



Category/Subject: WIOA Title I Work Experience
Colorado Policy Guidance Letter#: WIOA-2018-02, Change 1
Revise /Replace PGL#: WIOA-2018-02
Date: August 6, 2019
Distribution: CDLE Management/Finance, State/Local Workforce Directors & Staff, Partners

AUGUST 2019 CHANGES HIGHLIGHTED

I. 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](#)

II. PURPOSE:

- A. To provide guidance to local workforce development boards and local areas on the development of local policies and procedures to administer work experiences under the WIOA Title I Adult, Dislocated Worker, and Youth programs.
- B. To identify the requirements for local area work experience policies or related policies. Any policies modified or developed as a result of this PGL are due to the appropriate Regional Liaison no later than 90 days after receipt of this PGL.**

III. 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 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.

IV. 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 and Dislocated Workers

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

To be eligible for a work experience, an individual must meet adult and dislocated worker 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 and dislocated workers, 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 PGL WIOA-2019-02, Transitional Jobs.

C. Work Experience for Youth

For youth, work experiences are one of the fourteen 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).

The academic and occupational education components may occur concurrently or sequentially with the work experience, based on a participant's Individual Service Strategy and individual needs. The academic and occupational education component may occur inside or outside the work site. The worksite employer can provide the academic and occupational component or such components may be provided separately in the classroom or through other means. Local areas have the flexibility to decide who provides the academic and occupational 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. **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 WIOA-2018-04, 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.
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 PGL [WIOA-2016-08, On-the-Job Training](#), for further information on OJTs.

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 for further information on the 20% Youth work experience expenditure requirement.**

E. 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 and the methodology must be documented in local policy.

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 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.

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.

Allowances or stipends must not exceed Colorado minimum wage. Stipends count as taxable income for income tax purposes.

Payment of partial stipends may be made to participants that fail to complete a portion of their work experience activity. However, the participant's case file must contain documentation (at least a case note) regarding the reason for failure to complete and the period of time or activities that were completed.

See Section J. for acceptable documentation of stipends.

F. 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 [WIOA-2017-12, Title I Youth Incentive Payments](#) for further information.

G. 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. The required elements of the agreement or contract will vary based on the type of work experience. Please see **Attachment 5** for the required elements of work experience agreements/contracts.

H. 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 [WIOA-2016-08, On-the-Job Training](#).

1. Pre-Evaluation

The local area must develop a worksite pre-evaluation tool to determine the appropriateness of utilizing the worksite for work experiences, similar to the pre-award review conducted for OJTs. For Youth participants, this review must 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

Local areas must establish local worksite monitoring procedures. 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. Local 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 (every new worksite must be visited at least once);
- Methods for validation of skill and competency attainment for participants; and
- How worksite monitoring documents will be maintained by the local area.

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” as defined by the local board. Such failure may include 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.

Local procedures must include the process to remove a worksite that has not met their agreed-upon requirements for the work experience or has exhibited a pattern of failure. These procedures must include the local process to determine the following:

- What constitutes an employer “exhibiting a pattern of failure”;
- Deficiencies or situations that occur within the work experience process;
- Corrective action interventions to be used; and
- Circumstances under which immediate termination of an agreement will occur.

I. 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.

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. This [fact sheet](#) provides general information to help determine whether interns and students working for “for profit” employers are entitled to pay under the Fair Labor Standards Act.

The Colorado Youth Employment Opportunity Act regulates the employment of minors in Colorado. Please review the [fact sheet](#) to ensure that any paid youth work experience complies with the requirements.

J. Documentation

1. Participant Case Files

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

Acceptable documentation for stipends must be tracked through Connecting Colorado, local financial management systems, and the case file. Some examples of acceptable documentation might include:

- Attendance records
- Certificate of Completion
- Case notes verifying the completion and date of completion
- Time records or time sheets

2. Tracking Participants in Connecting Colorado

Local area staff must use the following Activity Codes to track work experiences in Connecting Colorado:

Adult/Dislocated Worker

WE: Paid Work Experience

PA: Pre-Apprenticeship

OK: Job Shadowing

TJ: Transitional Jobs

WU: Unpaid Work Experience

Youth

WE: Paid Work Experience

PA: Pre-Apprenticeship

OK: Job Shadowing

OJ: On-the-Job Training

WU: Unpaid Work Experience

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

3. Removal of SE Activity Code

Effective July 1, 2019, the **SE** activity code for summer work experiences is removed. The **WE** activity code will be used for all Work Experience and Connecting Colorado will distinguish between Summer Work Experience and all other Work Experience for federal reporting.

On July 1, 2019, the CDLE MIS staff will change any open **SE** services to **WE** services. Any **SE** services completed prior to July 1, 2019 will remain the same.

K. Local Policy Requirements

Local boards have substantial flexibility in the administration of work experiences. It is critical to put local policy and procedures in place to support local staff and customers in the effective use of work experiences. The following are required topics to address in local policy:

1. Procedures for Adults, Dislocated Workers and Youth

If the local area will use different work experience procedures for adults, dislocated workers, and youth, these distinctions must be documented in local policy. **The procedures must address how the local area will determine the required occupational and education components of a Youth work experience.**

2. Format for Agreements and Timesheets

Local boards must establish a standard template for work experience agreements/contracts and timesheets that will be used by the local area, worksite, and participant.

3. Length of Work Experience

Local boards may determine the appropriate timeframe for internships and/or 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.

4. Wage/Stipend Methodology

Local boards must consistently apply a methodology on how wages and/or stipends will be determined and when they will be offered in conjunction with work experiences. The policy must also include information on the acceptable forms of documentation for stipends.

5. Worksite Evaluation and Monitoring

Local boards must develop a worksite pre-evaluation process and local monitoring procedures for worksites.

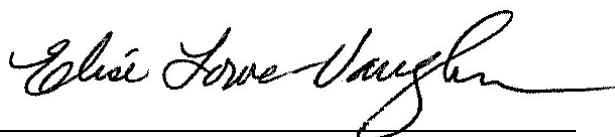
6. Worksite Removal

Local boards must identify what constitutes a “pattern of failure” for a worksite, and define the process to remove a worksite.

- V. IMPLEMENTATION DATE:** Upon receipt of this PGL. **Any policies modified or developed as a result of this PGL are due to the appropriate Regional Liaison no later than 90 days after receipt of this PGL.**

VI. INQUIRIES:

Please direct all inquiries to your Regional Liaison at Workforce Development Programs.



Elise Lowe-Vaughn, Director
Workforce Programs, Policy, and Strategic Initiatives

ATTACHMENT(S):

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