

## WORK BASED LEARNING

## & SAFETY

IRVING ISD

OCTOBER 2011

Presented by Bill Smith

## Work Based Learning & Safety



## Work Based Learning & Safety

**New safety hazard found in the workplace!**

**Paperclips.  
So small.  
So deadly.**



Do you remember this incident!

## Work Based Learning & Safety

Manchester NHS Trust officials made the decision to stop the use of the metal stationary item after a member of staff cut their finger using one.

*'Due to recent incidents, NHS Manchester has decided to immediately withdraw the use of metal paper fasteners,' explained the memo featuring an accompanying picture of a paper clip - just to avoid any confusion.*

*'Please ensure any that remain in use be replaced by similar plastic fasteners.'*

*'The use of metal fasteners is prohibited and must be carefully disposed of immediately. Thank you for your co-operation.'*

The clips have been banned from the city's GP surgeries, clinics and offices in favor of a plastic alternative.

1. When a plaintiff's lawyer files a case, s/he generally does so after significant investigation. There *are* frivolous lawyers, but most plaintiffs' attorneys cannot afford to take cases that are complete bunk. They get paid if the client wins, so it only behooves the lawyer to take a case with a good chance of winning.

## Elements of Proving Negligence

Breach of duty  
Proximate cause  
Damages  
Duty

**Must prove all four**

2. For Electric Johnny from the shop class case to state a claim, he essentially has to allege: (1) the school and/or teacher had a **duty** to adequately supervise the class and keep them safe; (2) the school and/or teacher **breached that duty**; (3) the breach **caused Johnny's injuries**; and (4) Johnny has **suffered damages** as a result.

3. The reasons that a case will get tossed out on a motion to dismiss are things such as: lack of personal jurisdiction (ie, the court has no authority over the defendant); statute of limitations (the claim was filed too late); and failure to state a claim. To prevail on a motion to dismiss for failure to state a claim, a defendant must show that **even if all allegations in the complaint are true**, the plaintiff has failed to state a claim. At this stage in the litigation, **the court accepts all allegations in the complaint as true**. So if Johnny alleges that the teacher was out of the room, that the teacher wasn't paying attention to the students, that the teacher never gave proper warnings, that the class size was too big, or just that the teacher was negligent, **the court must accept this as true**. It is not very common to get a negligence claim dismissed on a motion to dismiss for failure to state a claim.

4. After a motion to dismiss is denied, the parties engage in discovery. Depositions are taken. Interrogatories (written questions) are answered. Documents are exchanged. This is where all the specific facts about what happened come out.

5. After discovery occurs, the parties may file a motion for summary judgment. The standard for summary judgment is: the moving party is entitled to judgment if there are **no genuine issues of material fact** and the moving party is entitled to judgment as a matter of law. So in Electric Johnny's case, if Tommy Teacherspet says that Shop Teacher was watching the students like a hawk and Electric Johnny was super fast and sneaky while Robert Rebel says that Shop Teacher wasn't even in the room when it happened, then guess what? You have genuine issue of material fact. Credibility determinations are left to the jury, so the court has to draw all inferences in favor of the party opposing summary judgment. It is rare for the court to grant summary judgment in negligence cases because there is usually conflicting testimony; settlement or jury trial are more common.

6. At this point, the case goes to a trial, which is before a jury (unless the parties have previously agreed to a court trial). All those ridiculous, frivolous awards you're complaining about were handed down by a jury. And most negligence verdicts include a question that assigns liability based on percentage. In almost every negligence case I've seen, the plaintiff was found to be at least partially responsible.

7. After the jury renders a verdict, parties can make motions after the verdict. They can move to have the award lowered or vacated or can move for a new trial. Judges are loathe to overturn a jury verdict. A jury's verdict is largely considered sacrosanct in our legal system. The court will overturn a jury's verdict only if the verdict goes against the greater weight of the credible evidence, but once again, credibility determinations are generally left to the jury. In 2.5 years, I have seen one new trial ordered.

## Work Based Learning & Safety

What state and federal requirements?

Child Labor Laws

Student Learners are subject to the  
Federal  
Fair Labor Standards Act (FLSA)

The prime law is the Child Labor Law

## Work Based Learning & Safety

Resources are located at

<http://www.irvingisdslabsafety2012.weebly.com>

<http://www.ctesafetyolutions.weebly.com>

## Work Based Learning & Safety

**Click on the Child Labor Laws tab  
on the WBL website.**

**Part 570.50, Subpart D, General, (c) lists provisions  
pertaining to student-learners, [age 16-17](#).**

**Link #1 shows the complete law.**

## Work Based Learning & Safety

The school district is responsible for ensuring that each teacher assigned to Career Preparation or a Practicum course has completed appropriate training in **state and federal requirements regarding work-based learning and safety**. This requirement is effective beginning with the 2010-2011 school year.

## Work Based Learning & Safety

(c) **Student-learners**. Some sections in this subpart contain an exemption for the employment of student-learners. Such an exemption shall apply when:

(1) The **student-learner** is **enrolled** in a **course of study** and training in a cooperative vocational training program **under a recognized State or local educational authority** or in a course of study in a substantially similar program conducted by a private school and;

## Work Based Learning & Safety

- (2) Such student-learner is employed under a **written agreement** which provides:
- (i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;
  - (ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;
  - (iii) That **safety instructions shall be given by the school** and correlated by the employer with on-the-job training; and
  - (iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

**These provision are NO LONGER part of the TEA sample Training Plan**

## Work Based Learning & Safety

### Student Transportation

**Click on the Student Transportation tab**

## Work Based Learning & Safety

### Training Plans

(Portion pertaining to Child Labor Laws)

Is the training objective listed considered to be a hazardous occupation by the U. S. Department of Labor, Employment Standards Administration and the Wage and Hour Division: YES  
NO \_\_\_\_\_

If Yes, any exemption(s) for student-learners or apprentices will apply as described in the *Youth Employment Provisions for Nonagricultural Occupations Under the Fair Labor Standards Act - Child Labor Bulletin 101* or *Child Labor Requirements in Agricultural Occupations - Child Labor Bulletin 102*. Current information for exemptions is available from the U. S. Department of Labor in the Wage and Hour Division or the website at [www.dol.gov/esa/whd](http://www.dol.gov/esa/whd) listed in the Guides.

## Work Based Learning & Safety

**Do you drive students to their workstation, internship, clinical rotation?**

**Do you know what the Texas Education Code says about teacher immunity in reference to transporting students?**

**Look at the section titled Teacher Immunity Pertaining to Transporting Students**

## Work Based Learning & Safety

In Texas, a poster that describes the hazardous occupations and the exceptions is available. The poster can be access at the webpage under **Hazardous Occupations**.

**[Click on the link under Hazardous Occupations](#)**

## Work Based Learning & Safety

**Immunity from liability - §22.0511, Education Code**

**Professional employees** of school districts **are not personally liable** for acts incident to or within the scope of their duties that involve the exercise of discretion, **other than:**

1) using "excessive force" or "negligence resulting in bodily injury" while disciplining a student, or,

2) **operation or maintenance of a motor vehicle.**

## Work Based Learning & Safety

How do your students get to their  
Training Stations?

Do you want to KNOW?

Do you document your knowledge?

## Work Based Learning & Safety

Are there other transportation issues  
other than students getting to work?

- Field trips
- Youth organization competitions

## Work Based Learning & Safety

The recommendations from Education Service Center 112  
Risk Management Division in the state of Washington  
provides recommendations that are posted under  
Student Transportation.

An additional sample for can be downloaded at the link  
[01samplesofstudentparentcommunicationanddocumentation.pdf](#)

Scroll down to page 6 and review the

**SAMPLE WBL TRANSPORTATION AGREEMENT**

## Work Based Learning & Safety

Any other state and federal  
requirements?

## Work Based Learning & Safety

Do any of you use a  
WBL Transportation Agreement?

## Work Based Learning & Safety

OSHA

What does OSHA stand for?

Occupational Safety and Health  
Administration

## Work Based Learning & Safety

### Who is covered by OSHA?

Employees **including student employees** in private sector companies are covered by OSHA.

Employees of state and local governments in Texas are NOT covered; this includes public school districts. Federal employees are covered.



A Power Point presentation is available at the two-hour training component link.

## Introduction to OSHA

2-hour Lesson

Directorate of Training and Education  
OSHA Training Institute

## Work Based Learning & Safety

OSHA has developed a new two-hour training component emphasizing workers' rights.

Click on the OSHA tab  
Scroll down to the OSHA Instructional Resources  
Click on the Instructor Guide.

## Work Based Learning & Safety

### Material Safety Data Sheets

In order to ensure chemical safety in the workplace, information must be available about the identities and hazards of the chemicals. OSHA's Hazard Communication Standard (HCS) requires the development and dissemination of such information.

All employers with hazardous chemicals in their workplaces must have labels and Material Safety Data Sheets (MSDS) for their exposed workers, and train them to handle the chemicals appropriately.

## Work Based Learning & Safety

### Lesson Overview

The purpose of this two-hour lesson is to provide workers with introductory information about OSHA. This Instructor Guide is intended to be used when presenting General Industry, Construction, and/or Maritime Industry outreach courses. The lesson is comprised of the following six topics:

1. Why is OSHA important to you?
2. What rights do you have under OSHA?
3. What responsibilities does your employer have under OSHA?
4. What do the OSHA standards say?
5. How are OSHA inspections conducted?
6. Where can you go for help?

The lesson provides basic knowledge of: OSHA's history and mission, worker rights under OSHA, employer responsibilities under OSHA, OSHA standards, OSHA inspections, and safety and health resources, including how to file an OSHA complaint.

Materials Needed:	Training Preparation:	Student Handout Packet:
<ul style="list-style-type: none"> <li>• Flip chart and markers</li> <li>• Presentation slides</li> <li>• Student handout package</li> <li>• OSHA Act</li> <li>• Copy of the OSHA Standards, General Industry, Construction, or Maritime</li> <li>• Check Yourself Test Questions</li> </ul>	<ul style="list-style-type: none"> <li>• All About OSHA publication</li> <li>• Complaint scenario [handouts #12A, #12B, and #12C] annex</li> <li>• Cornell University Library site on the Triangle Case</li> <li>• MSDS explanation</li> <li>• OSHA website</li> <li>• State Job Safety and Health Programs Fact Sheet</li> <li>• Training Requirements in OSHA Standards and Training Guidelines publication</li> </ul>	<ol style="list-style-type: none"> <li>1. Weekly Fatality/Catastrophe Report</li> <li>2. OSHA Broder</li> <li>3. MSDS Example</li> <li>4. Your Rights as a Workplace Fact Sheet</li> <li>5. Refusing to Work Because Conditions are Dangerous</li> <li>6. OSHA 300 Log example</li> <li>7. Employers Must Provide and Pay for PPE</li> <li>8. How to Read the OSHA Standards:               <ol style="list-style-type: none"> <li>a. General Industry;</li> <li>b. Construction;</li> <li>c. Maritime Industry</li> </ol> </li> <li>9. Safety and Health Resources</li> <li>10. Navigating the OSHA Website</li> <li>11. Identifying Safety and Health Problems in the Workplace</li> <li>12. Filing an OSHA Complaint includes tips for completion, scenario and form:               <ol style="list-style-type: none"> <li>a. General Industry;</li> <li>b. Construction;</li> <li>c. Maritime Industry</li> </ol> </li> </ol>

## Work Based Learning & Safety



### Material Safety Data Sheet (MSDS)

Issue/Revision Date: 16 February 2009

#### Section 1. Product and Company Information

Chemical Name: acid, 5% by volume  
 Synonym(s): None  
 Tradename(s): All Disclosure Extraction Solution #2  
 Catalog No.: 550-021, also component of 550-001 and 550-002  
 Company: SKC Inc.  
 Address: 863 Valley View Road  
 Eighty Four, PA 15330 U.S.A.  
 Phone: 724-941-9701  
 Fax: 724-941-1369  
 Toll-free (U.S.): 800-752-8472  
 Email: skcweb@skcinc.com  
 Web: www.skcinc.com

#### Section 2. Composition/Information on Ingredient(s)

Chemical Name	Formula	CAS #	OSHA PEL	ACGIH® TLV®
acid, 5% by volume	CH <sub>2</sub> COOH	8029-55-2	None	None

## Work Based Learning & Safety

### Section 4. First Aid Measures

#### Inhalation

Remove to fresh air. Support breathing (give oxygen/artificial respiration).

#### Skin

Flush with copious amounts of water. Call physician.

#### Eye

Flush immediately and thoroughly with water for at least 15 to 20 minutes (timed by a clock). Call a physician.

#### Ingestion

Large amounts of water should be consumed to dilute. Do not induce vomiting. Do not give emetics or baking soda. Call a physician.

## Work Based Learning & Safety

What is were them at work?

## Work Based Learning & Safety



### Material Safety Data Sheet (MSDS) Issue/Revision Date: 16 February 2009

#### Section 1. Product and Company Information

Chemical Name: Acetic acid, 5% by volume  
Synonym(s): None  
Trademark(s): Distilled white vinegar, Full Disclosure Extraction Solution #2  
Catalog No.: 550-001, also composed of 550-001 and 550-002

## Work Based Learning & Safety

Are there any regulations coming from the government?

Changes were proposed in October 2011 for teen agriculture workers.

## Work Based Learning & Safety

Is this one of your students?



## Work Based Learning & Safety

3. Prohibit young hired farm workers from using electronic communication devices while operating or assisting to operate power-driven equipment. This would include, but not be limited to, participating in a conversation electronically; using the Internet; sending or receiving text messages, e-mail, instant messages, "chats," "status updates," or "tweets," playing electronic games; or entering data into a navigational device or GPS. This would NOT include listening to music or other recorded information on a oneway, noninteractive device such as a radio or mp3 player, as long as the device is being operated "hands free" without headphones or earbuds. Glancing at a GPS, using a cell phone to call 911 in an emergency, and wearing appropriate hearing protection would not be prohibited under the proposal.

## Work Based Learning & Safety

What can you do as a teacher?

Take a look at the video and the activity that are described on the website.

## Work Based Learning & Safety



## Work Based Learning & Safety

M	Multitasking is worse than a lie
I	
M	
I	

## Work Based Learning & Safety

Questions

Comments

## Work Based Learning & Safety

