The department has held that special education assignments, including a very short period of non-paid workstation experience, would not be considered employment provided all the following criteria are met:

1. The student is a vocational rehabilitation client who has been tested and determined to be physically, mentally or emotionally handicapped or has been certified by the local school district's special education director as having a disabling condition, and who is unable to function in a regular school or vocational program; and

2. The student does not take the place of a worker; and

3. There is a written agreement, signed by the school and vocational rehabilitation officer, describing the necessity for the work experience training without pay and listing the type of work training involved; or where a vocational rehabilitation officer is not available, a copy of the student's individualized education plan showing specific, measurable, short-term objectives related to the work experience is on record.

4. The phrase "derives no appreciable benefit from the duties performed by the student," means that students participating on a non-paid basis will not perform any tasks that could or would normally be performed by regular employees of the employer. The basis for this is that if a duty could or would normally be performed by a regular employee, then the employer does derive a benefit if such work is performed by a student, thereby freeing the regular employee for other work.