

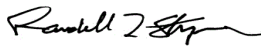


COMMONWEALTH OF VIRGINIA  
VIRGINIA COMMUNITY COLLEGE SYSTEM

**WORKFORCE INNOVATION AND OPPORTUNITY ACT**

**VIRGINIA WORKFORCE LETTER (VWL) No. 19-07, Change 1**

**TO:** Local Workforce Development Boards

**FROM:** Randall Stamper   
Associate Vice Chancellor of Career Education and Workforce Programs

**SUBJECT:** WIOA Title I Youth Program Work Experience 20% Expenditure Requirement

**EFFECTIVE DATE:** January 21, 2023

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**PURPOSE:**

To provide the Local Workforce Development Areas guidance on the Work Experience (WEX) expenditure requirements under the Workforce Innovation and Opportunity Act (WIOA) Title I Youth Program. This policy defines the parameters of the Title I Youth WEX Program 20 percent expenditure requirement with emphasis on providing priority to the WEX activity.

**REFERENCES:**

Workforce Innovation and Opportunity Act (WIOA) P.L. secs.113- 128; Title I Section 129  
Federal Register, Department of Labor, Employment and Training Administration, 20 CFR §680; Final Rules  
Federal Register, Department of Labor, Employment and Training Administration, 20 CFR §681; Final Rules  
U.S. Dept. of Labor Training and Employment Guidance Letter (TEGL) No. 21-16: Operating Guidance for the Workforce Innovation and Opportunity Act; Third Workforce Innovation and Opportunity Act (WIOA) Title I Youth Formula Program Guidance  
U.S. Dept. of Labor Training and Employment Guidance Letter (TEGL) No. 23-14: Operating Guidance for the Workforce Innovation and Opportunity Act; Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition

U.S. Dept. of Labor Training and Employment Guidance Letter (TEGL) No. 08-15: Operating Guidance for the Workforce Innovation and Opportunity Act; Second Title 1 WIOA Youth Program Transition Guidance

#### **REVISION HISTORY:**

Change 1 provides the update that the educational component of the work experience may be provided, before, during, or after the work experience, instead of simultaneously as previously required. See Guidance section A(b).

#### **DEFINITIONS:**

**Fair Labor Standards Act (FLSA)** – FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in federal, state, and local governments. Covered nonexempt workers are entitled to a minimum wage of not less than \$7.25 per hour effective July 24, 2009.

**Incentives** – Incentive payments are allowable to youth participants for recognition and achievement resulting directly from training activities and work experience as defined by local area policy and stated in the individual service strategy (ISS). Example: a successful completion of a work experience.

**Stipend** – A stipend is an allowable payment for participation in activities such as work experience or classroom activities, including work readiness or employability skills training.

**Wage** - A wage is generally a payment for services rendered where an employer/employee relationship exists. This form of compensation is usually paid through a payroll system and subject to the taxes applicable to the employer of record and participants.

**Work Experience (WEX)/Internships** – A (paid or unpaid) planned, structured learning experience that takes place in a workplace for a limited period of time. Internships or work experience may be paid or unpaid to a participant and may be provided in the private for-profit sector, the non-profit, or the public sector.

**Worksite Agreement Contract** – 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.

#### **BACKGROUND:**

WIOA places emphasis on serving youth within a comprehensive youth development approach that focuses on long-term services that provide the education, skills, work experience, and support that youth need to transition successfully to careers and productive adulthood. WIOA includes a major focus on providing youth with work experience opportunities. WIOA prioritizes work experiences with the requirement that local areas must spend a minimum of 20 percent of local area funds on WIOA youth work experiences.

## **GUIDANCE:**

WIOA youth program funds spent on paid and unpaid work experiences, including wages and staff costs, must be tracked and reported as part of the local WIOA youth financial reporting.

### **A. Work experiences must include an educational component**

WIOA allows for the provision of work experiences (WEX) for eligible youth that includes an academic and occupational education component found in *WIOA Section 129 (c)(2)(E) and Title 20 CFR NPRM 681.640*.

- a. Each local area must include an academic and occupational education component (e.g., workforce preparation activities, basic academic skills, and hands-on occupational skills training) with the work experience.
- b. The WEX and the educational component may be provided, before, during, or after the WEX, and the educational component must be related to the skills and knowledge needed in the WEX, or related occupation a specific occupation, occupational cluster, or career pathway.

### **B. Types of work experiences**

Work experiences may be paid or unpaid, as appropriate. 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.

Work experiences provide the youth participant with opportunities for career exploration and skill development and could include the following:

- a. Summer employment opportunities and other employment opportunities available throughout the school year;
- b. Pre-apprenticeship programs;
- c. Internships and job shadowing; and
- d. On-the-job training opportunities as defined in WIOA sec. 3(44) and in § 680.700.

**Note:** WIOA does not differentiate between the terms **work experience (WEX)** or **internship**.

### **C. Administrative Monitoring of WEX funds**

Each local area must monitor and track all funds spent on WEX contracted activities (*CFR 681.600-610*). The Local Workforce Development Board (LWDB) is responsible for ensuring oversight of the program. 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. To maintain administrative monitoring:

- a. Local WIOA youth programs must track program funds spent on paid and unpaid work experiences, including wages and staff costs for the development and management of

work experiences, and report such expenditures as part of the local WIOA youth financial reporting.

- i. The percentage of funds spent on work experience is calculated based on the total local area youth funds expended for work experience rather than calculated separately for in-school and out-of-school youth.
  - ii. Leveraged and in-kind resources cannot be used to fulfill this requirement.
- b. Local youth formula funds may be used for payments provided for WEX in the public, private, for-profit or non-profit sectors when the participant's objective assessment and individual service strategy (ISS) indicate that a WEX is appropriate.
- c. The local area must specify the length or duration of time for each work experience assignment.
- d. Each local area must specify the amount each youth participant will receive during the duration of the WEX contracted period.
  - i. Participants enrolled in a paid WEX shall be compensated on an hourly stipend or hourly rate structure not less than the state or local minimum wage, whichever is higher.
- e. Each participant shall be paid only for hours worked during the WEX as documented on the participant's WEX contract or worksite agreement and participant timesheet and evaluation.

**Note:** Local area administrative costs are not subject to the 20 percent expenditure requirement.

**D. Allowable WEX Program Expenditures**

*TEGL No. 8-15* provides further discussion of allowable expenditures that may be counted toward the work experience expenditure requirement and articulates that program expenditures can be more than just wages paid to youth in work experience. Allowable work experience expenditures include the following:

- Payments provided 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.

**Note:** Per WIOA regulations, 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. WEX Local Area Written Agreement and Policy**

Local boards must have a written agreement, which may, as an example, be called a worksite agreement, job site agreement, or host site agreement. Each 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.

A written policy must be developed to include a process for determining compliance with a fully executed contract. The policy must require progress reports and financial activity reports. The policy must describe the frequency of monitoring and staff responsible for monitoring, and include a monitoring guide, form, or checklist.

At a minimum, the local board's policy must establish the following as defined in the above section:

- A Worksite Agreement contract signed by all parties involved;
- The duration of the work experience assignment;
- Academic and occupational education plan in conjunction with WEX assignment;
- Limitations on the number of hours; and
- Appropriate incentives and/or compensation, including limitations on the types and dollar amount.

State WIOA monitors will review the local area's use of work experience element in the WIOA youth program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations.

**Note:** When compensating youth with wages or stipends for work experiences, local workforce service providers and employers of record are expected to adhere to Internal Revenue Service (IRS) guidelines. Understanding the difference between an incentive, stipend, and wage has specific implications in relation to IRS deductions. The classification of a participant, specifically the employer-employee relationship, is a key factor used by the IRS to determine whether withholding taxes is applicable. Consult the local jurisdiction serving as the WIOA Title I Grant Recipient.

**ACTION REQUIRED:**

Upon issuance bring this guidance to the attention of all WIOA service providers, LWDB Board members, and any other concerned parties. Any local boards' policies, procedures, and/or contracts affected by this guidance are required to be updated accordingly.

**INQUIRIES:**

Please submit inquiries regarding this VWL to [WIOA@vccs.edu](mailto:WIOA@vccs.edu)

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