

# ***Workforce Innovation and Opportunity Act***

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Nebraska Department of Labor  
Office of Employment & Training

## **Preliminary Policy on Work Experiences for Youth, Adults, and Dislocated Workers**

### **Reference:**

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 107, 122, 123, 129, 134, 181, 194; Notice of Proposed Rulemaking (NPRM) §§ 680.170, 681.400, 681.600, 681.610; TEGL 23-14; Neb. Rev. Stat. § 48-1203.

### **Background:**

WIOA acknowledges the critical role work experiences and internships play in helping individuals obtain the skills they need to succeed in the workplace. Internships and work experiences provide a helpful means of an individual to gain experience that leads to unsubsidized employment.

Work experiences help youth understand proper workplace behavior and what is necessary in order to attain and retain employment. Work experience can serve as a stepping stone to unsubsidized employment and is an important step in the process of developing a career pathway for youth. Research shows work experience is correlated with higher high school graduation rates and success in the labor market. This is particularly important for youth with disabilities.<sup>1</sup>

This policy explains the requirements of the Youth, Adult and Dislocated Worker programs to provide work experiences for eligible individuals. Additionally, it provides information about the qualification of providers and describes some of the restrictions on work experiences.

### **Action:**

This policy becomes effective immediately.

### **Policy:**

#### **Adult and Dislocated Worker Work Experiences**

For the purposes of internships and work experiences for adults and dislocated workers under WIOA section 134(c)(2)(A)(xii)(VII), an internship or work experience is a planned, structured, time-limited learning experience that takes place in a workplace.<sup>2</sup> Work experiences are not training services. Work experience may be paid or unpaid, as appropriate. An internship or work experience may be arranged within the private for profit sector, the non-profit sector, or the public sector.

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<sup>1</sup> 20 CFR § 681.590 section-by-section discussion in NPRM

<sup>2</sup> 20 CFR § 680.170

An internship or work experience is classified as an individualized career service and must be linked to careers.<sup>3</sup> Because it is a career service, there are no eligibility requirements for adults to participate in work experiences beyond the initial assessment of their employment needs. However, priority must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. The local board and the Governor will direct the one-stop operators in the local area with regard to making determinations related to such priority.<sup>4</sup>

Unlike the youth program, there are no spending restrictions or requirements for work experiences for adult and dislocated workers.

### **Provider Eligibility for Adult and Dislocated Worker Work Experiences**

Providers of paid and unpaid work experience opportunities for adults and dislocated workers are *not* subject to the normal requirements of eligible providers of training services under WIOA section 122(a) through (f) regarding the eligibility criteria established by the Governor and local areas, the application and renewal procedures, and enforcement provisions.<sup>5</sup>

The Governor may establish performance criteria for providers of work experience opportunities. Providers that meet the criteria are considered eligible providers of services. A one-stop operator in a local area must collect such performance information from the providers to determine which providers are meeting the criteria. The one-stop operator must then disseminate performance information through the one-stop delivery system, identifying providers that meet the criteria. Providers determined to meet the criteria shall be considered eligible providers of work experience opportunities.<sup>6</sup>

### **Youth Work Experience Opportunities**

Pursuant to WIOA section 129(c)(2)(C), local areas are required to offer youth programs that involve paid and unpaid work experiences that have as a component academic and occupational education. Work experiences are a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience 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. Work experiences provide the youth participant with opportunities for career exploration and skill development.<sup>7</sup>

These experiences may include:

- Summer employment opportunities and other employment opportunities available throughout the school year;
- Pre-apprenticeship programs;
- Internships and job shadowing; and
- On-the-job training opportunities as defined in WIOA Section 3(44) and 20 CFR § 680.700.<sup>8</sup>

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<sup>3</sup> WIOA Section 134©(2)(A)(xii)(VII)

<sup>4</sup> WIOA section 134(c)(3)(E)

<sup>5</sup> WIOA section 122(h)(1).

<sup>6</sup> WIOA section 122(h)(2).

<sup>7</sup> 20 CFR § 681.600(a)

<sup>8</sup> WIOA section 129(c)(2)(C) and 20 CFR § 681.600

### **Youth Work Experience Priority – 20% Spending Requirement**

Local youth programs must expend not less than 20 percent of the funds allocated to them to provide in-school youth and out-of-school youth with paid and unpaid work experiences.<sup>9</sup>

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. 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.<sup>10</sup> The 20 percent spending requirement is calculated AFTER administrative costs have been subtracted from the total amount of youth funds.<sup>11</sup>

### **Provider Eligibility for Youth Work Experiences**

The local board must identify eligible providers of youth work experiences by awarding grants or contracts on a competitive basis based on the recommendations of the youth standing committee, if it chooses to establish the standing committee and assign it that function.<sup>12</sup> Local areas must include the criteria used to identify youth providers in the State Plan taking into consideration the ability of the provider to meet the performance accountability measures based on primary indicators of performance for youth programs.<sup>13</sup>

Where the local board determines there is an insufficient number of eligible providers of youth services in the local area, such as a rural area, the local board may award grants or contracts on a sole source basis.<sup>14</sup>

### **Wages**

Individuals participating in a work experience opportunity must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. The rates may not be lower than the higher of the federal or state minimum wage.<sup>15</sup> Currently, the minimum wage is \$8.00 per hour in Nebraska until January 1, 2016.<sup>16</sup>

### **General Restrictions and Guidelines**

Labor standards apply in any work experience setting where an employee/employer relationship exists, as defined by the Fair Labor Standards Act.<sup>17</sup>

Each program under WOIA shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities.<sup>18</sup>

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<sup>9</sup> 20 CFR § 681.590 and WIOA section 129(c)(4)

<sup>10</sup> 20 CFR § 681.610

<sup>11</sup> TEGL 23-14

<sup>12</sup> WIOA Section 107(d)(10)(B) and 20 § CFR 681.400

<sup>13</sup> WIOA Section 123(a) and 20 CFR § 681.400(a)(2)

<sup>14</sup> WIOA Section 123(b) and 20 CFR § 681.400(a)(3)

<sup>15</sup> WIOA section 181(a)(1)

<sup>16</sup> Neb. Rev. Stat. § 48-1203.

<sup>17</sup> 20 CFR § 681.600(a)

<sup>18</sup> WIOA section 194(1)

**Disclaimer:**

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.