



IOWA

Department of Education

Ann Lebo, Director

Kim Reynolds, Governor
Adam Gregg, Lt. Governor

DA: March 14, 2022
RE: Interpretation of Iowa Code section 92.9

The Department of Education has been asked for an opinion about the meaning of Iowa Code section 92.9 (2022). That section reads, with added emphasis:

The provisions of sections 92.8 and 92.10 shall not apply to pupils *working under an instructor in a career and technical education department in a school district* or under an instructor in a career and technical education classroom or laboratory, or industrial plant, or *in a course of career and technical education approved by the state board for career and technical education*, or to apprentices provided they are employed under all of the following conditions:

1. The apprentice is employed in a craft recognized as an apprenticeable trade.
2. The work of the apprentice in the occupations declared particularly hazardous is incidental to the apprentice's training.
3. The work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of apprentice training.
4. The apprentice is registered by the office of apprenticeship of the United States department of labor as employed in accordance with the standards established by that department.

Specifically, the Department was asked what it means to be “a course of career and technical education approved by the state board for career and technical education.”

The State Board of Education is the state’s board for career and technical education (“CTE”). Iowa Code § 258.2. The State Board has five enumerated duties, two of which are relevant.

1. *Approve the multiyear state plan* developed in accordance with applicable federal laws and regulations governing career and technical education.
3. *Adopt rules prescribing standards for approval of school district career and technical education programs; and community colleges with career and technical education programs; and practitioner preparation schools,*

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departments, and classes, applying for federal and state moneys under this chapter.

Id. § 258.3A (emphasis added). The State Board’s relevant duties are approving the State’s Perkins V plan and approving rules governing the approval of district CTE programs. The Code delegates the approval of CTE programs to the Department, pursuant to rules adopted by the State Board. The rules adopted pursuant to subsection 3 are found at Iowa Administrative Code rule 281 – 46.6. If a district fails to submit a CTE program approval and review or fails to comply with any Department-required corrective action, the district’s CTE program could not be used to meet general accreditation standards. Iowa Admin. Code r. 281 – 46.7(2).

If the instruction is provided by the district’s CTE program (“working under an instructor in a career and technical education department in a school district”) or pursuant to a CTE program approval and review approved by the Department (“in a course of career and technical education approved by the state board for career and technical education”), the instruction meets the section 92.9’s exception to the prohibition on “child labor” in dangerous occupations in section 92.8. This would include off-campus work-based learning if it was part of the Department-approved CTE program or the student was “working under” a CTE instructor, with what constitutes “working under” being based on the facts of each case.

Further, in the opinion of the Department, the State Board does not need to approve each course, so long as the course is part of the district’s Department-approved CTE program.

In conclusion, the exceptions in section 92.9 are satisfied if the student is “working under an instructor in a career and technical education department in a school district” or the course is part of a district’s Department-approved CTE program. In order to properly oversee student progress and award credit, the district instructor must evaluate student progress at the worksite quarterly with additional visits as needed.

The student’s involvement in offering would still need to meet the requirements of [29 C.F.R. section 570.50](#); however, state law would not impose additional requirements beyond Department approval of the course as part of a district’s CTE plan or the student “working under” a district CTE teacher.

Please contact Thomas Mayes (Thomas.mayes@iowa.gov) if you have any questions.