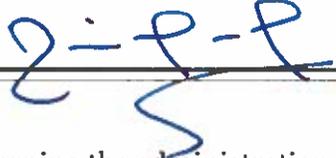


Workforce Connections Programs, Services, and Activities Work Experience (WEX)	YTH-040-06
	Revision No.4 – Effective 07-01-2022
Policy Approved By: WC Executive Director Policy Adopted on: November 2013	

Purpose

To provide further guidance and set forth standards concerning the administration and provision of WEXs and Internships services to eligible youth program participants, enrolled, in programs funded in whole or in part by Title I of the Workforce Innovation and Opportunity Act (WIOA).

Background

WIOA affirms the Department’s commitment to providing high-quality services for youth and young adults beginning with career exploration and guidance; continuing support for educational attainment, opportunities for skills training in in-demand industries and occupations; and culminating with a good job along a career pathway or enrollment in postsecondary education. All of the Department’s youth-serving programs continue to promote evidence-based strategies that also meet the highest levels of performance, accountability, and quality in preparing young people for the workforce. Therefore, under WIOA, a WEX becomes the most critical of the youth program elements.

Policy

The primary goal for the implementation of a WEX or Internship must be to responsibly provide youth participants with substantial opportunities for career exploration and skill development which will assist the youth to gain work readiness skills in preparation for employment. Work experiences must include academic and occupational education. The educational component may occur concurrently or sequentially with the WEX. Providers of youth services must develop and implement guidelines and operating procedures for the successful implementation of work experiences and internships.

References

- Public Law (P.L.) 113-128 WIOA Secs: 107, 121, 123, 129, 183, 184, 185, 188, and 194
- 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 20 CFR § 680.840, 20 CFR Part 681, 20 CFR Part 683, 29 CFR Part 38, as applicable or appropriate; TEGL 37-14, TEGL 39-11, TEGL 21-16 & TEGL 21-16 Change 1
- State Compliance Policies, (SCPs) 1.23, 2.1, 2.2, 2.5, 2.6
- Nevada Revised Statutes (NRS) 609

All information required by Federal, State, and local reporting requirements must be collected for each individual receiving WIOA Title I funded services. The appropriateness of any service provided to an eligible program participant should be documented in the Individual Service Strategy (ISS) and should show a clear linkage with the program participant’s career/objective goals.

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I. General Provisions for Work Experiences

- A.** Work experiences are planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A WEX may take place in the private for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act or applicable State law, exists.
- B.** Consistent with Part 680.840 of the 20 CFR, funds provided for work experiences may not be used to directly or indirectly aid in the filling of a job opening that is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.
- C.** As stated, work experiences must include academic and occupational education. The educational component may occur concurrently or sequentially with the WEX and refers to contextual learning that accompanies a work experience. Work experiences shall provide the youth participant with opportunities for career exploration and skill development. Further academic and occupational education may occur inside or outside the work site.
- D.** Work experiences include, but are not limited to, the following categories:
1. Summer employment opportunities and other employment opportunities available throughout the school year,
 2. Pre-apprenticeship programs,
 3. Internships and job shadowing, and
 4. On-the-job training (OJT) opportunities as defined in WIOA, Sec. 3 (44) and in 20 CFR Part 680.700.
- E.** In addition, other elements and strategies may be incorporated into the WEX to assist the participant in achieving further work readiness goals such as:
1. Instruction in employability skills or basic workplace skills,
 2. Career exploration and/or exposure to various aspects of an industry or sector,
 3. Integration of basic academic skills into work activities,
 4. Supported work, work adjustments, or other transition activities,
 5. Entrepreneurship,
 6. Leadership development activities,
 7. Service learning,
 8. Unpaid community services, and
 9. Any other activity or incorporated element to assist in achieving the goals of the WEX.
- F.** Work experiences must be designed and implemented to:
1. Enable the youth participant to explore career opportunities/options,
 2. Facilitate exposure to the working world and its requirements,
 3. Accurately describe the unique needs of each youth participant, and
 4. Provide greater opportunities for the acquisition of knowledge, personal attributes, skills, and qualifications needed to obtain and retain employment.

G. The ISS must clearly address the WEX activity or placement in such a way as to allow an accurate description of all the elements involved such as, but not limited to, purpose, the academic and occupational components, and supportive services needed to assist the participant with completing the WEX.

H. WEX Monitoring

To the extent that is considered practical and appropriate, each WEX placement must be properly supervised to periodically assess at a minimum, the following:

1. Worksite safety,
2. Participant Progress,
3. Supportive services need, and
4. Potential adjustments.

II. Compensation & Funding Limit

A. Wages for work experiences must be made on an hourly basis, not less than the State or local minimum wage standards. Service providers may use the prevailing entry-level wage for a like occupation determined by the employer.

B. WEX activities are limited to a maximum of \$ 7,500.00 per program year. In the event of a new position or wage data cannot be provided or produced by the employer, the service provider must use the local entry-level wage for the position by utilizing Onet Online. A detailed job description with a starting entry-level wage must be provided.

C. An exemption request, with respect to the established requirements, must be made in writing and will be assessed on a case-by-case basis by Workforce Connections staff. Proper justification and support documentation must be provided as required or appropriate.

D. Labor Standards

Labor standards apply in any work experience setting where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists. Providers of youth services must ensure compliance with applicable labor standards as required or appropriate.

E. The U.S. Department of Labor's Wage and Hour Division (WHD) has developed the six (6) factors below to evaluate whether a worker is a trainee or an employee for purposes of the FLSA:

1. The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction,
2. The training is for the benefit of the trainee,
3. The trainee does not displace regular employees, but works under their close observation,
4. The employer that provides the training derives no immediate advantage from the activities of the trainee, and on occasion, the employer's operations may be impeded,
5. The trainee is not necessarily entitled to a job at the conclusion of the training period, and
6. The employer and the trainee understand that the trainee is not entitled to wages for the time spent in training.

F. If all the factors listed above are met, the worker is a “trainee”, an employment relationship does not exist under the FLSA and the FLSA’s minimum wage and overtime provisions do not apply to the worker. Because the FLSA’s definition of “employee” is broad, the excluded category of “trainee” is necessarily quite narrow. Moreover, the fact that an employer labels a worker as a trainee and the worker’s activities as training, and/or a state unemployment compensation program develops what it calls a training program and describes the unemployed workers who participate as trainees, does not make the worker a trainee for the purpose of the FLSA unless the six (6) factors are met [TEGL 12-09].

G. Unemployment Insurance (UI) Benefits

Youth participants involved in a work-based learning activity, such as a WEX or internship, are not to be considered employed individuals for the purpose of being able to qualify for unemployment insurance benefits, even though they might be on a regular payroll, receiving wages and are considered employed under FLSA.

Therefore, a youth participant placed in a WEX, or internship will not be eligible on the basis of the provided work-based learning activity.

Nevertheless, wages are counted as earnings when a youth participant is in an existing UI claim. This income has the potential to affect the amount and duration of the UI claim based on the provided work-based learning activity.

III. Timeframe for Work Experiences

A. The following must be considered by the service provider when determining the duration of the WEX:

1. Goals and objectives, as previously identified in the ISS,
2. Necessary time for the participant to learn the skills identified in the ISS,
3. Training plan identifying the learning skills and skill gaps, and
4. Full description of job duties to be performed by the participant.

B. Limitations

1. Child labor laws must be observed when scheduling work hours for participants under the age of 18 years of age.
2. Youth in high school must not exceed six (6) hours per school day and a total of 30 hours per week during the school year.
3. Overtime paid is not allowable and will not be reimbursed.

IV. Worksite, Assessment, and Safety

A. Prior to entering into an agreement with the work site, an assessment must be conducted to ensure that the employer and/or worksite meets the minimum standards and can properly provide adequate training to the participant.

The employer/worksite assessment must comply, at a minimum, with the following:

1. Federal, State, and local regulations,
2. Fair Labor Standards Act of 1938,
3. Non-discrimination and equal opportunity provisions of Sec. 188 of WIOA and its associated regulations,
4. Americans with Disability Act,
5. Health and safety standards, and
6. Worksite summary and profile.

- B. Safety and Child Labor Laws/Work Permits - The Worksite**
1. General worksite safety is to be monitored by the youth service provider. Any identified issue(s) must be immediately reported to WC.
 2. The selected worksite shall comply with the nondiscrimination and equal opportunity provisions under Sec. 188 of WIOA and 29 CFR Part 38. An organization that agrees to be a worksite and host a WEX for a WIOA program participant shall be aware of obligations imposed by WIOA and its associated regulations and must ensure compliance.
 3. The worksite must ensure, when applicable, that they will adhere to child labor laws and OSHA compliance.
 4. Any worksite accident must be reported immediately by the program participant to their worksite supervisor and to WIOA staff. Providers of youth services must implement very specific written procedures to ensure that all reporting is properly done and in a timely accurate manner.
 5. Providers of youth services must maintain worker's compensation insurance for each participant placed in a WEX and are not allowed to provide this program element unless worker's compensation insurance is in place.
 6. Providers of youth services must comply with requirements set forth by NRS 609 with respect to the employment of minors.
 7. Worksite needs to have a clear understanding and expectation of the skills needs, interests, and attitudes/habits that the youth participant may exhibit.
 8. All efforts shall be made to place youth participants at a worksite that matches the participant's interests and abilities.
 9. The worksite must provide general liability insurance coverage.
 10. The worksite must ensure that the participant may not be involved in religious sectarian instruction or activity while participating in a work experience.
 11. The worksite must ensure that the participant will not be involved in political activities of any form while participating in a WEX.

V. WEX Training Agreement

- A.** The purpose of the WEX training agreement is to establish a formal working relationship with a worksite, specify the responsibilities of each party to the agreement, and provide a successful WEX for the program participants. A properly signed and dated original of the WEX training agreement must become part of the program participant's file.
- B.** The WEX training agreement must be fully executed and will not be considered valid unless it is properly signed and dated by both the employer and the provider of youth services authorized representative(s).
- C.** Upon completion of the WEX training agreement with the employer, the provider of youth services and program participant must complete the WEX training plan. The training plan must incorporate the details of the WEX and specify the responsibilities of the program participant. Specific career exploratory activities, skills development, and skills gap for employment must be identified and emphasized during the WEX. The training plan shall reflect these elements in alignment with the participant's ISS. A properly signed and dated original WEX training plan must become part of the program participant's file.

D. The provider of youth services and the employer must determine an evaluation and monitoring schedule performed by the provider of youth services to ensure the participant is progressing and improving on the skills gap identified in the participant’s training plan. Monitoring will also ensure the safety, appropriateness, and performance of the worksite and participant. The WEX training progress report must be completed and become part of the program participant’s file.

E. General Provisions for the WEX Training Agreement and Training Plan
Prior to the youth participant commencing the training activity a WEX training agreement and the training plan must be in place. The agreement and the training plan must include the following provisions:

1. Worksite name and contact information,
2. Service provider name and contact information,
3. Name of person in charge of training and supervision,
4. Training activity start date and end date,
5. Specific job description with wages or local median earnings printout from Onet online,
6. Specific skills/competencies to be learned,
7. Total hours,
8. Training schedule,
9. Health and safety standards assurances – worksite,
10. Liability insurance assurances – provider of youth services,
11. Worker’s compensation assurances – provider of youth services,
12. Provision of equal opportunity – worksite, and
13. Child labor law assurances (as applicable or appropriate) – worksite.

VI. Required Support Documentation

A. The following list is not all-inclusive. The service provider must take all efforts to procure and maintain sufficient documentation to validate each service provided to the participant in compliance with established record retention requirements.

1. Fully executed work-based learning training agreement,
2. Training plan,
3. Job description including wages,
4. Worksite assessment,
5. Properly signed and dated time sheets (corrections must be done by “cross out” and initialed by all parties),
6. Copy of paychecks, and
7. Progress reports.

VII. Additional Resources

- www.dol.gov/esa/regs/compliance/whd/brg.htm
- www.dol.gov/dol/topic/youthlabor
- www.dol.gov/esa/WHD
- www.opm.gov/flsa
- www.youthrules.dol.gov
- www.osha.gov/teens
- www.dol.gov/whd
- www.osha.gov/SLTC/teenworkers
- www.youth.eeoc.gov
- www.youthworkforcegps.org