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# OC Community Resources

**Date:** January 29, 2025

**To:** WIOA Subrecipients of the Orange County  
Workforce Development Board

**From:** Nancy Cook   
Director of Workforce and Economic Development

**Subject:** Work Experience Policy  
Information Notice No. 25-OCWDB-02  
Supersedes Information No. 23-OCWDB-04, 22-OCWDB-06

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## PURPOSE

This policy provides guidance regarding paid and unpaid Work Experience (WEX) for the Adult, Dislocated Worker, and Youth programs under Title I of the Workforce Innovation and Opportunity Act (WIOA) and other specialized programs, as applicable.

## EFFECTIVE DATE

This policy is effective on the date of issuance.

## REFERENCES

- WIOA (Public Law 113-128), Sections 129, 134, 181 and 188
- Title 20 Code of Federal Regulation (CFR) Parts 680.180, 681.590 - 681.610
- Fair Labor Standards Act of 1938, 52 Stat. 1060, 29 U.S.C. 201 et seq.
- CA Education Code (EDC) 49100 - 49200
- CA Labor Code 1286 (c), 1294.1(b), 1299, 1391- 1392
- Training and Employment Guidance Letter (TEGL) 12-09, Joint Guidance for States Seeking to Implement Subsidized Work-Based Training Programs for Unemployed Workers
- TEGL 21-16 Third Workforce Innovation and Opportunity Act (WIOA) Title I Youth Formula Program Guidance
- TEGL 23-14, WIOA Youth Program Transition

## BACKGROUND

A Work Experience (WEX) is a planned, structured, contractual learning experience in a workplace for a limited period of time. It is a career service that provides participants with opportunities for career exploration and skill development which must include academic and occupational education concurrently or sequentially and is linked to a potential career choice.

## DEFINITIONS

Individual Employment Plan (IEP)/Individual Service Plan (ISP) – An individualized career service that is developed jointly by the participant and



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case manager. The plan is an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for the participant to achieve the employment goals.

Internship – A system of gaining on-the-job experience by placement in a work environment for a period of time with the goal to build technical and job awareness skills. Internships may be paid or unpaid.

Job shadowing – A short-term unpaid activity which introduces a participant to the workplace and provides exposure to occupational areas of interest to increase career awareness.

On-the-Job Training (OJT) – Training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;
2. Is made available through a program that provides reimbursement to the employer of a percentage of the wage rate of the participant; and
3. Is limited in duration as appropriate to the occupation for which the participant is being trained, considering the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience of the participant, and the IEP/ISP for the participant.

Transitional Jobs – Transitional jobs are a type of paid work-experience that are time-limited and 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. These jobs can be in the public, private, or nonprofit sectors.

## **POLICY**

A WEX must align with the participant's long-term employment goals. The assessment process, along with the development of the IEP/ISP, helps to identify appropriate worksites for each participant. Work experiences should help the participant gain the competencies and experience needed to meet local employer demands. When determining the appropriate duration of a WEX, factors such as skill requirement for the position, the participants academic and occupational skills level, prior work experience, and their IEP/ISP should be considered. The assessment process may identify concerns or issues that should be addressed prior to, or concurrently with a WEX. Service Provider staff must make appropriate referrals if such issues are identified.

WEX programs are designed to promote the development of good work habits and basic work skills for individuals who have never worked, have very limited occupational exposure or have been out of the labor force for an extended period of time. Work experiences should enable adults, dislocated workers, and youth to gain exposure to the working world and its requirements.

Work Experience opportunities can be paid or unpaid and may be provided in the private for-profit, non-profit, or the public sector. These experiences include, but are not limited to, internships and job shadowing. They are not designed to replace an existing employee or position. WEX wages are paid directly to the participant and not the employer. Employers are not monetarily compensated. Work experiences in the private for-profit sector must be structured so as not to appear to be subsidizing private for-profit operations. The work of the participant should not materially impact the profit margin of a private-for-profit company.

## **Participant Eligibility**

To be eligible, participants must meet WIOA program eligibility requirements, be enrolled into the respective WIOA program, and have received an assessment resulting in the development

of an IEP/ISP that documents the participant's need and benefit of having work experience. Work experiences are not intended for long-term skill building within the occupation, but rather as an entry step for the participant to explore the occupation, develop their skills, gain work history and references. A likely candidate for WEX is a participant who is appropriate for long term employment in a particular industry or occupation but does not have all of the skills or the experience to qualify for entry-level employment in the field. The education component must be documented on the Training Plan, IEP/ISP and in CalJOBS.

Non-WIOA Funded participants must adhere to the participant eligibility standards as identified by the funding source.

### **Unpaid Work Experience**

Unpaid Work Experience activities provide participants with valuable exposure to a professional working environment without the expectation of monetary compensation for tasks performed. The use of unpaid Work Experience should be limited.

Unpaid Work Experience may include job shadowing, where participants experience the work environment to increase career awareness, observe models of behavior on the job through examples, and receives help in making career decisions. Job shadowing can reinforce the link between classroom learning and work requirements. Job shadowing is limited and allows participants to observe only.

If the employer is providing job shadowing opportunities whereby the participant learns certain functions under close and constant supervision of regular employees, but performs no or minimal work, this type of activity is more likely to be a bona fide training program. However, if the participant receives the same level of supervision as employees, this would suggest an employment relationship.

### **Youth Work Experience Funding Requirements**

Service Providers must spend at least 30% of their overall WIOA youth funding, after subtracting the administrative costs on Work Experience activities, including participant wages as well as staffing costs associated with the development and management of Work Experience, even if the Work Experience is unpaid. Allowable expenditures beyond wages may include the following:

1. Staff time spent identifying potential work experience opportunities.
2. Staff time working with employers to develop the work experience.
3. Staff time spent working with employers to ensure a successful work experience.
4. Staff time spent evaluating the work experience.
5. Classroom training or the required academic education component directly related to the work experience.
6. Orientation sessions for participants and employers.

Work Experience expenditures shall coincide with specific budgeted line items and shall be tracked and reported on the monthly Service Provider invoices.

### **Work Experience Duration**

The duration of the WEX shall begin with 12 weeks. If a modification/extension is needed, Orange County Workforce Development Board (OCWDB) Business Solutions staff will review the request on a case-by-case basis. A Modification Form (Attachment V) must be completed and signed by all parties for proper approval. Extensions may not exceed 10 months and/or 600 hours. A tracking sheet shall be maintained by the Service Provider to ensure that actual WEX hours do not exceed the allowable limit.

The OCWDB Business Solutions and Service Provider must ensure compliance with child labor laws and ensure that youth participants under 18 years old obtain a work permit (unless not required to have one). The employer must possess a valid Permit to Employ and Work and comply with all applicable federal and state child labor laws for participants under 18 years of age. Proof of age and parental consent must be given for both paid and unpaid Work Experience. See Youth Employment Summary Chart (Attachment IV) for additional information.

Special projects may require an exemption to both WEX limitations on hours and wage levels for some or all participants. The Director of the Orange County Workforce and Economic Development Division may approve WEX waivers. Waiver request must be submitted in writing. Participants may not exceed the 600-hour limit PRIOR to the date of waiver approval.

### **Special Grant Work Experience**

Special grant programs that require different Work Experience hours and funding levels may be implemented. If staff are providing case management services for a non-WIOA funded Work Experience, it is appropriate to follow the grant requirements and document the staff related cost and the non-WIOA funded contractual requirements in the participant's case file.

### **Earn and Learn**

An Earn and Learn program is a specialized occupational skills training program that includes elements required in the WIOA Youth program. The program may be done in-person or through a virtual platform. The participant earns a stipend when participating in the "live" classes and when completing projects required for the program. A participant is expected to have a "product" upon completion of the Earn and Learn program. In line with general youth experience guidelines, participants must not exceed 30 hours per week.

### **Transitional Jobs**

Transitional Jobs offers similar opportunities to participants and may use the documents attached to this policy. For additional information and guidance regarding Transitional Jobs refer to the OCWDB Transitional Jobs Policy.

### **General Work Experience Requirements**

#### **1. Worksites**

- The OCWDB Business Solutions shall develop and maintain a pool of worksites that provide a wide range of training opportunities to the participants and enhance their skills development;
- The list of worksites shall include the following information:
  - Name and address of employer/worksite
  - Name, position title, email address and phone number of supervisor
  - Status: Active, In Progress, or Inactive
  - For active worksites: name of participants placed, actual start date and anticipated/actual end date
- Worksites must follow all labor standards applicable to any WEX that involves an employee/employer relationship, as defined by the Fair Labor Standards Act or applicable State law;
- OCWDB Business Solutions will identify and evaluate worksites to determine the appropriateness of utilizing the employer for work experiences. The evaluation components should include provisions of the Worksite Agreement such as safety, labor law requirements, status of layoffs, etc. In addition, it should evaluate age appropriateness and level of exposure to work readiness and job skills, type of

supervision available, as well as review the previous work experience placements at the same location.

Potential worksite employers should also demonstrate a commitment to helping participants receive the experience and training needed to meet their goals. As part of participation, these employers should be willing to work closely with OCWDB Business Solutions, especially since participants have barriers to employment. Proper worksite supervision should be one of the factors that are reviewed prior to placement of the participant in the activity.

Individuals who have been hired by a worksite and subsequently referred to OCWDB Business Solutions are not to be considered for the WEX activity. The worksite should commit to the individual training with the belief that the individual is fully capable of performing the tasks required with little or no assistance.

A WEX Agreement must not be executed with an employer who has received payments under previous work-based services and has exhibited a pattern of failing to provide a positive work experience. This includes those employers for On-the-Job Trainings (OJT) where a participant was not provided continued long-term employment, wages, benefits, and working conditions that are not equal to those provided to similarly situated employees.

## 2. Worksite Agreement & Work Experience Training and Assessment Plan

- A Worksite Agreement shall be fully executed between worksite, Service Provider, Site Manager, OCWDB staff, Employer of Record representative and participant before a participant is allowed to start.
- A Worksite Agreement template (Attachment I) provided by the OCWDB shall be used.
- At minimum, the Worksite Agreement shall include the following:
  - Names and contact information of all parties
  - Names and titles of all employer staff authorized to sign the participant's timesheet
  - Responsibilities and expectations of the participant, the Worksite/Employer and Service Provider staff
  - The job title, wage, detailed list of specific skills to be learned, timeline and benchmarks to be achieved, weekly schedule, and number of hours to be completed with the participant as outlined in the WEX Training and Assessment Plan (See Attachment II)
  - Requirement that Worksite/Employer will:
    - Regularly submit timesheet of participants
    - Provide regular written evaluation of participants
    - Provide a written job description and responsibilities to participant
  - Identification of the legal requirements that must be met, including worksite safety requirements
  - Statement informing the worksite that they may be subject to worksite monitoring by both the local and State representatives, as well as regular visitations by OCWDB Business Solutions
  - Provision of termination of the agreement/contract for non-performance or failure to meet the requirements of the agreement/contract
  - Non-discrimination and equal opportunity clauses
  - Statement that the activity will not displace employees
  - Statement that participants must not be engaged in sectarian activities
  - Other information, relative to the specific activities

- Signatures and dates from the Worksite/Employer, Service Provider, Site Manager, OCWDB staff, Employer of Record representative, and participant
- A copy of the signed Worksite Agreement (Attachment I), WEX Training and Assessment Plan (Attachment II) and timesheets (See Attachment III: Model Timesheet) will be kept in the participant file.

### 3. Wages and Hour Limits

These requirements apply to all programs except for the Youth Program and special grant programs as described in the sections below.

- Worksite placement is limited to a timeframe of 3 weeks to 12 weeks. The exact duration will be based on appropriation for the participant's employment goals, background and skill level as reflected in the IEP/ISP.
- OCWDB Business Solutions shall allow for at least 15 hours a week of work, but no more than 30 hours and not to exceed 150 hours per month. More than 150 hours in a month will require approval from the Orange County Director of Workforce and Economic Development.
- Participants will be compensated at the same pay rate as similarly situated trainees or employees. All WEX must be paid at an hourly rate determined by the County of Orange based on an analysis of minimum wage and Local Fair Labor Standards Act. The final determined rate will be included on the Work Site Agreement. Any exceptions to the wages or hours must be approved by the Director. Participants must be covered either by state workers' compensation or by relevant on-site insurance. If an entity other than the Orange County Workforce Development Board (OCWDB) or its designee, The County of Orange, is the employer of record, the entity is entitled to a reimbursement of 100% of the wages. If the OCWDB, or its designee, The County of Orange, is the employer of record, the participant's wages will be paid at 100%. The wage rate and reimbursement rate will be clearly identified in the worksite agreement.
- The maximum allotment for a participant's wage determined by (hourly rate X total number of hours approved) per contract. If it is determined necessary for a participant to receive hours or wages exceeding the maximum allotment, the OCWDB Business Solutions must request advance approval from the Orange County Director of Workforce and Economic Development.
- Availability of additional funding may also be cause for changes and/or exemptions to this policy.
- Rate of pay for special programs may vary depending on contract terms and conditions.

### 4. Work Experience Training and Assessment Plan

- A Work Experience Training and Assessment Plan shall be completed for every participant placed in a Work Experience assignment and will accompany the Worksite Agreement.
- The Training Plan portion of the WEX Training and Assessment Plan shall be completed prior to the participants start date.
- The Initial Assessment portion of the WEX Training and Assessment Plan shall be completed within the first 2 weeks of placement.
- The Final Assessment portion of the WEX Training and Assessment Plan shall be completed at the end of the Work Experience.
- All Work Experience Training and Assessment Plan documents will be kept in the participant and employer's file.

### **ACTION**

Bring this policy to the attention of all staff and relevant parties.

### **INQUIRIES**

If you have any questions regarding this policy, please email [info@ocworkforcesolutions.com](mailto:info@ocworkforcesolutions.com).

### **ATTACHMENTS**

Attachment I: Worksite Agreement

Attachment II: Work Experience Training and Assessment Plan

Attachment III: Model Timesheet

Attachment IV: Youth Employment Summary Chart

Attachment V: Work Experience Modification