

**STUDENT PLACEMENTS:
WHAT ARE THE RESPONSIBILITIES AND WHERE DO THEY LIE?**

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Abstract (as submitted)

Introduction.

A student placement is where a third party is involved in the education of our students. That education and training takes place in a host employer's workplace.

This discussion is based in the various requirements of the South Australian Occupational Health, Safety and Welfare Act 1986. Needless to say it would have relevant implications in other jurisdictions across Australia.

I was compelled to attend a Workcover presentation at an OH&S Conference in 2003 titled: "Learners in the Workplace – Managing the Risks".

("Learners in the Workplace – Managing the Risks", Alison MacTavish,
Workcover Corporation Account Manager.)

At that time I was beginning to look at our OH&S requirements surrounding student placements.

The Workcover paper was based upon a discussion paper by Peter Rozen (Victorian Bar) produced on behalf of the National Occupational Health and Safety Commission.

("Safeguarding the Student: School-to-Work Transition Programs and
Occupational Health and Safety Law", Peter Rozen, Victorian Bar. May 2002)

This report was prepared "to assist the National Occupational Health and Safety Commission ('NOHSC') in the development of appropriate policies for the protection of young people."

It was "concerned with the protection from harm of students involved in 'school-to-work' transition programs (including new apprenticeships) and the potential legal liability of the various parties involved in such programs."

The focus of both the MacTavish presentation and the Rozen paper was squarely upon the transition of high school students into the workforce.

There are some features contained within both of the above that are applicable to a student placement situation but the major difference is that they are concerned with minors. Therefore the discussion is of a different age profile and consequently a greater standard of care and an adequate system of supervision is demanded.

Nevertheless, a starting point for the discovery of what we need to develop for our student placements.

Peter Rozen of the Victorian Bar makes an analysis of the legal liability of the various parties involved in 'school-to-work' transition programs under Common Law and Occupational Health and Safety Legislation.

He provides a number of examples of case law and makes the point by quoting the learned Magistrates summations and judgements of the courts.

I took the view that Judgements of the courts are an authoritative legal interpretation of the law.

It is difficult to find a better source of authority and of course no better legal interpretation of the law.

In his discussions, Rozen examines the duty of care owed to the student to ensure that they are not exposed to risks to their health and safety.

He summarises by stating: "The duty is analogous, but not identical, to that owed by a labour hire company which places its employees in the workplace of third parties."

How does this analogy fit with our situation?

Methods

The University of Adelaide as the employer (and also the educational institution) has a duty of care and legislative requirement to protect the health and safety of staff and students while at work.

That means where-ever they work, therefore we must consider the situation of student placements.

The University of Adelaide considers students as employees so far as the OHS&W Act is concerned.

The students that are placed in a host employer's workplace for a period of time to gain practical experience and/or additional or specialised training are in most cases adults. They are more mature and have a higher level of self-control than that possessed by the high school students discussed by Rozen.

That having been said the analogy remains valid.

It became of particular interest to read the judgements of the courts that were reported in daily email briefings of OH&S News.

While reviewing the outcomes of court cases there were no instances that reached the email briefings of prosecutions of a tertiary institution by students for breaches of the OH&S legislation.

That cannot be said of the labour hire industry.

What do we need to do to ensure that (we) "the University" satisfy its obligations?

Reading the judgements of the courts it becomes clear that the following conditions must be appropriately managed.

- take all reasonable steps to ensure the protection of the student's health and safety at all times during their placement.
- establish the suitability of the student to perform the placement.
- ensure that the student is given information, instruction, training and is adequately prepared for the placement.
- ensure that at the host employer's workplace risks are identified, assessed and control measures are in place.
- determine if sufficient Public Liability Insurance is carried by the host employer to meet claims arising from injuries to Students (or Staff) from the University, as a consequence of accidents or incidents whilst attending the host employer.

Having established these parameters, the responsibilities and the inter-relationships of the three parties involved in the student placement can be developed into lists of the responsibilities of the individual parties.

THE STUDENT

The Student must prepare for the placement and is required to participate in:

- an OH&S Orientation training where appropriate information, instruction and training will be presented in relation to the impending placement.
- training in the basic technical skills required for the placement, which will be further developed during the placement.
- a demonstration and explanation of the systems and policies in place at the host employer's workplace for the protection of health and safety.

- a discussion of the nature of the work to be performed, and what risks arise at the host employer's workplace.

At the host employer's workplace the student will participate in:

- a formal induction to the workplace which will include an OH&S induction, information, instruction and
- training as if the student is a new employee and is to perform the same or similar work as employees of the host employer.

THE UNIVERSITY, (the Educational Institution)

Both the University and the Host Employer will establish a joint management and control system for the student placement. A representative of the University shall visit the host employer's workplace and perform a risk assessment concerning all pertinent issues in the discharge of the University's duty of care.

The University will provide appropriate instruction, information, training and supervision.

The University, prior to making a student placement shall implement the following five steps.

- Gather information about the job;
- Gather information about the skills and competencies that the student will require to do the job;
- Conduct a visit to the host employer's work site where the student will be placed and perform a risk assessment of all pertinent issues; and
- Obtain the host employer's written agreement to provide a safe and healthy working environment and evidence of Public Liability Insurance.
- Establish an agreed process of reporting the progress of the student and of raising any concerns including safety concerns.

The University must prepare the student for the placement through the following steps.

Matching the student to the job:

Assess every student placed in a host employer's workplace with a view to determining if he or she is suitable for that placement. (The form of assessment could be competency based)

Provide the student with appropriate information, instruction and training.

- An OH&S orientation course
- training in the basic technical skills required for the placement, which will be further developed during the placement.
- demonstrate and explain the systems and policies in place at the host employer's workplace for the protection of health and safety.
- discuss the nature of the work to be performed, and what risks arise at the workplace.

THE HOST EMPLOYER

Both the School and the Host Employer will establish a joint management and control system for the student placement. The steps that are reasonably necessary include

- student preparation, (initially by the School and subsequently by the Host Employer)
- host employer preparation,
- workplace inspection and risk assessment,
- host employer's OH&S Management System,
- emergency procedures and
- appropriate insurance coverage by the University and the Host Employer.
- develop an agreed process of reporting the progress of the student and of raising any concerns including safety concerns.

The Host Employer shall provide the student with:

- a formal induction to the workplace which will include an OH&S induction, information, instruction and

- training as if the student is a new employee and is to perform the same or similar work as employees of the host employer.
- appropriate supervision to mitigate against the unfamiliarity of the host employers workplace.

The supervision requirements of each individual student shall be discussed with the student's university supervisor.

Conclusion

This is the beginning.

It defines and provides guidance for the exercise of the duty of care required to comply with the OH&S legislation with regard to student placements.

The next phase is to integrate the procedures into the existing systems of work within the four very diverse Schools that are the Faculty of Sciences at the University of Adelaide.