



PIEDMONT REGION

Title:	Work Experiences and Internship	Policy #:	20
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References: Workforce Innovation and Opportunity Act (WIOA) Sections 126-129, 20 CFR 680, 681, and 683, Training and Employment Guidance Letters (TEGL) 19-16 and 21-16, 29 CFR 570 - 579

Background:

Work experience is applicable to all Workforce Innovation and Opportunity Act (WIOA) core programs because it is an invaluable tool to engage businesses and to support job seekers in overcoming barriers to employment. Work experiences are designed to help individuals to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry and retention in unsubsidized employment.

WIOA acknowledges the critical role work experiences and internships play in helping individuals obtain the skills they need to succeed in the workplace and includes a major focus on providing Youth work experience opportunities with the requirement that local areas must spend a minimum of 20 percent of their Youth funds on work experiences. Work experiences help Youth understand proper workplace behavior and what is necessary in order to attain and retain employment. Work experience can serve as a stepping stone to unsubsidized employment and is an important step in the process of developing a career pathway for Youth.

Purpose:

This policy is to provide instruction and guidance to contracted service providers concerning the WIOA work experience requirements.

Policy:

Definition

A work experience is a planned, structured learning experience that takes place on a worksite for a limited period of time. Internships and other work experience may be paid or unpaid, as appropriate, and must be consistent with other laws, such as the Fair Labor Standards Act. An internship or other work experience may be within the private for-profit sector, the non-profit sector, or the public sector.

Work Experience for Adults and Dislocated Workers

Work experience for Adults and Dislocated Workers may be provided as an individualized career service to enrolled Adults and Dislocated Workers, if appropriate to obtain employment. The terms internship and work experience are used interchangeably in WIOA for Adults and Dislocated Workers.

To be eligible for a work experience, an individual must meet Adult and Dislocated Worker program eligibility. There is no requirement for career and supportive services. Career services such as work experience may be provided in combination with an Individual Training Account (ITA). There is no minimum expenditure requirement or funding cap for work experience for Adults and Dislocated Workers, except for transitional jobs.

Transitional Jobs are a type of work experience for Adults and Dislocated Workers. A transitional job provides a time-limited work experience, paid and subsidized, for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment. Local areas may use up to 10 percent of their combined Adult and Dislocated Worker allocations for transitional jobs. Other types of work experience are not subject to a funding cap. Career services and supportive services are required to be provided as part of any transitional jobs strategy. Because of the different requirements for transitional jobs compared to other types of work experience, transitional jobs will be further addressed in a separate policy.

Work Experience for Youth

For Youth, work experiences are one of the fourteen required program elements that must be made available in each local area. Work experiences may be paid or unpaid, but they all must include academic and occupational education components. The types of work experiences include the following categories:

- Summer employment opportunities and other employment opportunities available throughout the school year;
- Pre-apprenticeship programs;
- Internships and job shadowing; and
- On-the-job training (OJT).

The academic and occupational education components may occur concurrently or sequentially with the work experience, based on a participant's Individual Service Strategy (ISS) and individual needs. The academic and occupational education component may occur inside or outside the work site. The worksite employer can provide the academic and occupational component or such components may be provided separately in the classroom or through other means.

The academic and occupational education component refers to contextual learning that accompanies a work experience. It includes the information necessary to understand and work in specific industries and/or occupations. For example, if a Youth is in a work experience in a hospital, the occupational education could be learning about the duties of different types of hospital occupations such as a phlebotomist, radiology tech, or physical therapist. Whereas, the academic education could be learning some of the information individuals in those occupations need to know such as why blood type matters, the name of a specific bone in the body, or the function of a specific ligament.

Summer Employment

Under WIOA, summer employment opportunities are a component of the work experience program element. If providers administering the work experience program element are selected through a competitive process, the employers who are providing the summer employment opportunities do not

need to be selected through a competitive process. Local programs are encouraged to coordinate work experiences, particularly summer employment, with other Youth-serving organizations and agencies.

Job Shadowing

Job shadowing is a work experience option where Youth learn about a job by walking through the work day as a shadow to a competent worker. The job shadowing work experience is a temporary, unpaid exposure to the workplace in an occupational area of interest to the participant. Youth witness firsthand the work environment, employability and occupational skills in practice, the value of professional training, and potential career options. A job-shadowing experience can range from a few hours to a week or more. Job shadowing is designed to increase career awareness, help model appropriate behavior, and reinforce in the Youth the link between academic classroom learning and occupational work requirements. It provides an opportunity for Youth to conduct short interviews with people in their prospective professions to learn more about those fields. Job shadowing is like an expanded informational interview. By experiencing a workplace first-hand, Youth can learn a great deal more about a career than through research alone.

Pre-apprenticeship

A pre-apprenticeship is a program designed to prepare individuals to enter and succeed in a registered apprenticeship program and includes the following elements:

- Training and curriculum that aligns with the skill needs of employers in the economy of the state or region involved;
- Access to educational and career counseling and other supportive services, directly or indirectly;
- Hands-on, meaningful learning activities that are connected to education and training activities, such as exploring career options, and understanding how the skills acquired through coursework can be applied toward a future career;
- Opportunities to attain at least one industry-recognized credential; and
- A partnership with one or more registered apprenticeship programs that assist in placing individuals who complete the pre-apprenticeship program in a registered apprenticeship program.

On the Job Training (OJT)

OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training

OJT contracts under WIOA title I, must not be entered into with an employer who has received payments under previous contracts under WIOA or WIA if the employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the

contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's IEP.

20% Youth Work Experience Expenditure Requirement

Title I of WIOA includes a requirement that a minimum of 20 percent of local area Youth funds must be spent on work experience. Program expenditures on the work experience program element can be more than just wages paid to Youth in work experience. Allowable expenditures include:

- Wages/stipends paid for participation in a work experience;
- Staff time working to identify and develop a work experience opportunity, including staff time spent working with employers to identify and develop the work experience;
- Staff time working with employers to ensure a successful work experience, including staff time spent managing the work experience;
- Staff time spent evaluating the work experience;
- Participant work experience orientation sessions;
- Employer work experience orientation sessions;
- Classroom training or the required academic education component directly related to the work experience;
- Incentive payments directly tied to the completion of work experience; and
- Employability skills/job readiness training to prepare Youth for a work experience.

The percentage of funds spent on work experience is calculated based on the total local area Youth funds expended for work experience (not calculated separately for in-school and out-of-school Youth).

The 20 percent requirement is calculated after administrative costs have been subtracted from the total amount of Youth funds, and the compliance requirement is applied to each year of funds separately at the end of the two-year life of the funds.

Supportive services are a separate program element and cannot be counted toward the work experience expenditure requirement even if supportive services assist the Youth in participating in the work experience.

Allowances, Earnings, and Payments,

Individuals in on-the-job training must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. Such rates must be in accordance with applicable law, but may not be less than minimum wage. The employer of record is responsible for workers compensation insurance, if applicable (as with an OJT).

Individuals in on-the-job training must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

Allowances, earnings, and payments to individuals participating in programs under title I of WIOA are not considered as income for purposes of determining eligibility for and the amount of income transfer

and in-kind aid furnished under any Federal or Federally-assisted program based on need, other than as provided under the Social Security Act.

Incentive payments to Youth participants are allowed for recognition and achievement directly tied to training activities and work experiences. See the WIOA Title I Youth Incentive Payments Policy for further information.

Employer/Employee Relationships

The FLSA describes the employer/employee relationship as when a “worker” is economically dependent on the business of the employer. When an employer-employee relationship exists, and the employee is engaged in work that is subject to the FLSA, the employee must be paid at least the Federal minimum wage, and in most cases, overtime at time and one-half his/her regular rate of pay for all hours worked in excess of 40 per week. The FLSA also has youth employment provisions which regulate the employment of minors under the age of eighteen, as well as recordkeeping requirements.

Measurable Skill Gains

Work experience in the WIOA title I Adult and Dislocated Worker programs are not considered education or training service programs and, therefore, the measurable skill gains indicator may not apply to those participants engaged only in work experience under the WIOA title I Adult and Dislocated Worker programs.

OJT and Registered Apprenticeship programs do qualify towards established milestones with the completion of the OJT or completion of one year of an apprenticeship program or similar milestones, from an employer or training provider who is providing the training.

The Youth program work experience must include academic and occupational education components. In order for a Youth in a work experience to be counted in the measurable skill gains measure, they will need an educational service code in addition to their work experience code. Measurable skill gains will be further addressed in a separate policy.

Work Experience Agreements/Contracts

A work experience must be provided through a written agreement or contract with the worksite. At a minimum, the agreement or contract must include:

- Responsibilities and expectations of the participant, the worksite employer, and the local area representative;
- Job title, duties, and goals for the participant;
- The length of the work experience;
- The wage rate for the participant;
- The academic and occupational education components of the work experience clearly identified;
- The requirements for participants and worksite supervisors to complete/sign timesheets;
- The worksite supervisor's agreement to maintain and make available time and attendance, payroll, I-9, and other required documentation;

- A statement informing the worksite that they may be subject to worksite monitoring by both state and local representatives, as well as regular visits by case management staff to check on the progress of the work experience participants; and
- Assurances that work will be in accordance with WIOA Section 181 (fair and equal wages, prohibition on displacement of current employees, equal benefits and working conditions, prohibition on use of funds after relocation, collective bargaining).

Review and Monitoring of Worksites

The Piedmont Workforce Development Board staff will review the appropriateness of utilizing the worksites for work experiences to ensure that the legal and performance requirements, as well as the work experience goals, are being met by all parties. Areas of review may include:

- Roles of the worksite supervisor, participant, and workforce center representative;
- Monitoring of worksites to ensure that all parties are in compliance with the agreement;
- On-site monitoring of worksite conditions and supervision (every new worksite must be visited at least once);
- Methods for validation of skill and competency attainment for participants; and
- How worksite monitoring documents are maintained by the service provider.

Non-performance of a Worksite

Non-performance of a worksite, or “pattern of failure”, may include an employer who does not submit reimbursement/performance evaluation documents in a timely manner to program case managers several times, violates any Federal and/or State employment laws, knowingly claims incorrect hours on time sheets to gain profit from the WIOA program, and does not permit program case managers to inspect worksite conditions if claims are made by program participants that the worksite is unsafe. Non-performance, or pattern of failure, may include instances when participating employers utilize paid work experiences in place of actual employment.

Any of these circumstances will be addressed in person with the employer. An opportunity will be given to the employer to correct the “pattern of failure”. If no correction is made, then a written notice from the contracted service provider to the employer regarding the immediate termination of the work experience agreement will be sent. Depending on the severity of the above mentioned “pattern of failure”, an immediate termination of a work experience agreement may occur at any time.

Workplace Laws

Work experiences must be provided in accordance with WIOA Section 181, which requires fair and equal wages, and equal benefits and working conditions. Section 181 and the Fair Labor Standards Act prohibit work experience activities from displacing current employees or creating a layoff, filling openings that resulted from a labor dispute, or infringing on the promotional opportunities of current employees.

The employer of record must provide workers' compensation insurance to work experience participants on the same basis as the compensation provided to other individuals in the state in similar employment. The worksite employer must adhere to labor laws and health and safety requirements.

Section 188 of WIOA prohibits participants from working on the construction, operation, or maintenance of a facility that is used primarily for religious instruction or worship. Work experience placements are allowable in faith-based community organizations, as long as the participant does not engage in inherently religious activities, such as religious worship, instruction, or proselytizing. In addition, work experience participants may only be placed in faith-based organizations that do not discriminate against a person seeking help who is eligible for services.

Unpaid internships with “for profit” employers must be in accordance with the Fair Labor Standards Act and ensure that the intern is the “primary beneficiary” of the relationship.

Documentation

Participant Case Files

Case files must include a copy of the work experience agreement, documentation to justify wages/incentives, and case notes on the participant’s progress. The work experience agreement must clearly identify both the academic and occupational education components of the work experience.

Acceptable documentation for wages/incentive payments must be tracked through financial management systems and the case file. Some examples of acceptable documentation include:

- Attendance records
- Certificate of Completion
- Case notes verifying the completion and date of completion
- Time records or time sheets
- Copies of checks
- Signed receipt of payments

Tracking Participants in the system of record – Virginia Workforce Connection (VaWC)

The following service codes are available to track activity in the State’s system of record for WIOA work experiences. The service codes are subject to change as the State revises the current Virginia Workforce Letter (VWL) 14-01.

Adult/Dislocated Worker

218 – Internships Job Shadowing
219 - Work Experience
301 – On the Job Training
TBD - Transitional Jobs

Youth

400 - Summer Work Experience (May 1 – September 30)
425 - Work Experience – Paid and Unpaid, Pre-Apprenticeship, Job Shadowing
428 - On-the-Job Training