



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF SOCIAL SERVICES
WORKFORCE DEVELOPMENT BOARD

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POLICY NO: 11-19
TO: Service Providers
FROM: Department of Social Services
EFFECTIVE: January 01, 2020
SUBJECT: Workforce Innovation and Opportunity Act (WIOA) Work Experience (WEX) Policy and Procedures

REFERENCES:

- WIOA Sections 129(c)(2);134(c)(3);188(a)
- Department of Labor, Training and Employment Guidance Letter (TEGL) 21-16, WIOA Youth Formula Program Guidance; and 19-16, WIOA Adult, Dislocated Worker and Wagner-Peyser Employment Service Guidance
- Employment Development Department, Workforce Services Directive (WSD) 17-07, WIOA Youth Program Requirements

PURPOSE:

For the purpose of this policy, Service Provider, is the recipient of WIOA funds from the San Luis Obispo Workforce Development Board (SLOWDB).

The purpose of this policy is to provide direction and guidance to service providers in the administration of WEX opportunities for WIOA Adult, Dislocated Worker and Youth participants.

POLICY:

A. Overview

WEXs are offered 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.

A WEX must be based on the identified needs of the individual participant, must provide a planned and structured learning experience that will contribute to the achievement of

the participant's career and employment goals, and should be directly related to local in-demand industry sectors.

Work experience for WIOA Adults and Dislocated Workers is an individualized career service within Career Services and is defined as a planned structured learning experience that takes place in the workplace for a limited period of time.

Work experience for WIOA Youth is similarly defined with the additional requirement that a paid and unpaid work experience must include academic and occupational education.

WEXs are a contractual exchange between the Service Provider, WEX employer, and WEX participant. A WEX is not designed to replace an existing employee or position. A WEX may be in the private for-profit sector, the non-profit sector or the public sector. A WEX may be paid or unpaid. When a WEX is paid, the wages are paid directly to the WEX participant and not the WEX employer. WEX employers are not monetarily compensated. Labor standards apply in any WEX, paid or unpaid, where an employee/employer relationship exists, as defined by the Fair Labor Standards Act.

WEX employers are expected to provide a participant with the employability skills and knowledge of employer expectations that lead to unsubsidized employment. Each measurable skill to be learned must be listed in the WEX agreement.

WIOA participants may enter into more than one WEX prior to exit from services. 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. However, participants cannot exceed the maximum hours stated in Item D and maximum funding stated in Item E allowed for each participant.

Service Providers should review and revise, if necessary, their internal policies and procedures in order to meet the expectations of this policy.

This policy is based on SLOWDB's interpretation of WIOA law, regulations and policies and federal, state and local laws, regulations and policies. This policy will be reviewed and updated based on any additional federal or state guidance.

B. Participant Eligibility

All WEX participants must meet program eligibility requirements, be enrolled into the respective WIOA program, and have received an assessment resulting in the development of an Individual Employability Plan (IEP) for Adult and Dislocated Worker participants and an Individual Service Strategy (ISS) for Youth participants. The IEP and ISS must document the participant's need for and benefit from a WEX.

C. Employer Eligibility

The WEX Employer:

- Must be registered with the Internal Revenue Service (IRS) and have an account with the California State Employment Security Department for Unemployment Insurance and carry Workman's Compensation Insurance; [20 CFR 683.280]
- Must be licensed to operate in the State of California and provide their Federal Employer Identification Number (FEIN);
- Must have safe and healthy working conditions with no previously reported health and safety violations that have been reported but have not been corrected;
- Does 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 Section 188(a)(2)]
- Shall 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]
- Shall not allow the WEX activity to result in the infringement of promotional opportunities of their current employees; [20 CFR 683.270]
- Shall 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. [WIOA Section 188(a)(3)]

D. WEX Timeframe and Allotted Hours

When determining the duration of a WEX activity, the following must be provided to justify the duration of the WEX:

- Objectives of the WEX;
- Length of time necessary for the participant to learn the skills identified in the training plan;
- The employer having sufficient quantity of meaningful work activities for the participant; and
- Service provider budget.

Each WIOA youth participant is allowed up to 480 WEX hours per year.

E. WEX Compensation

Participants enrolled in a paid WEX shall be compensated an hourly wage at not less than the State or local minimum wage, whichever is higher. Participants shall be paid only for the hours worked during the WEX as documented on the participant's WEX time sheet.

WEX participants shall not be paid for:

- Sick leave;

- Vacation breaks;
- Lunch breaks; or
- A holiday recognized by the service provider as a “paid holiday”.

WEX participants are not authorized to work overtime.

When determining the hourly wage for a WEX participant, the following considerations must be addressed. This list is not intended to be all inclusive:

- 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.

Each WIOA participant is allowed up to \$7,200 WEX funding per year.

PROCEDURES:

A. 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 WEX employer, WEX participant and WIOA service provider;
- WEX start and end dates;
- Training job title and responsibilities;
- Required tools, equipment or uniforms, if applicable;
- Supportive services that are needed by the participant, if applicable;
- Detailed computation of the anticipated wages to be earned;
- Concurrence between employer and union when WEX is under a collective bargaining agreement, if applicable;
- A training plan that is incorporated by reference in the body of the contract; and
- Signature and dates of all parties to the agreement.

A single WEX Agreement may be written for group training with a single training site provided the working conditions, job description, training plan, wage rates and terms of the WEX Agreement are the same for all participants covered by the agreement.

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.

B. 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 WEX employer/trainer and WEX participant to review the participant's progress in meeting training plan objectives. Any deviations from the WEX Agreement should be dealt with promptly.

WEX documentation, including but not limited to, the 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.

C. Recordkeeping and Documentation

All documentation relating to the selection of a candidate for a WEX opportunity and the development and maintenance of the participant's WEX Training Plan shall be included in the participant's hard and/or electronic case file. Participant files must be available to federal, state and local monitors for compliance review. The following WEX documents must be maintained in the participant file:

- Comprehensive assessment identifying a WEX as an appropriate service;
- Completed IEP/ISS documenting the WEX services and outcomes;
- WEX Agreement Packet (completed prior to the start of the WEX);
 - Training Plan (completed prior to the start of the WEX);
 - Pre- and Post-Assessments;
 - Time cards/sheets; and
 - Case notes documenting WEX progress and outcomes.

All WEX activities must be recorded in the CalJOBS system.

ACTION:

All DSS WDB staff and service providers shall comply with this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

INQUIRIES:

Any questions regarding this policy may be directed to the DSS WIOA Program Manager at 805-781-1838.

Workforce Development Board (WDB) Approval Required? Yes No

Initial approval date: 10/09/2019

WDB revision approval date: _____