructional environment for the student participating in the vocational training.

Student Trainee: The student trainee is an eligible vocational training participant in accordance with the guideline of the Community Based Vocational Instructional Program.

Supervision of Student Trainee: The general supervision of student trainee participating in the vocational training is the responsibility of the school. Employees at the training site may also supervise the student trainee; however, the school still retains primary responsibility for insuring that students are appropriately monitored. Initially, the school personnel remains on site full time with the student, but as tasks are mastered by the student, the school personnel gradually begins to fade their presence.

Training Site: The student trainee occupation and training site location will be agreed by both business management and the CBVI teacher.

Remuneration: The student trainee experience in the vocational training is an extension of the classroom; they are not employees of the business. No remuneration is requested. The students and parents have been informed of the vocational training guidelines and are aware of the training nature of the activity.

Employment: The business is under no obligation to hire any student trainee participating in the vocational training program.

Agreed upon by:

Business Representative	CBVI Teacher
Name of Business	School
Address	Address
Telephone	Telephone

**BROWNSVILLE INDEPENDENT SCHOOL DISTRICT
COMMUNITY BASED VOCATIONAL INSTRUCTION**

WEEKLY TRAINING STUDENT EVALUATION

Student Name: _____ **Student ID #** _____ **Training Site:** _____

_____ **Occupation:** _____

Competency: Occupational Preparation

Rating Key: 1 2 3 4 5

.....

Excellent

Unsatisfactory

Satisfactory

Sub-Competencies	Week	Wk #1	Wk #2	Wk #3	Wk #4	Wk #5	Wk #6
	Date:						
Follows Directions							
Works with other cooperatively							
Works at a satisfactory rate							
Accepts supervision/responds appropriately to suggestions							
Completes tasks assigned/request new assignments							
Practices dependability/continue working without immediate supervision							
Demonstrates occupational safety							
Seeks assistance when needed							
Dresses appropriately							
Observes rules and standards of the work place							

CBVI Teacher: _____ **School:** _____ **Date** _____

BROWNSVILLE INDEPENDENT SCHOOL DISTRICT COMMUNITY BASED VOCATIONAL INSTRUCTION

Incentive Distribution Form

Students acquire incentives reflective of the instructional minutes documented at the skill training site. The purpose and goal behind the distribution of incentives is to acknowledge the students skill development and to provide support to the acquisition of related items necessary for successful performance. These items may include items such as: hair nets, tools, uniforms, gloves, etc. or other items associated with the skill training site.

Please sign below the acknowledgement of the understanding.

Student Name: _____ ID # _____

Parent Signature: _____ Date _____

	Six Weeks Distribution	Date	Number of Instructional Minutes Accumulated	AMOUNT OF INCENTIVE	STUDENT SIGNATURE
1					
2					
3					
4					
5					
6					

CBVI TEACHER: _____ SCHOOL: _____ DATE: _____

**BROWNSVILLE INDEPENDENT SCHOOL DISTRICT
COMMUNITY BASED VOCATIONAL INSTRUCTION**

INCENTIVE VERIFICATION

HIGH SCHOOL: _____ **DATE:** _____

TRAINING PERIOD: _____ **THRU:** _____

	STUDENT NAME	STUDENT ID #	Number of TRAININGS	AMOUNT OF INCENTIVE	STUDENT SIGNATURE
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					

CBVI TEACHER: _____ **SCHOOL:** _____ **DATE:** _____

COMMUNITY BASED VOCATIONAL INSTRUCTION

SIX-WEEKS STUDENT ENROLLMENT REPORT

Community Based Vocational Instructor: _____

Reporting Period: _____

School: _____

Date: _____

	STUDENT	STUDENT ID #	A G E	G R D	TRAINING SITE	TRAINING OCCUPATION	STARTING DATE OF TRAINING	TYPE OF SUPERVISION
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								

TYPE OF SUPERVISION

1. One-to-one
2. Small group
3. Close proximity
4. Frequent, regular intervals of monitoring

**BROWNSVILLE INDEPENDENT SCHOOL DISTRICT
COMMUNITY BASED VOCATIONAL INSTRUCTION**

STUDENT SKILLS EVALUATION

Name of Student: _____ ID # _____ Date: _____

School: _____ Training Site: _____ Occupation: _____

Evaluator: _____ Training Period: _____

This evaluation is to be completed at the end of each occupation training placement for students participating in the Community Based Vocational Instruction program.

1. **APPEARANCE:**
Appearance of Clothing: Unkempt _____ Neat _____
Hygiene: Poor _____ Good _____

2. **COMMUNICATION:**
Method of Communication: Non-verbal _____ Verbal _____

3. **SOCIAL INTERACTION:**
Interacted with Co-workers
Yes _____ No _____
Yes _____ No _____

4. **ENDURANCE:**
Period of time able to work
Without a break _____ (time)

5. **ATTENTION TO TASK/PERSEVERANCE**
Required prompts to complete task assigned
Yes _____ No _____
If prompts were needed.
How often? Sometimes _____ Often _____ Most of the Time _____
Supervision need to

Complete task

Never ____ Sometimes ____ Often ____ Always ____

6. **INDEPENDENT WORK RATE**

Work rate compared
To Co-workers

Slow _____ Steady _____ Fast _____

7. **SEQUENCING OF DUTIES**

Number of j duties
perform at this training site

_____ (Number)

Number of task able to
perform in sequence

_____ (Number)



8. **INITIATION/MOTIVATION**

Motivation

Avoid next task _____
Waited for direction _____
Sometime volunteered _____
Always seek work _____

9. **ORIENTATION**

Learn to independently
Orient

One room _____ Several rooms _____
Whole building _____ Whole complex _____

10. **PHYSICAL MOBILITY**

Able to demonstrate

Climbing stairs _____
Pushing a cart _____
Getting supplies while on a step ladder _____
Loading and unloading boxes _____
Other (indicate) _____

11. **ADOPTING TO CHANGE**

Able to adapt to change

Yes _____ No _____

12. **STRENGTH, LIFTING AND CARRYING**

Maximum amount of weight
able to lift at this training site?

_____ (lb.,oz.)

Able to carry items at the
training site.

Never _____
Sometimes _____
Often _____
Most of the time _____
Always _____

Distance able to carry items
at the training site.

_____ (ft., yd.).

Signature of Evaluator

Date

PARENT ASSESSMENT FOR COMMUNITY BASED VOCATIONAL INSTRUCTION

School Year _____ - _____

Student's Name _____ DOB _____ Age _____

Teacher's Name _____ School _____

Dear _____
Name of Parent/Guardian

The purpose of this assessment is to give you the opportunity to provide your valuable insight and observations of the skills and behaviors your son/daughter exhibits during family functions, This information will better enable your son's/daughter's teacher to work with you in formulating an implementing a Community Based Instruction program as part of his/her IEP. The goals of this program are to foster skill development and independence in the areas of functional life skills, recreation/leisure skills, and vocational skills through their practice and application in community settings.

Please answer the questions as completely as possible and return this form to the above named teacher _____.

Date

1. What are your son's/daughter's favorite games of activities? _____

2. In what social/recreational activities does your whole family participate together either at home or in the community? _____

3. What are your son's/daughter's favorite social/recreational activities? _____

Page 1 of 4

4. What does your son/daughter like to do when he/she spends time alone, that is, while not interacting with other members of the family? _____

5. Is your son/daughter able to communicate his/her wants and needs? _____

6. Is your son/daughter able to communicate his/her feelings? _____

7. Describe your son's/daughter's usual personality (Examples: happy and cooperative, Outgoing and friendly, quiet and shy, angry and uncooperative):

8. Describe your son's/daughter's behavior in community settings: _____

9. What household chores or responsibilities does your son/daughter have? _____

Page 2 of 4

10. Does your child help prepare meals or do laundry? If so, describe what he/she does:

11. What is your son's/daughter's attitude toward doing chores? _____

12. What household chores would you like to see your son/daughter do? _____

13. Describe your son's/daughter's experiences in handling money and/or purchases in the community? _____

14. What vacation(s) seems to interest your son/daughter? _____

15. What do you feel would be a realistic career goal for your son/daughter? _____

Page 3 of 4

16. What new skills do you think will help your son/daughter live as independently as possible as an adult? _____

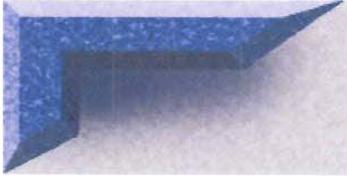
17. What new skills do you think will help your son/daughter gain employment as an adult? _____

18. Do you have any questions or concerns about the Community Based Instruction Program? _____

19. Do you have any suggestions that may help your son/daughter gain maximum benefits from learning in community settings?

Department
Of

Labor Laws



Texas Association of Vocational Adjustment Coordinators

Labor Laws

- [Home](#)
- [Calendar of Events](#)
- [What is TAVAC](#)
- [What is a VAC](#)
- [TAVAC Regional News](#)
- [2012 TAVAC Conference](#)
- [2011 Conference Information](#)
- [TAVAC Scholarship](#)
- [TAVAC Recognition](#)
- [DARS News](#)
- [Brochures](#)
- [Life Members](#)
- [Newsletter](#)
- [Labor Laws](#)
- [Join TAVAC](#)
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- [Links](#)

Labor Laws

Labor Laws for Employed Students

Since the Vocational Adjustment Coordinator's main focus is assisting students with finding and maintaining employment as part of their educational program, it is important that the VAC is knowledgeable of the Labor Laws affecting the VAC student.

All states have child labor laws and when both state and federal child labor laws apply, the law setting the more stringent standards must be observed.

Federal law does not require age certificates or work permits. Employers may protect themselves from unintentional violations of the child labor laws by keeping on file an age certificate or work permit for each minor employed. Certificates and permits issued under most state laws are acceptable for this purpose.

The Department of Labor administers and enforces the Fair Labor Standards Act (FLSA) through the Wage and Hour Division of the Employment Standards Administration. The FLSA requires that most employees in the United States be paid at least a minimum wage and overtime pay at time and one-half the regular rate of pay after 40 hours in a workweek. In addition, the law includes child labor and record keeping provisions. In August 1996, the Fair Labor Standards Act was amended to provide a two-step increase in the minimum wage and a sub minimum rate for youth during their first 90 days of employment. The amendments also change certain provisions of the FLSA with respect to the tip credit that can be claimed by employers of "tipped employees"; and home-to-work travel time in employer-provided vehicles. The amendments are summarized below.

MINIMUM WAGE

The FLSA minimum wage increased to \$4.75 an hour on October 1, 1996, and increased to \$5.15 an hour on September 1, 1997. The FLSA was again amended to increase the federal minimum wage in three steps: to \$5.85 per hour effective July 24, 2007; to \$6.55 per hour effective July 24, 2008 and to \$7.25 per hour effective July 24, 2009.

YOUTH SUB MINIMUM WAGE

A sub minimum wage \$4.25 an hour is established for employees under 20 years of age during their first 90 consecutive calendar days of employment with an employer. Employers are prohibited from displacing employees in order to hire youth at the sub minimum wage. Also prohibited are partial displacements such as reducing employees' hours, wages, or employment benefits.

TIP CREDIT

An employer may credit a certain number of the tips received by tipped employees (e.g., waiters and waitresses) against the employer's minimum wage obligation when certain conditions are met. The law now sets the employer's cash wage obligation at not less than \$2.13 an hour. This replaces the former provision requiring that tipped employees be paid at least 50% of the minimum wage in cash. However, if an employee's tips combined with the employer's cash wage of \$2.13 an hour do not equal the minimum, hourly wage, the employer must make up the difference.

TRAVEL TIME IN EMPLOYER VEHICLES

Time spent in home-to-work travel by an employee in an employer-provided vehicle, or in activities performed by an employee which are incidental to the use of the vehicle for commuting, is not "hours worked" and, therefore, does not have to be paid. This provision applies only if the travel is within the normal commuting area for the employer's business and the use of the vehicle is subject to an agreement between the employer and the employee or the employer's representative.

STANDARDS FOR 14- AND 15- YEAR OLDS

The following standards apply to 14- and 15-year-old youths employed in non-farm jobs.

Hours Limitations

The hours 14- and 15-year-olds may work are limited to:

- outside school hours***
- no more than 3 hours on a school day***
- no more than 18 hours in a school week***
- no more than 8 hours on a non-school day***
- no more than 40 hours in a non-school week***
- between 7 a.m. and 7 p.m. (Between June 1 and Labor Day they may work as late as 9 p.m.)***

Occupation Limitations

In addition to the Hazardous Occupations that are prohibited for minors under the age of 18, 14- and 15-year-olds may not work in the following occupations:

- cooking, other than at lunch counters and snack bars, and within the view of the customer***
- manufacturing, mining, processing***
- most transportation jobs***
- work in warehouses and workrooms***
- on construction jobs except in the office***
- in any job involving hoists, conveyor belts, power-driven lawn mowers and other power- driven machinery***

No Exceptions to Occupation Limitations

Occupation limitations are strictly enforced for 14- and 15-year old youth, with no exceptions. The student-learner provisions applicable to some Hazardous Occupations for youth 16 and 17 years of age do not apply to minors under the age of 16.

SPECIAL PROVISIONS FOR 14- AND 15- YEAR OLDS UNDER WECEP

The Work Experience and Career Exploration Program (WECEP) includes special provisions that permit 14- and 15-year old School-to-Work (STW) enrollees to be employed during school hours and in occupations otherwise prohibited by regulation.

WECEP is designed to provide a carefully planned work experience and career exploration program for 14- and 15-year old youths, including youths in STW programs, who can benefit from a career-oriented educational program. WECEP is designed to meet the participants' needs, interests, and abilities. Among other things, the program helps dropout-prone youths to become reoriented and motivated toward education and helps to prepare them for the world of work.

A state education agency with a school-to-work program may obtain approval from the Department for Labor for STW enrollees participating in WECEP to be employed:

up to 3 hours on a school day

up to 23 hours during a school week

^a any time during school hours

under variances granted by the Wage and Hour Administrator that permit employment of WECEP participants in otherwise prohibited activities and occupations.*

Any representative of the Governor who is interested in establishing a WECEP may forward a letter of application to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210. The provisions for WECEP are set by Regulations, 29 CFR § 570.35a. Approval to operate a

WECEP is granted by the administrator of the Wage and Hour Division for a two-year period.

****Note: The Regulations do not permit issuance of WECEP variances in manufacturing, mining, or in any of the 17 hazardous occupations orders.***

STANDARDS FOR 16- AND 17-YEAR OLDS

The following standards apply to 16- and 17-year old youths employed in non-farm jobs.

Hours Limitations

None Under FLSA: Federal law does not limit either the number of hours nor the time of day that youth 16 years of age and older may work.

Some state laws do restrict the hours that 16- and 17-year olds may work.

Occupation Limitations

Minors may perform all work except in 17 occupations considered too hazardous for all youth under the age of 18. The Hazardous Occupations Orders (HOs) are:

HO 1 - Manufacturing and storing explosives

HO 2 - Motor-vehicle driving and outside helper, including the use of vehicles, working as outside helpers on motor vehicles, or driving as a part of any occupation

HO 3 - Coal mining

HO 4 - Logging and sawmilling

HO 5*- Work using power-driven woodworking machines, including the use of saws on construction sites

HO 6 - Work where exposed to radioactive substances

HO 7 - Work involving the operation of power-driven hoisting devices, including the use of fork lifts, cranes, and

nonautomatic elevators

HO 8*- Work using power-driven metal forming, punching, and shearing machines, but HO 8 permits 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 - All mining other than coal mining, including work at gravel pits

HO 10*- Work involving slaughtering or meat-packing, processing, or rendering, including the operation of power-driven meat slicers in retail stores

HO 11 - Work involving the operation of power-driven bakery machines

HO 12*- Work using power-driven paper-products machines, including the operation and loading of paper balers in grocery stores

HO 13 - Work in manufacturing of brick, tile, and kindred products

HO 14*- Work involving the use of circular saws, band saws, and guillotine shears

HO 15 - All work involving wrecking, demolition, and ship-breaking

HO 16*- All work in roofing operations

HO 17*- All work in excavating, including work in a trench as a plumber

****Hazardous Occupations Orders with Exemptions Applicable to Minors & Training.***

Exceptions to Occupation Limitations

Special Provisions for Student-Learners and Apprentices - The seven identified with an asterisk permit the employment of apprentices and student-learners in vocational education programs under certain conditions. Student-learners in STW programs will meet the student-learner exemption if the student is employed under a written agreement which provides that:

all hazardous work will be performed under the direct and close supervision of a qualified and experienced person

safety instructions will be given by the school and reinforced by the employer with on-the- job training

the job training follows a schedule which reflects organized and progressive skill developments

the work in the hazardous occupation is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprenticeship training

The written agreement must be signed by the employer and placement coordinator (or school principal). Copies of the agreement must be kept on file by both the school and the employer.

Note: To qualify as a student-learner or apprentice, one must obtain the appropriate certificate from Wage-Hour for student learners or from the local U.S. Department of Labor Bureau of Apprenticeship and Training (BAT) office for apprentices.

STANDARDS FOR FARM JOBS

The following apply to minors employed in farm jobs.

Hours Limitations

Minors 16 years and older may be employed in any farm job at any time.

Fourteen and 15-year-old farm workers may be employed outside school hours in any occupation not declared hazardous. Children who move from a school district where schools have closed for the summer vacation, and live in another district where the schools are still in session, may work during the hours that the school is in session in the new district. After May 15, it is assumed that the school is closed for the summer.

With written parental consent, 12- and 13-year-olds may be employed outside school hours in any nonhazardous job on the same farm where their parents are employed.

Minors under 12 years of age may be employed in any nonhazardous job with written parental consent but only on farms not subject to the minimum wage provisions of FLSA.

Minors of any age may perform work at any time on a farm owned or operated by the minor's parents or persons standing in place of the parents.

Occupation Limitations

Once teenagers reach age 14, they may perform the same agricultural work as an adult except occupations that involve the agricultural hazardous occupations orders.

12- and 13-year olds may be employed with written parental consent on farms where the parents are also employed; and

Minors under 12 may be employed with written parental consent on farms where employees are exempt from the Federal minimum wage provisions.

Hazardous Occupations in Agriculture. Minors under 16 may NOT be employed in occupations which involve the following:

- a. operating certain tractors;***
- b. operating or assisting to operate other farm machines, such as corn pickers, cotton pickers, grain and potato combines, and certain tillers, fork lifts, and power saws;***
- c. working in yards, pens, or stalls with bulls, boars, and certain other animals;***
- d. certain timbering operations;***
- e. working from ladders or scaffold at a height over 20 feet;***
- f. transporting passengers on motor vehicles or riding a tractor as a passenger;***
- g. working in certain silos and pits;***
- h. handling or applying pesticides;***
- i. handling or using blasting agents, such as dynamite; or***

j. transporting, transferring, or applying anhydrous ammonia.

Exemptions

Exemptions from the agricultural hazardous occupations orders applicable to tractors and certain other farm machinery apply to 14- and 15-year-old student learners enrolled in vocational educational programs and holders of completion of training under 4-H programs. 12.022 Documentation Required of Employee

Employees must provide documentation of their status to work legally in the United States. The U.S. Immigration and Naturalization Service (INS) has devised a form entitled "Form I-9" which must be completed by new employees. Employers must examine the following documentation as part of the process of completing Form I-9:

- U.S. passport***
- Certificate of U.S. citizenship***
- Certificate of naturalization***
- Unexpired foreign passport with attached employment authorization***
- Resident alien card with photograph.***

If that documentation is not available, several different documents may be combined to demonstrate: (1) an individual's identity; and (2) the individual's work status.

The following documents will demonstrate identity only:

- State-issued driver's license or a state-issued identification card with a photograph or information including name, sex, date of birth, height, color of eyes, and address***
- School identification card with a photograph***
- Voter registration card***
- United States military card or draft record***

- **Identification card issued by federal, state, or local government agencies**
- **Military dependent's identification card**
- **Native American tribal documents**
- **United States Coast Guard Merchant Marine card**
- **Driver's license issued by a Canadian government authority**
- **For an employee under age fifteen, testimony of a parent is all that is needed to establish identity.**

One of the following documents must be submitted along with those submitted for identification purposes in order to verify employment eligibility:

- **Original Social Security number card**
- **Original or certified copy of a birth certificate issued by state, county, or municipal authority bearing a seal**
- **Unexpired INS employment authorization**
- **Unexpired INS reentry permit (INS Form I-327)**
- **Certification of birth issued by the Department of State (Form DS-1350)**
- **United States citizen identification card (INS Form I-197)**
- **Native American tribal document**
- **Identification card for use of resident alien in the United States (INS Form I- 179).**

An employer must state in writing under penalty of perjury that such documentation was reviewed prior to hiring a new employee. INS Form I-9 must be maintained by an employer for three years or for one year after the termination of an employee, whichever is later.

The immigration bill also allows the president to develop alternative verification systems, such as one central telephone number to verify

documentation (perhaps electronically, like current credit card verification systems). At this time no alternate verification system has been developed.

Labor Laws for School-to-Work Students

There are often questions as to the relationship between employment and Work-Based Learning in School-to-Work Opportunities. The U.S. Department of Education and Labor's Office of School-to-Work Opportunities in support of the School-to-Work (STW) Opportunities Act (P.C. 103-239) prepared a guide to help clarify some issues related to students in the workplace. Below are some excerpts pertinent to VACs in diverse settings:

#1. What is work-based learning under STW?

Work-based learning a learning experience for a student at an employer's work site is one of the three core elements of STW systems, along with school-based learning and connecting activities. It includes work experience (both paid and unpaid), workplace mentoring, and broad instruction, to the extent practicable, in all aspects of an industry.

In addition, work-based learning includes a planned program of job training and work experience at progressively higher levels. This planned program, coordinated with school-based learning, relates to the career majors of students and leads to the award of skill certificates.

Instruction in general workplace competencies including developing positive work attitudes, employability, and participative skills is also part of the work-based learning component of STW.

#2. Are all stw work-based learning experiences subject to FLSA?

No. Activities occurring in the workplace that do not involve the performance of work are not "employment" subject to the Fair Labor Standards Act. Some examples of these activities include:

Career awareness and exploration;

field trips to a work site;

job shadowing (whereby a student follows and observes an employee in his/her daily activities, but performs no work).

What are the elements of a learning experience at an employer's work site?

There are four elements that constitute a learning experience under STW. Specifically, a learning experience:

is a planned program of job training and work experience for the student, appropriate to the student's abilities, which includes training related to preemployment and employment skills to be mastered at progressively higher levels that are coordinated with learning in the school-based learning component and lead to the awarding of a skill certificate;

encompasses a sequence of activities that build upon one another, increasing in complexity and promoting mastery of basic skill;

has been structured to expose the student to all aspects of an industry and promotes the development of broad, transferable skills; and

provides for real or simulated tasks or assignments which push students to develop higher-order critical thinking and problem-solving skills.

If only some of these elements are met, it is possible that an STW student would be an employee under FLSA; however, all of the facts and circumstances of the situation would have to be considered to decide if an employment relationship exists and whether the student or enterprise is covered by the FLSA.

When is a learning experience not employment, as defined by FLSA?

A student enrolled in an STW learning experience as described above would not be considered an employee within the meaning of FLSA if all of the following criteria are met:

The student receives ongoing instruction at the employer's work site and receives close on-site supervision throughout the learning experience, with the result that any productive work that the student would perform would be offset by the burden to the employer from the training and supervision provided;

the placement of the student at a work site during the learning experience

does not result in the displacement of any regular employee i.e., the presence of the student at the work site cannot result in an employee being laid off, cannot result in the employer not hiring an employee it would otherwise hire, and cannot result in an employee working fewer hours than he or she would otherwise work;

the student is not entitled to a job at the completion of the learning experience but this does not mean that employers are to be discouraged from offering employment to students who successfully complete the training; and

the employer, student, and parent or guardian understand that the student is not entitled to wages or other compensation for the time spent in the learning experience although the student may be paid a stipend for expenses such as books or tools.

When all four of the above student criteria are met, an employer would not be required to pay wages to a student enrolled in an STW learning experience.

c. What does it mean if a learning experience is not subject to FLSA?

It means that a student is not an employee, wages are not paid, and Federal child labor laws do not apply. Payment of a stipend is optional. However, a stipend may not be used as a substitute for wages. A stipend is generally limited to reimbursement for expenses such as books, tuition, or tools. There are no specific stipulations for the length of a learning experience, as long as the four criteria listed above apply throughout the period of the student's participation.

While child labor laws do not apply if there is not an employment relationship, STW systems are encouraged to adhere to child labor laws with regard to hazardous working conditions. Instruction and training in occupations that involve the use of machinery such as slicing machines, trash compactors, and bread dough kneading machines have been known to cause serious injuries. Child labor laws provide guidance that can assist STW participants in determining hazardous jobs or working conditions for students.

Understanding the Fair Labor Standards Act

This section applies to those STW situations where it is determined that (1) an employment relationship exists,¹

and (2) the enterprise or the student is covered under FLSA. Both conditions must be met for STW work-based learning experiences to be subject to the Federal minimum wage, overtime, and child labor laws

described in this section.

Participation in an STW initiative carries no additional compliance obligations under FLSA; working with STW students is the same as working with other minors.

#3. WHEN IS A WORK-BASED LEARNING EXPERIENCE SUBJECT TO FLSA?

Learning experiences that do not meet all four student criteria.

According to the Fair Labor Standards Act, the definition of "to employ" is "to suffer or permit to work." Case law states that an employment relationship "does not depend upon the level of performance or whether the work is of some educational and/or therapeutic benefit."2

a. When is a student who is an employee "covered" under FLSA?

The FLSA covers employees who are performing work for any one type of enterprise that is either:

- engaged in interstate commerce,*
- producing goods for interstate commerce,*
- handling, selling, or otherwise working on goods or materials that have been moved or produced for such commerce.*

A covered enterprise under FLSA would be one:

(1) with annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or

(2) that is engaged in the operation of a hospital, an institution primarily engaged in the care of those who are physically or mentally ill or disabled or aged, and who reside on the premises, a school for children who are mentally or physically disabled or gifted, a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit);

(3) that is an activity of a public agency.

b. Can a student be covered, even if the enterprise is not?

Yes. An enterprise may not be covered under FLSA, given the above criteria, but certain employees of the enterprise may be, depending on the nature of their work. Specifically, if any employee is engaged in interstate commerce, this employee is covered and the provisions of FLSA apply to him or her.

Examples of interstate commerce include taking or placing out-of-state phone calls; sorting or sending out-of-state mail; receiving papers coming from out-of-state; and handling, shipping, and receiving products that are moving in interstate commerce.

#4. What are the implications of an employment relationship "covered" under FLSA?

When a student who is an employee is covered by FLSA, he or she must be paid no less than the Federal minimum wage,³

receive no less than one and one-half times the regular rates of pay for each hour worked in excess of 40 per workweek, and be employed in accordance with child labor laws.

Labor Laws for Community-Based Instruction

Some VACs also work with students with severe disabilities involved in Community-Based Vocational Programs. Following are the Labor Guidelines for those programs.

U.S. Department of Labor and Education Guidelines

Statement of Principle

The U.S. Departments of Labor and Education are committed to the continued development and implementation of individual education programs, in accordance with the Individuals with Disabilities Education Act (IDEA), that will facilitate the transition of students with disabilities from school to employment within their communities. This transition must take place under conditions that will not jeopardize the protections afforded by the Fair Labor Standards Act to program participants, employees, employers, or programs providing rehabilitation services to individuals with disabilities.

Guidelines

Where ALL of the following criteria are met, the U.S. Department of Labor will NOT assert an employment relationship for purposes of the Fair Labor Standards Act.

- Participants will be youth with physical and/or mental disabilities for whom competitive employment at or above the minimum wage level is not immediately obtainable and who, because of their disability, will need intensive on-going support to perform in a work setting.

- Participation will be for vocational exploration, assessment, or training in a community-based placement work site under the general supervision of public school personnel.

- Community-based placements will be clearly defined components of individual education programs developed and designed for the benefit of each student. The statement of needed transition services established for the exploration, assessment, training, or cooperative vocational education components will be included in the student's Individualized Education Program (IEP).

- Information contained in a student's IEP will not have to be made available; however, documentation as to the student's enrollment in the community-based placement program will be made available to the Departments of Labor and Education. The student and the parent or guardian of each student must be fully informed of the IEP and the community-based placement component and have indicated voluntary participation with the understanding that participation in such a component does not entitle the student-participant to wages.

- The activities of the students at the community-based placement site do not result in an immediate advantage to the business. The Department of Labor will look at several factors.

1. There has been no displacement of employees, vacant positions have not been filled, employees have not been relieved of assigned duties, and the students are not performing services that, although not ordinarily performed by employees, clearly are of benefit to the business.

2. The students are under continued and direct supervision by either representatives of the school or by employees of the business.

3. Such placements are made according to the requirements of the student's IEP and not to meet the labor needs of the business.

4. The periods of time spent by the students at any one site or in any clearly distinguishable job classification are specifically limited by the IEP.

- While the existence of an employment relationship will not be determined exclusively on the basis of the number of hours, as a general rule, each component will not exceed the following limitation during any one school year:

Vocational exploration = 5 hours per job experienced

Vocational assessment = 90 hours per job experienced

Vocational training = 120 hours per job experienced

- Students are not entitled to employment at the business at the conclusion of their IEP. However, once a student has become an employee, the student cannot be considered a trainee at that particular community-based placement unless in a clearly distinguishable occupation.

It is important to understand that an employment relationship will exist unless all of the criteria described in this policy guide are met. Should an employment relationship be determined to exist, participating business can be held responsible for full compliance with FLSA, including the child labor provisions.

Businesses and school systems may at any time consider participants to be employees and may structure the program so that the participants are compensated in accordance with the requirements of the Fair Labor Standards Act. Whenever an employment relationship is established, the business may make use of the special minimum wage provisions provided pursuant to section 14(c) of the Act.

Frequently Asked Questions on the Fair Labor Standards Act

The following information may be very helpful in interpreting the above guidelines. These questions and answers were developed by Marlene Simon, National Transition Network, and Dr. William Halloran, U.S. Department of Education. The topics discussed include: 1) requirements for participation, 2) documentation issues, 3) program supervision, 4) the educational versus the employment relations, and 5) instructional programming.

Requirements for Participation

1. Which students may participate in community-based vocational instruction under these guidelines for non-employment relationships?

Students who meet state guidelines for special education may participate in community-based vocational instruction if it is determined appropriate for them.

2. The criteria in the guidelines indicate that community-based vocational education is for individuals for whom employment is not immediately obtainable? What does this mean?

The not immediately obtainable language was placed in the criteria to ensure that students would not be placed in the exploration, assessment, or training components of community-based vocational education if they were capable of obtaining employment at or above the minimum wage level. Community-based vocational programs are organized educational activities intended to prepare students for paid employment while they are in school.

3. Community-based instruction is intended for students who will need intensive on-going support to perform in a work setting. Does this mean that only students with more severe disabilities can be placed in community-based instruction?

Community-based vocational education is intended for those students with more severe disabilities. However, the level of severity must be based on skills and behaviors necessary to function in a work setting. Examples of on-going support services include job redesign, environmental adaptations, personal assistance services, transportation, and social skills training (Rehabilitation Act Amendments of 1992, Senate Report 102-357, p. 24).

Documentation Issues

1. What type of documentation is needed?

- If at any point the community-based vocational activity is no longer a learning experience, it can not be considered a non employment relationship;

- The community-based vocational program must meet all the requirements outlined in the guidelines for non employment relationships; and

- The student is not entitled to employment at the work site where they are receiving instruction and training.

Three types of documentation must be employed to meet the requirements of these guidelines:

1) an I.E.P. reflecting vocational instruction and training goals and objectives relevant to the community-based vocational experience;

2) a letter of agreement outlining the DOL/ED requirements and signed by all participants; and

3) ongoing case notes (i.e., attendance records, progress reports, task analysis data, etc.).

2. Is it necessary that the vocational goals and objectives in the I.E.P. specify exact site placements?

No, it is possible for the I.E.P. to identify only general goals and objectives to be pursued (i.e., job clusters to explore or conduct assessments in; assessments of general work behavior skills; training in a specific occupation, etc.). The I.E.P. should, however, expressly limit the amount of time students will spend at any one site or in any one distinguishable job classification. Additional written agreements with parents, students, and employers should reflect the exact location and document the specific nature of the education and training involved.

3. Do reports have to be made to the U.S. Department of Labor and/or the

U.S. Department of Education?

No, it is not necessary to make reports to the U.S. Department of Labor or the U.S. Department of Education. However, adequate records documenting your program's compliance with the criteria for non-employment relationships must be maintained. In the event of a Department of Labor investigation of your program this information must be made available to the DOL. A school system should contact their state and federal Departments of Labor when initiating community-based training programs and identify a contact person. It may be useful to send general information about the intended training program and obtain feedback concerning compliance with regulations.

4. Do the guidelines from the federal Department of Labor supersede individual State Departments of Labor regulations?

No, it is important that community-based vocational instruction programs comply with both U.S. Department of Labor regulations and State Department of Labor regulations. Where the two do not agree, the regulations with the most stringent requirements for protecting individuals in work settings must apply.

Program Supervision

1. What is meant by the term under the general supervision of public school personnel?

Under the general supervision means that the public school or education agency has primary responsibility for the community-based education program. Under IDEA, failure to deliver free appropriate educational services constitute a violation of the rights of students with disabilities. This phrase ensures that community-based vocational programs are the responsibility of public school personnel. While different agencies or groups may deliver these educational services, public school personnel must act as the central agency overseeing the program.

2. What are the implications of the continued and direct supervision requirement for educators and employers?

Student participation in community-based vocational training is considered as a valid part of a student's instructional program. As such, he or she is expected to be closely supervised by school staff or

employees of the business.

Direct supervision can include:

- one-to-one instruction,*
- small group instruction,*
- supervision in close proximity, and*
- supervision in frequent, regular intervals.*

Supervision in frequent, regular intervals is permitted when the goal is to assess ability to work independently or to demonstrate mastery of the vocational skill.

3. Is it necessary for someone to monitor the student at all times?

Students in community-based training programs are to be monitored at all times. However, exactly how closely a student needs to be monitored in a community-based work setting must be determined on an individual basis. The various components of training could require a variety of monitoring strategies depending on the goals and objectives outlined in the I.E.P. For example, vocational exploration and vocational assessment may require closer monitoring than the training component when the student may be working towards more independence in job performance.

4. How might educators document meeting the general supervision criteria?

Educators can document the general supervision criteria by developing the student's I.E.P. If a third party, such as a community-based rehabilitation program is being utilized to carry out the provisions of the I.E.P., it should be noted. The education agency must ensure that these guidelines are fully understood and will be followed by the provider.

The Educational Relationship vs. The Employment Relationship

1. What is an employment relationship?

In an employment relationship, the student is actually providing services that are of immediate benefit to the employer. The student may be completing assignments normally completed by regular employees. As a result of their activities, vacant paid positions in the business may remain unfilled and regular employees may be displaced or relieved of their normally assigned duties. In an employment relationship, the participating business and school are responsible for compliance with the FLSA's minimum wage and overtime pay provisions.

2. What is an educational relationship?

In an educational relationship the student engages in work activities as part of an organized educational activity designed to benefit the student. The guidelines on implementing community-based vocational training, consistent with the FLSA, outlines the criteria for making the distinction between an employment relationship and a valid educational experience.

3. What is the distinction between benefit to the student vs. benefit to the employer?

Benefit to the employer occurs when the business recognizes an immediate advantage by having a student work on the premises. An immediate advantage can be defined in terms of increased profitability or production for the business. The courts and experts in the field suggest that for community-based vocational instruction to represent an educationally valid experience the following should be implemented (Pumpian, Lewis, & Engel, 1986):

- Students receive adequate orientation and instruction before performing new tasks.***
- The student's goals and objectives to be met in the community-based instruction program are clearly defined.***
- Activities in the community-based setting relate directly to the student goals and objectives.***
- The student's activities in the program are closely monitored.***
- Records of the student's progress are maintained.***
- The necessary support and time for students to develop proficiency at new tasks is provided.***

4. What is the educator's role in assuring that regular employees will not be displaced by the student trainee in the workplace?

The community experience must be primarily for the benefit of the student. Also, regular employees must not be displaced or relieved of assigned duties and vacant positions should not go unfilled. Two strategies are available to educators for ensuring that this criteria is met. First, the educator can confirm that all parties the employer, the student, and the parents understand that students in the community-based vocational training program must not displace regular employees. An agreement documenting this understanding should be signed by all involved. Secondly, those who provide direct supervision to the student at the work site may observe when employee displacement and other violations are occurring and take steps to correct the situation.

5. Can students accept an offer of paid employment at a work site where they were placed for community-based instruction?

Yes, students may accept an offer of paid employment at a work site where they received instruction and training. The student would then become an employee of the business and an employment relationship would ensue. This means that the employer is responsible for full compliance with the FLSA, including minimum wage and overtime pay provisions.

6. Could the student be paid less than minimum wage?

Yes, employment below the minimum wage rate is permitted in instances when a worker's disabilities impair their ability to perform the job. This special minimum wage rate is based on the productivity of the worker with disabilities as compared to the productivity of a worker without disabilities. Employers must apply to the U.S. Department of Labor for authority to employ workers with disabilities at these special minimum wage rates.

Instructional Programming

1. Is it necessary that the program follow sequential order (i.e., exploration, assessment, training)?

No, it is not necessary that the community-based vocational training program follow a prescribed order. Given the nature of the student's needs, any of the three components may be deleted. It is only necessary

that the program follow logical, generally agreed upon instructional best practices. For example, assessment and exploration usually would not follow training in one job classification.

2. Does the I.E.P. team have to reconvene for multiple vocational explorations, assessments, and training?

No, it is not generally necessary to reconvene the I.E.P. team for multiple vocational explorations, assessments, and training. The vocational I.E.P. objectives and goals can be written broadly enough to incorporate these experiences.

3. What is meant by the phrases clearly distinguishable occupation and clearly distinguishable job classification?

The word occupation refers to a specific profession or vocation generally engaged in as a source of livelihood. Occupation and job classification are meant to be synonymous. Examples of occupations are shipping and receiving clerk, custodian, and painter. Often occupations are confused with specific work activities or work stations which may be integral components of specific occupations. For example, work as a building custodian involves sweeping, emptying trash, and mopping. Each of these work activities must be considered as part of the clearly distinguishable occupation of custodian. A student who has received all allowable hours of non-paid instruction and training in the job of school custodian should not be moved to a new site for a separate experience as a non-paid office building custodian.

4. Given these guidelines, could an employer move students around to different work stations or occupational areas not specified in their written agreement?

No, as stated earlier, goals and objectives for the student have been outlined in the I.E.P. and written agreements between the student, parent, employer, and school personnel detail specific activities for the community vocational experience. Thus, the community-based vocational experience can be considered a valid educational experience under the supervision of school personnel. Employers must feel free to remove students from any work activity if they determine that removal is necessary for safety or other reasons. However, under no circumstances should the student be placed in a work station or occupational area not specifically outlined in the written agreement.

5. Do these guidelines refer to programs under special education and/or

vocational education?

It does not matter whether the community-based vocational program is offered through special education or vocational education. However, students participating in training under these guidelines for non employment relationships must be youth with disabilities as defined by the Individuals with Disabilities Education Act.

6. Do these guidelines apply to work during the summer?

Yes, these guidelines may apply to summer programs as long as they are under the general supervision of school personnel. Many students have individualized instructional programs that call for an extended year educational program. Other students may simply elect to enroll in summer school.

1 As a general rule of thumb, if you pay wages or compensation, you create an employment relationship.

2 This definition of "employ" pertains only to FLSA. Employment is defined differently under different laws, such as those dealing with income tax, worker's compensation, occupational safety and health, unemployment insurance, and others. You'll want to make sure you are in compliance with these other laws as well. (Check the blue pages of your local telephone book for the appropriate phone numbers to call for further information on these programs.)

3 Unless your school or business holds a sub minimum wage certificate issued by Wage-Hour. Individuals eligible for employment under a sub minimum wage certificate include: students with disabilities participating in a school-related work program, student-learners in a vocational education program, and full-time students in retail or service establishments, agriculture, or institutions of higher education.

