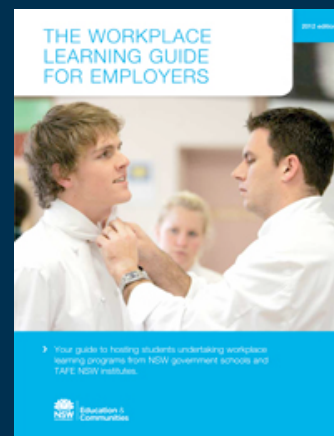




Additional information for employers to support their hosting of a student in the workplace

Please note: the number/s after each question refers to the page reference in the above Guide (click to open)



Employer indemnity

The NSW Department of Education and Communities/TAFE NSW indemnifies employers participating in approved workplace learning programs for any amount which they may be legally liable to pay for injury to students or teachers arising out of an approved workplace learning program, up to \$20,000,000 provided that:

- any claim made against the employer in respect of a student or teacher participating in an approved workplace learning program is immediately notified to the relevant school or institute
- the Department has full conduct and control of the claim against the employer as is normal practice for the party providing the indemnity
- the employer cooperates fully with the Department and the Department's legal representatives in the conduct of the claim
- the employer has complied with workhealth and safety legislation
- the injury does not stem from a lack of instruction or supervision by the employer.

Public liability indemnity

The NSW Department of Education and Communities/TAFE NSW indemnifies employers participating in approved workplace learning programs for any amount which they may be legally liable to pay for property damage or personal injury to third parties caused by students or teachers in approved workplace learning programs, up to \$20,000,000 provided that:

- any claims made against the employer in respect to property damage or personal injury caused by a student or teacher in an approved workplace learning program is immediately notified to the relevant school or institute
- the Department has full conduct and control of the claim against the employer as is normal practice for the party providing the indemnity
- the employer cooperates fully with the Department and the Department's legal representatives in the conduct of the claim
- personal injury to an employee of the employer is excluded (this should be covered under workers' compensation arrangements)
- the damage or injury does not stem from a lack of instruction or supervision by the employer.

Damage to employers' property

The NSW Department of Education and Communities/TAFE NSW will compensate employers participating in approved workplace learning programs to the full extent of any damage to the employer's property, property of an employee or property in the employer's physical or legal control up to \$200,000 per incident provided that:

- any claim for compensation is immediately notified to the relevant school or institute
- the employer cooperates fully with the Department and the Department's legal representatives in the investigation of the claim
- the damage does not stem from a lack of supervision or instruction by the employer.

How does the new legislation on Work, Health and Safety impact on hosting a student in an approved workplace learning program? (p.8)

New work health and safety laws replaced the occupational health and safety (OHS) laws in NSW on 1 January 2012.

The major relevant change that has taken place is that under the new Act (the Work Health and Safety Act) the definition of "worker" includes "a student gaining work experience".

Under the new Act a "worker", has obligations to:

- take reasonable care for his or her own health and safety, and
- take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons, and
- comply, so far as the worker is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person to comply with this Act, and
- co-operate with any reasonable policy or procedure of the person conducting the business or undertaking relating to health or safety at the workplace that has been notified to workers.

Students on work placements or undertaking work experience have these obligations.

Is there an increased risk and liability to host businesses under the new legislation concerning students on work placements or gaining work experience? (p.8)

NO. Employers were obligated to ensure the safety of students under the previous legislation so under the new legislation there is no increase in the risk or liability for host employers.

What activities for students in workplace learning programs are either prohibited or need special consideration given to addressing risks? (p.9)

Young workers can lack the experience, knowledge and skills to identify and deal with potential hazards. Inexperience and a lack of awareness can increase the likelihood of a young worker being injured. There are some activities that are not suitable for students (young workers) in an approved workplace learning program and there are others where special consideration needs to be given to addressing risks

Such activities include:

- use of machinery or equipment which may be dangerous for new or young workers to operate is prohibited. A student may operate machinery or equipment provided each of the following occurs:
 - the activity is first risk-assessed as suitable and safe for student operation by the host employer
 - the student has been given appropriate information, instruction and training and a checklist for the safe operation and handling of the equipment
 - the equipment is in safe working order, complete with required safety devices or guards
 - a suitably qualified or experienced person in the workplace who has good communication skills and the ability to give clear instructions provides on-going close supervision.
- the service of alcohol where the student is under 18 is prohibited; if the student is over 18 years, the activity must be essential to the placement and have been agreed to by the school or TAFE NSW institute and the student must have completed the Responsible Service of Alcohol (RSA) Training Course
- travel by helicopter is prohibited
- air travel on charter flights and aircraft other than those providing a regular public transport service (ie on a regular route with paying passengers) is prohibited

- travel outside the 12 nautical mile limit at sea is prohibited
- scuba and deep-sea diving are prohibited
- the following 'high risk construction work' as defined in the NSW WHS Regulation 2011 Ch.6 is prohibited: construction work in tunnels or involving the use of explosives or work in and around gas and electrical installations; near traffic or mobile plant, or demolition work other than simple stripping of walls etc.
- any excavation work at a depth of one metre or more, at a depth under one metre without direct supervision by a competent person, or near utilities is prohibited
- work on permanent or temporary structures used to enable construction work in marine environments is prohibited
- working on a roof is prohibited
- any activities involving or adjacent to the repair, removal or demolition of any construction work containing asbestos or in the clean-up process following the activity are prohibited
- attendance at a site while chimney stacks or buildings are being demolished is prohibited
- scheduled work as set out in Chapter 4 of the NSW WHS Regulation 2011 is prohibited, unless there are exceptional circumstances and the student, aged 18 or over, already has achieved the necessary certification
- any activity requiring a licence (eg; a driver's licence), permit or certificate of competence can only be approved where:
 - the student already has the relevant current licence, permit or certificate
 - the activity is directly related to the learning outcomes of the placement
 - the activity is included in the Student Placement Record prior to approval.

Note: students cannot be expected to drive their own vehicles while undertaking activities on behalf of the host employer.

- **no students are to drive any old or unregistered vehicles commonly known as "bush bashers".**
- **Any work of a sexual or explicit nature is prohibited**

Placements involving the driving of golf carts, tractors or similar farm vehicles (p.9)

Placements involving the student operation of golf carts, tractors or farm vehicles such as quad bikes **must be carefully considered**, even where these activities are considered to be essential to achieving the outcomes of the placement. For these placements to be approved the vehicle must be adequately risk assessed as being safe for a student to operate. Students must have successfully completed a relevant formal training course or related course competencies or have demonstrated substantial experience in the safe operation of these vehicles. **The student still needs to be closely supervised.**

Students with **little or no experience must not operate these vehicles** unless the school or relevant TAFE is satisfied that the host employer can satisfactorily manage the activity for the student and can provide appropriate quality training and on-going close supervision. This must occur prior to approval of the placement.

Placements in meat processing plants (p.9)

Placements in **meat processing plants** are subject to **mandatory requirements**. The Australian Meat Industry Council can be contacted on telephone 02 9086 2200 for the information package to support school student workplace learning in meat processing plants.

Placements in the construction industry (p.9)

All workplace learning in the construction industry requires as a pre requisite that the student completes Work Health and Safety induction training for construction work and holds the WorkCover NSW Construction Induction Card ('white card'). Workplace supervisors must make students aware of the risks associated with handling and operating all tools and equipment the student is to use and how to manage those risks.

While some tools and equipment common in industry are not permitted for use by students in a school setting, the construction teacher will indicate the appropriate tools and equipment that the individual student could use on work placement. Further advice is available from the student's school or TAFE and in some cases from the Work Placement Service Provider.

Can I direct students who drive their own vehicle to work, to use their own vehicle during the work placement? (p.9)

NO. Students cannot be expected to drive their own vehicles whilst undertaking activities on behalf of the host employer. They also cannot be expected to drive the employer's vehicles nor the client's vehicles whilst on work placement. Any driving of vehicles is expected to be rare, must be related to a course competency and detailed on the Student Placement Record prior to placement approval.

Where can I get further information on providing a safe workplace for students on approved workplace learning programs? (p.8)

Young workers can lack the experience, knowledge and skills to identify and deal with potential hazards. Inexperience and a lack of awareness can increase the likelihood of a young worker being injured. Further information can be found at:

<http://www.workcover.nsw.gov.au/newlegislation2012/youngworkers/Pages/default.aspx>

Who can I contact to discuss aspects of hosting a student in workplace learning? (p.11)

For HSC VET placements, contact your Work Placement Service provider as they have the expertise and resources to support you in this work.

For work experience students, contact the student's school personnel. This may be the Careers Adviser or Year Adviser. This contact information should have been provided to you at the time of the workplace learning arrangement being made.

If you want further confirmation or clarification of matters relating to hosting a student in your workplace, contact the Senior Coordinator Workplace Learning at State office on 02 9244 5252.

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Public Schools NSW
NSW Department of Education & Communities
March 2012*

Further Information

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T 02 9244 5252

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