WORK EXPERIENCE (WEX) POLICY

Workforce Innovation and Opportunity Act Policies and Procedures

EFFECTIVE DATE: MARCH 25, 2021 POLICY #: P210

I. PURPOSE:

This policy communicates the Workforce Development Council of Seattle-King County (WDC) local workforce development board policy for the implementation of Work Experience (WEX) programs for Workforce Innovation and Opportunity Act (WIOA) Title I eligible adults, dislocated workers, and youth participants.

II. BACKGROUND:

An internship or work experience for adults and dislocated workers is defined in WIOA as a planned, structured, and time-limited learning experience that takes place in a workplace in preparation for employment (20 CFR 680.180). An internship or work experience may be paid or unpaid, as appropriate. An internship or work experience may be provided in the private for-profit, non-profit, or public sectors. For the WIOA youth program, work experience is similarly defined in WIOA, with the additional requirement that youth work experiences must include academic and occupational education (20 CFR 681.600).

WEXs are a contractual exchange between the WIOA service provider, WEX employer, and WEX participant. A WEX may not be used to replace an existing employee or position. Wages are provided through the WIOA service provider and paid directly to the participant. Employers are not monetarily compensated.

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 WIOA youth local area funds on work experiences. 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.

III. DEFINITIONS

A. Internship- See Subsidized Work Experience (WEX); WIOA does not discern between "work experience" or "internship" and so the definition of both is the same.

B. Learning Plan/ Skills Training Plan – A plan that outlines the skills that a participant is expected to learn during their experience. This should be agreed upon by the participant with the manager/supervisor at the start of the WEX.

C. Subsidized Work Experience (WEX) - A paid, planned, structured learning
experience that takes place on a worksite for a limited period.

D. **Work Experience (WEX) Agreement**—A written agreement between the WEX employer, the participant, and the WIOA service provider that outlines the program requirements and expected outcomes; this can also include the Learning Plan/Skills Training Plan.

**IV. POLICY:**

WEX programs provide a planned and structured learning experience that contributes to the achievement of the participant's employment goals through a measurable training component. WEX agreements will be signed by all parties prior to the start of the WEX, including the service provider, the employer, and the participants. WEX programs for youth must include academic and occupational education that is managed by the WIOA provider.

A. **Participant Eligibility**: All WEX participants must meet Title I program eligibility requirements in compliance with WDC Policy, Eligibility Policy and Documentation Requirements, be enrolled into the respective WIOA program, and have received an assessment resulting in the development of an Individual Service Strategy (ISS) or Individual Employment Plan (IEP) that documents the participant's need for and benefit from a WEX. Individuals who have received funding through an ITA, cohort or other WIOA funded training are also eligible for WEX. Funding for training and WEXs are separate.

B. **Employer Eligibility**: The WEX Employer will:
   I. Be registered with the Internal Revenue Service (IRS) and have an account with the Washington State Employment Security Department for Unemployment Insurance and carry Worker’s Compensation Insurance [20 CFR 683.280].
   II. Be licensed to operate in the State of Washington and provide their Federal Employer Identification Number (FEIN).
   III. Have safe and healthy working conditions with no previously reported health and safety violations that have been reported but have not been corrected.
   IV. Not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, physical or mental disability, political beliefs or affiliations or age [WIOA Sec. 188(a)(2)];
   V. Not terminate the employment of any of their current employees or otherwise reduce its workforce either fully or partially (such as reduction in hours or benefits) with the intention of filling the vacancy with a WEX participant or as the result of having a WEX participant [20 CFR 683.270];
   VI. Not allow the WEX activity to result in the infringement of promotional opportunities of their current employees [20 CFR 683.270]; and
   VII. Not allow the participant to be involved in the construction,
operation or maintenance of any part of any facility that is used, or to be used, for religious instruction or as a place for religious worship [20 CFR 188(a)(3)].

C. **WEX Timeframe:** WEX is limited to 480 hours per participant. When determining the duration of a WEX, the following factors are to be considered:
   - Objectives of the WEX; Length of time necessary for the participant to learn the skills identified in the ISS or IEP; Quantity of the employer's meaningful work activities available for the participant; and Provider Agency's budget.

D. **Labor Standards:** Labor standards apply in any WEX where an employee/employer relationship exists, as defined by the Fair Labor Standards Act. WEX participants may also be entitled to paid sick leave under the Washington Sick Leave Act, depending on the program, if individuals both (1) meet the definition of "employee" found at RCW 49.46.010 (3) and (2) are not statutorily exempt from either minimum wage or paid overtime requirements. The Washington Department of Labor and Industries offers resources for employers and employees regarding paid sick leave requirements on its Paid Sick Leave website.

E. **Compensation:** Participants enrolled in a paid WEX will be compensated at the comparable rates of pay for other individuals employed in similar occupations by the same employer. In no case will participants be paid lower the current, local minimum wage, or the Washington State minimum wage, as applicable based on the location of the WEX site where the employer is located, and the participant is working.
   - WEX participants are not authorized to work overtime.
   - WEX participants will not be paid for vacation time, lunch breaks, or holidays recognized by the service provider as a "paid holiday."
   - When determining the hourly wage for a WEX participant, the following considerations should be taken into consideration. This list is not intended to be all inclusive:
     - Comparable rates of pay for other individual employed in similar occupations by the same employer.
     - Objectives of the WEX.
     - Type of work performed during the WEX.
     - Skill set of the participant.
     - Skill set required for the WEX; and/or
     - Service provider budget.

F. **WEX Funding Limits:** WEXs are subject to the lifetime maximum dollar limits ($14,000)

G. **Exceptions to WEX Hours or Wages Limit**
   If a WEX is anticipated to exceed the 480-hour limit, the WIOA provider must submit an Exception Request to the WDC. The WDC has the authority to grant requests for exceptions to the limit on WEX hours or wages, on a case-by-case basis, if the exception would significantly benefit a participant in meeting the goals of the participants ISS or IEP. The WDC will not approve retroactive requests.
H. Procedures

I. Participant File Documentation: The following WEX documents must be in the file:
   • Comprehensive Assessment identifying a WEX as an appropriate service.
   • Completed ISS/IEP documenting the WEX services and outcomes.
   • WEX Agreement (completed prior to the start of the WEX).
   • Learning Plan/ Skills Training Plan (completed prior to the start of the WEX).
   • Timesheets; and
   • Case notes

II. WEX Agreement: WEX Agreements must contain, at a minimum, the following:
   • Clear statement of purpose.
   • Identification of all parties including the WEX participant.
   • Requirements of the employer, participant and WIOA service provider;
   • WEX start and end dates.
   • Compensation rate.
   • Job title and tasks and duties.
   • Required tools, equipment or uniforms, if applicable.
   • Supportive services that are needed by the participant, if applicable.
   • Concurrence between employer and union when WEX is under a collective bargaining agreement, if applicable; and
   • Signature and dates of all parties to the agreement.

III. Modifications: WEX agreements may be modified. All modifications must be in writing and signed by all parties prior to the effective date of the modification. Verbal modifications of WEX agreements are not valid.

IV. Monitoring: Service providers must ensure regular and on-going monitoring and oversight of the WEX. Monitoring may include on-site visits and phone/email communication with the employer/trainer and participant to review the participant's progress in meeting training plan objectives. Any deviations from the WEX agreement should be dealt with promptly. The WIOA service provider's oversight of the WEX participant's training and payroll records may be reviewed by Federal, State, and local fiscal and program monitors. These entities will have the right to access, examine and inspect any site where any phase of the WEX program is being conducted. The service provider will maintain its records and accounts in such a way as to facilitate the audit. Records must be maintained for three (3) years after the conclusion of the WEX.

V. REFERENCES:

- Workforce Development Council of Seattle-King Eligibility Policy and Documentation Requirements for WIOA Title I Programs (Adult, Dislocated Worker and Youth) WDC No. 02-2001, V.6, 1/25/2018
- WA Department of Labor and Industries Minimum Wage Act Applicability - Admin Policy No. ES.A.1
- Washington State Legislature - Paid Sick Leave - RCW 49.46.200, 49.46.210
- United States Congress - Workforce Innovation and Opportunity Act of 2014 - Sec. 129
(c)(2)(C); 134(c)(2)(A); 188(a)(2) and (3)

- Code of Federal Regulations - Title 29 - Labor; Chapter V - Wage and Hour Division - 29 CFR Chapter V

Supersedes:
- v.1 - 5/24/2018