



UNITED STATES DEPARTMENT OF LABOR

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School-to-Work

The general trainee tests apply to School-to-Work learning programs under the School-to-Work Opportunities Act of 1994 (STW).

A learning experience at an employer's work site that includes all of the following elements is consistent with a learning experience under the STW:

1. a planned program of job training and work experience for the student, appropriate to the student's abilities, which includes training related to pre-employment and employment skills to be mastered at progressively higher levels that are coordinated with learning in the school-based learning component and lead to the awarding of a skill certificate;
2. the learning experience encompasses a sequence of activities that build upon one another, that increase in complexity and promote mastery of basic skills;
3. the learning experience has been structured to expose the student to all aspects of an industry and promotes the development of broad, transferable skills; and,
4. the learning experience provides for real or simulated tasks or assignments which push students to develop higher-order critical thinking and problem-solving skills.

A student enrolled in a STW learning experience would not be considered an employee under the FLSA if all of the following student criteria are met:

1. the student receives ongoing instruction at the employer's worksite and receives close on-site supervision throughout the learning experience, with the result that any productive work that the student would perform would be offset by the burden to the employer from the training and supervision provided; and
2. the placement of the student at a worksite during the learning experience does not result in the displacement of any regular employee -- i.e., the presence of the student at the worksite cannot result in an employee being laid off, cannot result in the employer not hiring an employee it would otherwise hire, and cannot result in an employee working fewer hours than he or she would otherwise work; and
3. the student is not entitled to a job at the completion of the learning experience -- but this does not mean that employers are to be discouraged from offering employment to students who might successfully complete the training; and
4. the employer, student, and parent or guardian understand that the student is not entitled to wages or other compensation for the time spent in the learning experience -- although the student may be paid a stipend for expenses such as books or tools.

When *all four* of the above student criteria are met, an employer would not be required to pay wages to a student enrolled in an STW learning experience.

If you have specific questions concerning STW programs, you should contact your local Wage and Hour District Office.