

Your Question:

You requested information on other states that have enacted legislation around work-based learning insurance and liability issues.

Our Response:

To address employer concerns about insurance when offering work-based learning opportunities, including to minors, some states have passed legislation regarding liability insurance and workers' compensation coverage for students in work-based learning placements.

Examples of such legislation from Tennessee, Georgia, Nebraska, Iowa and West Virginia are below. Please let us know if additional state examples would be helpful.

Tennessee

Tennessee is widely regarded as having a comprehensive set of policies to support high-quality high school work-based learning opportunities. T. C. A. § 49-11-109, as enacted by 2018 S.B. 1649, requires a student's LEA or state institution of higher education to maintain liability coverage for all participating students. If an employer chooses to provide workers' compensation insurance coverage to a participating student, the LEA or state institution of higher education must maintain liability insurance coverage to compensate the participating student for any injury that is not covered under the Workers' Compensation Law.

The full text of T. C. A. § 49-11-109 is as follows:

§ 49-11-109. Students participating in work-based learning--employer liability; workers' compensation; employment of students under age eighteen

(a) An employer that accepts or employs a student who is participating in work-based learning coordinated through the student's LEA or a state institution of higher education, including, but not limited to, Tennessee colleges of applied technology:

(1) Shall not be liable for actions relating to that student unless the employer acted willfully or with gross negligence; and

(2) May elect to provide workers' compensation insurance coverage to compensate a participating student for any injury that is covered under the Workers' Compensation Law, compiled in title 50, chapter 6. Notwithstanding subdivision (a)(1), if an employer elects to provide workers' compensation insurance coverage pursuant to this subdivision (a)(2):

(A) The coverage shall serve as the participating student's exclusive remedy for any compensable injury that is covered under the Workers' Compensation Law; and

(B) The employer shall not disclaim the participating student's eligibility for such coverage.

(b) An LEA or state institution of higher education that coordinates work-based learning for students shall maintain liability insurance coverage for all participating students. If an employer elects to provide workers' compensation insurance coverage to a participating student pursuant to subdivision (a)(2), then the LEA or state institution of

higher education shall maintain liability insurance coverage to compensate the participating student for any injury that is not covered under the Workers' Compensation Law.

(c) For purposes of this section, an employer shall not be prohibited from employing a student who is under the age of eighteen (18); provided, that the employer is in compliance with state and federal law.

Georgia

[2016 Act 356](#) establishes Article 12, "Work Based Learning Employer" under Chapter 9, "Workers Compensation" of Title 34, "Labor and Industrial Relations." In summary, the Act authorizes a premium discount to be provided approved work-based learning employers who provide workers' compensation insurance coverage to work based learning students and meet other qualifications to ensure the quality of work-based learning programs.

Ga. Code Ann., § 34-9-430 establishes definitions for:

- "Employer"
- "Employer member of a group self-insurance fund"
- "Self-insured employer"
- "Work based learning coordinator"
- "Work based learning employer"
- "Work based learning placement," defined as "an arrangement between a business or industry partner and a local school system in which students are released for a portion of the school day for structured learning at an employer's job site in either a paid or unpaid position while receiving academic credit. Work based learning placements include, but are not limited to, employability skill development, service learning, cooperative education, internship, youth apprenticeship, and clinical experiences."
- "Work-based learning student," defined as a student age 16 or older in a work-based learning placement for an employer.

Ga. Code Ann., § 34-9-431 provides that a work based learning employer that has been certified pursuant to this Section may be eligible for a premium discount under such employer's workers' compensation insurance policy.

Ga. Code Ann., § 34-9-431 provides: "The State Board shall certify to the State Board of Workers' Compensation that a work based learning employer meets the following requirements:

- (1) Enters into a training agreement with one or more work based learning students, the student's parent or guardian, and the school's work based learning coordinator;
- (2) Develops, in conjunction with the school's work based learning coordinator, a detailed training plan for the work based learning student that focuses on development of technical skills and employability skills;
- (3) Assigns a mentor to the work based learning student and assists in monitoring the progress of such student;
- (4) Provides workers' compensation insurance coverage for the work based learning student;
- (5) Complies with all federal, state, and local laws and regulations regarding the employment of students; and
- (6) Complies with the rules and regulations of the State Board of Education."

Ga. Code Ann., § 34-9-432 provides: "A self-insured employer or an employer member of a group self-insurance fund that provides work based learning placements for one or more work based learning students substantially in accordance with Code Section 34-9-431 and that complies with all other provisions of this article required of employers in order to qualify for insurance premium discounts may be certified by the State Board of Education to the State Board of Workers' Compensation as a work based learning employer in compliance with this article."

Nebraska

The chart below, part of the [suite of resources on WBL liability and legal issues](#) on the Nebraska Department of Education’s Workplace Experiences for Nebraskans [webpage](#), provides a helpful summary of workers’ compensation and liability insurance coverage requirements for employers and school districts.

Program Name	Program Description	School District		Business Employer	
		Liability Insurance Coverage	Workers Compensation Coverage	Liability Insurance Coverage	Workers Compensation Coverage
Worksite Field Trips	Employer led tours to increase young person’s awareness of Careers	Required	No	Required	No
Job Shadowing	Student shadows an employee to explore careers	Required	No	Required	No
Career Mentorship	Student meets regularly with an employee to gain career insight	Required	No	Required	No
Practicum	Young person completes a brief assigned project at a worksite	Required	No	Required	No
(Non-Paid) Work-Experience/ Youth Internship	Student develops skills and earns school credit at a worksite – meets all federal employment relationship requirements to be a non-paid experience. (State approved program)	Required	No	Required	No
(Paid) Work-Experience/ Youth Internship	Student develops skills, school credit, and is a paid employee at a worksite. (State approved program)	Required	No	Required	Required
Cooperative Work-Experience Program	Student develops skills as an employee at a worksite. (State approved career and technical education program)	Required	No	Required	Required
Youth Apprenticeship	Intense paid work-experience for young person where school credit is earned. Individual student agreement and program are state approved.	Required	No	Required	Required

NOTE: If a student is participating in a family owned/operated work-based learning experience or has established her or his own business, the appropriate insurance provider needs to be consulted.

Iowa

I.C.A. § 258.10 authorizes a school district board of directors to establish and maintain work-based learning programs in collaboration with a regional work-based learning intermediary network. I.C.A. § 258.10(3) states:

“3. The board of directors of a school district may provide workers' compensation coverage by insuring, or self-insuring as provided in section 87.4, students participating in unpaid work-based learning opportunities offered in

accordance with section 256.40. A school district's liability to students injured while participating in an unpaid work-based learning opportunity is as provided in section 85.20.”

West Virginia

W. Va. Code, § 23-2-1a identifies the types of employees subject to Chapter 23, “Workers’ Compensation,” of the state Code. Specifically:

“(a) Employees subject to this chapter are all persons in the service of employers and employed by them for the purpose of carrying on the industry, business, service or work in which they are engaged, including, but not limited to: ...

(6) Students while participating in a work-based learning experience with an employer approved as a part of the curriculum by the county board. The county board shall be the employer of record of students while participating in unpaid work-based experiences off school premises with employers other than the county board. Students in unpaid work-based learning experiences shall be considered to be paid the amount of wages so as to provide the minimum workers' compensation weekly benefits required by section six, article four of this chapter.

(b) The right to receive compensation under this chapter shall not be affected by the fact that a minor is employed or is permitted to be employed in violation of the laws of this state relating to the employment of minors, or that he or she obtained his or her employment by misrepresenting his or her age.”