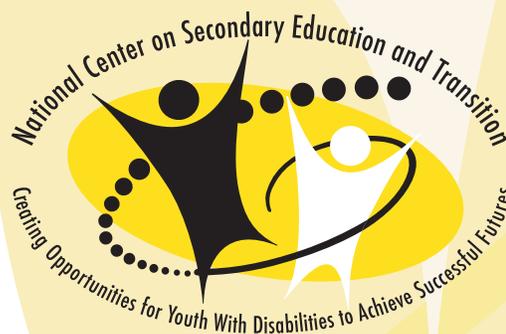


# ESSENTIAL TOOLS

*Improving Secondary Education and  
Transition for Youth With Disabilities*

**Handbook for Implementing  
a Comprehensive  
Work-Based Learning  
Program According to the  
Fair Labor Standards Act**

*Third Edition*



The College of Education  
& Human Development

UNIVERSITY OF MINNESOTA



U.S. Office of Special  
Education Programs



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*February 2005*

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NCSET was established *to create opportunities for youth with disabilities to achieve successful futures.* Headquartered at the Institute on Community Integration, University of Minnesota, NCSET provides technical assistance and disseminates information focused on four major areas of national significance for youth with disabilities and their families:

- Providing students with disabilities with improved access to and success in the secondary education curriculum.
- Ensuring that students achieve positive postschool results in accessing postsecondary education, meaningful employment, independent living, and participation in all aspects of community life.
- Supporting student and family participation in educational and postschool decision-making and planning.
- Improving collaboration and system linkages at all levels through the development of broad-based partnerships and networks at the national, state, and local levels.

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# Introduction

Work-Based Learning (WBL) is an effective approach in delivering career and technical education and training to youth with disabilities. The WBL approach provides these services in community workplace settings rather than in conventional school environments. Because WBL activities take place in workplace settings, they must comply with the provisions of the Fair Labor Standards Act (FLSA) administered through the U.S. Department of Labor and state labor laws.

The Individuals with Disabilities Education Act Amendments of 1997 and policy guidelines adopted by the U.S. Departments of Labor and Education encourage the operation of WBL programs. Amendments to the Individuals with Disabilities Education Act (IDEA) require transition services planning and implementation for youth with disabilities; U.S. Departments of Labor and Education guidelines ensure that these services can be delivered in workplace settings according to the FLSA.

This *Handbook for Implementing a Comprehensive Work-Based Learning Program According to the Fair Labor Standards Act* provides guidance to schools operating WBL programs and encourages the adoption of WBL programs by schools not presently using this approach. By following the information and examples in this handbook, schools can proceed with confidence to operate effective WBL programs consistent with the FLSA.

The handbook has three sections. Section one introduces the events and actions leading to the development of WBL and guidelines promoting this approach consistent with the FLSA. Section two presents answers to the questions most frequently asked by school personnel in carrying out WBL programs compliant with the FLSA. Section three describes the WBL experiences of eight students ages 14-21. Sample forms, agreements, and supporting documentation required under IDEA and FLSA are included in these examples whenever possible.

Appendices to the handbook provide additional resource information including: (a) regional offices and personnel of the U.S. Department of Labor Wage and Hour Division providing assistance with FLSA requirements, (b) organizations involved in planning and delivering transition services to youth with disabilities, and (c) information on Supplemental Security Income Work Incentives available to transition-age youth with disabilities.



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# **Section I**

## **The Goal of Productive Employment for All Youth**

### **The Work-Based Learning (WBL) Approach to Productive Employment for Youth With Disabilities**

- **Career Exploration**
- **Career Assessment**
- **Work-Related Training**
- **Cooperative Work Experience**

### **Requirements of the FLSA Related to WBL**

- **The FLSA and WBL Career Exploration, Career Assessment, and Work-Related Training Components**
- **The FLSA and WBL Cooperative Work Experience Component**



## **The Goal of Productive Employment for All Youth**

In 1990, the U.S. President and state governors adopted six ambitious national education goals. These goals apply to all youth. They require that all students leave school literate and with the knowledge and skills necessary to compete in a global economy and be able to exercise the rights and responsibilities of citizenship. Foremost among these goals is access to productive employment in our modern economy, whether immediately following secondary school or after further postsecondary study.

To support these goals, preparation for employment must become a focal point of every student's educational program. This is especially true for youth with disabilities. Congress underscored this need by including transition services requirements in the IDEA Amendments of 1990, and most recently in the 1997 IDEA Amendments (P.L. 105-17), and the IDEA 1998 final regulations. These actions serve as an impetus for schools to intensify their efforts to prepare youth with disabilities for productive employment and other post school, adult-living objectives. Required transition services are described in IDEA 1997 as:

*A coordinated set of activities for a student with a disability that is designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; is based on the individual student's needs, taking into account the student's preferences and interests; and includes instruction, related services, community experiences, the development of employment and other post school adult-living objectives, and if appropriate, acquisition of daily-living skills and functional vocational evaluation.*

Recent studies reinforce the need to strengthen the connection between education and employment. For example, a national longitudinal transition study of special education students found that enrollment in occupationally oriented career and technical education programs was significantly related to a lower likelihood of youth with disabilities dropping out of school, and that youth who took career and technical education during school or had work experience as part of their educational program were more likely to be employed after high school. Research supports the value of a functional skills approach to curriculum and training for youth with disabilities. This involves teaching the skills needed to enhance independent adult living in community settings.

Career and technical education has long been an option for preparing youth with disabilities for productive employment. However, most of these programs in the past relied heavily on simulated work experience in classroom settings. This approach has not led to productive employment in integrated work environments for many students. In fact, the outcome often has been sheltered employment in segregated work settings. The skills acquired through classroom or simulated work experiences do not generalize to typical work settings, and therefore do not meet the goal of post school productive employment for youth with disabilities. When career and technical education and training occur primarily through classroom or simulated settings, youth with disabilities do not acquire social skills normally built through interactions with colleagues and coworkers. These skills are critical to long-term employment success.

### **The WBL Approach to Productive Employment for Youth with Disabilities**

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Work-Based Learning (WBL) is an effective approach to employment preparation for youth with disabilities. WBL delivers career and technical education and training to youth with disabilities in workplace settings rather than in typical school settings. Students aged 14 years or older engage in nonpaid career exploration, career assessment, and work-related training experiences to identify their career interests, assess their employment skills and training needs, and develop the skills and attitudes necessary for paid employment. After such instruction, students engage in paid cooperative work experience.

There are four distinct components to the WBL approach: career exploration, career assessment, work-related training, and cooperative work experience. Students often progress sequentially through all four components. However, some students participate in only one or two components before moving to cooperative work experience, depending on their instructional needs.

#### **Career Exploration**

The career exploration component exposes students briefly to a variety of work settings to help them make decisions about future career directions or occupations. The exploration process involves examining interests, values, beliefs, and strengths in relation to the demands and other characteristics of work environments. This occurs most often through worksite field trips, job shadowing, guest speakers, and career mentorship. Through career exploration, students gain information by watching work being performed, talking with employees, and actually trying out work under direct supervision of school personnel. Exploration enables students to make choices regarding career or occupational areas they wish to pursue. The student, parents, worksite employees, and school personnel use this information to develop transition planning in the student's Individualized Education Program (IEP).

#### **Career Assessment**

The career assessment component leads to individual training objectives for a youth with a disability. Career assessment activities may include but are not limited to computerized assessments, career and technical education classes, career mentorship, service learning projects, volunteering, and extended observation. In this WBL component, the student undertakes work assignments in various business settings under the direct supervision of school personnel and employees. Assessment data are systematically collected detailing the student's interests, aptitudes, special needs, learning styles, work habits, behavior, personal and social skills, values and attitudes toward work, and work tolerance. The student rotates among various occupational settings corresponding to the student's range of employment preferences as situational assessments are completed by school personnel and worksite employees. As a result, students select work settings in which they can best pursue career or occupational areas matching their interests and aptitudes. Future training objectives are matched with these selections. These training objectives become a part of the student's subsequent IEP.

#### **Work-Related Training**

The work-related training component of WBL places the student in various employment settings for nonpaid work experiences. The student, parents, and school personnel develop a detailed, written training plan, which includes competencies to be acquired, method(s) of instruction, and procedures for evaluating the training experience. Training is closely supervised by a representative of the school or a designated employee/supervisor. The purpose of this component is to enable students to develop the competencies and behaviors needed to secure paid employment. As the student achieves the training objectives in a particular employment setting, the student moves to other employment environments where additional or related learning and reinforcement of current competencies and behaviors can occur. (A business providing work-related training may derive no benefit from the student. If a business does derive benefit, the nonemployment relationship becomes a paid employer-employee relationship, or the student must move to another environment.)

## Cooperative Work Experience

A cooperative work experience consists of an arrangement between the school and an employer that uses the workplace and its environment to create links between the learning occurring in school and the skills required in the workplace. The experience is closely supervised by a representative of the school or a designated employee/supervisor. Typically during the cooperative work experience the student attends a class or seminar at the school to reinforce and supplement the experience. Paid work performed in the employment setting, the student may receive payment from the employer, from the school's cooperative career and technical program, from another employment program operating in the community such as those supported by the Workforce Investment Act, or a combination of these. The student is paid the same wage as nondisabled employees performing the same work. In some instances, arrangements are made by the school and employer through the U.S. Department of Labor Wage and Hour Division to pay a special minimum wage called "commensurate wage rate" (see "The FLSA and the WBL Cooperative Work Experience Component" on page 8 of this section of the handbook for a brief description of these FLSA provisions).

The school and employer reach a written agreement before the student enters the cooperative work experience. This agreement includes a clear stipulation of the student's wages, benefits, and specific individual training plan. This agreement may also include follow-along services to ensure the student adjusts to the work assignments and improves performance and productivity over time. It is likely that students may engage in several cooperative work experience placements as part of their special education experience during school.

## Social Security Work Incentives

For students receiving Supplemental Security Income (SSI)/Social Security Disability Insurance (SSDI) cash benefits and participating in paid employment through WBL, the SSI work incentives program allows youth with disabilities in transition to retain their benefits while participating in paid employment and, in some instances, actually increase their monthly income. The Student Earned Income Exclusion (SEIE) can readily be used by youth with disabilities engaged in the cooperative work experience component of WBL. Other SSI work incentives available to transition-age youth with disabilities are: Impairment-Related Work Expenses (IRWE); Plan for Achieving Self-Support (PASS); Blind Work Expenses (BWE); and Property Essential to Self-Support (PESS). To be eligible to participate in the work incentives program, students must first be receiving or eligible to receive SSI/SSDI cash benefits. For information on SSI and the work incentives program, contact the Social Security Administration at 1-800-772-1213.

In addition, the following two manuals previously published by the National Transition Network provide information on this topic:

- *Meeting the needs of youth with disabilities: Handbook on supplemental security income work incentives and transition students* (1998, October).
- *Meeting the needs of youth with disabilities: Examples of students with disabilities accessing SSI work incentives* (1999, June).

See Appendix C of this publication for a brief description of the SSI work incentives available to transition-age students. Appendix C also includes an example of a youth with a disability who is participating in a cooperative work experience through her school, receiving SSI cash benefits, and accessing the Student Earned Income Exclusion work incentive.

### **Requirements of the FLSA Related to WBL**

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Because WBL activities take place in employment settings, these activities must comply with the provisions of the Fair Labor Standards Act (FLSA). The FLSA is the federal legislation establishing minimum wage, overtime pay, record-keeping requirements (i.e., personal employee information, wages, hours), and child labor. Employees are entitled to a regular wage of at least \$5.15 (current minimum wage) per hour and overtime pay of at least one and one-half times their regular wage for all hours more than 40 in a work week. In states with a minimum wage rate higher than the federal, the higher rate applies.

In order to promote WBL programs to prepare youth with disabilities for productive, paid employment, the U.S. Departments of Labor and Education entered into an agreement in September 1992 and adopted the following 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.*

#### **The FLSA and WBL Career Exploration, Career Assessment, and Work-Related Training Components**

The Departments of Labor and Education joined this statement of principle with Policy Guidelines governing the participation of youth with disabilities in employment settings for career exploration, career assessment, and work-related training. Youth with disabilities who engage in nonpaid career exploration, career assessment, and work-related training activities are not considered employees of the businesses in which they receive these services only if they can demonstrate compliance with all of the guidelines below. When schools and employers engaging in these WBL activities with youth with disabilities adhere to all of the following guidelines, they do not violate the provisions of the FLSA. The guidelines are:

- 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 ongoing support to perform in a work setting.
- Participation will be for career exploration, career assessment, or work-related training at a worksite placement under the general supervision of public school personnel.
- Worksite placements will be clearly defined components of Individualized Education Programs (IEPs) developed and designed for the benefit of each student. The statement of needed transition services established for the exploration, assessment, training, or cooperative work experience components will be included in the student's 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 work-based learning program will be made available to the Departments of Labor and Education. The student and his or her parent(s) or guardian(s) must be fully informed of the IEP and the career exploration, career assessment, or work-related training components and have indicated voluntary participation with the understanding that participation in these components does not entitle the student-participant to wages or other compensation for duties performed at the worksite placement.
- The activities of the student at the worksite do not result in an immediate advantage to the business. The Department of Labor looks at the following factors to determine if this guideline is being met:

- 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.
  - The students are under continued and direct supervision by either representatives of the school or by employees of the business. The student receives ongoing instruction and close supervision at the worksite during the entire experience, resulting in any tasks the student performs being offset by the burden to the employer of providing ongoing training and supervision.
  - Such placements are made according to the requirements of the student's IEP and not to meet the labor needs of the business.
  - 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 number of hours, as a general rule, each component will not exceed the following limitation during any one school year:
    - Career exploration—5 hours per job experienced
    - Career assessment—90 hours per job experienced
    - Work-Related training—120 hours per job experienced
  - Students are not automatically 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 worksite placement unless in a clearly different occupation.

Schools and participating businesses are responsible for ensuring that all seven of these guidelines are met. If any of these guidelines are not met, an employment relationship exists, and participating businesses can be held responsible for full compliance with the FLSA.

### **The FLSA and WBL Cooperative Work Experience Component**

In this WBL component, the youth with a disability is paid for work performed in the employment setting. Therefore, an employment relationship exists; the student is an employee and is entitled to the same wages as nondisabled employees performing the same tasks; schools and businesses are subject to all of the provisions of the FLSA, (i.e., minimum wage, overtime pay, record-keeping, and child labor). This is true whether the student is paid by the business, school, or a third party.

The FLSA contains several provisions addressing employees who are age 14 and 15, age 16 and older, or workers with disabilities. These provisions are described as follows.

- Youth age 14 and 15: Under the FLSA child labor provisions, these students may work in various jobs outside school hours no more than three hours on a school day with a limit of 18 hours in a school week; no more than eight hours on a nonschool day with a limit of 40 hours in a nonschool week; and not before 7:00 a.m. or after 7:00 p.m., except from June 1 through Labor Day, when the evening hour is extended to 9:00 p.m. These students may not work in jobs declared hazardous by the Secretary of Labor.
- Youth age 16 and 17: Under the FLSA child labor provisions, these students may work anytime for unlimited hours in all jobs not declared hazardous by the Secretary of Labor. (States often have limited hours for students age 16 and 17. The school and employer are responsible for knowing and enforcing the hours. When state rules are stricter than federal rules, state rules apply.)
- 18 is the minimum age for employment in occupations declared *hazardous* by the Secretary of Labor. For the purposes of this manual, a hazardous occupation is defined as an occupation that may be detrimental to the health and well being of children under 18 years of age or an occupation that may jeopardize their education-

al opportunities. The rules prohibiting working in hazardous occupations (HO) apply either on an industry or an occupational basis no matter what industry the job is in. Parents employing their own children are subject to these same rules. Some of these hazardous occupations have definitive exemptions. In addition, limited apprentice/student-learner exemptions apply to those occupations marked with an asterisk (\*). Youth age 18 and older may be placed in any hazardous occupation if it is developmentally appropriate for the youth.

### **Hazardous Occupations**

HO #1	Manufacturing and storing of explosives.
HO #2	Driving a motor vehicle and being an outside helper on a motor vehicle.
HO #3	Coal mining.
HO #4	Logging and sawmilling.
HO #5*	Power-driven woodworking machines.
HO #6	Exposure to radioactive substances.
HO #7	Power-driven hoisting apparatuses.
HO #8*	Power-driven metal-forming, punching, and shearing machines.
HO #9	Mining, other than coal mining.
HO #10*	Meat packing or processing (including the use of power-driven meat slicing machines).
HO #11	Power-driven bakery machines.
HO #12*	Power-driven paper-product machines.
HO #13	Manufacturing brick, tile, and related products.
HO #14*	Power-driven circular saws, band saws, and guillotine shears.
HO #15	Wrecking, demolition, and shipbreaking operations.
HO #16*	Roofing operations.
HO #17*	Excavation operations.

More details about the above listings can be obtained by reviewing the child labor regulations. (Each state may have additional restrictions.) For details about statutory changes made in 2004 regarding HO #2 and HO #12 please see the fact sheets available on the U.S. Department of Labor Web site at <http://www.dol.gov/esa/regs/compliance/whd/whdfs34.htm> and <http://www.dol.gov/esa/regs/compliance/whd/bale.htm>.

- Youth age 18 or older may perform any task, whether hazardous or not. (It is also important to consider whether the job or occupation is developmentally appropriate.) Youth age 16 or 17 may perform any non-hazardous job. Youth age 14 and 15 may not work in the manufacturing or mining industries or in any hazardous job. In addition, youth age 14 or 15 may not work in the following occupations:
  - Communications or public utilities jobs;
  - Construction or repair jobs;
  - Driving a motor vehicle or helping a driver;
  - Manufacturing and mining occupations;
  - Power-driven machinery or hoisting apparatuses other than typical office machines;

- Processing occupations;
  - Public messenger jobs;
  - Transporting persons or property;
  - Workrooms where products are manufactured, mined, or processed; and
  - Warehousing and storage.
- A 14- or 15-year-old may work in retail stores, food service establishments, and gasoline service stations. However, a 14- or 15-year-old may not perform the following tasks in the retail and service industries:
    - Baking;
    - Boiler or engine room work, whether in or about;
    - Cooking, except at soda fountains, lunch counters, snack bars, and cafeteria counters;
    - Freezers or meat coolers work;
    - Loading or unloading goods on or off trucks, railcars, or conveyors;
    - Meat processing area work;
    - Maintenance or repair of a building or its equipment;
    - Operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers, grinders, choppers or cutters, and bakery mixers;
    - Outside window washing, or work standing on a window sill, ladder, scaffold, or similar equipment; and
    - Warehouse work, except office and clerical work.
  - A 14- or 15-year-old may perform these tasks in the retail and service industries:
    - Bagging and carrying customer's orders;
    - Cashiering, selling, modeling, art work, advertising, window trimming, or comparative shopping;
    - Cleaning fruits and vegetables;
    - Clean-up work and grounds maintenance (the young worker may use vacuums and floor waxers, but he or she cannot use power-driven mowers, cutters, and trimmers);
    - Delivery work by foot, bicycle, or public transportation;
    - Kitchen and other work in preparing and serving food and drinks, but not cooking or baking (see hazardous jobs);
    - Office and clerical work;
    - Pricing and tagging goods, assembling orders, packing, or shelving;
    - Pumping gas, cleaning and polishing cars and trucks (but the young worker cannot repair cars, use garage lifting rack, or work in pits);
    - Wrapping, weighing, pricing, and stocking any goods as long as the young worker does not work where meat is being prepared and does not work in freezers or meat coolers.
  - Student learners: High-school students at least age 16 who are enrolled in career and technical education can be employed at a special minimum wage rate of not less than 75 percent of the minimum wage (i.e., \$3.86 under the present \$5.15 per hour minimum wage), provided authority is obtained from the Department of Labor Regional Office of the Wage and Hour Division for each student before he/she begins employment.
  - Full-time student program: Full-time students working in retail or service stores, agriculture, or colleges and universities can be employed at a special minimum wage of not less than 85 percent of the minimum wage

(i.e., \$4.38 under the present \$5.15 per hour minimum wage). Employers must first obtain a certificate from the Department of Labor Regional Office of the Wage and Hour Division. This certificate also limits the number of hours a student may work to 8 hours per day and no more than 20 hours per week during the school year and 40 hours per week when school is out, and requires employers to follow all child labor laws.

- **Youth minimum wage:** Section 6(g) of the FLSA allows employers to pay employees under age 20 a youth minimum wage of not less than \$4.25 per hour for a limited time period of 90 consecutive calendar days, not work days. The 90-day period starts with and includes the first day of work. Where state or local law requires payment of a minimum wage higher than \$4.25 an hour for employees under age 20, the higher state or local minimum wage rule would apply. A break of service does not affect the calculation of the 90-day period. For example, if a student initially worked for an employer over a period of 60 consecutive calendar days during the summer and then quits to return to school, the 90-day eligibility period ends for this employee with this employer 30 days after he/she quits (i.e., 90 consecutive calendar days after initial employment). If this same student returned later to work again for the same employer, the employer would not be able to pay the student the youth minimum wage. Individuals under age 20 may be paid the youth minimum wage for up to 90 consecutive calendar days after initial employment by more than one employer. Employers may not displace regular employees to hire someone at the youth wage.
- **Workers with disabilities in supported-work programs:** Section 14 of the FLSA allows workers with disabilities to be employed at wage rates that may be below the statutory minimum, but wages paid must always be commensurate with the workers' productivity as compared to the productivity of nondisabled workers performing the same tasks. To pay a wage rate below the statutory minimum, an employer must obtain a special minimum wage certificate from the Department of Labor Wage and Hour Midwest Regional Office (see Appendix A); the employer must obtain the certificate before employing a worker with a disability at less than the minimum wage.

Schools operating WBL programs should not rely solely on the preceding description of the FLSA provisions that apply when students participate in the cooperative work experience component of WBL. Schools and businesses may consult the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division Regional Office for additional guidance (see Appendix A) and state and local government agencies.

With the issuance of policy guidelines governing the WBL components of career exploration, career assessment, and work-related training, the U.S. Departments of Labor and Education have cleared the way for schools to launch or expand their WBL programs for youth with disabilities. Several state and local education agencies have contacted the Office of Special Education Programs within the U.S. Department of Education with questions about applying the guidelines to their own WBL programs. The following section of this handbook lists the questions most frequently asked about operating WBL programs consistent with the FLSA, and the responses to these questions developed by the U.S. Departments of Education and Labor.

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# **Section II**

## **Questions and Answers**

- **Requirements for Participation**
- **Documentation**
- **Program Supervision**
- **Instructional Programming**
- **The Educational Relationship vs. the Employment Relationship**



## Questions and Answers

The U.S. Departments of Labor and Education have policy guidelines that apply to youth with disabilities in nonpaid, nonemployment relationships. A nonpaid, nonemployment relationship may occur as part of the career exploration, career assessment, and work-related training components of WBL programs. This section presents many questions frequently asked about these guidelines. Each question is followed by an answer developed by the U.S. Department of Education in collaboration with officials from the U.S. Department of Labor's Wage and Hour Division.

### Requirements for Participation

1. *Which students may participate in work-based learning (WBL) programs under the policy guidelines for nonpaid, nonemployment relationships?*

All students may participate; however, many states have specific guidelines for special education students allowing them to participate in extended WBL activities if it is determined appropriate for them.

2. *How is it determined which students might need to participate in a WBL program?*

The determination should be based on the individual student's needs, taking into account the student's preferences and interests. WBL would be considered a major change in placement for most students and would require a change in the IEP. The education agency must invite the student to any meetings considering transition services or participation in work-related training.

3. *Does the term "physical and mental disabilities" mean that students with learning disabilities are excluded?*

No. Learning disabilities can have their origin in physical or mental disabilities. However, participation in WBL programs should not be determined by disability group but rather by individual needs and preferences.

4. *The policy guidelines indicate that nonpaid, nonemployment work-related training is for individuals for whom employment is "not immediately obtainable." What does this mean?*

The "not immediately obtainable" language was placed in the guidelines to ensure that students would not have extended placements in the career exploration, career assessment, or work-related training components of WBL programs if they were capable of obtaining employment at or above the minimum wage level. Work-based learning is an organized set of educational and skill-building activities intended to prepare students for paid employment while they are in school.

5. *The guidelines also indicate that work-related training is intended for students who will need "intensive ongoing support" to perform in a work setting. Does this mean that it is intended for students with more severe disabilities?*

While work-related training is intended for those students with more severe disabilities, it is appropriate for students with low to moderate disabilities when the intent is to move the student to paid employment as soon as the student is ready. Assessment of students' needs must be based on skills and behaviors necessary to function in a work setting. Examples of ongoing support services include job redesign, job coaching to retain employment, environmental adaptations, personal assistance services, transportation, and social-skills training (Rehabilitation Act Amendments, S. Rep. 102-357, 1992).

6. *What vocational options should be available to students who do not need intensive ongoing support?*

Work-based learning programs are not intended to replace career and technical education, work study, or other vocational training and employment programs. WBL is intended as an option made available to students to expand the capacity of education agencies in assisting each student to achieve employment objectives. Collaboration with all programs/agencies can provide a student with the best opportunities.

### Documentation

7. *What type of documentation is needed?*

It is important that WBL programs document that all participants, including the student, the parent(s) or guardian(s), the employer, and instructional staff, understand that:

- If at any point the WBL activity is no longer a learning experience and the seven criteria (page 7-8) for a nonpaid/volunteer WBL experience cannot be met, the activity is not a nonemployment relationship;
- Students are not entitled to wages or other compensation for the time spent in the learning experience; and
- Students are not automatically entitled to employment at the worksite at the completion of the WBL experience.

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

- i. An IEP reflecting instruction and training goals and objectives relevant to the work-related training experience;
- ii. A written individual training agreement outlining the U.S. Departments of Labor and Education requirements listed above and signed by all participants along with attached individual training plan; and
- iii. Records of student experience (i.e., log of hours spent in WBL activities, progress reports, observation reports, safety training, and performance evaluations).

8. *Is there any additional documentation needed for the paid cooperative work experience component?*

Yes, in addition to the documents listed in **Question 7** above, the following records should be kept on file:

- Hours and wage earnings;
- Copy of the employer's workers' compensation insurance verification; and
- A statement of assurance declaring compliance with FLSA and state laws governing working restrictions and hazardous occupations. The employer and work-based learning coordinator sign this document.

9. *Do the policy guidelines supersede individual state departments of labor regulations?*

No. WBL programs must comply with both U.S. Department of Labor regulations and state department of labor regulations. Where the two differ, the regulations with the most stringent requirements for protecting individuals in work settings must apply.

10. *What safety regulations apply to students in the workplace?*

The Occupational Safety and Health Act (OSHA) regulations that apply to a workplace also apply to a student participating in any WBL activity, whether nonpaid or paid. All students must be provided workplace safety training, protective equipment as required, and health and safety considerations.

11. *Is special or extra liability coverage for students required for a nonpaid, nonemployment relationship?*

Work-based learning is considered part of the student's individualized education program. In nonpaid, nonemployment relationships, the worksite is perceived as an extension of the school. In other words, the student is pursuing instructional objectives in a work setting. Since these students are not employees, they are not eligible for the usual workers' compensation or insurance coverage provided to employees.

If the student's participation in workplace activity can be considered instructional and part of a nonemployment relationship, then the school may be responsible for liability coverage. Generally, the same insurance and liability policies that apply to other off-site school experiences (i.e., athletic events, field trips) should apply. Each school district must work out their own policies regarding liability.

12. *What liability issues arise when a student is in a paid, cooperative work experience?*

When the student is a paid employee of a business, then the employer is responsible for offering him or her the same liability coverage offered to other employees, including coverage under the employer's workers' compensation plan.

13. *Do reports have to be made to the U.S. Department of Labor and/or the U.S. Department of Education?*

No. Reports to the U.S. Department of Labor or the U.S. Department of Education are not necessary. However, adequate records documenting your program's compliance with the guidelines for WBL activities, particularly nonpaid, work-related training and paid community work experience, must be maintained. In the event of a Department of Labor investigation of your program, this information must be made available to the Department of Labor.

14. *Can we share information from the WBL program with vocational rehabilitation agencies?*

Yes. Information from the WBL program can be shared with other agencies as long as confidentiality procedures are followed. In fact, rehabilitation services counselors may be actively involved in the process of WBL through consultation or funding.

15. *How should issues regarding confidentiality be addressed?*

Work-based learning programs should adhere to procedures typically followed regarding confidential information. These procedures are outlined in section 300.560-300.577 of the IDEA regulations and are incorporated into both state and local policies and procedures.

## **Program Supervision**

16. *What is meant by the term "under the general supervision" of public school personnel?*

This means that the public school or education agency has primary responsibility for the youth with disabilities WBL program. Under IDEA, failure to deliver free appropriate educational services constitutes a violation of the rights of youth with disabilities. This places responsibility for ensuring that WBL programs meet this mandate on the shoulders of public school personnel. While other agencies or groups may deliver these educational services, public school personnel must act as the central agency overseeing the program.

17. *How should educators document meeting the general supervision criteria?*

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

18. *What are the implications of the “continued and direct supervision” requirement for educators and employers?*

Participation in WBL programs is considered a valid part of a student instructional program. A student should be closely supervised by school staff or employees of the business. Direct supervision can include: (a) one-to-one instruction, (b) small group instruction, (c) supervision in close proximity, and (d) 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 an occupational or workplace skill.

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

Students in WBL programs are to be monitored at all times. However, the level of monitoring needed in a workplace setting is determined on an individual basis. The various components of WBL could require several monitoring strategies depending on the goals and objectives outlined in the IEP. For example, career exploration and career assessment may require closer monitoring than the work-related training component when the student is working toward more independence in job performance.

20. *What educational qualifications and/or certifications must education staff have in order to provide supervision in WBL programs as the education agency's representative?*

State and local education agencies must determine the educational qualifications necessary for school staff providing supervision in WBL programs.

### **Instructional Programming**

21. *Is a formal career assessment required to determine a student's interests and preferences?*

A formal career assessment may not be required to ascertain a student's preferences and interests if other alternatives are appropriate. However, as part of the overall decision-making process, needs for support services or assistive technology should be identified. These needs may be determined through ongoing assessment procedures within the various components of a WBL program.

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

No. WBL activities do not need to follow a prescribed order. Given the nature of a student's needs, any of the three components may be excluded. The WBL program, however, must follow logical, generally agreed-upon instructional best practices. For example, assessment and exploration usually would not follow training in any single job classification.

23. *Is it necessary that the WBL goals and objectives in the IEP specify exact site placements?*

No. It is possible for the IEP to identify only general goals and objectives to be pursued (e.g., job clusters to explore, assessments of general work behavior skills, or training in a specific occupation). The IEP should,

however, expressly limit the time students will spend at any one site or in any one job classification. Additional written agreements (i.e., individual training agreements, individual training plans) with parent(s) or guardian(s), students, and employers should reflect the exact location of WBL and document the specific nature of the education and training involved.

24. *Does the IEP team have to reconvene to approve multiple career explorations, career assessments, work-related training, and cooperative work experience?*

No. The transition IEP objectives and goals can be written broadly enough to incorporate these experiences.

25. *What is meant by the phrases “clearly distinguishable occupation” and “clearly distinguishable job classification”?*

The word occupation refers to a specific profession or career 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 tasks that may be integral components of specific occupations. For example, work as a custodian involves sweeping, emptying trash, and mopping. Each of these work tasks must be considered as part of the clearly distinguishable occupation of custodian. If a student has received all allowable hours of nonpaid, work-related training in the job of school custodian, she/he should not be moved to a new site for another experience as a nonpaid, office-building custodian.

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

No. As stated earlier, general goals and objectives for the student are outlined in the IEP, and written training agreements and training plans between the student, parent(s) or guardian(s), employer, and school personnel detail specific activities for the WBL experience. Thus, WBL 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 training agreement. In the event there is a need for a new worksite or occupation, a new training agreement and training plan must be written and signed prior to placing a student in the new worksite or occupation.

27. *Can students work as volunteers or in service learning in a nonpaid, nonemployment relationship?*

Yes, however it must be at a public agency site where the intent is to donate their services for the public good. These sites include charitable not-for-profit organizations, governmental agencies, hospitals, and nursing homes. Commercial businesses may not have unpaid volunteers. The student must choose to volunteer, all participants must agree this is voluntary, and all participants must agree the student is not entitled to wages.

28. *How will students receive academic credits for WBL?*

How students receive academic credit for occupational and work-related skills acquired in WBL programs is up to state and local education agencies. Many education agencies allow course credit for these community experiences since they help students achieve the transitional goals and objectives identified in their IEPs. Generally these experiences include concurrent classroom instruction by qualified personnel at the educational agency. Frequently, the policy for academic credit in WBL programs will be consistent with the one used for career and technical education programs available to the general population.

29. *Do the policy guidelines refer to programs under special education and/or career and technical education?*

It does not matter whether the WBL program is offered through special education or career/technical education. However, participants in WBL programs under the seven criteria (page 7-8) for nonpaid, nonemployment relationships must be youth with disabilities as defined by the IDEA.

30. *Do the guidelines apply to work during the summer?*

Yes. These guidelines may apply to summer WBL programs if they are under the general supervision of school personnel. Many students have IEPs that call for an extended-year educational program. Other students may simply elect to enroll in summer school.

### **The Educational Relationship vs. the Employment Relationship**

31. *What is the difference between an educational relationship and an employment relationship?*

In an employment relationship such as cooperative work experience or youth apprenticeship, the student is providing services that benefit the employer. The student may be completing tasks normally completed by regular employees. As a result of the student's work, vacant paid positions in the business may remain unfilled, and regular employees may be displaced or relieved of their normally assigned duties. In an educational relationship such as work-related training, the student engages in work tasks as part of an organized educational activity designed to benefit the student. The guidelines on implementing WBL programs consistent with the FLSA outline the distinction between an employment relationship and a valid educational experience. If a student's involvement in WBL activities constitutes an employment relationship rather than part of an organized educational activity, then the participating business or school may be responsible for full compliance with the FLSA regulations. This would include compliance with the FLSA's minimum wage and overtime pay provisions.

32. *What is the distinction between benefit to student versus benefit to employer?*

A number of distinctions have been made between benefit to the employer and benefit to the student with regard to WBL programs. Benefit to the employer occurs when the employer recognizes an immediate advantage by having the WBL student working on the premises. An immediate advantage is increased profitability or production for the business. Benefit to the student occurs when the WBL program is a valid educational experience for the student. For WBL to represent an educationally valid experience the following instructional practices should be implemented:

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

(In both situations, the student will benefit, however, the most important decisive factor is whether or not the employer or business receives any benefit.)

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

The WBL experience must be primarily for the student's benefit. 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 to ensure this criterion is met. First, the educator can confirm that all parties—the employer, the students, and the parent(s) or guardian(s)—understand that students in the WBL program must not displace regular employees. A written training agreement documenting this understanding should be signed by all involved. Secondly, those who supervise the student at the worksite may observe when employee displacement and other violations occur and take steps to correct the situation.

34. *If the activity is ordinarily not performed by employees and yet is beneficial to the business, can the student perform the activity?*

The student should neither perform the activity nor be paid appropriate wages. Although regular employees have not been displaced or relieved of assigned duties, the student is still providing services which benefit the business. Therefore, an employment relationship exists between the student and the employer. This would not be the case if the activity were of no benefit to the employer and consisted of “busywork” designed to develop or improve a student's skills. For example, reorganizing materials awaiting shipment into sets of five would not constitute an employment relationship if the business did not ship the materials in this manner.

35. *Can students accept an offer of paid employment at a worksite where they were placed for work-related training?*

Yes. Students can accept an offer of paid employment at a worksite 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.

36. *Could the student be paid less than the minimum wage?*

Yes. Paid employment below the minimum wage rate is permitted when a worker's disability impairs 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 obtain a certificate from the Wage and Hour Division of the U.S. Department of Labor authorizing the payment of a special minimum wage to youth with disabilities participating in cooperative work experience or state-approved career and technical education programs. Application must be made to the U.S. Department of Labor for authority to employ workers with disabilities at these special minimum wage rates.



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## Section III

### **Case Studies: Examples of Work-Based Learning (WBL) Activities**

*This section describes the WBL experiences of eight youth with disabilities between ages 14 and 21. The student examples are grouped according to the WBL component they illustrate: career exploration, career assessment, work-related training, and cooperative work experience. The student examples are based on descriptions of actual students who participated in WBL programs in the Washington, DC, area. Names of youth are fictitious to protect confidentiality.*

- **Career Exploration in Initial Transition Planning in a Rural Community**
- **Career Assessment Experience in a Cleaning Services Setting**
- **A Work-Related Training Experience in a Hotel Laundry Setting**
- **Cooperative Work Experience in a Restaurant Setting**
- **Career Exploration in Two Suburban Small Business Settings**
- **Career Assessment in a Large Business Setting**
- **Work-Related Training in Three Workplace Settings**
- **Cooperative Work Experience at Special Minimum Wages**



## Example 1: Career Exploration in Initial Transition Planning in a Rural Community

Wanda is an eighth grader in a small rural community. She is 14 years old. She was identified as having a learning disability in second grade and has received special education services since then. Wanda attends the local middle school where she is in regular classes and receives help from a special education teacher in reading and language arts.

An IEP meeting was held in the spring prior to Wanda's entry into eighth grade. Wanda, her parents, and the other IEP team members agreed that Wanda was extremely sociable, eager to try new things, and increasingly self-reliant. Wanda's IEP goals were primarily in academic areas.

Wanda was interested in developing an understanding of jobs and careers she might pursue after high school. She believed this might motivate her to study more seriously. Wanda and the other IEP team members agreed that in five months (approximately the time Wanda would turn 14) her IEP should include the transition component.

### The Transition Component of Wanda's IEP

During her IEP/transition planning meeting, Wanda indicated that although she did not have specific careers in mind, she was interested in animals, music, children, and drawing. Wanda's parents said that she does chores around the house and follows 3- and 4-part instructions easily. Wanda's father is a soft-drink distributor to small stores in the area. One of Wanda's jobs at home is sorting empty bottles. Her father noticed that she became much quicker and more proficient at this task when he began to pay her a penny a bottle.

Wanda and the IEP team decided that Wanda would experience a variety of careers and occupations during the remainder of the school year to help her identify career areas she might pursue after graduating from school.

### Exploratory Site Selection

Wanda and the IEP team members agreed that Wanda would begin her career exploration in the school library and cafeteria. School staff would also arrange for Wanda to observe at the local veterinary clinic, the school day-care center, and career and technical education classes.

Wanda's special education teacher agreed to coordinate career exploration activities within her IEP/transition plan. This included arranging for Wanda's visits to various school and community sites,

### Parent Notification of IEP/Transition Planning Meeting

Leesburg County Public Schools  
10 Main Street  
Leestown, MD 20000  
(308) 888-9999

September 12, 2004

Mr. and Mrs. Fred Adams  
Route 222  
Leestown, MD 20000

Dear Mr. and Mrs. Adams:

This letter is to schedule a meeting to complete the transition planning component of Wanda's IEP. The purpose of Wanda's transition plan is to provide her with work-based learning activities (WBL) to assist her in developing career goals and the skills necessary for her to reach those goals. Typically, students will be involved in four phases of WBL: 1) career exploration; 2) career assessment; 3) work-related training; and 4) cooperative work experience.

Since Wanda will soon be fourteen, we would like to discuss with Wanda and you career exploration (phase 1 of WBL) opportunities as part of the transition planning component of her IEP. We would like to schedule this discussion for October 10, 2004, at 4:00 p.m.

Please let me know if this meeting date will not work for you, so we may reschedule it to accommodate your schedule.

Sincerely,  
Brian Goodman, Special Education Teacher/Case Manager  
Lincoln Middle School

documenting Wanda's experiences, and gathering data from each site manager regarding Wanda's reaction to her exploratory observations. The school provided transportation to the off-campus sites.

Wanda and her parents understood that each of these career explorations was limited to a maximum of five hours per experience. Wanda would not be paid for any work performed. The purpose of the exploration was to expand Wanda's understanding of a variety of careers. Her parents agreed to support Wanda in keeping a daily log of her activities and to discuss her observations with her throughout the activities.

### The School Cafeteria

Wanda's teacher introduced her to the manager of the school cafeteria. Wanda observed the general operations of the cafeteria for one hour and asked questions about each phase. She was most curious about how the cooks knew how much of each ingredient to use in making large portions. She said she did not want to serve food in the cafeteria and have kids ask why she was doing it. During Wanda's second visit she watched a cook make meatballs and spaghetti. She asked a few questions, but seemed generally uninterested. She confirmed this with the manager, her teacher, and her parents. During her third exploratory visit, Wanda measured and mixed the ingredients for "tuna surprise." She required some assistance in measures (pints, quarts, gallons, etc.).

Wanda's teacher observed her frequently. She noted that Wanda got along well with the cafeteria staff and seemed more interested in socializing than in cooking. Wanda recorded her experiences and reactions in her log and discussed them with her teacher and parents.

### The School Library

Wanda introduced herself to the school librarian, who explained how the library is organized and operated. Wanda showed some interest in the library because of her interest in photography. She was pleased to find that the library had a photography section and several related magazines. Wanda's next visit was spent watching the librarian and the library assistant do a variety of tasks: cataloging books, replacing books on the shelf, and checking books in and out. Wanda asked very few questions about this work. The librarian told the teacher that Wanda was much more interested in leafing through magazines than participating in library activities.

On her next visit to the library, Wanda shelved 20 books after arranging them in alphabetical order by author. Both the librarian and her special education teacher noticed that she did this with little difficulty. During Wanda's exit interview with the librarian, she expressed little interest in trying other library tasks. She did become somewhat excited when the librarian told her that one of his jobs was ordering books and magazines. She was less excited

when she found out that the librarian couldn't just order books that he liked. Wanda made notes about her experiences in her log. In a follow-up discussion with her teacher, Wanda reported that working in school didn't seem like real work. She wanted to see some real work.

#### Wanda's IEP Transition Goals and Objectives

##### Goals:

- I will explore a variety of career opportunities in school and the community by watching work being done, talking with employees, and trying out work under my teacher's supervision.
- I will participate in my IEP meetings and express preferences based on my career exploration experiences.

##### Objectives:

- I will talk appropriately with workers and supervisors.
- I will ask questions about the work in each career exploration site.
- I will express my feelings and preferences about each situation with my special education teacher and parents.
- I will keep a log of each experience and discuss each one with my special education teacher and parents.

### The Veterinary Clinic

Wanda's special education teacher arranged for Wanda to spend five afternoons at a local veterinary clinic. Wanda's teacher explained the purposes of these visits to the veterinarian, and she agreed to expose Wanda to several experiences.

The special education paraprofessional accompanied Wanda to the veterinary clinic. The paraprofessional stayed with Wanda during the first observation. On this visit, the veterinarian

assistant took Wanda on a tour of the clinic and explained the different operations (standard veterinary services, surgery, grooming, and boarding). The assistant also explained that the veterinarian was a large and small animal doctor who was often out of the office on house calls. Wanda was most interested in grooming and caring for the animals.

Wanda watched dog grooming during her second visit. The veterinarian also had Wanda come into an examining room to observe a routine checkup of a cat. Wanda asked if the shots hurt the cat. Wanda and the doctor had a long conversation about administering drugs to animals.

When the paraprofessional came to pick up Wanda after her third observation, she found Wanda cleaning dog kennels. The paraprofessional learned that the doctor was on a house call and the assistant instructed Wanda to clean the kennels. Wanda didn't seem to mind. But when the paraprofessional reported this to the special education teacher, the teacher telephoned the veterinarian to explain that cleaning the kennels was not an appropriate activity for Wanda. The doctor agreed. On her last observation Wanda and the paraprofessional accompanied the veterinarian on a house call to examine a horse. Wanda was afraid of the big animal. She reported in her log that it was "fun" to be around the dogs and cats, but didn't think she wanted to be a veterinarian or a veterinarian's assistant. She did express interest in how animals are trained.

### The Day Care Center

Wanda spent three mornings in the day care center operated by the high school. The center cares for the children of high school students and other young children in the community. During her first visit, Wanda observed a structured play activity with the four and five year olds. During her second observation, Wanda participated in a play activity by handing out materials and helping children put on their smocks. The preschool teacher reported that Wanda seemed to like the older children, but was uncomfortable around the infants. She had no interest in changing diapers. During Wanda's last visit to the day-care center she lost interest and spent her time playing with a group of toddlers having a tea party. Wanda reported in her log that she liked most of the children and wondered if a job like that paid very much.

### The Graphics Arts Class

Leesburg High School offers a range of career and technical education (CTE) programs. One of these is a three-year program in graphic arts. Wanda spent two afternoons observing the activities in this CTE program. At first she watched students selecting color combinations to highlight a magazine ad. Then, at the teacher's invitation, she joined a small group choosing color combinations. Wanda reported in her log that she enjoyed the activity and believed she was good at picking the colors. The graphic arts teacher told Wanda's middle school teacher that Wanda had no trouble working with the high school students.

#### Parent Notification of Career Exploration Sites

Leesburg County Public Schools  
10 Main Street  
Leestown, MD 20000  
(308) 888-9999

October 10, 2004

Mr. and Mrs. Fred Adams  
Route 222  
Leestown, MD 20000

Dear Mr. and Mrs. Adams:

Following our discussions and the development of the transition component of Wanda's IEP, the following career exploration sites have been identified:

- School cafeteria: 3 one-hour observations
- School library: 3 one-hour observations
- Leestown Animal Clinic: 5 one-hour observations
- Leesburg High School Day Care Center: 3 one-hour observations
- Leesburg High School graphic arts class: 2 one-hour observations

The purpose of the worksite activities is to allow Wanda to experience a variety of work situations and settings. Each career exploration site is limited to no more than five hours per worksite. Wanda will be under the supervision of school staff (either a teacher or a paraprofessional on all job sites).

Enclosed is a Work-Based Learning Nonpaid Training Agreement, which includes participation in career exploration activities. Please read it and, if you agree, sign and return to the school.

Sincerely,  
Brian Goodman, Special Education Teacher  
Lincoln Middle School

**Work-Based Learning Nonpaid Training Agreement**

Student's Name: _____	Site/Agency: _____
Date of Birth: _____	Address: _____
School: _____	City: _____ Zip code: _____
Teacher/Coordinator: _____	Site/Agency Telephone #: _____
School Telephone #: _____	Site/Agency Contact: _____
Emergency Contact Person & Telephone #: _____	Placement Dates: _____

**CHECK APPROPRIATE BOXES/SPACES:**

- Career Exploration: \_\_\_\_\_
- Career Assessment: \_\_\_\_\_
- Work-Related Training: \_\_\_\_\_

*By signing this agreement, all parties understand and agree to the following terms:*

1. The employer derives no benefit from the activities of the student;
2. The student does not displace a regular employee and is closely supervised;
3. All parties understand the student is not entitled to receive any wages during the agreement time; and
4. All parties understand the student is not entitled to a job at the end of the experience.

**Worksite/Supervisor Responsibilities Are To:**

- Provide the student with an occupational experience of educational value appropriate to the student's IEP/transition plan.
- Assure the student is closely supervised at the work-based learning site.
- Provide evidence of general liability insurance coverage for visitors, volunteers, and non-paid, work-based learning activities.
- Instruct the student in the competencies identified in the training plan provided and document the student's progress when applicable.
- Conduct progress reviews, when applicable, with the student (which may include the guardian and school personnel) and provide copies of those reviews to the school.
- Not exclude students from participation in the program on the basis of race, color, creed, religion, sex, national origin, age, disability, marital status, status in regard to public assistance or any other protected groups under state, federal, or local Equal Opportunity Laws.
- Provide student with safety training, safe equipment, and a safe and healthful workplace that conforms to all health and safety standards of federal and state laws.

**School Responsibilities Are To:**

- Not exclude students from participation on the basis of color, creed, religion, sex, national origin, age, disability, marital status, status in regard to public assistance or any other protected groups under state, federal or local Equal Opportunity Laws.
- Support the student in meeting the requirements of the student's IEP/transition plan.
- Participate in progress reviews scheduled with mentors, student, and student's guardian(s).
- Comply with all federal, state, and local regulations.
- Place students in appropriate work-based learning experience based on tested interests, aptitudes, and abilities and provide appropriate accommodations when required.
- Provide orientation and general safety instruction to the student prior to placement in a non-paid, work-based learning activity.

**Parent(s)/Guardian(s) Responsibilities Are To:**

- Give permission for participation in the work-based learning activity and support the student in meeting the requirements of the program.
- Participate in any progress reviews scheduled with mentors, school personnel, and student; and communicate information vital to the success and development of the student.
- Understand their child is not entitled to a job at the end of the activity or to receive any wages during the agreement time.

**Student's Responsibilities Are To:**

- Follow all rules and guidelines set by the school district and work-based learning placement site.
- Participate in progress reviews scheduled with mentors, school personnel, and/or parent/guardian; and share information of events or facts relevant to your progress in this program.
- Understand he or she is not entitled to a job at the end of the activity or to receive any wages during the agreement time.

Upon signing this agreement all parties agree to comply with the responsibilities listed above.

Parent(s) or Guardian(s) _____	Date _____
Student _____	Date _____
School Representative _____	Date _____
Worksite/Agency Representative _____	Date _____

A copy of the student's Individual Training Plan is attached to this agreement.

Yes \_\_\_ No \_\_\_ (If no, document the reason training plan is not needed.)

Copies of this agreement should be distributed to the student, parent or guardian, and worksite/agency. The original is to be kept on file at the school district.

### **Career Day**

Wanda and her mother attended the career day sponsored by the Rotary Club at her middle school. Since Wanda lives in a rural community, many exhibits involved agriculture and small businesses. Wanda spent some time talking with the owner of a one-hour film developing shop that had just opened in a nearby community. She told her parents she wanted to see the shop and find out more about how it worked.

Her mother telephoned the shop owner and took Wanda to observe the business on a Saturday afternoon. Wanda was quite excited by her conversation with the owner and asked him several questions. Wanda's mother told her teacher that Wanda talked about this visit for several days. Wanda also asked her mother if she could continue to "work like this" when she entered high school next year.

### **Documentation**

Wanda's special education teacher gathered written comments or made notes when talking with each of the exploration site managers. The teacher and the paraprofessional kept notes on their observations of Wanda during these activities. The teacher also talked with Wanda's parents several times. At the end of the school year, the teacher wrote a summary of Wanda's career exploration experiences, pointing out Wanda's career preferences (e.g., child care and photography), her responsible behavior at the worksites, and her potential to continue in a WBL program in high school.

### **Wanda's Career Exploration Experiences and the FLSA**

Wanda's participation in the career exploration component of WBL conforms to the guidelines published by the U.S. Departments of Labor and Education. In this instance, she observed work settings in school as well as in the community. She had the opportunity to watch and participate in work at sites exhibiting a variety of career and occupational areas (i.e., food service, library science, veterinary science, child care, graphic arts, and photography). However, she received no pay for any service she might have performed. She spent no more than five hours at any one exploration site. Nor did her participation in work at any site result in an immediate advantage to the business. Her teacher responded appropriately in contacting the veterinarian when it was reported that Wanda was cleaning dog kennels. This activity was not carried out under supervision; it had the potential to benefit the business and therefore would violate the guidelines for career exploration had it continued.

Wanda's interests and preferences were considered in selecting her exploratory experiences. Her parents were fully informed and participated in the activity. The exploration goals and objectives were clearly established as part of the transition component of Wanda's IEP. Wanda's special education teacher, the paraprofessional, and site managers supervised her assignments. It was not necessary to supervise Wanda directly at all times given her behavior, proficiencies, and IEP/transition plan goals and objectives. Written notes, including Wanda's log, provided adequate case documentation.

There is the strong potential for the results of Wanda's career exploration experiences to influence the development of Wanda's IEPs during her high school years. Of particular interest to Wanda is the opportunity to enroll in one of the career and technical education programs at Leesburg High School as part of her high school special education program.

## Example 2: Career Assessment Experience in a Cleaning Services Setting

Mike is 16 years old and attends a large suburban high school. Mike has a cognitive disability (IQ of 70) and has received special education and related services since he was four years old. A substantial part of his education program now centers on community-based instruction. His IEP goals focus on functional community skills, social skills, and work-related skills. According to his IEP, Mike speaks in short sentences of three to five words, and often his diction is unclear. He has difficulty following directions with more than two steps. Mike sight reads words related to his daily schedule and is typically outgoing. Mike has difficulty adapting to new routines.

### Mike's Previous WBL Experiences

Mike has participated in several career exploration experiences since he entered high school last year. They included observations and limited participation in a bakery, a fast-food restaurant, a large grocery store, a dry cleaner, and a cleaning service. Mike's special education teacher/coordinator observed Mike in each of his exploratory experiences.

### Transition Component of Mike's IEP

An IEP meeting was held to review Mike's academic and transition goals and objectives. Mike, his father, and the other IEP team members developed a long-term transition goal for Mike that stated Mike would secure employment within the community upon graduation from high school.

During the meeting, Mike expressed interest in the cleaning company that he observed as part of his career exploration activities. He enjoyed the way the company organized employees into three-person teams, and assigned teams to residential and commercial customers who subscribe to the cleaning service. Mike's special education teacher knew that the cleaning company had provided career assessment and training opportunities to several students in the past and was a positive work setting that offered a variety of jobs.

Team members decided that Mike's teacher would seek the company's permission to construct a career assessment situation for Mike during the school year. Based on Mike's interests and abilities, Mike and the other team members developed his annual transition goal and a set of objectives for reaching that goal.

### Arrangements for Mike's Career Assessment

Mike's teacher met with the owner of Eaglewood Cleaning Services and discussed the possibility of the company serving as Mike's career assessment site. The owner remembered Mike from his career exploration experience there. Mike's teacher explained that the purpose of Mike's career assessment was to evaluate him in a variety of work-related areas including performance, ability to follow directions, and social relationships. The owner agreed. Since all of the cleaning services provided by the company to corporate clients were performed at night, the owner suggested assigning Mike to a team that cleaned private homes during the day. The owner also suggested assigning Mike to one team at first so he wouldn't have to adjust to several employees at once. The teacher promised that he or a paraprofessional would accompany Mike to the worksite and remain there with him.

### Development of Mike's Career Assessment Plan

Mike's teacher visited several of the company's worksites and met the teams and supervisors before Mike began his career assessment activities. Mike went with his teacher twice to confirm his interest in this assessment placement.

### Mike's IEP Transition Goal and Objectives

#### Goal:

- I will perform a variety of cleaning tasks in businesses and private homes in the community, two hours per day, three days per week during this school year.

#### Objectives:

- I will talk appropriately with my supervisor and coworkers, as observed by my supervisor and teacher.
- I will follow spoken and written directions, as observed by my supervisor and teacher.
- I will perform a variety of cleaning tasks, such as vacuuming, washing windows, cleaning restrooms, dusting, and emptying trash, to be observed by my supervisor and teacher.

His teacher also conducted a worksite analysis to decide if Mike would need any type of assistance to perform the assigned tasks. Transportation was the only assistance Mike would need. To accommodate this need, Mike's teacher or paraprofessional would accompany him to work.

The company's owner and Mike's teacher chose a residential cleaning team and supervisor for Mike based on the teacher's observations during the worksite analysis. Mike's teacher developed work-related and social behavior analysis instruments to assess Mike's job performance. These forms addressed each of Mike's transition objectives: work performance, ability to follow directions, and social relationships.

Mike's supervisor, teacher, and paraprofessional met to review the assessment plan. They agreed that they would collect data on Mike's work rate on each task (e.g., cleaning windows, vacuuming). Mike would be expected to perform the task just as well as employees without disabilities, although he might need more time or closer supervision. They also agreed to monitor Mike's attendance, attitude, willingness to follow directions, and interactions with coworkers. The paraprofessional would write task checklists for Mike to follow when working, and Mike's supervisor would reinforce these with verbal instructions.

Initially, assessment data would be collected each time Mike was at the worksite. Mike's teacher and the paraprofessional would write case notes appraising Mike's performance and behavior to supplement the data collected using the forms. The assessment process would entail collecting data on a task or behavior, meeting with Mike to review his performance, then reassessing his performance. Assessment would then focus on a new task or behavior. Mike's teacher obtained agreement to the assessment plan from Mike, his father, and the owner of the cleaning company.

### Career Assessment Plan for Mike Pendleton

*(Attach plan to Individual Training Agreement)*

Student's Name: Mike Pendleton  
 Worksite/Agency: Eaglewood Cleaning Services  
 Teacher/Coordinator: Edward Sturgeon

During this assessment, Mike will work a residential cleaning team for two hours per day, three days per week. The work with the company in any one setting will not exceed 90 hours.

The following will be assessed during this work-based learning experience as identified in Mike Pendleton's IEP/transition goals and objectives:

Mike's ability to:

1. Follow oral directions;
2. Ask for help when needed;
3. Become comfortable with changes in schedules and routines;
4. Interact appropriately with coworkers and supervisors; and
5. Perform the following cleaning tasks as well as employees without disabilities:
  - a. Empty trash
  - b. Clean restrooms
  - c. Vacuum carpets
  - d. Wash windows
  - e. Dust

### Mike's Career Assessment Experience

Mike participated as planned in his career assessment placement with Eaglewood Cleaning Services. He enjoyed the work, although he was hesitant to talk with coworkers initially. Mike's teacher and the paraprofessional encouraged him to talk by starting conversations and drawing Mike into discussions. When Mike's teacher or the paraprofessional drove Mike between worksites, Mike expressed that he would prefer to ride in the company van with the other cleaning team members, as he enjoyed talking informally with his coworkers.

Mike had difficulty following verbal directions. He relied heavily on the written task checklists. His supervisor found that he needed to show Mike how to do each task at least twice before Mike could tackle it himself. Coworkers later offered assistance as part of their routine. Both Mike's teacher and supervisor observed that Mike needed to ask for help when he didn't understand a direction or task. He just stood to the side until someone noticed he wasn't working. But once Mike understood the task, he performed it efficiently and well. Mike didn't like moving from house to house. It took more than a month for Mike to be comfortable with this, and when the schedule changed, Mike still had trouble adjusting.

After two months with the team, both Mike's teacher and supervisor believed the career assessment was complete. Mike wanted to keep working. His supervisor talked to one of his colleagues, and arranged for Mike to join another team. Mike protested: "I want to stay here!" His father and teacher told Mike that people often change jobs, and getting to know new situations was just a fact of working. Mike reluctantly agreed to move to a second team. This gave Mike's teacher the opportunity to assess him again with respect to his ability to enter new situations, establish relationships, and respond appropriately to different supervisors. The career assessment process was repeated with similar results.

### **Outcomes of Mike's Career Assessment**

The career assessment showed that Mike has the potential to work on a cleaning services team. He can do the work at productivity levels comparable to those of employees without disabilities. Mike needed to improve his ability to follow oral directions, ask for help when he doesn't understand something, become more comfortable with changes in schedules and routines, and gain experience and support in interacting with coworkers.

### **Mike's Career Assessment Experiences and the FLSA**

Mike seemed to benefit from his career assessment experience. The experience provided his teacher with the information necessary to develop training objectives for Mike's next WBL activity. This assessment was conducted according to the FLSA guidelines. Eaglewood Cleaning Services was selected as the career assessment site based on Mike's interests and the goals and objectives of his IEP/transition plan. The career assessment plan made it clear that Mike would require no pay, and that Eaglewood would receive no benefit from Mike's participation. Assessment data were collected systematically by school personnel and Eaglewood staff. Mike spent less than 90 hours at Eaglewood during the school year.

In general, the school was proficient in its supervisory responsibilities. However, if Mike had ridden in the company van without the appropriate permissions, it might have presented a liability for the school system, since school liability requirements vary. Yet, opportunities for students to interact informally with employees is a valuable component of their career assessment experience, and school personnel should explore ways in which these opportunities can be fostered. In instances such as Mike's, perhaps the school could have arranged for the paraprofessional to ride in the van with Mike. He could have had the opportunity to converse informally with employees, which was part of his assessment plan, and possibly not infringe on the school's liability requirements. The legal responsibility for the school, the company, and the driver of the van must be clear prior to allowing Mike to ride in the van with or without a school representative accompanying him.

The career assessment component requires that when all possible information about the student's training needs has been collected, it's time to move the student to a work situation in which new information can be obtained. Mike's teacher was correct to move him to another team when the teacher and supervisor believed the initial assessment data collection process was complete. More data were needed on Mike's abilities to enter new situations and establish positive peer and supervisory relationships. Since Mike had not spent 90 hours at the Eaglewood Cleaning Services site, and more assessment data could be obtained there, it was appropriate he join a second team for this purpose.

### **Example 3: A Work-Related Training Experience in a Hotel Laundry Setting**

Marilyn is a 17-year-old who has a physical disability and moderate mental retardation. While she is ambulatory, health-related problems limit her ability to walk long distances. Marilyn attends an urban high school where she participates in regular classes and receives consultative assistance from the special education and related services staff. Marilyn speaks in single syllable words and rarely uses whole sentences. Her receptive vocabulary, however, is much greater than her expressive vocabulary, and she can follow two-step directions. Marilyn knows some sign language and recognizes picture symbols on a daily schedule board that she uses.

#### **Marilyn's Previous WBL Experiences**

Marilyn's previous WBL experiences included sorting materials for recycling, custodial work in a community center, and laundry service in a downtown hotel. Under the supervision of her job coach, Marilyn completed a comprehensive career assessment in the laundry facility at the Brentwood Inn.

#### **Transition Component of Marilyn's IEP**

During her IEP/transition planning meeting to discuss work-related training, Marilyn expressed a clear preference for training in a laundry service. Her job performance and general attitude during her career assessment at the Brentwood Inn laundry facility reinforced Marilyn's choice for training.

During the assessment phase, her job coach found that Marilyn could perform two basic tasks: sorting soiled laundry and folding clean laundry. In sorting, Marilyn worked at approximately 40 percent of the rate of regular employees. Her work rate was 20 percent of the rate of regular employees in folding laundry. Her job coach also noted that Marilyn did not like her routine changed. If she had been sorting for several days, she resisted switching to folding. She also had trouble dealing with a different supervisor if her regular supervisor was ill or had a day off. Her job coach suggested that Marilyn receive instruction on how to take a break on the job site and interact with other employees.

Marilyn and her parents understood that her training would be no longer than three hours per day, three days a week, and would not exceed 120 hours. The school would provide transportation to the Brentwood Inn and the job coach or a paraprofessional would be on-site at least two days a week. When her job coach or paraprofessional was not at the worksite, Marilyn would report to the laundry supervisor and receive her training from him and another hotel employee who would work with Marilyn. There would also be three other students in training at the Brentwood Inn, one in laundry service and two in general housekeeping.

#### **Marilyn's IEP Transition Objectives**

*Marilyn's IEP transition component reflected the outcomes of her assessment and the recommendations of her job coach.*

##### **Objectives:**

- I will increase how much laundry I fold and sort, as observed by my supervisor and job coach.
- I will learn how to load washers, add detergent, unload washers, and place items in the dryer, as observed by my supervisor and job coach.
- I will learn how to have conversations with other employees, use the snack machine, and use the restroom during break time, as observed by my supervisor and job coach.

#### **Marilyn's Work-Related Training at the Brentwood Inn**

Marilyn's job coach shared the IEP transition objectives related to Marilyn's work-related training with the laundry supervisor and the employee assigned to work with Marilyn. The plan called for the job coach to be on-site during the initiation of new or expanded tasks and to provide assistance to the supervisor on specific strategies and techniques. Marilyn's special education WBL teacher/coordinator wrote an agreement outlining the purposes of Marilyn's work-related training and the expectations for both the Brentwood Inn and the school system. The hotel management, Marilyn, and her parents accepted the agreement.

Marilyn began her work-related training at the beginning of the second semester. Her job coach stayed with Marilyn

the first week and established the desired training programs and data collection instruments. During the second week the job coach stayed on-site.

By the end of the second week, her job coach and supervisor concurred that Marilyn could work independently under the direction of the laundry supervisor until new tasks were introduced. The job coach was present each time Marilyn was introduced to a new task. Because Marilyn was in a training program, her supervisor collected the same data on Marilyn's performance that her job coach collected. Her job coach worked with the supervisor in collecting data and giving Marilyn feedback for a week. Then the supervisor took over these responsibilities. The job coach, supervisor, and Marilyn scheduled a conference each week to discuss Marilyn's progress and decide when new training activities would be initiated.

During Marilyn's initial training in laundry sorting, both her job coach and supervisor saw that Marilyn's rate declined after the first work hour. Her job coach suggested that fatigue may be a factor. The laundry supervisor arranged for Marilyn to work at a large table with a stool. This improved Marilyn's work rate. Marilyn also had trouble during breaks. She needed to be prompted to take a break, and was reluctant to begin talking with other employees, even the one with whom she worked closely. Her job coach noticed that when Marilyn took a break with another student in

### Individual Work-Related Training Plan for Marilyn Busch

*(Attach plan to Individual Training Agreement)*

Student's Name: Marilyn Busch

Worksite/Agency: Brentwood Inn

Teacher/Coordinator: Lorraine Stuart

Job Coach: Karin Bixby

As part of Marilyn's work-based learning experiences, she will participate in nonpaid, work-related training for three hours per day, three days per week that will not exceed 120 total hours.

The following will be assessed during this work-based learning experience as identified in Marilyn Busch's IEP/transition goals and objectives:

Marilyn will:

1. Sort & fold laundry:
  - a. Increasing her work rate to 75% of the rate of hotel employees\*; and
  - b. Transition from required supervision by a job coach to supervision by the laundry supervisor.
2. Learn to:
  - a. Load washers;
  - b. Add detergent;
  - c. Unload washers; and
  - d. Place items in a dryer.
3. Learn to:
  - a. Converse with other employees;
  - b. Use the snack machine; and
  - c. Use the restroom during break time.

Anecdotal records will be kept during the initial break periods. When it is determined that Marilyn's "break behavior" is appropriate, her job coach or paraprofessional will withdraw, and Marilyn will take breaks with her "buddy" and/or other hotel employees. Marilyn's job coach will continue to collect data on an intermittent basis and review Marilyn's behavior in the weekly meetings.

\*New training activities will be initiated once the 75% work rate has been achieved.

the training program, she not only interacted with her schoolmate but with hotel employees as well. The laundry supervisor changed the break schedule so that Marilyn and her friend had breaks together.

Marilyn's job coach observed her at least twice a week and documented all observations. She discussed Marilyn's work behavior and performance with the hotel employees and Marilyn's parents on a weekly basis. Her job coach asked Marilyn's parents to provide her with more situations in which Marilyn could make decisions (e.g., helping plan dinner, select-

ing her clothes). She felt this would help Marilyn make decisions at work, particularly in how to use her break time.

Marilyn continued to experience difficulty in switching tasks, even when she had previously demonstrated that she could efficiently perform the new task. Marilyn used symbol cards to help her switch assignments. The cards were placed on a board, and when she completed one task, Marilyn returned the card to the board and took the next card illustrating the new task. Marilyn checked off tasks as she completed them. Marilyn's job coach developed a data form that recorded Marilyn's activities and reported the data to the teacher/coordinator.

### **Results of Marilyn's Work-Related Training Experience**

Marilyn's job coach and supervisor reported that Marilyn was productive and dependable and met the work-related training criteria established in Marilyn's IEP/transition plan. As a result of her performance, Marilyn was offered a part-time, paid position in the Brentwood Inn laundry service.

### **Marilyn's Work-Related Training Experience and the FLSA**

Marilyn's work-related training experience met all of the guidelines established by the U.S. Departments of Labor and Education for nonpaid, nonemployment relationships according to the FLSA. Training site selection was consistent with Marilyn's transition plan objectives, results of her previous WBL activities, and her own vocational preferences. An Individual Training Agreement was signed by Marilyn, her parents, a representative from the Brentwood Inn, and a school representative. The agreement stated that the training was part of Marilyn's educational program and would be under the supervision of school personnel; the training period would not exceed 120 hours; Marilyn would not be paid during this time; and Marilyn would not replace an employee in his or her job, but would work with regular hotel employees. Marilyn was assigned to a supervisor and a hotel employee. Marilyn's job coach, hotel supervisor, and assigned employee made several adaptations to her work routines to enable her to succeed. Her productivity rates increased to 75% of the rate of hotel laundry employees.

If Marilyn and her parents decide to accept the Brentwood Inn's offer of part-time employment, Marilyn will enter the cooperative work experience component of WBL. With Marilyn's job coach and other school personnel, the employer must ensure that this placement meets FLSA requirements. There are several options. Marilyn could be paid the same wages as those earned by hotel employees. Since Marilyn is under age 20, she may initially be paid a training wage, for the first 90 consecutive days of employment under FLSA regulations. Following the 90 days, the employer would be required to pay regular wages. Or, Marilyn could be paid a "commensurate wage rate" that is proportionate to the wage and productivity of regular hotel employees. Her current work rate is at the 75% level when compared to regular employees. If this commensurate wage is less than minimum wage (\$5.15), the Brentwood Inn and the school district must apply to the DOL Wage and Hour Division for approval under Section 14 of the FLSA. They must obtain the required certificate to pay a commensurate wage less than the minimum wage before Marilyn begins part-time employment.

### Example 4: Cooperative Work Experience in a Restaurant Setting

Greg is 19 years old and eligible to graduate from high school at the end of the school year. He has a cognitive disability. Greg is highly verbal and reads at a second-grade level. He has basic money skills and knows how to use the bus system in his suburban community. Greg began receiving special education services in the third grade. When he entered high school, Greg was placed in regular classes with resource instruction in reading and math. Greg has had several encounters with the juvenile authorities while in high school. His most recent offense—shoplifting—resulted in his spending six months in a juvenile corrections facility. When he returned to school, his IEP team focused his special education program on helping him modify his behavior.

#### Greg's IEP Transition Objectives

The transition component of Greg's IEP included the following objectives:

- I will learn how to use correct job interviewing skills.
- I will develop a résumé with the help of my school counselor and parents.
- I will work part-time during the second semester at a job in my community.

#### Transition Component of Greg's IEP

At his IEP/transition planning meeting, Greg said that he was interested in the restaurant business. As part of a career and technical education program in consumerism he completed during his junior year, Greg had the opportunity to visit a variety of businesses in his community. Restaurants attracted his attention. The team agreed that one transition component of his IEP should focus on preparing Greg for employment after graduation. Greg's WBL teacher/coordinator agreed to search for a cooperative work experience in the food industry as part of his special education program.

Greg's parents worked with him to prepare a résumé, reviewed by the teacher/coordinator. The teacher/coordinator also had Greg complete several job applications and participate in simulated interviews with school staff and local community business volunteers.

The teacher/coordinator spoke about Greg with the manager of Pizza Time Restaurant. The owner agreed to interview Greg with the possibility of offering him a part-time job. The owner understood that if Greg was hired he would be paid the same salary as other employees in that position. Greg would have the opportunity to try several different work tasks under the supervision of the owner or a manager.

The owner interviewed Greg and offered him the job on a trial basis. Greg would work as a utility person, clearing dishes and utensils from tables, wiping tables, setting tables, and filling water glasses and salt and pepper containers. The job was 15 hours per week (11:00 a.m. - 2:00 p.m.) for five days a week. Greg would begin during the second semester. The teacher/coordinator worked with the counselor to rearrange Greg's second semester classes to fit this work schedule, thus making sure Greg would be able to meet his IEP goals and graduate.

The restaurant owner and school personnel agreed that this was an educational experience for Greg although he was being paid. The owner would complete a weekly report on Greg's activities and send it to the teacher/coordinator. Similarly, either Greg's WBL coordinator or his special education teacher would observe Greg at work at least four times during the semester. The teacher/coordinator assured the owner that school personnel would help him in working with Greg if necessary.

#### Greg's Part-Time Job at Pizza Time

Greg's WBL coordinator went with him to work his first day. Pizza Time owner Mr. Hargrove, the teacher/coordinator, and Greg talked about the terms of his employment to clarify expectations. Greg jumped right in to work. Mr. Hargrove's first three weekly reports were very positive. The teacher/coordinator noted that he was motivated and had a positive attitude toward his work.

During the fourth week, the teacher/coordinator received a telephone call from Mr. Hargrove. He explained

that Greg had reported to work that week in a bad mood and was negative to customers on three occasions. Mr. Hargrove was concerned; he had spoken to Greg about his behavior with little success. The teacher/coordinator telephoned Greg's parents and reported the situation. They spoke with Greg. It seems that Greg's bus ran late that week, and Greg was anxious about getting to work on time. This anxiety showed in his attitude toward his coworkers and customers.

Upon learning of this situation, the teacher/coordinator called Mr. Hargrove to explain. She also talked with Greg. Since Greg couldn't leave school earlier than 10:15 a.m., everyone agreed that he wouldn't be penalized if late for work due to traffic and bus operations.

Mr. Hargrove explained this to Greg. With this pressure removed, Greg was fine. The WBL coordinator and special education teacher saw Greg's confidence and productivity improve.

### Results of Greg's Cooperative Work Experience at Pizza Time

Greg worked on Saturdays when regular employees were absent or when the restaurant was busy. Mr. Hargrove expanded Greg's responsibilities to include taking carry-out orders on the telephone and working the front counter. As a result, Greg's money skills improved greatly. Greg also got a raise of 50 cents an hour.

Greg's school work did not suffer as a result of his work at Pizza Time. In fact, it improved. Greg's parents believed this was due, in part, to the fact that Mr. Hargrove would ask Greg periodically how his school work was coming along.

Mr. Hargrove offered Greg a full-time position as a waiter following graduation. Greg accepted this offer. In addition, Mr. Hargrove suggested that Greg consider enrolling in a training program for potential restaurant managers while he works at Pizza Time.

### Greg's Cooperative Work Experience and the FLSA

Greg's part-time employment at Pizza Time was consistent with FLSA requirements. Since he earned minimum wage, there was no need to apply for waivers or special certificates from the Department of Labor Wage and Hour Division. Greg's employer accepted supervisory responsibility. Since Greg was 19 years old, there were no restrictions on the number of hours worked in nonhazardous jobs.

The experience met Greg's desire to work and conformed to the transition component of his IEP. While Mr. Hargrove was not obligated to employ Greg after the WBL experience, he did so. Greg attained his transition goal of full-time employment following high school graduation.

### Confirmation Letter to Pizza Time Restaurant

Lincoln High School  
2115 Mason Blvd.  
Taylorsville, IA 24356  
(415) 888-0011

October 1, 2004

Mr. Harry Hargrove  
Pizza Time Restaurant  
75 Rockaway Drive  
Taylorsville, IA 24357

Dear Mr. Hargrove:

I am very pleased that you have offered Greg Nelson part-time employment on a trial basis. Greg will work for you as part of the work-based learning program here at Lincoln High School. We will rearrange Greg's school schedule so that he can work as a utility person during the lunch shift.

Everyone involved wants this to be a positive learning experience for Greg. I appreciate your willingness to provide him with a variety of experiences in your restaurant. I believe you will find him to be a good employee who wants to learn.

Greg and his parents understand that he will earn minimum wage (currently \$5.15 per hour) while working for you. This is the same wage paid to all new employees in his position. It is also understood that you are under no obligation to retain Greg as an employee when he graduates.

Enclosed is a weekly review sheet for Greg, the Individual Training Plan and your copy of the Individual Training Agreement. Please fill out the review sheet and send it to me. Your copy of the training agreement and training plan should be kept on file. Greg and his parents understand that you may terminate his part-time employment if he is not performing adequately. Please do not hesitate to telephone me if at any time you have questions or if we may be of assistance. Thank you again for providing this cooperative work experience.

Sincerely,  
Myrtle Gleason, Work-Based Learning Teacher/Coordinator  
Lincoln High School

**Cooperative Work Experience**

**Employer's Reporting Form**

Student \_\_\_\_\_

Employer \_\_\_\_\_

Week of \_\_\_\_\_

Please rate the student on each of the following using a scale from 1-5 points with 5 representing a level consistent with or exceeding employees without disabilities to 1 representing a marked lack of performance.

- |  |   |   |   |   |   |
|--|---|---|---|---|---|
| 1. Student reports to work on time           | 1 | 2 | 3 | 4 | 5 |
| 2. Student finished assigned work            | 1 | 2 | 3 | 4 | 5 |
| 3. Student respects supervisor and coworkers | 1 | 2 | 3 | 4 | 5 |
| 4. Student follows supervisor's directions   | 1 | 2 | 3 | 4 | 5 |
| 5. Student dresses appropriately             | 1 | 2 | 3 | 4 | 5 |

**Comments:**

New work activities in which the student engaged this week were:

- 1.
- 2.

\_\_\_\_\_  
Employer's Signature

\_\_\_\_\_  
Student's Signature

Pizza Time paid Greg, but the school shared responsibility for his WBL placement. When Greg experienced difficulties on the job, the WBL teacher/coordinator and his parents helped Greg resolve the situation. Both the WBL coordinator and special education teacher monitored his job performance as needed. The placement was clearly consistent with the definition of cooperative work experience.

## Example 5: Career Exploration in Two Suburban Small Business Settings

Stephen is 15 years old and attends high school. He has a cognitive disability with an IQ of 49. Steven is nonverbal but can recognize picture symbols related to daily activities and uses basic signs to communicate. He has received a variety of special education and related services since he was age three. During the past school year Stephen was involved in two WBL experiences. The first was in a warehouse where employees sorted paper and other office material for recycling. The other was with a maintenance crew in an office building that collected and sorted recyclable materials. A paraprofessional went with Stephen to each of these sites. The school provided transportation.

### Stephen's IEP Transition Goal and Objectives

#### Goal:

I will participate in a minimum of two career exploration programs during the first semester of the 2003-2004 school year.

#### Objectives:

- I will check how I look before going to a site.
- I will start conversations with employees at the sites and ask questions about job tasks.
- I will participate in IEP meetings and talk about which work experiences I like.

### Stephen's Transition Plan for the School Year

Stephen, his parents, and school staff agreed that Stephen should have more WBL experiences. At his IEP/transition planning meeting, Stephen, his parents, and other IEP team members decided that Stephen's transition plan should reflect goals and objectives that not only focused on specific work skills, but also on social skills. Stephen indicated that he is interested in baseball cards, computer games, and television. His father said that Stephen also enjoys physical work, particularly working in the yard with him. Stephen and the rest of the team members decided that Stephen would participate in the career exploration component of the school's WBL program, and work on his social skills in community environments. Stephen's teacher contacted Jacob's Lawn and Garden Center, a local garden supply store and nursery.

In selecting career exploration sites, Stephen's interests and abilities were considered. Team members also felt it was important that Stephen experience worksites different from those he was exposed to in past WBL activities. Mr. Jacobs, the owner, had not participated in a WBL program before, but he was willing to try. The teacher explained that Stephen would be scheduled for five one-hour visits to the lawn and garden center and would be accompanied by school staff. The teacher also explained that Stephen was nonverbal, but could converse using basic signs. Mr. Jacobs agreed to show Stephen the basic operations of the garden center and allow him to try some tasks while being supervised by the paraprofessional.

A paraprofessional in Stephen's school knew the owner of the Sports Time Card Shop, a small business operated by the owner with part-time help on weekends. Stephen's teacher and paraprofessional went to see the card shop owner to discuss the possibility of a career exploration placement for Stephen. The owner was hesitant, primarily because of the value of some cards in the shop. When the teacher agreed to be on-site with Stephen, the owner agreed.

Stephen's teacher sent a follow-up letter to the owners of both businesses and to Stephen's parents confirming the exploratory placements, the purpose, and the requirements. In the letter to Stephen's parents, Stephen's teacher provided a description of each site. The letter to the business owners outlined the purpose of Stephen's visits and the obligations of the businesses and the school. His parents gave their permission for Stephen to participate in these career exploration activities.

### Stephen's Career Exploration Experiences

#### *Jacob's Lawn and Garden Center*

Stephen watched employees doing general maintenance activities like stocking, loading and unloading trucks, and cleaning equipment at the nursery. He also observed them watering shrubs, planting flowers, and repotting bushes in the greenhouse. He particularly liked an older worker who showed him how to snip dead leaves from plants. During Stephen's visits to the lawn and garden center, the owner and the older worker took extra time with him. They even learned a few basic signs from Stephen to assist in communicating.

Stephen asked several questions during his visits. With the help of the paraprofessional, Stephen asked how often plants needed to be watered, why some plants were grown in the hothouse, and the age required to work at the nursery. Mrs. LaMore, the paraprofessional, commented to his parents and teacher that she had never seen him so outgoing. Stephen was most happy when he was outside in the tree operation of the business. He particularly liked bagging young trees for sale. Stephen signed to the paraprofessional and the owner that he would like to plant a tree. The owner told him that he hoped he would have the chance to do that.

#### *Sports Time Card Shop*

Stephen was very excited when he entered the card shop. He wanted to look at and touch everything. The owner was nervous. He said that sorting through the cards he purchased at card shows was a big job. Cards are sorted by team, year, and value. The teacher asked if Stephen could try sorting cards by team. The owner had a stack of cards that he didn't consider to have much value, which he hadn't yet sorted. Stephen's task was to sort the cards by team, which he picked by players' uniforms. The teacher noted that Stephen was more interested in examining than sorting each card. She terminated the activity after 15 minutes. The remainder of Stephen's first visit was spent with the owner as he organized display cases. Stephen showed little interest in this activity. The second and third visits to the card store did not go well, according to the anecdotal records kept by the teacher. Stephen lost interest quickly in the routine tasks of the card shop, and the owner was not comfortable with the situation. Stephen decided he wanted to stop his exploratory visits to the card shop.

### Results of Stephen's Career Exploration Experiences

Stephen, his parents, and the teacher met to discuss the results of his experiences. While they agreed that the experience with Sports Time Card Shop had not worked out, it provided information that was useful to future decision-making. Stephen really enjoyed Jacob's Lawn and Garden Center and had asked to work there again. Stephen's parents said that he was really excited on the days that he went there. They noticed a difference in his dress and his attitude about going to school. They also said that Stephen talked about his

### Parent Confirmation Letter

Oakdale High School  
1000 Washington Street  
Locus Grove, GA 76666  
(613) 667-7778

September 20, 2004

Mr. and Mrs. Harold Hendrix  
22 Rose Street  
Locus Grove, GA 76667

Dear Mr. and Mrs. Hendrix:

I am pleased to confirm that we have found two career exploration sites for Stephen, as part of his special education program this year. These sites are the Jacob's Lawn and Garden Shop and the Sports Time Card Shop. Stephen will spend no more than five hours observing and talking with employees at each site. Mrs. LaMore, paraprofessional, will accompany Stephen to Jacob's Lawn and Garden Shop. I will be with Stephen at Sports Time.

The purpose of these exploratory activities is to allow Stephen to observe a variety of job situations to familiarize him with career options. Stephen will not be expected to work during his visits, but he may participate in some tasks to increase his understanding of the jobs carried out there. Stephen will not receive any wages for these activities.

Mrs. LaMore and I will keep notes on Stephen's experiences and share them with you. We also encourage you to discuss Stephen's experiences with him. This will help us in developing prospective career plans with Stephen. Please read, sign, and return to me the attached training agreement. When all parties have signed, a copy will be sent to you. If you have any questions, do not hesitate to call me.

Sincerely,  
Ellen Treadwell  
Department of Special Services

visits and even offered his dad some tips on gardening. The team decided that Stephen's teacher would contact Mr. Jacobs, the owner, to explore the possibility of using the lawn and garden center as a career assessment site.

### **Stephen's Career Exploratory Experiences and the FLSA**

Career exploration proved to be a valuable activity for Stephen, his parents, and his teachers to use in identifying future transition goals and objectives. The planning, preparation, and supervision were all carried out according to the U.S. Departments of Labor and Education guidelines governing nonemployment placements. Stephen spent a maximum of 5 hours at each career exploration site. Stephen's parents appeared fully informed, and the experiences were clearly consistent with Stephen's IEP.

The school could pursue placing Stephen in Jacob's Lawn and Garden Center during this school year as a career assessment activity. More than one WBL component can occur in a single school year as long as the maximum hour requirements for each component are not exceeded.

**Example 6: Career Assessment in a Large Business Setting**

Mindy is 16 years old and a sophomore in high school. She has cerebral palsy and uses a motorized wheelchair to travel from place to place and has a cognitive disability with an IQ of 70. Mindy talks using a Dynavox (a voice computer), along with facial expressions and gestures. She is very social, never hesitating to initiate conversations with others.

**Transition Component of Mindy’s IEP**

The previous transition component of Mindy’s IEP established a goal that she would be employed in the community, with appropriate supports, after high school. Mindy’s career exploration experiences within the school included observing other students sort bottles and cans from the refreshment machines and assisting office staff in filing student records. At Mindy’s most recent IEP/transition planning meeting, Mindy, her parents, and other team members decided that Mindy should have more worksite placement opportunities in the community. Team members, including Mindy, concurred that she wanted to go into the assessment phase of WBL.

Taking Mindy’s interests and abilities into consideration, the school’s WBL coordinator identified an assessment site at Global Operations, Inc., a firm that sorts a variety of records and other office supplies and shreds unwanted materials. Global Operations agreed to serve as an assessment site for Mindy, and after visiting the company, Mindy and her parents agreed to the worksite placement. Mindy’s career assessment would be under the direct supervision of the job coach, who would always be present.

Mindy and the rest of the IEP team members met again and developed transition objectives with her at the placement site. The assessment objectives did not include work and social interactions with supervisors and coworkers. Rather, this activity focused on Mindy’s mobility, communication capabilities, task performance, and stamina. A job coach would accompany Mindy to the worksite and keep anecdotal records of her interactions with employees to use as a basis for developing subsequent assessments in other sites.

**Preparations at Global Operations**

The teacher/coordinator visited Global Operations three times prior to Mindy’s placement. He observed the office routines, assessed the work rates of other employees, met with the rehabilitation counselor seeking assistive technology

**Mindy’s Long- and Short-Term Transition Goal and Objectives**

**Long-Term Goal:**

- I will be employed, with appropriate supports, in the community after high school.

**Short-Term Goal:**

- I will explore my career interests and abilities and increase self-confidence through career assessment experiences.

**Objectives:**

- I will participate in career assessment activities at a community worksite placement.
- I will participate in IEP meetings and express my preferences for work experiences.
- I will learn new vocabulary on the Dynavox related to work and work activities.
- I will become more self-reliant.

**Mindy’s Transition Objectives for her Career Assessment at Global Operations, Inc.**

*I will:*

- Use my Dynavox to ask for records to be sorted, shredded, or recycled, as observed by my teacher/coordinator or job coach.
- Work at a steady pace, as observed by my teacher/coordinator or job coach.
- Work for one-hour periods, as observed by my teacher/coordinator or job coach.
- Travel by myself from the school bus to Global Operations and use the elevator.
- Ask for help to use the restroom when I need it.

information that would support Mindy, and talked with Mindy's supervisor and coworkers. After these visits, he developed a career assessment plan. The plan assessed Mindy's ability to:

- Leave the school bus, enter the building, use the elevator, and report to her work station;
- Report to her work supervisor and request her assignment;
- Retrieve documents;
- Sort documents to be shredded or recycled;
- Shred the correct documents; and
- Request assistance from a coworker in using the restroom.

### Mindy's Career Assessment at Global Operations

Mindy's job coach designed a process for introducing Mindy to her career assessment activities. On the first trip to Global Operations, he helped Mindy into the building and told her that her work station was on the 6th floor. He asked if she knew how to use the elevator. In the elevator Mindy knew that she needed to push a button for the 6th floor, but was not sure which button to push. The job coach helped by showing Mindy the 6th floor button. Once on the 6th floor, Mindy met her supervisor and learned that she would report to her supervisor first, upon arriving at the office. Mindy successfully returned to the elevator and learned to select lobby to get to the ground floor.

Mindy's second visit was like her first. In addition, her job coach introduced Mindy to an employee who would provide her with the materials for sorting, shredding, or recycling. On the trip out of the building, Mindy's job coach noticed her hesitancy to enter the elevator with other people. He suggested that she say "excuse me," and back her wheelchair inside.

During the third visit, Mindy's job coach showed her how to retrieve the materials she would need to do her job. Without help, Mindy went to her work station and requested her assignment. She then went to the distribution point, but did not ask for the documents to be sorted. The job coach waited, but eventually needed to give her a cue to request her work.

As new tasks were introduced, Mindy's job coach tracked her time-on-task behavior. He began with 15-minute intervals and continued to lengthen them up to one hour. Mindy enjoyed the work and quickly met her job criteria.

Mindy seemed comfortable with a female coworker, who provided her with the materials for completing job tasks. Mindy initiated conversation with her, joking around or asking her questions related to Mindy's job tasks. Mindy asked her coworker if she would accompany her to the restroom and assist her when necessary. The coworker agreed to do this. Mindy's job coach complimented her on her self-assertiveness in asking this coworker to assist her.

#### Parent Permission Form for Transportation of Student

##### Rosecroft Public Schools Work-Based Learning Program

Please sign and date the permission form and return to the work-based learning coordinator at Rosecroft High School. (The signed form will be attached to the Training Agreement.)

I give permission for my daughter, Mindy Lovell, to be transported by school personnel to and from the career assessment site at Global Operations, Inc. I understand Rosecroft High School personnel will maintain responsibility for and supervision of Mindy at all times.

This permission form will be in effect from October 1, 2004 through December 1, 2004.

I understand that if Mindy's participation is not acceptable to me, the school, or the business, these activities will cease.

\_\_\_\_\_  
Parent's Signature

\_\_\_\_\_  
Date

### **Results of Mindy's Career Assessment**

Mindy remained in this assessment situation for two months, working two hours per day, four days per week, for a total of 64 hours. Upon collecting adequate assessment data on Mindy's transition objectives, the WBL teacher/coordinator ended the activity. He concluded that Mindy could and did respond appropriately to the work situation. She had the necessary independent mobility to enter the office, the communication skills to request work, the organizational skills to follow directions, and the stamina and task behavior to complete assignments. He believed that Mindy could benefit from more assessment activities in other settings. He asked Mindy if she wanted more assessment experience. She said she did.

The case manager, special education teacher, WBL teacher/coordinator, job coach, Mindy, and her parents discussed the assessment results. Mindy enjoyed her assessment experience, and her parents were pleased that Mindy was sharing her work experiences with them. Her parents discussed their jobs with her and were encouraged by the way in which Mindy was able to relate to the work world.

### **Planning Mindy's Next Career Assessment**

The WBL teacher/coordinator maintained his recommendation that Mindy participate in more assessment situations to make sure she could generalize the behavior she exhibited in this situation. He also wanted to expand the career assessment component to look at additional social skills, particularly interactions with coworkers. He explained that Mindy's past worksite tended to isolate employees because of the nature of the work. Mindy and her parents agreed that additional assessment situations would be helpful, particularly since Mindy had limited career exploration experiences.

At a subsequent IEP meeting, Mindy and the other team members discussed the possibility of Mindy participating in a career assessment at a local thrift store. This experience would allow Mindy to enhance her independence. The store was on a transportation line served by buses equipped for wheelchairs, thus Mindy would have the opportunity to ride the city bus. Mindy would be involved in sorting collected clothing items by type and quality. Mindy stated that she enjoyed her job tasks at Global Operations, which also involved sorting, and that she would like to work at the thrift store. The teacher/coordinator and job coach would remain involved but to a lesser degree, and would continue to collect data.

### **Mindy's Career Assessment and the FLSA**

Mindy's career assessment activities were planned and conducted according to the FLSA guidelines for such experiences. The assignment was consistent with Mindy's transition goals and objectives. Mindy and her parents were involved in the process. The school's job coach supervised Mindy on the job. The assessment results provided useful information on Mindy's transition objectives and in planning Mindy's subsequent career assessment activities.

Mindy's teacher/coordinator was extremely conscientious in adhering to FLSA guidelines. Had Mindy remained at Global Operations much longer, she would have exceeded the 90-hour limit established under the FLSA guidelines for career assessment. Both the teacher/coordinator and Mindy's parents believed that the Global Operations placement had yielded as much assessment data as possible, and that a second site was needed to assess Mindy's independent performance in a more integrated setting. They reconvened the IEP team and selected the thrift store as a subsequent career assessment site for Mindy.

## Example 7: Work-Related Training in Three Workplace Settings

Jason is a high-school junior with moderate mental retardation. He is currently receiving instruction in reading and language arts, physical education, consumer math, and industrial technology. Jason reads at approximately the third-grade level. He travels throughout the community on his bicycle. Work-based learning is part of Jason's special education program.

### Transition Component of Jason's IEP

Last year Jason's WBL program included career assessment as part of his industrial technology program. The assessment showed that Jason had a variety of career interests, good hand-eye coordination, the ability to follow written and verbal instructions, and that he could perform tasks accurately and efficiently. Jason and his parents agreed with school personnel that no additional assessment was required; Jason could go directly into work-related training in a community setting.

During an IEP/transition planning meeting held at the beginning of the school year, Jason, his parents, and the other IEP team members established the transition goal that Jason would receive work-related training at three worksites. Each training opportunity would be three hours per day for about eight weeks for a total of about 120 hours. Jason's involvement in multiple worksites would enable him to generalize basic job skills. The team agreed that Jason would visit prospective training sites and make his own selections.

### Jason's Work-Related Training Experiences

Jason observed and interviewed at five worksites. He selected three for his work-related training experiences: a hospital, a grocery store, and a hardware store. Jason and his job coach developed specific competencies for him to attain during each work-related training experience. They were as follows:

- Whitefield Farms Groceries: Properly pack grocery bags; collect carts from parking lot; observe street safety; stock shelves; mop/clean up spills and broken glass; sweep; and load groceries into cars.
- Marion County General Hospital: Deliver meal trays to patient rooms; match the name on the tray to the name on the bed; push large delivery carts loaded with trays to rooms on three floors; load carts for delivery; collect trays after meals; empty carts; dispose of trash and sort utensils, glassware, and plates; load dishwasher; and provide patients with basic assistance.
- Morgan's Hardware Store, Inc.: Sweep aisles; unload and load supply trucks; load customer cars; stock shelves; price hardware items; help customers; and direct customers to appropriate personnel for assistance.

Jason's job coach went with him during the first few weeks he was involved at each site. The coach instructed and helped Jason interact with employees. An employee at each site supervised Jason's training after this introductory period. The job coach or other school staff met with the employee/supervisor and Jason weekly. Appropriate school staff recorded and compiled case notes on Jason's progress at each training site. Written evaluations occurred at the end of the job coach's supervisory period and at the end of each training experience. The employee/supervisor, Jason, and the job coach participated in these evaluations.

### Jason's Transition Goal and Objectives

#### Goal:

- I will receive work-related training at three worksites in the community.

#### Objectives:

##### *I will:*

- Use a time clock correctly to begin and end work, as observed by my job coach and supervisor.
- Arrive at work on time and follow a break schedule, as observed by my job coach and supervisor.
- Talk correctly with supervisors and coworkers.
- Participate in my work evaluations, adding positive and negative comments and accepting constructive comments.
- Read work information and follow directions, as observed by my job coach and supervisor.

### **Results of Jason's Work-Related Training Experiences**

Jason was successful in all three training situations, according to his job coach and the evaluations of the site supervisors. Jason's parents reported that he obviously enjoyed working because he frequently told them about his experiences and interactions with coworkers. All of Jason's site supervisors commented on his positive attitude and willingness to take on any tasks assigned. Jason said he liked all three jobs, but particularly enjoyed interacting with the patients at the hospital. His hospital supervisor mentioned the possibility of hiring him as an orderly during the summer.

### **Jason's Work-Related Training Program and the FLSA**

Jason's work-related training experiences were extremely successful. They were also planned and carried out according to the FLSA guidelines for work-related training. Should Marion County General Hospital offer Jason employment as an orderly this summer, support may be available through state and local Workforce Investment Systems. Or, Jason could elect to work for the hospital in a cooperative work experience arrangement by enrolling in summer school at DeWeb Senior High. School personnel would have to be available to share responsibility and supervisory duties as needed. Jason's IEP would have to provide for such a WBL experience. Both the school and the hospital would have to decide if Jason's employment required any waivers from the Department of Labor Wage and Hour Division. This would depend on the hourly wage that the hospital offered to Jason.

## Example 8: Cooperative Work Experience at Special Minimum Wages

Raymond is 20 years old and lives in a group home. He has cerebral palsy and uses a walker and both manual and motorized wheelchairs. Raymond is nonverbal and uses a communication system. In his last year of high school, Raymond makes clear choices and has strong preferences.

### Worksite Placement at a Local Bank

Raymond's goal is to secure paid employment in his community. The local bank, previously involved with Raymond as a career assessment and work-related training site, wants to hire him, and Raymond stated he would like to work there. The bank wants to pay Raymond an hourly wage below minimum wage,

so it must obtain a special certificate under Section 14 of the FLSA. Raymond's vocational rehabilitation (VR) counselor helped the bank obtain the special certificate establishing Raymond's commensurate hourly wage. His VR counselor made sure the bank had the certificate before employing Raymond through the cooperative work experience program. Bank personnel agreed to review Raymond's productivity rate every six months and adjust his salary accordingly. Tasks Raymond will perform at his placement include: shredding unwanted material; operating the microfiche system; zip-stripping checks; and delivering interoffice mail.

### Transition Component of Raymond's IEP

Raymond has had a surrogate parent represent him in special education issues since he was 17. He and his surrogate parent are active members of the IEP team and attend IEP/transition planning meetings. Raymond and the other IEP team members established the transition goal that Raymond will work in the bank's main office.

The group home staff will provide Raymond's transportation to and from work. Raymond will work 9:30 a.m. to 3:00 p.m., Monday through Friday. A job coach from rehabilitation services will accompany Raymond to work during the first three months of his employment. During this initial phase, while he is building stamina, Raymond will work in 15-minute segments with five-minute breaks.

### Raymond's Experiences at the Bank

Raymond's VR counselor had previously placed clients in the bank setting and was familiar with the work that Raymond would be doing. Raymond's bank supervisor and his VR counselor had previously established a productivity rate per task for an employee without disabilities. Initially, Raymond was able to work at 25% of that rate. Raymond's supervisor at the bank agreed that as Raymond's productivity increased, his salary would increase accordingly.

The first day on the job, Raymond's job coach introduced him to his supervisor. Raymond later told his job coach that he was worried because his new supervisor was a woman. However, Raymond remembered several of his coworkers and seemed happy to see them.

Raymond had received training in each task he would perform during his cooperative work experience at the bank during his work-related training placement there. His job coach spent the first week detecting whether Raymond had retained his skills and productivity rate. Raymond showed that he had retained the skills, but his production rate was down. His job coach thought this was due to little practice. He decided to target each task separately, until the task productivity rate increased, before moving to multiple task assignments. Raymond's job

### Raymond's IEP Transition Goal and Objectives

#### Goal:

- I will work in the bank's main office and be paid for my work.

#### Objectives:

- I will start conversations with my supervisor and coworkers.
- I will respect the personal space of others.
- I will work for up to two hours at a time.
- I will move from one task to another without supervision.
- I will use the restroom by myself, or ask for help when I need it.
- I will participate in my work evaluations.

coach and bank supervisor worked out this program. Raymond reported to his supervisor for direction each day.

The job coach observed Raymond was reluctant to interact with his supervisor. The bank supervisor confided to the job coach that she was uncomfortable working with Raymond. The job coach explained Raymond's communication system to her, stating she should speak to Raymond directly and not through him. By the end of the second week, the relationship was less strained. Raymond reported to and received assignments from his supervisor, but the relationship remained formal. Raymond was much more outgoing around his coworkers.

When Raymond's productivity rates returned to their previous levels, he was assigned multiple tasks. Raymond maintained these rates and sometimes increased them. Raymond progressed to multiple task assignments. However, he had problems keeping these assignments in order. His job coach instituted verbal cues about task sequence. He worked with bank employees, who gave Raymond verbal cues as well.

When Raymond received his first paycheck, he was confused. His previous money experiences had been with cash, which he used to buy personal items. His job coach realized he would have to add a training activity of opening and using a checking account to Raymond's program. A bank clerk volunteered to help. Raymond wanted to see his money, so the clerk arranged for this to take place. Then Raymond and the clerk deposited his money into his checking account. When Raymond wanted to cash a check, he went to the clerk for assistance. The clerk also began to take breaks with Raymond. They would go to the deli across the street where Raymond would select snacks. The clerk worked with Raymond on how to give the next highest amount of money and receive change. Soon Raymond was picking up sandwiches and drinks for other employees at lunchtime. The job coach noted that Raymond really liked "showing off" his new money skills.

At the end of three months, the job coach began to spend less time with Raymond. He told Raymond's supervisor he felt he could leave completely, but would remain on call. Raymond's supervisor was concerned. After a discussion with the supervisor and Raymond, his job coach suggested that Raymond report to another supervisor to receive his instructions for the day.

### **Results of Raymond's Cooperative Work Experience**

Raymond's job coach or another bank employee continued to monitor Raymond's productivity rates. Everyone agreed that Raymond, his VR counselor, job coach, and the supervisor would formally evaluate Raymond's work in six months and explore the possibility of continued employment when Raymond leaves school.

### **Raymond's Cooperative Work Experience and the FLSA**

Raymond's cooperative work experience was consistent with his IEP/transition plan. His employment with the bank was entirely consistent with FLSA requirements. School personnel, Raymond's VR counselor, and the bank personnel were careful to obtain a special wage certificate before Raymond began work. Under this certificate, Raymond was paid the commensurate wage of \$2.75 an hour based on his productivity as compared to nondisabled employees doing the same work. Raymond is not entitled to permanent employment when he leaves school. However, the bank did agree to consider this possibility, and increase his hourly wage based on his performance during the next six months.

Raymond's VR counselor and school personnel worked cooperatively to carry out Raymond's cooperative work experience placement. When Raymond and his bank supervisor had difficulty relating to each other, his job coach initiated a positive change. His job coach was alert in adding the activity of managing a checking account to Raymond's WBL experience.

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# **Appendix A**

**U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division Regional Contact  
Information**



**U.S. Department of Labor Employment Standards Administration  
Wage and Hour Division Regional Contact Information**

*Northeast Region: In Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, and West Virginia, contact:*

Regional Administrator, Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
Curtis Center  
170 S. Independence Mall West, Room 850 West  
Philadelphia, PA 19106  
(215) 861-5800  
FAX: (215) 861-5840

*Southwest Region: In Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming, contact:*

Regional Administrator, Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
525 S. Griffin St., Suite 800  
Dallas, TX 75202-5007  
(972) 850-2600  
FAX: (972) 850-2601

*Midwest Region: In Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, contact:*

Regional Administrator, Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
230 S. Dearborn St., Room 530  
Chicago, IL 60604-1591  
(312) 596-7180  
FAX: (312) 596-7205

*Western Region: In Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington, contact:*

Regional Administrator, Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
71 Stevenson St., Suite 930  
San Francisco, CA 94105  
(415) 848-6600  
FAX: (415) 848-6655

*Southeast Region: In Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, contact:*

Regional Administrator, Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
61 Forsyth St. SW, Room 7M40  
Atlanta, GA 30303  
(404) 893-4531  
FAX: (404) 893-4524



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# **Appendix B**

## **Organizations Providing Assistance in the Planning of Transition Services for Youth With Disabilities**

- **Office of Special Education Programs  
Regional and Federal Resource Centers**
- **State Transition Contacts**



## Office of Special Education Programs Regional and Federal Resource Centers

### Federal Resource Center for Special Education (FRC)

Thomas Boerman  
Academy for Educational Development  
1825 Connecticut Ave. NW  
Washington, DC 20009  
(202) 884-8215 FAX: (202) 884-8443  
TTY: (202) 884-8200  
E-mail: tboerman@aed.org  
Web site: <http://www.federalresourcecenter.org/frc/>  
States served: National

### Northeast Regional Resource Center (NERRC)

Kristin Reedy  
Learning Innovations at WestEd  
20 Winter Sport Lane  
Williston, VT 05495  
(802) 951-8226 FAX: (802) 951-8222  
TTY: (802) 951-8213  
E-mail: nerrc@aol.com  
Web site: <http://www.wested.org/nerrc/>  
States served: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont

### The Alliance for Systems Change and Mid-South Regional Resource Center (MSRRC)

Ken Olson  
Interdisciplinary Human Development Institute  
University of Kentucky  
1 Quality Street, Room 714  
Lexington, KY 40506-0051  
(859) 257-4921 FAX: (859) 257-4353  
TTY: (859) 257-2903  
E-mail: kolsen@uky.edu  
E-mail: dflechl@uky.edu  
Web site: <http://www.ihdi.uky.edu/msrrc/>  
States served: Delaware, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, Washington, DC, West Virginia

### Southeast Regional Resource Center (SERRC)

Betty Beale  
Auburn University Montgomery  
School of Education  
P.O. Box 244023  
Montgomery, AL 36124-4023  
(334) 244-3100 FAX: (334) 244-3103

E-mail: ebeale@mail.aum.edu  
Web site: <http://edla.aum.edu/serrc/serrc.html>  
States served: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Puerto Rico, Texas, the U.S. Virgin Islands

### North Central Regional Resource Center (NCRRC)

Michael N. Sharpe  
University of Minnesota  
12 Pattee Hall  
150 Pillsbury Drive SE  
Minneapolis, MN 55455-2070  
(612) 626-8155 FAX: (612) 624-9344  
E-mail: sharp004@tc.umn.edu  
Web site: <http://www.northcentral-rrc.org/>  
States served: Minnesota, Wisconsin, Iowa, Missouri, Illinois, Indiana, Michigan, Ohio, Pennsylvania

### Mountain Plains Regional Resource Center (MPRRC)

John Copenhaver/Carol Massanari  
Utah State University  
1780 North Research Parkway, Suite 112  
Logan, UT 84341  
(435) 752-0238 Ext. 24 FAX: (435) 753-9750  
TDD: (435) 753-9750  
E-mail: conna@cc.usu.edu  
Web site: <http://www.usu.edu/mprrc/>  
States served: Arizona, Bureau of Indian Affairs (BIA), Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming

### Western Regional Resource Center (WRRC)

Richard Zeller/Caroline Moore  
1268 University of Oregon  
Eugene, OR 97403-1268  
(541) 346-5641 FAX: (541) 346-0322  
TTY: (541) 346-0367  
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# Appendix C

## **SSI Work Incentives Available to Transition-Age Youth with Disabilities**

- **Earned Income Exclusion (EIE)**
- **Student Earned Income Exclusion (SEIE)**
- **Impairment-Related Work Expense (IRWE)**
- **Plan for Achieving Self-Support (PASS)**
- **Blind Work Expenses (BWE)**
- **Property Essential to Self-Support (PESS)**



### Earned Income Exclusion

The Earned Income Exclusion applies to all SSI program recipients, including any student earning wages from a school-sponsored employment program or other employment. Under this exclusion, some earnings each month are not counted toward the specified SSI income limit (\$700). For many youth with disabilities, the Earned Income Exclusion alone will ensure that most or all SSI benefits are maintained while the student participates in school-sponsored paid employment or other paid work situations.

There are three parts to this exclusion. The first is a general exclusion of \$20 of monthly income from any source. The second part is an additional \$65 earned monthly income exclusion. The third part is the exclusion of one-half of all earnings above the combined \$20 + \$65 (\$85) monthly exclusion as well. That is, for every two dollars earned, one dollar is deducted from SSI's payment.

If, for example, an individual is receiving the maximum SSI benefit rate of \$500 per month, the individual's monthly earnings from paid employment would have to exceed \$1,473 before the SSI benefit would cease and the individual would exit the SSI program if no other work incentives apply. This maximum income level would increase if the individual accessed any of the other SSI program work incentives. In addition to the Earned Income Exclusion, transition students receiving SSI benefits may be eligible for and profit from the following work incentives.

### Earned Income Exclusion Calculation

\$420.00	Gross income (earned through competitive or supported employment)
-20.00	General income exclusion (unearned income, such as bank interest, is deducted from the \$20 exclusion)
400.00	
<u>-65.00</u>	Earned income exclusion
<b>\$335.00</b>	
\$335.00	Divide this amount by 2
+2	1/2 of income is deducted after exclusions
<b>=167.50</b>	<b>SSI countable income</b>
\$500.00	SSI Federal monthly benefit rate, 1999
<u>-167.50</u>	SSI countable income
332.50	Adjusted SSI payment
<u>+420.00</u>	Earned gross income
<b>\$752.50</b>	<b>Total gross earnings</b>

### Student Earned Income Exclusion (SEIE)

Student Earned Income Exclusion (SEIE) allows a person with a disability under age 22 and regularly attending school to exclude up to \$400 of earned income per month before applying the Earned Income Exclusion. The two exclusions may be used in combination. The maximum annual exclusion is \$1,620.

For example, a full-time college student with a disability receiving SSI benefits of \$500 monthly has the opportunity to earn \$500 per month while in school. These earnings may be excluded under SEIE up to the \$1,620 yearly maximum. In addition, the student may exclude another \$85 (\$20 general exclusion; \$65 earned income exclusion) of monthly earnings, leaving him or her with a countable income of \$15. Please note that SEIE must be applied before the general and earned income exclusions. SEIE can be used either with or without the earned income exclusion. In this example, the student's gross income using SEIE is \$485 (SSI) and \$500 in earnings, for a total of \$985.

Students must apply for SEIE at their local SSA office. The student must periodically submit a statement of school attendance, a statement of employment, and wage receipts. Local SSA office procedures differ slightly as to how often these statements are required. Students should contact their local SSA office for complete details.

### SEIE Calculation

\$500.00	Gross income
<u>- 400.00</u>	SEIE
100.00	SSI countable income
-20.00	General income exclusion
<u>-65.00</u>	Earned income exclusion
<b>\$15.00</b>	<b>SSI countable income</b>
\$500.00	SSI Federal monthly benefit rate, 1999
<u>-15.00</u>	SSI countable income
485.00	Adjusted SSI payment
<u>+500.00</u>	Earned gross income
<b>\$985.00</b>	<b>Total gross earnings</b>

**Impairment-Related Work Expense (IRWE)**

The cost of certain impairment-related items and services that a person with a disability needs in order to work can be deducted from gross earnings through an IRWE incentive. A student requesting an IRWE must verify that the items or expenses incurred are related to his or her disability and are necessary for job performance. The student will be asked to submit proof of payment. Impairment-related work expenses are deductible for SSI payment purposes when:

- The expense enables a person to work.
- The person, because of a severe physical or mental impairment, needs the item or service for which the expense is incurred in order to work.
- The cost is paid by the person with a disability and is not reimbursed by another source.
- The expense is “reasonable” as it represents the standard charge for the item or service in the person’s community.
- The expense is paid in a month in which earned income is received or work is performed while the person used the impairment-related item or service.

Individuals with disabilities may rely on IRWE incentives throughout their entire lives. Work-related expenses that are incurred by a student while in secondary school are likely to continue when they exit school. A student applying for an IRWE incentive under the SSI program should contact the local SSA office for specific details and documentation requirements.

**Plan for Achieving Self-Support (PASS)**

The Plan for Achieving Self-Support (PASS) is a work incentive that allows an individual to set aside income and/or resources for a specified period of time to achieve a work goal. For example, an individual may set aside money for postsecondary education, the purchase of job-coaching support, personal transportation, job-related equipment, or to start a business. The income and/or resources set aside in a PASS do not count in determining SSI benefits. Nor may SSI cash benefits be used to support a PASS. When appropriate, a PASS may be used in conjunction with other SSI work incentives. If a student under age 18 cannot satisfy the SSI income eligibility requirement only because his or her parents’ or guardians’ income is too high, the student may apply for a PASS incentive through which their parents or guardians can set aside enough income to make the student eligible for SSI benefits.

The PASS is similar to the IEP/transition plan: It establishes job-related goals and objectives. Because of these similarities, it is possible to incorporate a PASS into the IEP/transition plan. A transition student may benefit from a PASS while in school or upon exiting. The basic requirements for a PASS include:

- A feasible and reasonable occupational goal.
- A defined timetable.
- The need for income or resources, other than SSI benefits, to be set aside.
- An explanation of expenditures to be covered by the set-aside funds.

The PASS should be considered during the IEP/transition development process even if it is not to be used while the individual is still a student. A PASS may be used by any individual participating in SSI at any age. Some students can benefit from a PASS while they are in school and also after they leave school to further their vocation-

**IRWE Calculation**

\$420.00	Gross earnings
<u>- 85.00</u>	General and earned income exclusions
\$355.00	Earned income
<u>-360.00</u>	IRWE exclusion
<b>0.00</b>	<b>Countable income</b>
\$500.00	SSI benefits
<u>+420.00</u>	Gross earnings
\$920.00	Gross income
<u>-360.00</u>	IRWE Expense
<b>\$560.00</b>	<b>Usable gross income</b>

al goal by purchasing additional training or transportation, for example. As part of the transition planning process, the planning team may incorporate the future use of a PASS into the student's IEP/transition plan.

The most likely candidates for a PASS incentive are students who currently are receiving SSI benefits, want to work and have work goals in their IEP, are in school or a training program or plan to complete postsecondary training, or plan to start their own business.

A PASS incentive can be used to support a number of expenses related to employment goals, including:

- Tuition, fees, books, and supplies for school or training programs.
- Supported employment services, including a job coach.
- Attendant care.
- Equipment and tools needed to work.
- Transportation.

### PASS Calculation

\$658.00	Gross earnings
- 85.00	General and earned income exclusions
<u>\$573.00</u>	Divide this amount by 2
+2	
286.50	Total countable income
-244.00	PASS
\$42.50	SSI countable income
\$500.00	Federal benefit rate (1999)
-42.50	SSI countable income
\$457.50	Adjusted SSI benefit rate
+658.00	Gross earnings
-244.00	PASS
<b>\$871.50</b>	<b>Usable gross income</b>

Income and resources that are set aside in a PASS are excluded under the SSI income and resources tests. Any transition student who receives SSI benefits or could qualify for them can have a PASS. For example, a student whose income exceeds SSI requirements may develop a PASS to maintain his or her SSI eligibility while pursuing work goals.

To receive a PASS, an individual must complete a PASS application and submit it to the SSA office. Each PASS is reviewed for approval locally. This process can take up to three months to complete. Anyone may help a student develop a PASS, including special education teachers and other school personnel, vocational counselors, social workers, employers, and private PASS vendors. A distinct advantage of a PASS is that it allows the student to be proactive in securing necessary training, support, or services to enhance employment opportunities.

### Blind Work Expenses (BWE)

SSA has special rules for people who are blind, including allowing them to earn a higher income (Substantial Gainful Activity [SGA]) and still maintain SSI eligibility. Blindness is defined as central visual acuity of 20/200 or less, in the better eye with best correction, which has lasted or is expected to last a year or longer. Blind Work Expenses (BWE) is a work incentive that allows a blind person to deduct certain expenses needed to retain employment from their earned income when determining SSI eligibility and payment amount. For individuals who are blind, the BWE work incentive is more advantageous than the IRWE. Examples of BWE include: guide dog expenses; transportation; federal, state, and local income taxes; social security taxes; attendant care services; visual and sensory aids; translation of materials into Braille; professional association fees; and union dues. When developing transition plans for students who are blind, school personnel and parents should contact their regional SSA office to get more specific information on SSA programs and benefits.

### Property Essential to Self-Support (PESS)

PESS allows a person to exclude certain resources that are essential to employment for self-support. For example, property that is used in a trade or business or required by a person as an employee is totally excluded when determining resources for SSI eligibility or payment determination. While the PESS may have little application for

secondary transition students, it may have utility for some students when they enter the workforce. For example, a student who is trained in carpentry may be required to supply his or her own tools as terms of employment. Under a PESS the value of these tools would not be counted as a resource.

***For information on SSI and its work incentives, contact the Social Security Administration, 1-800-772-1213.***

*The information provided in this appendix was adapted from “Meeting the needs of youth with disabilities: Handbook on Supplemental Security Income work incentives and transition students,” published October 1998 by the National Transition Network at the Institute on Community Integration (UCEDD), University of Minnesota.*





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