

WORK EXPERIENCE (WEX) POLICY

Workforce Innovation and Opportunity Act Policies and Procedures

EFFECTIVE DATE: February 2, 2024

POLICY #: P210 v.3

I. PURPOSE:

The purpose of this policy is to provide guidance to the Workforce Development Council of Seattle-King County system partners and establish the WDC's standards regarding the development and implementation of Transitional Jobs and Work Experience activities under the WIOA Title I Adult, Dislocated Worker and Youth programs. This policy is established in accordance with the Workforce Innovation and Opportunity Act (WIOA), the Workforce Development Council of Seattle-King County (WDC) and other applicable State and Federal laws, rules and regulations.

II. BACKGROUND:

WIOA provides for a customer-centered, job-driven workforce system that is accessible to all job seekers. The Adult, Dislocated Worker (DW), and Youth programs provide career and training services through the WorkSource system, as a part of the nation's American Job Center network.

WIOA funding allows the delivery of services that prepare eligible individuals for education and employment opportunities, attainment of education and/or skills training credentials, and attainment of employment with career opportunities. To accomplish this, eligible participants must be assessed to determine skills, interests, needs, and personal goals in order to create an Individual Employment Plan (IEP) for adult and dislocated workers and an Individual Service Strategy (ISS) for youth.

Work experience and transitional jobs are work-based learning activities designed to provide individuals with the work readiness skills or specific job skills necessary to attain or retain employment and enhance employability.

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).

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 may 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 participant. 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. **Duration:** Each Work Experience or Transitional Job placement shall be limited to no more than 1,000 hours. The number of hours may fluctuate based upon funding availability.

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. **Support Services:** In accordance with the WDC Supportive Services policy, funding may be provided as needed to allow the individual to participate in the work experience.

G. **Funding Limits:** Work Experiences are subject to the maximum dollar limit of \$30,000

H. **Exceptions to Policy:**

If the service provider anticipates any exception to policy, they may use the Exception Request

form to describe the exception and submit to the WDC for review. WDC will grant exceptions if the exception would benefit the participant in meeting career goals.

I. 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.

J. Dislocated Worker Grant (DWG) or other Qualifying Event or Disaster Relief

Work Based Learning opportunities are available to eligible WIOA Adult, Dislocated Worker, Youth under special circumstances, such as a qualifying event or disaster. In the case of a qualifying event or disaster, federal or state entities may authorize funding for Work Based Learning as a means of re-employing affected workers and getting them back to work, retrained in a new occupation, and/or to aid in the recovery process. Work Based Learning designated under a specialized category will operate in accordance with this policy and will have a specific addendum to describe unique flexibilities and exceptions to broader policy and be in effect the entirety of the agreement or until the WDC determines

an earlier date. Documentation of Work Based Learning activities under this specialized category must be identified in ETO utilizing the activities associated with the project or funding.

K. Innovation:

In order to increase Work Based Learning participation, philanthropic funds, short-term specialized grants and other local flexible funds will be used to promote innovative approaches to test new and promising practices and require additional flexibilities to the WIOA policy. In these cases, the WDC will utilize guidance from the funding source to establish standards and practice to accomplish the goals of the grant.

L. PROWD Grant

Similar to Dislocated Worker Grant (DWG) or other Qualifying Event or Disaster Relief, Work Based Learning designated under a specialized grant will operate in accordance with this policy and will have a specific addendum to describe unique flexibilities and exceptions to broader policy and be in effect the entirety of the agreement or until the WDC determines an earlier date. Documentation of Work Based Learning activities under a specialized category must be identified in ETO or appropriate database utilizing the activities associated with the project or funding.

M. Transitional Jobs

Transitional jobs, like work experience are time-limited, wage-paid work experiences that are subsidized up to 100 percent. Like work experience, transitional jobs can be in the public, private, or non-profit sectors. Transitional jobs are only an alternative for standard work experience when addressing special populations including individuals with barriers to employment who are “chronically unemployed” or who have an “inconsistent work history”. Transitional jobs provide individuals with work experience and an opportunity to develop important workplace skills, including “soft skills” within the context of an employee-employer relationship. In addition, transitional jobs are required to be combined with comprehensive career services and supportive services. Transitional Jobs duration may be up to 1,000 hours depending on funding availability.

Transitional jobs are specifically intended for persons who meet the following definitions:

Definitions:

Transitional Job: A time limited work experience that is wage-paid and subsidized, and is in the public, private or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the WDC. 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.

Chronically Unemployed will be defined as the inability to obtain employment due to factors including lack of work history, education, extreme poverty, long term unemployment, homelessness, family instability, substance abuse, mental illness, language barriers, or criminal history.

Inconsistent Work History will be defined as the inability to sustain employment due to factors including lack of work history, education, extreme poverty, long term unemployment, homelessness, family instability, substance abuse, mental illness, language barriers, or criminal history.

Potential target groups for transitional jobs may include: Long-term unemployed; individuals impacted by the criminal legal system, Individuals who are currently receiving or have exhausted Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance Program (SNAP) benefits, Individuals with disabilities; and Other individuals with barriers to employment, per 29 USC § 3102 (24).

Although there is no assumption that the individual will be retained in the transitional job after the work experience is over, retention is the preferred outcome.

Per 20 CFR § 680.195, WDC may use up to 10 percent of combined Adult and DW funds to provide transitional jobs to individuals. The employer reimbursement rate for transitional jobs is determined by the WDC and may be up to 100 percent, depending on funding availability. Transitional jobs funds cannot be used for case management, employer outreach and engagement, and infrastructure improvements related to transitional jobs.

Other Required Services: Transitional jobs must be delivered to participants in combination with at least one (1) career service and one (1) supportive service. Additional career, supportive, and follow-up services may be provided if needed.

Documentation Requirements

- In partnership with the WDC Business Services Team, a list of employers that can host transitional jobs will be utilized to facilitate placement.
- Transitional Job contracts/agreements
- Documentation of chronically unemployed and/or inconsistent work history status for transitional job participants.

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)
- United States Congress Fair Labor Standards Act of 1938, as amended 29 U.S.C. 201, et seu.
- Code of Federal Regulations Workforce Innovation and Opportunity Act - Final Rules 20 CFR 680.180; 680.830; 680.840; 681.600; 683.270 and 280
- Code of Federal Regulations - Title 29 - Labor; Chapter V - Wage and Hour Division - 29 CFR Chapter V

Supersedes:

- v.2 – 03/25/21
- v.1 - 05/24/18