

## **Work Experience Policies Adults and Dislocated Workers**

### **Work Experience Activity Overview**

Work Experience is a short-term or part-time planned structured intensive service that takes place in a public, private for-profit or non-profit workplace for a limited period of time. Paid Work Experience may be provided, where determined as appropriate through assessment and the Individual Service Strategy (or Individual Employment Plan) development process, for eligible Adults for whom one or more of the following conditions exist:

1. the individual has little or no previous work history;
2. the individual has had no work history within the past five years; or,
3. the individual has attained academic credentials, but their lack of experience in the field impedes their employment or an internship is required; and the individual is otherwise eligible for WIA intensive services and is in need of this service to assist them in preparing for participation in another appropriate training service or activity or to successfully obtain and retain unsubsidized employment.

This activity is intended to provide training and skill development in the skills necessary to successfully obtain and retain employment, including punctuality, attendance, communication, team work, dependability, and task completion, and is not intended to provide training in technical or job specific skills. Paid work experience may be provided concurrently with other appropriate core, intensive, or training activities and will not exceed 480 hours. Should participants need additional work experience beyond the 480 hour limit; the Career Advisor should document the need and submit to the Workforce Development Director for approval. Paid work experience requires the development of a training plan or outline which will be included in the worksite agreement between the service provider (contractor), the Northwest Georgia Regional Commission, and the work experience site. Participants must be paid on a weekly basis based upon time sheets. Evaluations of participants' progress are required no less frequently than twice per month throughout the duration of the activity. There is no requirement or expectation that the individual will be retained by the worksite following the successful completion of the paid work experience activity.

Paid work experience (as defined above and with all participants enrolled in this intensive service) will be paid an hourly wage equivalent to the federal minimum wage, and they will be provided with Federal Insurance Contributions Act (FICA) and Worker's Compensation coverage while participating in this activity with Northwest Georgia Regional Commission service as the employer of record (or another agency through a RFP, or a One-Stop partner providing the services as appropriate). Work experience may include, but not limited to:

- Instruction in employability skills or generic workplace skills such as those identified by the Secretary's Commission on Achieving Necessary Skills (SCANS);
- Exposure to various aspects of an industry;
- Progressively more complex tasks;
- Internship and job shadowing;
- The integration of basic academic skills into work activities;
- Supported work, work adjustment, and other transition activities;
- Entrepreneurship,

- Service learning;
- Paid and unpaid community service; and
- Other elements designed to achieve the goals of work experiences.

Work experience may be combined with classroom instruction relating to the work experience position, occupation, industry or basic skills and abilities to successfully compete in the local labor market. Work experience is an intermediate employment step toward the long-term goal of moving along a career path and may be conducted in the private for-profit, private non-profit and public sectors. A likely candidate for work experience is a participant who is appropriate for long term employment in a particular industry or occupation, but does not have all the skills or the experience to qualify for entry-level employment in the field. On-the-Job training and customized training contracts for dislocated worker participants assigned to the private for-profit sector is the preferred service strategy.

### **Employer and Employee Relationship**

It is expected that work experience will be paid in most cases unless an unpaid internship/work experience is in the best interest of the participant. Only those being paid will be enrolled in this activity for ARRA purposes and the federal Fair Labor Standards Act (FLSA) will apply in any situation where an employer/employee relationship exists. WIA participants are subject to the requirements of the FLSA to the extent that the activities performed in the work experience constitute employment. A determination regarding whether work experience is a training situation or an employment situation will be made through the following process:

According to the Wage and Hour Division of the U.S. Department of Labor, Employment Standards Administration, if all the following six (6) items exist, the work experience can be considered a training situation. A certification by the work site and the service provider will be necessary prior to the approval of ARRA worksite agreement. This certification will assume that the conditions of 1-6 that follows are met. The WIA participant is not an employee of the employer site if:

1. the training, even though it includes actual operation of the facilities of the employer, is essentially a training experience similar to a vocational school;
2. the participant is primarily the beneficiary of the experience;
3. regular employees are not displaced and the experience is closely supervised/observed;
4. the "employer" that hosts the experience derives no immediate or significant advantage (and may experience an actual downside);
5. the participant is not necessarily entitled to a job at the conclusion of the experience; and,
6. there is a mutual understanding between the participant and the host agency that the participant is not entitled to wages for this time because the activity is essentially a training experience.

If any of the above 6 conditions are **not** met, then the WIA participant must be considered an employee. If the worksite is relying on the participant to perform real work, i.e., to be productive, then the situation should be recognized as an employer-employee relationship. In this situation, the site employer is the employer of record. Participants must receive no less than the applicable state or federal minimum wages, related benefits are required and payroll taxes should be deducted. The employer of record will be responsible for paying all taxes and providing similar benefits as are available to other employees.

The WIA administrative entity has the option of being the employer of record for the WIA participant. The administrative entity as employer of record is responsible for paying the participant and negotiating with the host site the activities that will be performed by the participant. The work experience may occur at the administrative entity, service provider or employer location or the participant may be referred to a host site to receive the work experience. The host site is the location where work experience tasks will occur.

Needs-related payments are prohibited for WIA adult and dislocated worker participants who are in school and required to complete an internship that is an employment situation, if wages are being paid for the internship activity.

### **Unpaid Work Experience**

Unpaid work experience is an activity exposing participants to the working environment, and an individual does not expect payment for tasks performed. The use of unpaid work experience should be limited. Unpaid work experience may include job shadowing. Job shadowing is a short-term activity which introduces a participant to the workplace and provides exposure to occupational areas of interest. A participant experiences the work environment to increase career awareness, observe models of behavior on the job through examples, and receives help in making career decisions. Job shadowing can reinforce the link between classroom learning and work requirements. Job shadowing is limited and allows participants to observe only. WIA adult and dislocated worker participants who are in school and required to complete an unpaid internship as part of a training program may receive needs-related payments in accordance with WIA requirements governing needs-related payments.

### **Stand-alone Activities vs. Combination of Services**

Unpaid work experiences must be offered in combination with other services. The primary service strategy is required unpaid internships that are offered in conjunction with a training activity such as ITA or class size training.

### **Other Policy Considerations:**

- Work experiences should be paid unless specifically prohibited for certain internships. Paid work experience shall not result in the loss of public assistance benefits.
- **The goal of the work experience** - Work experience designed to aid participants in learning good work habits should be assigned more hours than work experience which is designed for career exploration.
- **Duration of work experience** - The duration of paid experience is stated in the overview. When assigned hours, the needs of the participant and the job duties to be performed should be considered.
- **Past work experience** - More hours are justified for a participant who has not worked before or who has a poor work history, and fewer hours should be assigned to participants who possess good work histories.
- **Participant barriers** - Participants with multiple barriers may benefit from more hours and those with fewer barriers may require fewer hours.
- **The complexity of the job tasks** - Jobs with tasks of higher complexity will need more hours assigned, and jobs of lesser complexity require fewer hours.

Northwest Georgia Regional Commission will have a written agreement to ensure compliance with WIA and applicable regulations. The agreement is a written document that details terms

and conditions of paid and unpaid work experience and the expectations of the parties to the agreement. The written agreement is between the participant, the site employer or host site, and Northwest Georgia Regional Commission.

The worksite agreement will include at a minimum: the duration, remuneration, tasks, duties, supervision, health and safety standards, and other conditions of work experience such as consequences of not adhering to the agreement and termination clause. The worksite, the participant, and Northwest Georgia Regional Commission should have a copy of the agreement. The agreement will be available for audit and monitoring purposes.

### **Health and Safety Standards**

The worksite agreement will include an assurance that the health and safety standards established under Federal and State law will be followed. Health and safety standards otherwise applicable to working conditions of employees are equally applicable to working conditions of participants in programs and activities under Title I of WIA.

The employer of record will assure that Worker's Compensation is secured for those in training.

### **Documentation to be Maintained**

Documentation of work experience activities must be maintained in the WIA participant's file.

At a minimum, the following items will be kept on file:

- an objective assessment and Individual Employment Plan (IEP) indicating a need for work experience;
- justification for incentive and description of type of payment method and amount, if applicable;
- an analysis of how the cost and duration of the work experience were determined;
- a copy of the agreement between the participant, the worksite and the Northwest Georgia Regional Commission, including any attachments to the agreement, such as a training plan; and
- time sheets, attendance sheets and performance records, as appropriate.

### **Appropriate Employers**

Worksites where employers that are committed to helping participants receive the experience and training that is required for employment beyond the work experience period and are willing to work closely with program staff are appropriate. Employers should be flexible in working with participants who have issues that may be barriers to employment. The worksite agreements will ensure that the work experience arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements.

Work experience, including an internship, in the private for-profit sector must be structured so as not to appear to be subsidizing private for-profit operations. The work of the participant should not materially impact the profit margin of a private for-profit company.

A selection criteria can be established to ensure that one employer is not favored at the expense of another employer. Although not required, the selection criteria could include using a request for proposal or a modified bid process which would also make the community at large aware of opportunities.

**Monitoring**

The WIB is responsible for ensuring oversight of the program. Northwest Georgia Regional Commission will monitor the participant and the worksite to ensure goals are being met and adherence to this guidance and WIA law and regulations.