CEC's DCDT FAST FACT
Community-Based Vocational Exploration and Learning

Purpose: To ensure schools are in compliance with the Department of Labor and Wage and Hour Division laws presiding over students involved with unpaid community based work learning. This fast fact will provide information related to legislation and guidelines for delivering community-based vocational exploration and learning experiences for students with disabilities.

Community-based vocational exploration and learning (CBL) is defined as students engaged in work learning opportunities to learn about careers and support their ability to make more effective career decisions. For students with disabilities, engaging in community-based learning opportunities increases the liklihood of securing post-school employment (Solberg, Wills, & Osman, 2013). The concept of CBL—learning technical, academic, and employability skills by working in a real work environment—has been in practice for centuries and is an integral part of the education system. Often coordinated with school-based learning, CBL offers project- and problem-focused teaching and learning rather than the more abstract and theoretical approaches that take place in the classroom. In the literature, the stated purposes of CBL fall into three categories: (a) cognitive development (learning through engagement with ideas and things), (b) social/emotional development (learning through engagement with self and other people), and (c) career development (learning through engagement with work processes and places; Darche, Nayar, & Bracco, 2009).

As a related special education service and transition practice, providing CBL in real-life work environments has become routine practice for many schools. To ensure compliance and success of students participating in CBL, it is critical schools develop policies to address liability, including student insurance and other U. S. Department of Labor (DOL) issues/concerns. Failure to establish these policies could result in (a) increased liability for both the employer and the school, (b) permanent loss of employer participation, and (c) devaluation of the student. Lack of clear policies regarding CBL could also lead to monetary fines (e.g., where a pay back of wages could be sought) for employers, if labor guidelines are not completely followed (DOL, Wage and Hour Division 2015).

Nationally, efforts have been made to promote CBL opportunities for youth with disabilities and to provide schools tools to assist in the protection of students. The U. S. Department of Education (DOE) and the DOL have collaborated to promote opportunities for instructional CBL placements for youth with disabilities. The following link provides the original memorandum of agreement (http://transitionresponse.com/wp-content/uploads/2014/06/CBVE-agreement-template-Autosaved.pdf). In 1992, agreements and understandings were established and hold true today in terms of the law and application by school districts and service agencies.

The DOL, through the provisions of the Fair Labor Standards Act (FLSA), established guidelines in the Field Operation Guide (C64c08) for adhering to the FLSA when providing CBL

opportunities for youth. Using and applying the guidelines directly supports and enables schools to effectively implement transition services and supports via the Individualized Education Programs (IEPs) and promotes learning in real-life environments for all youth with disabilities.

The DOL and DOE are committed to the continued development and implementation of IEPs, in accordance with the 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, or programs providing rehabilitation services to individuals with disabilities. Joint guidelines are offered by the DOL and DOE about the employment relationship under the FLSA and CBL programs for students with disabilities (http://www.dol.gov/whd/FOH/ch64/64c08.htm).

In order to meet the criteria to be considered a community-based learning opportunity, the following criteria must be met:

1. Participants are students with physical and/or mental disabilities for whom competitive employment at or above the minimum wage level is not immediately obtainable and need ongoing support in a work setting.

2. Participation is for vocational exploration, assessment, or training in a community-based work under general supervision of public school personnel.

3. Community-based placements must be clearly defined components of IEPs developed and designed for the benefit of each student.

4. The activities of students with disabilities at community-based placement sites should not result in an immediate advantage to the business (e.g., displacement of regular employees).

5. Community-based learning experiences for students with disabilities cannot exceed the following hours:
    - Vocational explorations - 5 hours
    - Vocational assessment - 90 hours
    - Vocational training - 120 hours

6. Students with disabilities are not entitled to employment at the business at the conclusion of the IEP.

Additional benefits for students and schools related to compliance of the FLSA for CBL include:
- Helps schools operationalizing and organize CBL
- Leads perspective employers to be confident in the legitimacy and professionalism of your program
- Protects employers from monetary fines by DOL

- Safeguards student learning in the workplace by establishing clear expectations for learning
- Supports accountability for goals and objectives defined in IEP
- Supports activities that benefits student career development and career readiness

Application for Teachers

- Generate a signed agreement for your student's portfolio. Click on this link to assess the a template of an agreement for your school: http://transitionresponse.com/wp-content/uploads/2014/06/CBVE-agreement-template-Autosaved.pdf
- Must create a non-confidential file (that can be viewed by DOL) that contains a description of your work program, your signed agreement, and general description of the goals each student is working towards.
- Conduct transition assessment for each student to determine and link their interest, skills needed to meet his/her postsecondary goals, and appropriate CBL training sites to prepare student for community employment
- When writing IEPs, explicitly state employment skill needs and link relevant transition services (i.e., CBL) to students' post-school and annual IEP goals
- When writing IEPs, state the range of hours the student will be engaged in CBL

Application for Administrators

- Contact your State Department of Labor to see if there is an established policy meeting Federal Requirements. If your State is silent or has no policy, public schools must follow Federal Guidelines
- Develop a template agreement and establish district wide policy and practice. For more information on policy and practice go to: http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Application for Families

- Be sure to sign your students CBL agreement and keep a copy (Sample agreement: http://transitionresponse.com/wp-content/uploads/2014/06/CBVE-agreement-template-Autosaved.pdf)
- Support your student in CBL exploration and report back to the school preferences your students has expressed
- Be sure your student's IEP reflects the specificity in his or her goals

Websites

Federal Regulations:

- Wage and Hour Division (WHD) http://www.dol.gov/whd/FOH/ch64/64c08.htm
- The Fair Labor Standards Act: http://www.dol.gov/whd/flsa/

Practice and Policy:

- Youth Rules! http://www.youthrules.dol.gov/index.htm

- Essential Tools for FLSA: http://www.ncset.org/publications/essentialtools/flsa/NCSET_EssentialTools_FLSA.pdf

Books, Newsletters, and Research Articles

Cobb, B., Halloran, W., Simon, M., Norman, M., & Bourexis, P. (1999). *Meeting the needs of youth with disabilities: Handbook for implementing community-based vocational education programs according to the Fair Labor Standards Act* (2nd Ed.). The National Transition Network Institute on Community Integration (UAP). Minneapolis, MN: University of Minnesota.

Darche, S., Nayar, N., & Bracco, K. R. (2009). *Work-based learning in California: Opportunities and models for expansion (Technical Report).* San Francisco, CA: WestEd.

National Academy Foundation. (2011). *Guide to workbased learning: A continuum of activities and experience*. Retrieved from http://naf.org/files/WBL.pdf.

Solberg, V. S., Wills, J., & Osman, D. (2012). *Promoting quality individualized plans: A "How to Guide" focused on the high school years*. Washington, DC: National Collaborative on Workforce and Disability for Youth, Institute for Educational Leadership.

United States Department of Labor, Wage and Hour Division. (2015). Section 64c08: Students with disabilities and workers with disabilities who are enrolled in individual rehabilitation programs. Retrieved from http://www.dol.gov/whd/FOH/ch64/64c08.htm