

Workplace Health and Safety Bulletin



Are Students and Volunteers Workers?

All workers covered by the Act

Alberta's *Occupational Health and Safety (OHS) Act* applies to any worker engaged in an occupation. The *OHS Act* defines an "occupation" as every "occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction". The broad definition is intended to ensure that all persons engaged in work activities are protected under the *OHS Act*. Since a worker doesn't need to be paid in order to be protected under the *OHS Act*, the *OHS Act* also applies to volunteers.

Students

The school is not an employer

Although the definition of "worker" is broad enough in the *OHS Act* to include a student, the definition of "employer" is difficult to apply to a school. The Alberta Court has accepted the word "employ" as involving "using the services of someone". In the context of a student and a school, it is difficult to see how the school can be considered to be using the services of a student – the reverse is more likely the case. There is also no case law to support the notion that a student attending classes can be considered to be self-employed and therefore subject to the *OHS Act*.

Government of Alberta ■
Employment and Immigration

Based on this information, Alberta Employment and Immigration takes the position that the *OHS Act*, Regulation and Code do not apply to students receiving training in an educational setting, regardless of the activities being performed e.g. wood-working class at a grade school, automotive repair course at a technical school, chemistry laboratory course at a university, etc. Responsibility for the safety of students rests with the school under existing legislation that applies to educational institutions. The *Alberta School Act* for example, states that schools must be safe and healthy environments that foster respectful and responsible behaviours.

When a student provides services to an employer

Two situations arise in which a “student” provides services to an employer and is therefore considered to be “worker”:

- (1) *A student involved in a work-experience training program that takes place at an industrial setting* e.g. working at a chemical plant as part of the work-experience program, the work term of an apprenticeship program, etc. In these cases the operator of the industrial setting is considered to be the employer and the student is now a worker. The requirements of the *OHS Act*, Regulation and Code apply to both the employer and worker.
- (2) *A student performing work on behalf of an educational institution or an instructor* e.g. conducting research for a university, professor, or instructor. The institution, professor or instructor is considered to be the employer and the student is now a worker. The requirements of the OHS legislation apply to both the employer and worker.

Staff and instructors are workers

While the OHS legislation does not apply to students attending school, the legislation does apply to the staff and instructors working at the school. The school is considered to be the employer and must ensure that the requirements of the legislation are met.

Volunteers

Are volunteers workers?

Determining if and when a volunteer is a worker can be difficult. Each situation needs to be assessed individually. In order for Alberta's OHS legislation to apply, a worker needs to have an employer. The employer in this case is the organization on whose behalf the volunteer provides some type of voluntary service.

When assessing a particular situation to determine if there is a worker-employer relationship, three conditions need to be met:


- (1) the organization requests the volunteer's participation;
- (2) the organization organizes the volunteer's activities; and
- (3) the volunteer provides a service to the organization e.g. teaching a skill to students or staff, picking up garbage in an area, building a house for the organization, etc.


The OHS legislation does not apply in situations where a person or group of persons, on their own initiative, agrees to voluntarily provide a service to an organization. The organization has not requested the service nor has it organized the volunteers to perform the service. It would be inappropriate to suggest that the organization is an employer of the volunteers.

Where there is an employer-worker relationship as described above, the organization is responsible to its volunteers to ensure that the volunteers are not exposed to health and safety hazards while performing the volunteer activities. Ensuring the safety of these volunteers can best be achieved by the organization recognizing that it is responsible for the health and safety of its volunteers and then having the volunteers follow the safety rules presented in Alberta's OHS legislation.

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Web Site



www.worksafely.org

Getting copies of OHS Act, Regulation & Code:

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Workplace Health and Safety



<http://employment.alberta.ca/whs-ohs>

Call any Government of Alberta office toll-free
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