

New Jersey

Workforce Innovation Notice 1-17(Y)

TO: Workforce Development System

FROM: John Bicica, Chief
WIOA Technical Assistance and Capacity Building

SUBJECT: Workforce Innovation and Opportunity Act Title I Youth Work Experience

DATE: July 14, 2017

Purpose

To provide local workforce development areas with guidance related to work experience for youth under the Workforce Innovation and Opportunity Act (WIOA), including the use of incentives and stipends.

Background

WIOA Sec. 129 lists the 14 required program elements that every local workforce development board must make available in their area. Included in these is the following: *Paid and unpaid work experiences that have academic and occupational education as a component of the work experience, which may include the following types of work experiences:*

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

WIOA Sec. 129 (c) (4) requires that local workforce development areas expend at least 20 percent of the funds allocated to them to provide in-school and out-of-school youth with paid and unpaid work experiences. Work experience is defined in 20 CFR 681.600 as a **planned, structured learning activity that takes place in a workplace setting for limited period of time.**

A work experience 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. Consistent with 20 CFR 680.840, 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. Work experiences provide the youth participant with opportunities for career exploration and skill development.” Additional information on the employer/employee relationship may be found on the United States Department of Labor (DOL) Wage and Hour Division website: <https://www.dol.gov/whd/>

As explained in 20 CFR 681.590(b), local area administrative costs are not subject to the 20 percent minimum work experience expenditure requirement. Leveraged resources cannot be used to fulfill any part of the 20 percent minimum.

Tracking Youth Work Experience and Allowable Expenditures

Local areas must track program funds spent on paid and unpaid work experiences and report such expenditures as part of the local WIOA youth financial reporting. Program expenditures on the work experience program element include wages as well as staffing costs for the development and management of work experiences. Local area administrative costs are not subject to the 20 percent minimum work experience expenditure requirement.

Training and Employment Guidance Letter 8-15 states that allowable expenditures for the work experience expenditure requirement beyond wages include staff time spent on the following:

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
Employability skills/job readiness training to prepare youth for a work experience

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.

Academic and occupational education component. As discussed in 20 CFR 681.600, work experiences must include academic and occupational education. The educational component may occur concurrently or sequentially with the work experience. The academic and occupational education component may occur inside or outside the work site. The work experience employer can provide the academic and occupational component or such components may be provided separately in the classroom or through other means. States and local areas have the flexibility to decide who provides the education component.

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. Local programs have the flexibility to determine the appropriate type of academic and occupational education necessary for a specific work experience.

Definitions

Summer employment opportunities- An activity conducted mainly during the summer months which involves work experience as the primary strategy and must provide direct linkages to academic and occupational learning. Summer employment opportunities are no longer a stand-alone program element, and WIOA does not require that summer employment opportunities be provided.

Pre-apprenticeship Programs- Programs or set of strategies designed to prepare individuals to enter and succeed in Registered Apprenticeship programs **and have a documented partnership with at least one, if not more, Registered Apprenticeship programs** and include the following elements:

- a) Training and curriculum that aligns with the skill needs of employers in the economy of the State or region involved;
- (b) Access to educational and career counseling and other supportive services, directly or indirectly;
- (c) 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;
- (d) Opportunities to attain at least one industry-recognized credential; and
- (e) A partnership with one or more registered apprenticeship programs that assists in placing individuals who complete the pre-apprenticeship program in a registered apprenticeship program.

Quality Pre-Apprenticeship Programs

Additionally, Training and Employment Notice 13-12 provides that a “quality Pre-apprenticeship program is one that displays the following characteristics:

- Approved Training and Curriculum
- Strategies for Long-Term Success
- Promotes Greater use of Registered Apprenticeship to Increase Future Opportunities
- Does not Displace Paid Employees
- Facilitated Entry/and/or Articulation

On-The-Job Training

The term “on-the-job training” means training by an employer that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in section 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate **[WIOA Sec. 3 (44)]**

Purpose of Work Experience

The intent of work experience is to help participants understand proper workplace behavior and what is necessary in order to attain and retain employment. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in 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. All work experiences should expose youth to realistic working conditions and tasks as much as possible.

Work experience must be based on identified needs of the individual youth as determined by the objective assessment and identified on the youth's individual service strategy (ISS). The specific work experience being provided, as well as the duration must be based on the skill levels and needs of the youth, as well as the complexity of the work experience itself. Paid and unpaid work experience must include academic and occupational education.

Work experience may be conducted in the private-for profit, private non-profit and public sectors. Although a business, public agency or non-profit may also receive some benefit from work experience in the form of work being done or recruiting a potential new employee, the primary goal of work experience is to benefit the participant.

Trainee Vs. Employee

A local area shall ensure that the youth provider makes a determination regarding whether work experience is a "training" situation or an "employment" situation. The local Workforce Development Board (WDB) should establish a process for making these determinations.

Child Labor Laws

The local area must ensure compliance with child labor laws. The employer must comply with all applicable federal laws and with state child labor laws if the participant is less than 18 years of age. Proof of age and parental consent must be given for both paid and unpaid work experience. Minors participating in a work experience while school is in session also require a work permit.

Health and Safety Standards

The local areas must apply the same health and safety standards otherwise applicable to working conditions of the WIOA.

The State workers' compensation law may or may not apply to a participant in work experience depending on the work experience arrangements and employer's benefits. If the state workers' compensation law does not apply to a participant in work experience, the administrative entity must secure insurance coverage for injuries suffered by the participant in work experience.

Unpaid Work Experience

Unpaid work experience is an activity exposing participants to the work environment, and an individual does not expect payment for tasks performed. The use of unpaid work experience should be limited. For unpaid work experience, WIOA funds may be used for incentives and/or a stipend for youth.

The incentives or stipends are determined by the local WDB. Stipends should be reasonable and allocable and issued through a uniform payment system. Such incentives or stipends are not considered income for WIOA eligibility purposes, are not required to meet minimum wage requirements, are not to be dispersed as payroll, and income tax is not to be withheld.

It is recommended that the youth program provider consult with other public assistance case managers where applicable to ensure that the receipt of incentives or stipends do not negatively impact the youth participant's receipt of public assistance.

Incentives

Incentives 20 CFR 681.640 states that "incentive payments to youth participants are permitted for recognition and achievement directly tied to training activities and work experiences. The local program must have written policies and procedures in place governing the award of incentives and must ensure that such incentive payments are tied to the goals of the specific program; outlined in writing before the commencement of the program that may provide incentive payments; align with the local program's organizational policies; and are in accordance with the requirements contained in 2 CFR 200." DOL included the reference to the Uniform Guidance at 2 CFR 200 to emphasize that while incentive payments are allowable under WIOA, the incentives must be in compliance with the Cost Principles in 2 CFR 200. For example, Federal funds must not be spent on entertainment costs. Therefore, incentives must not include entertainment, such as movie or sporting event tickets or gift cards to movie theaters or other venues whose sole purpose is entertainment. Additionally, there are requirements related to internal controls to safeguard cash, which also apply to safeguarding of gift cards, which are essentially cash.

The local area must have written policies and procedures in place governing the awarding of incentives and must ensure that such incentive payments are:

- Tied to the goals of the specific program;
- Documented in the Individual Service Strategy (ISS) before the commencement of the program that may provide incentive payments;
- Aligned with the local program's organizational policies; and
- Accord with the requirements contained in 2 CFR 200.

Incentives must be for recognition of achievement of milestones in the program tied to work experience, education, or training. This could include improvements marked by attainment of a credential or their successful outcome. Use of incentives for recruitment, submitting eligibility documentation or general participation in the program is not allowed with WIOA funds. Local areas may use leveraged, non-WIOA funds for such incentives.

While DOL recognizes that incentives could be used as motivators for various activities such as recruitment, submitting eligibility documentation, and participation in the program, incentives paid for with WIOA funds must be connected to recognition of achievement of milestones in the program tied to work experience, education, or training. Such incentives for achievement could include improvements marked by acquisition of a credential or other successful outcomes. Local areas may leverage private funds for incentives that WIOA cannot fund. Incentive payments may be provided to both ISY and OSY as long as they comply with the requirements of 20 CFR 681.640. **(Training and Employment Guidance Letter 19-16)**

Stipends

WIOA, Title I is silent on using the term "stipend." In general, stipends represent a fixed, regular small payment made to a youth to encourage participation in a WIOA Youth program. Reasonable stipends are allowable expenditures for unpaid work experience for youth when the provision of stipend is included in the participant's ISS.

Worksite/Job Site/Host Site Agreement

The WDB must ensure that the youth provider has a written agreement to ensure compliance with the WIOA and applicable regulations. The agreement is a written document that details terms and conditions of paid and unpaid work experience and the expectations of the parties to the agreement. The written agreement is between the participant, the site employer or host site, and the youth provider.

The written agreement, must include at a minimum: the duration, remuneration, tasks, duties, supervision, health and safety standards and other conditions of work experience such as consequences of not adhering to the agreement and a termination clause. The worksite or host site entity, the participant and the youth provider should all be given a copy of the agreement. The signed agreement must be available for audit and monitoring purposes. A sample worksite agreement is provided as an attachment to this document and may be used by local areas.

Local Workforce Development Board Policy

The WDB is responsible for creating and directing policy and a service delivery strategy for administering both paid and unpaid work experience. When developing this policy, the needs, circumstances and characteristics of the youth population should be taken into consideration. At a minimum, the WDB's policy should include all of the following:

- The goal of the work experience - Work experience designed to aid participants in a structured environment, learning good work habits with the focus on career exploration.
- Duration of work experience - The duration of paid and unpaid work experience should be stated in the policy. A minimum and a maximum limitation must be set on the number of hours that may be assigned for any single work experience.
- Incentives / stipends – Incentives and stipends should be appropriate and in support of the activity. The policy should define appropriate incentives and stipends along with a minimum and maximum limitation on the type and/or dollar amount.
- Monitoring – The policy must describe the frequency of monitoring and staff responsible for monitoring, and include a monitoring guide, form or checklist.

Documentation

Documentation of the work experience must be maintained in the participant's record. Local policy and procedures should specify what documentation will be kept in the participant's file, (hard copies) and/or the youth's AOSOS record. The documentation must include, at a minimum, the following items:

- An objective assessment and ISS indicating a need for work experience;
- Justification for incentive/stipend, and description of type of payment method and amount, if applicable;
- A copy of the agreement between the participant, the worksite or host site and the local workforce investment board, including any attachments to the agreement, such as a training plan;
- Time sheets, attendance sheets and performance records, as appropriate; and
- Documentation of receipt of incentives, stipends and supportive services received by the participant.

To ensure effective and efficient record keeping practices, local procedures should specify where certain documents will be placed in the file.

Monitoring

The WDB is responsible for ensuring oversight of work experience. The local area must periodically monitor the participant and the worksite or a host site to ensure that goals are being met and adherence to this guidance and WIOA law and regulations.

State monitors will review the local area's use of work experience in the WIOA youth program. This will include reviewing participant files and ensuring that funds were accurately and appropriately recorded as expended on work experience during the annual onsite monitoring. Any issues will be handled through the state's monitoring resolution process.

Rescissions

None

References and Links

WIOA, FLSA, TEGL 8-15

TEGL 21-16 https://wdr.doleta.gov/directives/attach/TEGL/TEGL_21-16_Acc.pdf

Action Required

This document is to be distributed to all staff involved in youth program design, and to relevant youth service providers.

Authority

New Jersey Department of Labor and Workforce Development	X
State Employment And Training Commission	

Questions

For questions regarding this guidance, contact John Bicica, Chief, WIOA Technical Assistance and Capacity Building, at john.bicica@dol.nj.gov.

Attachment

Attachment

Youth Worksite Agreement for Employers

YOUTH WORKSITE AGREEMENT

PURPOSE

It is agreed that the Employer will use the forms provided in this Youth Worksite Agreement to provide the Sponsor with a list of work experience positions and information on selected youth participants. In some instances, a Sponsor may also be an Employer. For example, where the local workforce system generates payroll for youth, they are considered to be the Sponsor and the Employer even though the physical location where the youth is working may be located elsewhere.

A **Technical Assistance Youth Worksite Agreement Guide** is attached. It will serve as a companion document to this Youth Worksite Agreement to provide local areas with a framework for developing worksite agreements for youth engaged in employment activities. Elements of the Youth Worksite Agreement include the following:

- I. Agency Data
- II. Terms of Agreement
- III. Worksite Data
- IV. Youth Performance Evaluation
- V. Termination of Agreement
- VI. Local Requirements (if necessary)
- VII. Authorization/Certification
- VIII. Youth Worksite Agreement Checklist

I. AGENCY DATA

Agreement Number: _____ FEIN: _____
Agency Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Contact Person: _____ Title: _____
Phone Number: _____ Fax Number: _____
Email: _____

Type of Agency: Public Sector (Municipal, County, State or Federal Government Entity)
 Public Sector (Education Entity)
 Non-Profit (Public or Private Non-Profit and/or Community Based Entity)
 Private Sector (Private Business)
 Other (Specify)

Indicate which of the following, if any, are required as a condition of hire:
 Drug Screening Background Check Fingerprinting Physical

II. TERMS OF AGREEMENT

This document establishes an agreement between the agency indicated (hereafter referred to as the Sponsor) and

(hereafter referred to as the Employer)

commencing on _____ (date) and ending on _____ (date).

It is intended that a Sponsor and an Employer will work together to enhance the employability skills of youth program participants. As the Employer, you are responsible for providing youth with meaningful work assignments. Each work experience must be geared toward providing youth with a proper work ethic, helping prepare youth in making the transition from school to work, and developing the confidence and motivation necessary to eventually gain employment and/or pursue other career-oriented opportunities.

III. WORKSITE DATA

YOUTH JOB DATA		Note: Youth under 18 must take a 30-minute meal period after 5 consecutive hours of work			
Title: _____	Number of Positions Requested: _____				
Hourly Wage: \$ _____	Hours per Week: _____	Daily Hours: From _____	To _____		
Days Scheduled to Work (mark all that apply): <input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday					
Direct Supervisor: _____				Phone: _____	
Alternate Supervisor: _____				Phone: _____	

OCCUPATIONAL SKILLS & RESPONSIBILITIES

Job Duties: _____

Special Equipment Used on Job: _____

Work Principles that will be Learned: _____

Age Qualifications: (check all that apply)	Position Qualifications:
<input type="checkbox"/> Less than 16	
<input type="checkbox"/> 16 to 17	
<input type="checkbox"/> 18 or older	

Required as a Condition of Hire: Drug Screening Background Check Fingerprinting Physical

Describe Inclement Weather Provisions (if applicable): _____

AUTHORIZATION/CERTIFICATION

Agency Name: _____

Agreement Number: _____ Date: _____

Directions

- Complete a separate form for each job title being requested
- Sign & Date
- File Form: Original at Local Office. Copy at Worksite.

I certify that the above Worksite Data is accurate and complete.

Employer Representative Signature Title Date

V. YOUTH PERFORMANCE EVALUATION

[Photocopy Form as Needed](#)

Youth Performance Evaluation

The form below must be completed for each youth participating in a work experience. Upon completion, the original signed copy must be submitted to the Sponsor for review.

Date: _____

Youth: _____ Supervisor: _____

Directions:		Excellent	Good	Fair	Poor
1. Please rate the youth participant in each area below by placing a <input checked="" type="checkbox"/> in the appropriate box.					
• Interactions	Interacts well with on-site personnel, clientele and public				
• Responsibility	Sets priorities, anticipates needs and uses time responsibly				
• Paperwork	Completes and submits timesheets, sign-in log and reports on-				
• Quality	Completes tasks accurately and completely				
• Training	Participates in training sessions and applies knowledge learned				
• Service Skills	Applies skills and shows improvement over the course of the				
• Dependability	Follows a regular schedule and contacts supervisor if late or not				
• Ethics	Demonstrates a work ethic to "get things done"				
• Professionalism	Dresses appropriately and has a positive attitude and demeanor				
• Problem Solving	Creative and resourceful in solving issues and/or problems that				
• Leadership	Demonstrates group leadership and facilitation skills				

2. Would you consider this youth for future employment? Yes No

3. Additional Comments:

AUTHORIZATION/CERTIFICATION:

Youth Participant:	_____	Date:	_____
Employer Representative:	_____	Date:	_____
Sponsor Staff:	_____	Date:	_____

VI. TERMINATION OF AGREEMENT

This Agreement may be terminated by either party upon 10 day advanced notification. These program activities are contingent upon Federal and State funding and may be terminated if said funding is discontinued or if said program is not being administered in accordance with this Agreement; rules and regulations of the youth program; or other appropriate laws, ordinances, rules and regulations. Written notification of termination shall be either hand-delivered or delivered by overnight commercial carrier or U.S. Mail.

VII. LOCAL REQUIREMENTS (if necessary)

VIII. AUTHORIZATION/CERTIFICATION

I certify that I have read the Technical Assistance Youth Worksite Agreement Guide and agree with the terms of the Youth Worksite Agreement. Failure to comply with any of the above terms of service and provisions will cause the Agreement to become void and may result in the Employer assuming liability for any claims regarding these terms and provisions.

_____ Employer Representative Signature	_____ Title	_____ Date
_____ Sponsor Representative Signature	_____ Title	_____ Date

IX. YOUTH WORKSITE AGREEMENT CHECKLIST

All of the following documents should be completed and sign by the appropriate Sponsor/Agency. Youth Performance Evaluations and Youth Terms must also include signatures of participating youth and their parent/guardian (if under age 18) as required.

- Agency Data Page 2
- Terms of Agreement Page 2
- Worksite Data Page 3
- Youth Performance Evaluation Page 4
Required Format. Youth Signature is required.
- Authorization/Certification Page 5