

Subject:	WIOA Title I Work Experience
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Distribution:	Arapahoe/Douglas Works! Workforce Center Leadership and Employees

The Arapahoe/Douglas Workforce Board (ADWB) has designated Arapahoe/Douglas Works! as the provider of Career Services for WIOA Title I: Adult, Dislocated Worker and Young Adult programs, Title III: Wagner-Peyser, and Temporary Assistance for Needy Families (TANF).

CITATIONS/REFERENCES

- Workforce Innovation and Opportunity Act (WIOA) of 2014, Pub. L. No. 113 and 128
- 20 Code of Federal Regulations, Parts 680, 681, and 683.
- TEGL 12-09, Joint Guidance for States Seeking to Implement Subsidized Work-Based Training Programs for Unemployed Workers
- TEGL 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules
- Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act,
- U.S. Department of Labor Wage and Hour Division, Updated January 2018
- Colorado Youth Employment Opportunity Act (C.R.S. 8-12-101 et seq.) Fact Sheet
- TEGL 08-15, Second Title I WIOA Youth Program Transition Guidance
- Policy Guidance Letter (PGL) WIOA-2016-08, On-The-Job Training
- PGL WIOA-2017-12, WIOA Title I Youth Incentive Payments
- PGL WIOA-2018-02, WIOA Title I Work Experience

PURPOSE

To establish guidance, processes and procedures in regards to administering work experiences under the Workforce Innovation and Opportunity Act (WIOA) Title I Adult and Youth programs.

BACKGROUND

Work experience is applicable to all 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 into and retention in unsubsidized employment.

WIOA includes a major focus on providing youth with work experience opportunities, with a requirement that local areas must spend a minimum of 20% of local area funds on work experience. For young people, work experience provides an opportunity for career exploration and skill development. Employers are critical partners that provide meaningful growth opportunities for young people through work experiences that give them the opportunity to learn and apply skills in real-world settings and ultimately jobs.

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POLICY/ACTION

A. 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.

B. Work Experience for Adults

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

To be eligible for a work experience, an individual must meet adult 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, except for transitional jobs.

1. **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 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 Policy Guidance Letter (PGL) and local policy (if applicable).

C. Work Experience for Youth

For youth, work experiences are one of the fourteen (14) 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 worksite. 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. Programs have the flexibility to determine the appropriate type of academic and occupational education necessary for a specific work experience.

1. 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. Programs are encouraged to coordinate work experiences, particularly summer employment, with other youth serving organizations and agencies.
2. **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.
3. 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 assists in placing individuals who complete the pre-apprenticeship program in a registered apprenticeship program.
4. **On-the-job training (OJT)** means training by an employer that is provided to a paid participant while engaged in productive work in a job that:
 - Provides knowledge or skills essential to the full and adequate performance of the job;
 - Is made available through a program that provides reimbursement to the employer for the extraordinary costs of providing the training and additional supervision related to the training; and
 - 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.

See local policy for OJT (and/or corresponding PGL) for further information on this training.

D. 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 Arapahoe/Douglas 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.

NOTE: 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.

E. Wages and Stipends

The county or workforce service provider may be the employer of record for a paid work experience and pay the participant wages through their payroll. While a stipend is an allowable payment for participation in activities such as work experience, individuals will be paid wages for work experience, and must be paid the prevailing wage of employees with similar training, experience and skills for a similar occupation, as set by the worksite employer. If an individual's skill sets do not meet the standard occupational classification qualifications for the position, the wages can be set below the prevailing wage standards, but may not be lower than the minimum wage. The employer of record is responsible for workers compensation insurance.

F. Incentive Payments

Incentive payments to youth participants are allowed for recognition and achievement directly tied to training activities and work experiences. See local policy for incentive payments (and/or corresponding PGL) for further information.

G. Measurable Skill Gains

Work experience in the WIOA Title I Adult program is not considered an education or training program and, therefore, the measurable skill gains indicator may not apply to those participants engaged only in work experience under the WIOA Title I Adult program.

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 PGL and local policy (if applicable).

H. Work Experience Agreements/Contracts

Work experience must be provided through a written agreement or contract with the worksite. Arapahoe/Douglas Works! will provide copies of the agreement or contract to the employer and participant. At a minimum, the agreement or contract must include:

1. Responsibilities and expectations of the participant, the worksite employer, and the local area representative;
2. job title, duties, and goals for the participant;
3. the length of the work experience;
4. the wage rate for the participant;
5. the academic and occupational education components of the work experience clearly identified;
6. the requirements for participants and worksite supervisors to complete/sign timesheets;
7. the agreement to maintain and make available time and attendance, payroll, E-Verify, and other required documentation (see Agreement for Services);
8. 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
9. 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, collective bargaining). Worksites attest on the MATCH Employer Eligibility Application that the company has not relocated the business within the last 120 days and that funding is not sought in connection with past/impending job losses at other facilities.

I. Review and Monitoring of Worksites

1. Pre-Evaluation

Worksites will be required to complete the MATCH Employer Eligibility Application as a pre-evaluation tool to determine the appropriateness of utilizing the worksite for work experiences. Review will also evaluate age appropriateness and level of exposure to work readiness and job skills and the level of supervision available for Youth participants.

2. Worksite Monitoring

Monitoring of the actual worksite will be performed by an Arapahoe/Douglas Works! representative on at least one occasion during the work experience. State monitors will monitor for compliance with those procedures. On-site monitoring of work experiences is required to ensure that the legal and performance requirements, as well as the work experience goals are being met by all parties. Procedures must include, at a minimum:

- 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;
- Methods for validation of skill and competency attainment for participants; and
- How worksite monitoring documents will be maintained by Arapahoe/Douglas Works!.

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3. Pattern of Failure

A work experience agreement may not be written with an employer or worksite that has previously demonstrated a previous “pattern of failure.” Such failure may include, but is not limited to: failing to provide participants with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

If a worksite has not met their agreed-upon requirements for the work experience, or has exhibited “a pattern of failure,” or there is substance to a formal complaint filed by a participant that is severe enough to terminate the agreement (in that the problem is not resolved via informal/formal interventions), Arapahoe/Douglas Works! will not write additional agreements with that worksite for a period of two (2) years. Worksites that have been determined to have violated the above may submit a request for re-consideration.

J. 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.

WIOA funds may not be used for a work experience that promotes or supports the use, possession or distribution of marijuana. The Colorado Department of Labor and Employment (CLDE) is awaiting further guidance from the Department of Labor (DOL) on work experience in the hemp industry.

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.

NOTE: The Colorado Youth Employment Opportunity Act regulates the employment of minors in Colorado.

K. Documentation

1. Participant Case Files

Case files must include a copy of the work experience agreement, documentation to justify wages, 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.

2. Tracking Participants in Connecting Colorado

Arapahoe/Douglas Works! employees will use the following Activity Codes to track work experiences in Connecting Colorado:

Adult

WE: Paid Work Experience
PA: Pre-Apprenticeship
OK: Job Shadowing
TJ: Transitional Jobs
WU: Unpaid Work Experience

Youth

SE: Summer Work Experience (**May 1 – September 30**)
WE: Paid Work Experience (**October 1 – April 30**)
PA: Pre-Apprenticeship
OK: Job Shadowing
OJ: On-the-Job Training
WU: Unpaid Work Experience

The amount spent on wages can be recorded in the “cost” field listed under the relevant activity code in Connecting Colorado.

L. Length of Work Experience

Based upon multiple factors, including industry standard and/or practice and the sector-based accepted length of time needed to acquire one or more relevant skills and/or industry-recognized credentials, participants may be engaged in a work experience for no more than 12 weeks. Participants may not work more than 25 hours a week while in the work experience. See local policy for Classroom Training to view applicable training caps/limits for work experiences.

ADWB MEMBERS & ADW! EMPLOYEES

Arapahoe/Douglas Workforce Board (ADWB) members as well as Arapahoe/Douglas Works! employees are not eligible for any Arapahoe/Douglas Works! work training funding. In addition, relatives of ADWB members as well as Arapahoe/Douglas Works! employees are not eligible for any Arapahoe/Douglas Works! work experience funding. Relatives are defined as:

- Parents, spouses, children, cousins, grandparents, siblings, nephews, nieces, aunts, uncles, in-laws; please note, this is inclusive of step-family.

All participants in this category will be referred to other outlining counties for program-attached services. Any ADWB board member relatives and/or Arapahoe/Douglas Works! employee relatives enrolled prior to July 1, 2008 will adhere to Local Policy #2008-21.

CONFLICTS OF INTEREST

Employees shall not have a personal interest in any actions in which they may be involved in selecting the vendor, executing a contract or purchase order, or negotiating or administering the contract or purchase order. Employees will not be allowed to solicit, obtain, accept, or retain any personal benefit (gift, favor, service, compensation, or discount) from any supplier, vendor, or any individual or organization doing or seeking business with the County. Employees having a potential personal interest in a County contract, purchase, payment, or other financial or monetary transaction shall give 72 hours written advance notice of the conflict to the County Attorney. Failure to disclose a conflict will not be tolerated. “Personal interest” includes an interest held by the individual or relatives. Relatives are defined as: parents, spouses, children, cousins, grandparents, siblings, nephews, nieces, aunts, uncles, in-laws; please note, this is inclusive of step-family).

Only the Arapahoe/Douglas Works! Program Manager and/or Arapahoe/Douglas Works! Division Manager may grant exceptions to provisions within this policy.

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