

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2 EDUCATION

PART I PUBLIC SCHOOLS

CHAPTER 55

COVERAGE FOR WORKERS' COMPENSATION IN
SCHOOL-APPROVED WORK-BASED LEARNING PROGRAMS

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§8-55-1 Purpose. This chapter establishes the rules and procedures that govern the coverage for workers' compensation in school-approved work-based learning programs in the department of education, which was established by Hawaii state legislature through Act 242, Session Laws of Hawaii 2001. (Approved June 13, 2001) [L 1996, c 89, pt of §2; am L 1997, c 344, §2; am L 2001, c242, §1]

§8-55-2 Applicability. (a) This chapter shall apply to the administration of the coverage for workers' compensation in school-approved work-based learning programs in the department of education.

(b) Whenever a student participating in a school approved work-based learning program, sponsored by the department performs work for a private employer as part of the student's work-based learning program, whether paid or unpaid, the State shall be deemed to be the responsible employer for the purpose of workers' compensation coverage, that shall be the student's exclusive remedy to the same extent as provided for in chapter 386 as against the State and the private employer participating in the program.

(c) State and private employees' and private employers participating in school approved work-based learning program shall be indemnified unless negligence can be proven.

(d) The work-based learning programs must be pre-approved by the school before a student may be placed at a work site.

(e) For private employers to participate, their work sites must be surveyed annually by the department to ensure that it is a safe working environment.

(f) A training agreement must be signed by the responsible individuals at the school and the work site as well as the parent(s) or legal guardian and student to ensure that all parties are aware of their responsibilities.

(Auth: HRS §302A-431) (Imp: HRS §§302A-429, 302A-430, 302A-431, 302A-431.5, 302A-440)

§8-55-3 Definitions. As used in this chapter:

"Comprehensive Career Development System" means the comprehensive pre-K-16 system that assists students in development of self-awareness, exploration of different educational, career and life options.

"Coverage" means that workers' compensation applies to a student who is injured while performing work as an individual for a private sector employer, whether paid or unpaid, as part of the student's work-based learning program.

"Principal" means the chief executive officer of a public school in the Hawaii department of education.

"department" means the Hawaii Department of Education.

“Program of Study” means a coherent, non-duplicative, standard-based sequence of courses, which integrates core and higher order academics, career and workplace skills, specific occupational/technical skills; and incorporates work-based learning when feasible.

“Safety surveyor” means a department employee who surveys a work site to ensure that it is a safe working environment for students and who has been trained to perform this task.

“School-Approved Work-Based Learning Program” means a program approved by the school principal that identifies specific work sites at which students will participate in work-based learning experience. This program will include documentation of the following:

- (1) Principal’s approval for each work site
- (2) Annual site safety survey, completed by a trained department employee
- (3) Training agreement
- (4) Training plan

“School” means any regular school or special public educational establishment under the direction and control of the Hawaii department of education.

“School-based learning experiences” means a student learning experience on the school campus related to the course content in the students program of study.

“School complex” means a grouping of schools that center on a high school and include all elementary and middle/intermediate schools that transition students to that high school.

“School site coordinator” means a teacher or other department employee responsible for the following:

- (1) Serves as the point of contact for employers, parents and students specific to the work-based learning experience
- (2) Counsel students before and during the work-based experience
- (3) Develops the training agreement and plan with the with the student and employer
- (4) Evaluate the student’s performance

“School’s workers’ compensation designee” means the person at the school complex who is responsible for initiating and filing all paperwork required should a student make a claim for workers’ compensation coverage.

“Teacher” means a classroom instructor and/or counselor in a school under the direction of a department of education principal.

“Training agreement” means a document that provides the expectations of all parties involved.

“Training plan” means the contract which stipulates the tasks, skills, knowledge, and behaviors that will be learned and/or exhibited by the students as a result of the work-based learning experience,

“Work-based learning” means employer-supervised instruction that occurs outside the classroom and is linked to course activities. Experience may be

paid or unpaid, but the instruction enables students to learn and apply skills relevant to their academic focus or career interest.

“Work site” means a place of work in the private sector and also includes not-for-profit and non-profit entities.

“Work site mentor” means an employee or other individual, approved by the employer at a work site, who provides supervision, instruction, guidance, assessment of student performance and works in consultation with classroom teacher or school site coordinator.

- §8-55-4 Delegation of authority; implementation of workers’ compensation coverage for department of education school-approved work-based learning programs.
The department delegates to the principal the authority to:
- (1) Approved programs as meeting the criteria established for a work-based learning program in subchapter 2;
 - (2) Assign teachers or other department employees to serve as safety surveyors as stated in subchapter 3; and
 - (3) Document student participation as stated in subchapter 4.

SUBCHAPTER 2

DESIGNATING SCHOOL-APPROVED WORK-BASED LEARNING PROGRAMS

- §8-55-5 Designating process
- (a) It is the responsibility of the school to identify and document work-based learning programs under its jurisdiction. There are two components that must be present before a work-based learning site can be approved.
- (1) Program of Study: The school must have established programs of study from which students may choose to participate in preparation for post-secondary education or careers.
 - (2) School-based learning experiences: The program must be connected to school-based instructional activities related to the work-site selection.
- (b) The principal shall annually certify each work-site to be part of a school-approved work-based learning program.

SUBCHAPTER 3

DETERMINING A SAFE WORKING ENVIRONMENT

- §8-55-6 Annual survey process.
- (a) In order for a private sector work site to be eligible to receive workers’ compensation from the State, it must be annually surveyed by the department and be deemed to be a safe working environment for students. A work site need only be surveyed once each year by one school, other schools may utilize the same survey results without having to conduct their own surveys;

- (b) The department shall provide an instrument that shall be used to survey a private sector work site;
- (c) The only determination that the surveyor may make is whether the work site is approved or not approved as a safe working environment. Should only specific locations at a work site be designated as being available to students, then this information needs to be so stated on the survey instrument. No recommendations shall be made to the employer. The employer/representative shall be informed before the surveyor leaves the work site if the work site has been deemed to be a safe working environment.
- (d) The department shall protect all surveyors from claims of liability with regard to their performance of functions under Act 242, SLH 2001 providing there is no gross negligence in the performance of these functions.
- (e) Reports required by these rules are listed under subchapter 5

§8-55-7 Trained safety surveyors. Only surveyors who receive training sponsored by the department may conduct safety surveys of private sector work sites

SUBCHAPTER 4

DOCUMENTING STUDENT PARTICIPATION

- §8-55-8 Training agreement.
- (a) Each student participating in a work-based learning experience which is situated at a work site receiving workers' compensation coverage by the State, shall have a fully executed agreement of expectation for work-based learning experience which has been developed by the department on file at a department's school. To ensure a quality and safe work experience, this training agreement shall provide the expectations of all parties involved.
 - (b) The school principal shall be responsible for ensuring that the employer, student, and student's parent/guardian understand and sign the agreement before the student is placed at the work site. All parties shall be provided a copy of the training agreement after it is executed.
 - (c) The school's workers' compensation designee and contact telephone number(s) shall be listed on the training agreement.

SUBCHAPTER 5

REPORTING REQUIREMENTS

- §8-55-9 Reports. The department shall:
- (a) Require schools to keep records on all school-approved work-based learning programs and approved work sites for at least five (5) years.
 - (b) Require schools to input information to the designated a state web site that includes the following information:
 - (1) Name, address and phone contact number of business
 - (2) Contact name

- (3) Date of the site survey
- (4) Specific location surveyed on the site
- (5) Name and school of site surveyor
- (c) Compete and send to the legislature a biennial report that identifies the cost impact to the State for providing workers' compensation coverage for students under HRS sections 302A-430 and 302A-440.

§8-55-10 School reports.

- (a) The school shall annually approve each program that it designates as meeting the criteria for a work-based learning program. The principal shall be responsible for maintaining these records for five years.
- (b) The safety survey check list shall be maintained by the school for five years.
- (c) Update worksite information on the state designated web site.

§8-55-11 Severability. If any provision of this chapter, or the application of this chapter, or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.