

# Montana Work-Based Learning

## Liability and Worker's Compensation Considerations

The state of Montana supports businesses engaging young people and the education community to provide work-based learning activities; however, some liability issues exist for the school and the worksite. This document provides an overview of liability insurance and worker's compensation coverage that businesses, agencies, and schools should possess in order to protect young people and others engaging in work-based learning activities.

***This document is considered a general overview and is not a legal opinion. Businesses and schools must consult with their insurance providers prior to implementing a work-based learning program.***

### **Liability coverage**

A school or business in Montana is not required by law to have a business liability policy but it is highly recommended both have coverage in the event the school or business is liable for bodily injury or property damage for any student, parent, guest, or customer.

### **Workers' compensation coverage**

Are wages being paid? If so, in most instances, the person receiving a wage would be considered an employee of the business or school for workers compensation purposes and therefore workers' compensation coverage would be required.

### **Who may be excluded or exempt?**

Most commonly individuals with Independent Contractor Exemptions and volunteers, and in the case of a school an official, including a timer, referee, umpire or judge, at a school amateur athletic event, are exempt. In the case of a business, a spouse is exempt, or within the agriculture industry, a farmer helping a neighboring farmer.

In any circumstances where wages are being paid and you question whether the person is exempt, always contact the Employment Relations Division at 406-444-6543, and/or your workers' compensation insurer, concerning coverage requirements and/or excluded or exempted employments.

For the Workers' Compensation Act, employer is defined in 39-71-117, MCA and employee defined in 39-71-118, MCA  
Employment exemptions defined in 39-71-401, MCA

Work-based learning options for work-based learner (WBL)	Description	School District		Business Employer	
		Liability Insurance Coverage	Workers' Compensation Coverage	Liability Insurance Coverage	Workers' Compensation Coverage
<b>(Non-paid WBL) Worksite tours/field trips</b>	Provides students with an opportunity to briefly experience the work environment and potential jobs needed in a specific industry.	Not Required but strongly encouraged	Not Required	Not Required but strongly encouraged	Not Required
<b>(Non-paid WBL) Job shadowing</b>	A career exploration activity in which a student follows an employee for one or more days to learn about a particular occupation or industry. Job shadowing is typically unpaid and is designed to help students explore a range of career opportunities.	Not Required but strongly encouraged	Not Required	Not Required but strongly encouraged	Not Required
<b>(Non-paid WBL) Cooperative Work-Based Learning or Internship</b>	A learning experience which allows students to practice classroom skills and knowledge in the community/workplace.	Not Required but strongly encouraged	Not Required	Not Required but strongly encouraged	Not Required
<b>(Paid WBL) Cooperative Work-Based Learning or Internship</b>	A learning experience which allows students to practice classroom skills and knowledge in the community/workplace.	Not Required but strongly encouraged	Required	Not Required but strongly encouraged	Required
<b>Pre-apprenticeship program</b>	A set of strategies designed to prepare individuals to enter and succeed in a Registered Apprenticeship program and has a documented partnership with at least one, if not more, Registered Apprenticeship programs.	Not Required but strongly encouraged	Required if paid, not required if unpaid	Not Required but strongly encouraged	Required if Paid, not required if unpaid
<b>School-based enterprises</b>	Involves goods and/or services produced or sold by students as part of their educational program. Typically engage students in all aspects of operation and management of a business that may involve the sale of goods and/or services for use by others. Enterprises can be on or off the school site but are always part of the school's educational program.	Not Required but strongly encouraged	Required if paid, not required if unpaid	Not Required but strongly encouraged	Required if paid, not required if unpaid