



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)
- 20 CFR 683.270; 683.280
- 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 worksite 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 worksites 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 worksites 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 more than one WEX prior to exit from services, as determined appropriate and based on individual need. 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. Limitations on maximum hours and/or maximum funding may apply.

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 of Record and Worksite Eligibility

The Employer of Record is responsible for providing direct monetary payments to participants or work with a third-party agency to provide hourly wages and/or serve as the employer of record. The employer of record must adhere to all child labor laws regarding work permits, hours of employment, timecards, working conditions, etc. If the Service Provider contracts with a third-party, they remain responsible for ensuring all health and safety requirements are met and wages are paid in a timely manner. Further, it is the Service Provider's responsibility to ensure compliance with all Equal Opportunity laws/regulations and Federal and State Labor Laws with the worksite employer.

The Service Provider will identify suitable WEX Worksites that meet the needs of the participant. Prior to entering into a Work Experience Agreement, the Service Provider shall ensure the Worksite is able to comply with the following:

- 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.
- 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.
- Shall not allow the WEX activity to result in the infringement of promotional opportunities of their current employees.
- 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.

The Service Provider will provide a Worksite orientation to ensure the worksite supervisor is aware of all WIOA rules, regulations, and requirements during the WEX. This will include a review of the WEX Agreement, Worker's Compensation process, participant and employer rights, restrictions regarding overtime, Department of Industrial Relations workplace posting requirements, reasonable accommodations for individuals with disabilities as required by the Americans with Disabilities Act (ADA) and compliance with Federal/State/Child labor laws regarding working hours and conditions.

D. WEX Timeframe and Allotted Hours

When determining the duration of a WEX activity, the following must be considered:

- Objectives of the WEX.
- Length of time necessary for the participant to learn the skills identified in the training plan.
- The worksite having enough meaningful work activities for the participant; and

- Service provider budget.

To ensure equitable access to work experience opportunities, particularly in the Youth Program, the WDB recommends the following average number of hours per participant for WEX:

In-School Youth – 200 hours during the school year and 180 hours for summer

Out-of-School Youth – 480 hours year-round

Adult/DW – 480 hours, when WEX is an allowable program component.

As there may be extenuating circumstances or situations necessitating additional hours and/or placement at additional sites, the WDB will allow the Service Provider to exceed the recommended hours with prior approval, documentation, and sufficient budget resources. It shall be the responsibility of the Service Provider to ensure hours identified on the WEX Agreement are not exceeded prior to requesting an extension to time and/or hours for the initial WEX.

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. A participant may be paid commensurate with the starting wage of their WEX placement position, if the Worksite is able to provide documentation identifying the wage range/starting salary for the position. Participants shall be paid only for the hours worked during the WEX as documented on the participant's WEX time sheet. Participants will not be compensated for the following:

- Sick leave*
- Vacation breaks;
- Lunch breaks; or
- Holiday pay

* The Employer of Record must comply with California's Paid Sick Leave Law entitling individuals to take paid sick leave beginning on the 90th day of employment. The Service Provider shall ensure any third-party payroll services accurately accrue the sick leave hours for individuals that qualify.

WEX participants are not authorized to work overtime. It is the Service Provider responsibility to ensure the Worksite Employer does not allow for overtime.

PROCEDURES:

A. WEX Agreement

The Service Provider must complete a Work Experience Agreement with the Worksite Employer and Participant. The WEX Agreement must contain the following:

- Identification of all parties including Worksite Employer Name, supervisor(s) name, job title and contact information
- Requirements of the Worksite Employer, Participant and Service Provider;
- WEX start and end dates;
- Training job title and responsibilities;
- Required tools, equipment or uniforms, if applicable;
- Hourly wage
- Concurrence between employer and union when WEX is under a collective bargaining agreement, if applicable;
- A training plan that is included in the Agreement or 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 must include on-site visits and phone/email communication with the Worksite Employer and WEX participant to review the participant's progress in meeting training plan objectives, review of timecards to ensure time is calculated correctly and review of evaluations. Evaluation by the worksite supervisor of participant progress must be documented with each payroll cycle. This evaluation of progress may include documentation on timesheets or documented separately. Any concerns with participant progress are to be addressed immediately with the worksite supervisor and participant. 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:

- WEX Agreement (completed and signed by all parties prior to the start of the WEX);
- Timecards/timesheets
- Evaluation of participant progress by worksite supervisor
- Case notes documenting WEX progress and outcomes.

All WEX activities must be recorded in the CalJOBS system.

EXCEPTION TO POLICY:

There may be emergency or extenuating circumstances that would warrant an exception to this policy. Any authorizations approving an extension to time and/or hours which fall outside parameters as listed in this policy must be approved, in writing, by the WIOA Program Manager or WDB Director. Exceptions to this policy may also be provided via WDB management memo documenting the term of the exception, cause for and parameters of exceptions to the WEX processes, documentation and/or verification.

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 X No

Initial approval date: 10/09/2019

WDB revision approval date: _____