

<b>Subject:</b>	WIOA Title I Work Experience
<b>Policy Number:</b>	ADWDB-XX-2024
<b>Replaces:</b>	ADWDB-03-2023
<b>Implementation Date:</b>	<i>Pending Board Approval</i>
<b>Distribution:</b>	Arapahoe/Douglas Works! Workforce Center Leadership and Employees

**ALL JULY 2024 REVISIONS ARE HIGHLIGHTED IN YELLOW**

**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
- TEGL 09-22, Workforce Innovation and Opportunity Act Title I Youth Formula Program 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, Change 3, 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 quality work experience opportunities in industries and occupations that put youth on a career pathway to high quality jobs, with a requirement that local areas must spend a minimum of 20 percent 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.

## 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:

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

While not explicitly listed in WIOA as a type of work experience, WIOA Youth expenditures related to Registered Apprenticeship programs count toward the 20% minimum work experience expenditure requirement. Please see section D. for further information on this requirement.

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. The academic component may count towards the measurable skills gain performance indicator if the appropriate education/training service code is stored. Measurable skill gains is further addressed in PGL for Measurable Skill Gains Performance Indicator for WIOA Title I Programs.

1. Under WIOA, **summer employment opportunities and other employment opportunities throughout the school year** are a component of the work experience program element. Local programs are encouraged to coordinate work experiences, particularly summer and other employment opportunities, 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.
1. 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.
2. **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. Please see Attachment 4 of corresponding PGL for further information on the 20% Youth work experience expenditure requirement. As of March 2, 2023, supportive services that enable WIOA participants to participate in work experience can count toward the 20% work experience expenditure requirement. This change is not retroactive for expenditures before March 2, 2023.

#### **E. Virtual Work Experiences**

WIOA work experience participants may work from home if this is approved by the employer and appropriate from the perspective of the participant's Individual Service Strategy (ISS) or Individual Employment Plan (IEP), given the tasks that participants are assigned to complete. In addition, employers must attest to the hours worked when submitting time sheets for payment. Any such changes may be documented in the ISS, IEP, or case notes.

#### **F. Wages and Stipends**

The determination of whether to pay a stipend or wage for a paid work experience is left to the discretion of the local board. At this time, participants receive wages. 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. Individuals paid wages for work experience 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 training, experience, and skills 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.

While not currently offered, a stipend is an allowable payment for participation in activities such as work experience, occupational skills training, or classroom activities. Stipends can be offered in lieu of wages, or offered concurrently for the classroom training that complements a work experience. A stipend is usually a set amount given for participation/completion of an activity. This compensation can be given out in equal payments over a defined period of time, for example a stipend may be provided instead of an hourly pay

rate for attendance or participation in an activity. The case file must contain documentation of the activity to be completed or the goal that must be achieved to result in a stipend.

Local areas may make Youth (not Adult or DW) incentive payments for completion of milestones or successful completion of a partial work experience, when a customer's work experience has been interrupted or terminated as a result of the COVID-19 emergency. Such incentive payments will **NOT** count towards the 20% work experience expenditure requirement for the WIOA Youth Program. Also, there will need to be documentation that the work experience ended early because of the pandemic, and that the customer successfully completed the shortened work experience or milestone. This can include an attestation by the employer, all of which can be captured in case notes. The ISS should also be updated with the work experience milestone prior to issuing the incentive payment.

If youth participants are unable to continue working, but can continue participating in their educational component, local areas must move from paying hourly wages to paying a stipend to be in compliance with FLSA. Stipends count toward youth 20% Work Experience expenditures.

## **G. Incentive Payments**

Incentive payments to youth participants are allowed for recognition and achievement directly tied to work experiences. Incentive payments may be used to recognize completion of a work experience, if this is documented in the individual service strategy (ISS) prior to the start of the work experience and this is identified as allowable in local policy. Incentive payments may not be used to recognize attendance in any activity, and are not considered to be stipends. Incentives must be tied to a measurable achievement of milestones such as completion of all components of a work experience, acquisition of a credential, or achievement of another specific goal documented in the ISS. See PGL for Title I Youth Incentive Payments for further information.

Local areas may make Youth (not Adult or DW) incentive payments for completion of milestones or successful completion of a partial work experience, when a customer's work experience has been interrupted or terminated as a result of the COVID-19 emergency. Such incentive payments will NOT count towards the 20% work experience expenditure requirement for the WIOA Youth Program. Also, there will need to be documentation that the work experience ended early because of the pandemic, and that the customer successfully completed the shortened work experience or milestone. This can include an attestation by the employer, all of which can be captured in case notes. The ISS should also be updated with the work experience milestone prior to issuing the incentive payment.

## **H. Work Experience Agreements/Contracts**

Work experience must be provided through a written agreement or contract with the worksite. It is recommended that the local area provide copies of the agreement to the employer and participant. Arapahoe/Douglas Works! has established a standard template for agreements and timesheets to be utilized. The required elements of the agreement or contract will vary based on the type of work experience. Please see Attachment 5 of the corresponding PGL for the required elements of work experience agreements/contracts.

## **I. Review and Monitoring of Worksites**

This section applies to paid and unpaid internships, pre-apprenticeships, and youth employment opportunities. For OJT requirements, please see PGL for On-the-Job Training.

### **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 or virtual 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!.

Arapahoe/Douglas Works! may adopt virtual methods of monitoring work experience worksites, such as a live video feed (e.g., Microsoft Team, Zoom, etc.), or may develop self-attestation forms for both the employer and participant to complete. Denver Workforce Services has shared their **self-attestation forms** (hyperlinked), which have been approved by CDLE.

These alternatives to on-site monitoring must address the minimum requirements for site visits listed above. In addition, CDLE recommends follow-up conversations with participants and employers as needed to address any concerns raised by the responses in the completed self-attestation forms.

## 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 removed due to the above violations 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/stipends, including a case note documenting the participant's training, skills and experience if the participant's wage is set below the prevailing wage for a position; 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**

**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. This information is for local tracking purposes only and is not included in federal reporting.

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## 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 work up to **40 hours** a week while in the work experience.

**NOTE:** The funding cap will follow the local Classroom Training policy, or other grant-specific policies. **The admin mark-up costs are excluded from the training funding cap.**

## 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).

## **ATTACHMENTS (see corresponding PGL):**

1. Sample Work Experience Worksite Guide (Mesa County)
2. Sample Work Experience Proposal/Agreement (Mesa County)
3. Sample Work Experience Time Sheet (Mesa County)
4. WIOA Title I 20% Youth Work Experience Expenditure Requirement (revised March 2023)
5. Work Experience Contract Requirements

*Only the Arapahoe/Douglas Works! Division Manager and/or the Workforce Center Administrator(s) may grant exceptions to provisions within this policy.*