Application of the Fair Labor Standards Act (FLSA) to School-Related Programs

Checklist

Do students have to be paid? Do FLSA child labor laws apply?

With respect to the individual student’s placement at a business establishment, do all of the following criteria apply?

______YES ______NO  1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school (i.e., a curriculum is followed and the student is under continued and direct supervision either by representatives of the school or by employees of the business).

______YES ______NO  2. The training is for the benefit of the trainee or student; such placement is not made to meet the labor needs of the business.

______YES ______NO  3. The trainee or student does not displace a regular employee, does not fill a vacant position, does not relieve an employee of assigned duties, and does not perform services that, although not ordinarily performed by employees, clearly are of benefit to the business.

______YES ______NO  4. The employer providing the training derives no advantage from the activities of the trainee or student and, on occasion, the employer’s operations may actually be impeded.

______YES ______NO  5. The trainee or student is not necessarily entitled to a job at the conclusion of the training period.

______YES ______NO  6. The employer and the trainee or student understand that the trainee or student is not entitled to wages for the time spent in training.

**YES to all** six criteria  **NO to any six criteria**

The individual student is NOT an employee within the meaning of the FLSA. Wages are not required. Either the business or the school system must compensate the student worker; both parties are jointly responsible for compliance with labor laws.