




Workforce Connections Programs, Services and Activities Work Experience (WEX) & Internships	YTH-040-06
	Revision No. 3 Effective 10-01-18
Policy Approved By: WC Executive Director Policy Adopted on: November 2013	

Purpose:

The purpose of this policy is to provide guidelines and set forth standards with regard to the provision of Work Experience (WEX) and Internships to eligible youth in programs funded in whole or in part under Title I of the Workforce Innovation and Opportunity Act (WIOA).

Background:

Work experiences and internships are planned, structured learning experiences that take place in a workplace for a limited period of time. Both activities may be paid or unpaid, as appropriate, and may take place in the private for-profit sector, the non-profit sector, or the public sector. These activities shall provide the youth participant with opportunities for career exploration and skill development, be designed to enable youth participants to gain exposure to the working world and its requirements, and should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment.

Policy:

Workforce Connections (WC) has established that successful implementation of work experiences and summer youth employment opportunities will be appropriate when the need for such activities has been identified in the Individual Service Strategy (ISS) wherein the participant's interests, abilities, and needs have also been identified.

Therefore, the following guidelines are designed to assist providers of youth services in the planning and execution of a WEX or internship program activity. The guidelines will also assist in meeting local regulations which require that, to be permissible, costs incurred in WEX or internship program activities must be necessary, reasonable, and allowable. Providers of youth services must establish written internal policies/procedures that meet the requirements of this policy.

Reference:

Public Law (P.L.) 113-128 WIOA Secs. 107, 121, 123, 129, 189, 503; 20 CFR Part 681; TEGL 37-14; TEGL 23-14; TEGL 21-16; TEGL 39-11; State Compliance Policy (SCP) 2.2; State TAG 15-3; 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 ISS and should show a clear linkage with program participant career/objective goals.

Workforce Connections Policy YTH-040-06	Youth Programs, Services and Activities
--	--



I. General provisions for Work Experience (WEX) & Internship

A. A work experience or internship is a planned, structured learning experience that takes place in a worksite for a limited period of time that is solely based upon identified needs of the youth program participant. Worksites may be in the private for-profit sector, the non-profit sector, or the public sector. Work experiences or internship may be paid and/or unpaid.

Work experiences or internships shall be:

1. Designed to enable youth participants to gain exposure to the working world requirements;
2. A helpful career exploratory tool in assisting the youth participants in attaining the personal attributes, knowledge, and skills needed to obtain a job and advance in employment;
3. In addition, other elements and strategies may be incorporated to assist the participant in achieving additional work readiness goals such as:
 - a) Job shadowing;
 - b) Instruction in employability skills or basic workplace skills;
 - c) Exposure to various aspects of an industry sector;
 - d) Progressively more complex tasks;
 - e) The integration of basic academic skills into work activities;
 - f) Supported work, work adjustment, and other transition activities;
 - g) Entrepreneurship;
 - h) Service learning;
 - i) Unpaid community service; and
 - j) Other elements designed to achieve the goals of work experience.

B. Paid Internship or WEX

Wages for paid internship or WEX must not exceed an hourly rate of \$10.00 per hour. 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.

1. 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:
 - a) 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;
 - b) The training is for the benefit of the trainee;
 - c) The trainee does not displace regular employees, but works under their close observation;
 - d) The employer that provides the training derives no immediate advantage from the activities of the trainee, and on occasion the employer's operations may actually be impeded;
 - e) The trainee is not necessarily entitled to a job at the conclusion of the training period; and
 - f) The employer and the trainee understand that the trainee is not entitled to wages for the time spent in training.



2. If all of 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].

C. 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 on the basis of the provided work-based learning activity.

- D. A WEX or internship is provided under a work-based learning training agreement in the private for-profit sector, the non-profit sector, or the public sector. Prior to entering into an agreement an assessment must be conducted to ensure that the employer and/or worksite meets the minimum standards and can properly provide adequate training to youth participants.

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

- a) Federal, State and local regulations;
- b) Fair Labor Standards Act of 1938;
- c) Non-discrimination and equal opportunity provisions of Sec. 188 of WIOA and its associated regulations;
- d) Americans with Disability Act;
- e) Health and safety standards; and
- f) Worksite summary and profile.

2. **Safety and Child Labor Laws/Work Permits**

The Worksite

- a) General worksite safety is to be monitored by the youth service provider. Any identified issue(s) must be immediately reported to WC.
- b) The selected worksite shall be in compliance 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 or internship for a youth participant should be aware of obligations imposed by WIOA and its associated regulations, and must ensure compliance.
- c) Worksite must ensure, when applicable, that they will adhere to child labor laws and OSHA compliance.
- d) Any worksite accident must be reported immediately by the youth 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.



- e) Providers of youth services must maintain worker's compensation insurance for each youth participant placed in a WEX or internship, and are not allowed to provide this program element unless worker's compensation insurance is in place.
- f) Providers of youth services must comply with requirements set forth by NRS 609 with respect to the employment of minors.
- g) Worksite needs to have a clear understanding and expectation of the skills needs, interests, and attitudes/habits that the youth participant may exhibit.
- h) Effort shall be made to place youth participants at a worksite that matches the youth participant interest and abilities.
- i) The worksite must provide general liability insurance coverage.
- j) Worksite must ensure that youth participants may not be involved in religious sectarian instruction or activity while participating in a work experience.
- k) Worksite must ensure that youth participants may not be involved in political activities of any form while participation in a WEX or internship.

E. Duration and Hours Limitation for Internship or WEX

- 1. The total number of hours for a paid internship or WEX must not exceed 960 hours during the entire participation period.
- 2. A single internship or WEX must not exceed 480 hours.
- 3. Subsidized WEX or internship during the school year for in-school youth, including alternative education, must not exceed six (6) hours per day and a total of 30 hours per week.
- 4. A WEX or internship must be limited to a period of time that is reasonable in duration. The length of the activity assignment is to be based on the needs of the youth participant. These elements must be properly addressed on the participant's ISS and case notes.
- 5. Neither overtime nor overtime pay is allowed. As previously indicated, child labor laws must be observed when scheduling work hours for youth participants under 18 years of age.
- 6. 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 WC staff. Proper justification and support documentation must be provided as required or appropriate.

II. The Work-based Learning Training Agreement

- A.** The purpose of the work-based learning training agreement is to establish a formal working relationship with a worksite, to specify the responsibilities of each party to the agreement, and to provide a successful work-based learning experience for the program participants. A properly signed and dated original of the work-based learning training agreement must become part of the program participant's file.
- B.** The work-based learning 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 work-based learning training agreement with the employer, the provider of youth services and program participant must complete the work-based training plan. The training plan must incorporate the details of the WEX or internship 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 or internship activity. The training plan shall reflect these elements in alignment with youth participant's ISS. A properly signed and dated original work-based learning 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 work-based learning training progress report must be completed and become part of the program participant's file.
- E. **General provisions for the work-based learning training agreement and training plan:** Prior to the youth participant commencing the training activity a work-based learning 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;
 - 6. Specific skills/competencies to be learned;
 - 7. Wages. See Sec. I(B);
 - 8. Total hours;
 - 9. Training schedule;
 - 10. Health and safety standards assurances – worksite;
 - 11. Liability insurance assurances – provider of youth services;
 - 12. Worker's compensation assurances – service provider or worksite;
 - 13. Provision of equal opportunity – worksite; and
 - 14. Child labor law assurances (as applicable or appropriate) – worksite.

III. Required Support Documentation

- A. Fully executed work-based learning training agreement
- B. Training plan
- C. Job description
- D. Worksite assessment
- E. Properly signed and dated time sheets (corrections must be done by "cross out" and initialed by all parties)
- F. Copy of paychecks
- G. Progress report



IV. Summer Work Experience – Prerequisites

As part of the program design elements offered to youth participants, a WEX or internship is not intended as a stand-alone program activity and must be tied to an objective in the ISS. Summer work experiences must provide direct linkages to academic and occupational learning. WC has established guidelines for in-school and out-of-school youth participants.

In-School

Out-of-School

Youth participant must be enrolled and attending summer school, if determined credit deficient.

If youth participant drops out of school, WEX immediately terminates. Youth participant must complete work readiness activities prior to WEX or internship approval/start.

Must be enrolled/participating in GED program; or enrolled/participating in a HSD program.

Youth participant must complete work readiness activities prior to WEX or internship approval/start.

V. Resources Related to Workplace Guidelines

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