

ADMINISTRATIVE POLICY



**STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
EMPLOYMENT STANDARDS**

**TITLE: STUDENT LEARNER EXEMPTION
 FOR WORKSITE
 LEARNING AND APPRENTICESHIPS
 IN CERTAIN HAZARDOUS WORK**

NUMBER: ES.C.11

**CHAPTER: [RCW 49.12](#), [WAC 296-125-030](#),
 [WAC 296-131-125](#)**

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ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

This policy provides information about how an employer participating in a paid approved worksite learning program, most commonly through the Office of the Superintendent of Public Instruction (OSPI), or an approved registered apprenticeship through the Washington State Apprenticeship and Training Council (WSATC), may seek approval from the Department of Labor & Industries (L&I) to allow a paid student-learner to perform certain hazardous work on a limited basis. “Hazardous work” for participating 16- and 17-year olds is defined in state and [federal](#) law. See [WAC 296-125-030](#) and [29 C.F.R. §§ 570.51 – 570.68](#).

The “student-learner exemption” to the hazardous work rules can be used if the work is done as part of a paid, worksite learning program, or registered apprenticeship, and if a Student-Learner Exemption Minor Work Variance is approved by L&I.

The safety of minors on the worksite is L&I’s primary consideration when reviewing variances. The following information is meant to help ensure the safety of minors participating in worksite

programs when operating machinery or equipment, or performing other hazardous activities that would otherwise be prohibited. As an employer, if you are planning to participate in this program, you should also make the safety of the student-learner one of your primary goals as you develop plans for hiring a student-learner and submitting a variance request.

1. Definitions.

The following definitions apply to the student-learner exemption discussed in this policy:

1.1 Student-Learner. A student-learner is a youth age 16-17 years who is:

- Enrolled in a paid *worksite learning program* approved by the Office of the Superintendent of Public Instruction, a school district, or private school. These student-learners must also receive school credit, work under the standards of an employer and school program, and have a written worksite learning plan as part of a course of study. See [WAC 392-410-315](#); or
- Participating in a paid *apprenticeship program* registered by the WSATC. See [WAC 296-05](#).

1.2 Registered Apprenticeship. These programs include paid on-the-job training with classroom instruction and are approved by the Washington State Apprenticeship and Training Council (WSATC). The employer, Apprenticeship Program Sponsor and the apprentice must follow state standards, including the use of journey-level supervision. See the [L&I's Apprenticeship web pages](#) for more information.

1.3 Registered Apprentice. A registered apprentice is a participant in a registered apprenticeship who is at least 16 years of age ([WAC 296-05-003](#)).

1.4 Worksite Learning Program. A learning experience that occurs at a qualified worksite outside the classroom in fulfillment of a student's educational or career plan through the coordination of a worksite learning certified teacher. Direct instruction and supervision is provided by a qualified worksite supervisor. See [WAC 392-410-315](#).

2. Requirements for OSPI Approved Worksite Learning Programs.

Employers and schools must follow all OSPI requirements while participating in an OSPI approved worksite learning program. One of the most pertinent requirements entails the employer and school creating a worksite learning agreement and worksite learning plan that includes:

- A detailed description of the work the student-learner will do and how that worksite learning experience connects to the student's education plan
- A description of how the student-learner's learning progress will be evaluated during the worksite learning experience
- A description of how the student-learner's work progress will be evaluated during the worksite learning experience.

See [WAC 392-410-315](#) and [OSPI](#) for a complete list of worksite learning program approval requirements.

3. Eligibility for the Hazardous Activity Student-Learner Exemption.

In order to be eligible to receive the student-learner exemption that would allow a minor to do certain hazardous work, the student-learner must be in a program that is:

- A paid, worksite learning program certified and monitored by the Office of the Superintendent of Public Instruction (OSPI);
- A worksite learning program from the student employee's school district;
- A course of study in a substantially similar worksite program at a private school; **or**
- A program registered by the Washington State Apprenticeship and Training Council.

L&I will not grant variances for employments or occupations prohibited by the United States Department of Labor. See [WAC 296-125-030](#).

4. Hazardous Work and Operating Certain Power-Driven Tools and Equipment.

L&I will only approve a variance for a student-learner to perform certain kinds of prohibited hazardous work, such as operating certain power-driven tools and equipment, if the hazardous work is:

- Incidental, intermittent or for short periods of time;
- Limited to learning purposes; **and**
- Performed under the direct and close supervision of a qualified and experienced technician while the student-learner operates a hazardous machine or performs other hazardous work.

The direct and close supervision requirement is met when there is at least one journey-level worker or occupationally experienced adult supervising student-learners (including apprentices) at all times while performing hazardous activities. Federal law is more stringent as apprentices are added to a program. See [U.S. Department of Labor for more information](#). [Registered apprenticeships](#) may also have additional requirements as approved by the Washington State Apprenticeship Training Council.

If the conditions listed above in this section are met, limited variances may be allowed for the following hazardous activities:

- Power-driven woodworking machines/tools
- Power-driven metal-forming, punching and shearing machines
- Slaughtering, meat packing, processing, or rendering
- Power-driven paper-product machines
- Power-driven circular saws, band saws, and guillotine shears
- All roofing work
- Excavations
- Occupations involving firefighting and fire suppression duties

See [WAC 296-125-030](#) for complete rules.

There are additional work activities restricted under separate Washington State law that also need to be included in on the variance form, if applicable:

- Work that may require use of hearing protection under the DOSH Hearing Conservation Standard (i.e. at or above 85 dBA), [WAC 296-125-030\(22\)](#)

- Work that may involve exposure to bloodborne pathogens under the DOSH Bloodborne Pathogens standard, [WAC 296-125-030\(24\)](#)
- Work that may involve exposure to hazardous chemicals or substances under the DOSH Hazard Communication Standard, [WAC 296-125-030\(25\)](#)

5. Hours of Work Allowed for Minors in Worksite Learning Programs and Registered Apprenticeships

Washington State law restricts hours worked by minors, but minors participating in a worksite learning program or apprenticeship program may be able to work additional hours.

If a 16 or 17 year old is participating in a paid worksite learning program or registered apprenticeship approved by the student-learner's school, time spent at the worksite during school hours does not count toward the minor's total work hours allowed under [WAC 296-125-027](#). Hours worked outside of the minor's normal school hours must count towards hours worked for time restriction purposes.

If an employer wants a student-learner to work additional hours beyond those allowed in [WAC 296-125-027](#) they must apply for a [Minor Work Variance](#) through L&I.

See [WAC 296-125-027](#) for complete hours of work for minors requirements.

6. How to Apply for a Student-Learner Exemption Minor Work Variance.

Both employers and schools have obligations when applying for a Student-Learner Exemption Minor Work Variance.

6.1 Employer Obligations. When applying to for a student-learner exemption through L&I, an employer must complete a [Student-Learner Exemption Minor Work Variance Application](#) and include the following:

- All hazardous duties the student will be trained to do safely and with close supervision;
- All powered equipment and tools the student will be trained to use, with the year, make and model;
- The type of materials being worked, such as wood, metal, or plastic, etc.

A variance will only be allowed if the hazardous work performed by a minor is incidental to the training program, intermittent, and closely supervised by a journey-level worker, qualified instructor, or mentor.

L&I may revoke or suspend a student-learner variance at any time if the employer is not in compliance with the variance requirements or youth employment laws, or if there are conditions that could be detrimental to the health, safety, or welfare of a minor including an adverse impact upon their school attendance or performance. See [WAC 296-125-0660](#).

NOTE: An employer may ask L&I for a safety consultation from [DOSHS's Consultation Program](#) to help ensure the safety of student-learners. There is no charge for this service.

In addition to the Student-Learner Exemption Minor Work Variance Application, employers must also abide by all other youth employment laws and must obtain the following:

- a [Minor Work Permit](#) from the Department of Revenue Business License Service
- a [Parent/School Authorization](#) from L&I
- evidence of age
- workers' compensation coverage for the student

Employers are also required to keep minors' employment records for three years.

6.2 School Obligations. To place a student learner at a worksite, the student-learner's school must sign the Student-Learner Exemption Minor Work Variance. The school must also create, in collaboration with the employer, safety training for the student. If a minor in a registered apprenticeship is not enrolled in school, there are no school obligations.

Employers must follow all other state and federal wage and hour laws and health and safety regulations applicable to its student-learners. The variance and minor work permit for an individual employer may be revoked if the conditions of the variance are not followed. [Minor work permit](#) endorsements, [Parent School Authorization](#), and variances must be renewed annually.

7. Investigating Minor Injuries.

Under this variance, L&I may receive a complaint or report of injury from a parent, student, or other program participant. L&I will review the complaint to determine if further investigation is necessary. L&I may issue a citation if violations of youth employment laws are found through the course of an investigation. The Department of Occupational Health and Safety (DOSH) may conduct further investigation into possible additional workplace safety violations.

8. Resources.

The following resources provide additional information:

- Labor and Industries [Teen Worker web page](#)
- OSPI's [Career and Technical Education web page](#)
- University of Washington, [Health and Safety for Teens web page](#):

Department of Revenue Business License Service [Minor Work Permit web page](#)