



IMPERIAL COUNTY WORKFORCE DEVELOPMENT BOARD

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POLICY	ORIGINAL DATE	LAST REVISION
WIOA Adult and Dislocated Worker- Work Experience and Internship Policy	FISCAL YEAR 2020-2021	December 14, 2022

POLICY OVERVIEW:

The purpose of this policy is to provide guidance and criteria to be used by the Imperial County Workforce Development Board (ICWDB), the Imperial County Workforce and Economic Development Office (ICWED), America's Job Center of California (AJCC) staff, and Workforce Innovation and Opportunity Act (WIOA) Title I funded service providers, in the provision of work experience activities for eligible WIOA Adult and Dislocated Workers served with WIOA Title I funds.

REFERENCES:

- DOL TEGL 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules
- WIOA Section 134(c)(2)(A)(xii)(VII)
- 20 CFR 680.180
- 20 CFR 683.200(g)

BACKGROUND:

WIOA acknowledges the critical role work experiences and internships play in helping individuals obtain the skills they need to succeed in the workplace. Work experience is applicable to all WIOA core programs because it is an invaluable tool to engage businesses and to support job seekers in overcoming barriers to employment. Work experiences are designed to help individuals to establish work history, gain experience, demonstrate success in the workplace, and develop the skills that lead to unsubsidized employment.

POLICY:

WIOA section 134(c)(2)(A)(xii)(VII) defines an internship or work experience is a planned, structured, time-limited learning experience that takes place in a workplace. WIOA does not discern between "work experience" or "internship." The definition of both is the same in WIOA for adults and dislocated workers. Work experiences are **not** training services. Work experience for WIOA Adult and Dislocated Workers is an individualized career service within Career Services. A work experience must be based on the identified needs of the WIOA 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. **Note: A participants career and employment goals can be to have continuous employment and/or a livable wage.** Work experience may be arranged within the private for profit sector, the non-profit sector, or the public sector. Job activities must be consistent with the Fair Labor Standards Act and other applicable laws. Work Experience is not designed to replace an existing employee or position. Work experience wages are paid directly to the work experience participant and not the employer. Employers are not monetarily

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compensated. Labor standards apply in any work experience where an employee/employer relationship exists, as defined by the Fair Labor Standards Act.

Participant Eligibility

All work experience participants must meet WIOA program eligibility requirements, be enrolled into the respective WIOA program, and have received an assessment resulting in the development of an Individual Employment Plan (IEP) that documents the participant's need for and benefit from work experience. A Work Experience is not intended for long-term skill building within the occupation, but rather as an entry step for the participant to explore the occupation, develop their skills, gain work history and references.

Per WIOA, if America Job Center of California (AJCC) staff determine that individualized career services, which include internship and work experience that are linked to careers, are appropriate for an individual to obtain or retain employment, these services **must** be made available to the individual. AJCC staff must document the participant's need for an internship/work experience and may use recent or previous assessments by partner programs to help determine if individualized career services would be appropriate. WIOA provides a focus on serving individuals with barriers to employment and seeks to ensure access to these populations.

Individuals that may be determined to have a need may include, but are not limited to, the following categories:

- Have little or no prior experience in the workplace;
- Have experienced difficulty in maintaining employment in the past due to barriers that can best be addressed and overcome through work experience enrollment;
- Is seeking long-term employment in a particular industry or occupation but does not have the requisite experience to qualify for entry-level employment in the field;
- A career seeker who has recently concluded or will soon conclude a training or educational program, including an Individual Training Account (ITA) or job specific skills training, in a particular industry but possesses a strong need for practical work experience to qualify for entry-level employment in the training or education related field (This can include an individual who possess a higher level of education but has difficulty obtaining employment due to lack of experience).

Individuals who have received funding through an ITA, or other WIOA funded training, are also eligible for work experience. Funding for training and work experiences are separate.

Compensation and Duration

Work experience occurs over a limited time period, which is not to exceed one (1) year. If a participant requires an extension in their work experience, it must be approved by the Program and Compliance Manager. A work experience can be part-time or full-time, with part-time participants not exceeding 700 hours (20-30 hours per week) and full-time participants not exceeding 1054 hours (32-40 hours per week). In determining the appropriate time for each work experience, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's IEP.

Participants enrolled in a paid work experience shall be compensated an hourly wage not less or more than the State or local minimum wage, whichever is higher. All wage information must be reported to ICWED. Working hours should follow all state and local laws. A participants cannot opt-out of a break,

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as it is a violation of State labor laws. Participants shall be paid only for the hours worked during the work experience. Hours worked and breaks **must** be recorded on the participant's time sheet. Work experience participants cannot be paid for lunch breaks, sick leave, vacation time, or a holiday recognized by the work site as a "paid holiday". Work experience participants are not authorized to work overtime.

Employer Eligibility

An employer can qualify for up to two (2) work experience participants, per work site, within a calendar year. ICWDB will determine an employer's eligibility for participating in the work experience program. An internship or work experience may be within the private for-profit sector, the non-profit sector, or the public sector. The employment must be entry-level and within an identified in-demand industry sector, as defined by the local area.

Because internships and work experiences must be planned, structured learning experiences, the entity hosting the work/intern experience must designate an appropriate manager(s) to provide supervision and feedback to the WIOA participant at regular intervals during the course of the program. Per WIOA regulations (20 CFR 683.200(g)), "no individual may be placed in an employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual." For the purpose of this policy, the term "immediate family" includes a spouse, child, son-in-law, daughter-in-law, parent, mother-in-law, father-in-law, sibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild. The work experience participant must be supervised by one of their assigned supervisors at all times during their working hours and **CANNOT** be left at the worksite by themselves. A manager cannot supervisor more than two (2) work experience participants at any given time.

The employer is under no obligation to offer regular employment to the participant subsequent to the conclusion of the work experience/internship program, although the work experience/internship is intended to provide employers with a pool of technically trained employees from which to fulfill future positions and reduce recruitment costs.

Labor standards apply in any work experience setting where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists. A business will **not** qualify for work experience if they participated in any past or current violations of local, state or federal law; unfair labor practices; and/or other unallowable conditions identified during the course of conducting the initial employer assessments and reviewing contract requirements, assurances, and certifications with the local WDB director or staff.

Participating employers must agree to cooperate with monitoring requirements as required by WIOA and comply with all applicable Federal, State, and local laws and regulations, including those dealing with employment, discrimination, and safety.

Worker Displacement Prohibition

Work experience and/or internships will **not** be made available to directly or indirectly aid in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.

WIOA prohibits the layoff of employees in order to replace them with WIOA participants and is against using WIOA participants to replace employees who have been terminated, with the intent of so

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replacing them. WIOA further prohibits infringement on the promotional opportunities of currently employed workers.

Employer Application Procedures

ICWDB only accepts applications from organizations who are conducting business in Imperial County. Business Services will conduct an evaluation of each employer in order to determine if they meet the work experience requirements. The following documents need to be submitted in order to be considered for work experience:

1. A completed and signed Work Experience Questionnaire
2. Current Business License
3. Any other documentation, as needed

Completed Applications will be reviewed within the 30 days of the received documents. Once an employer has been approved, the following must be submitted:

1. Work Experience Worksite Agreement. (To be signed by the Employer and the participant)
2. Occupational Skills Form
3. Time sheets submitted on a bi-weekly basis (to be signed by the participant, the employer and the AJCC site supervisor)

***Time sheets must be submitted in a timely manner in order to ensure on time payment to the participant**

Work Experience/Internship Agreement

Worksite agreements must be signed by the employer and the WIOA Participant. Work experience agreements must contain, at a minimum, the following information:

- Clear statement of purpose;
- A descriptive training plan;
- Job description, if applicable;
- Identification of all parties including the work experience participant;
- Requirements of the work experience employer and work experience participant;
- Work experience start and end dates;
- Training job title and responsibilities;
- Required work attire, if applicable;
- Supportive services that are needed by the participant, if applicable;
- Signatures and dates of all parties to the agreement.

Work experience agreements may be modified. In the event of a local, state or federal emergency declaration, a program participant's time commitment, stipend structure, and/or work experience terms may be modified at the discretion of the ICWED Director. All modifications must be in writing and signed by all parties prior to the effective date of the modification. Verbal modifications of work experience agreements are not valid.

Under emergency situations, a digital signature is considered a valid signature. The client's original/digital signature on their program application will be validated by the site supervisor and all additional documentation. The site supervisor will be required to initial all applicable forms confirming the individual's signature is valid.

Appeal Process

If an application is denied, the business will be notified in writing along with the reason(s) for denial and will be provided information with the appeal process. An appeal request must be submitted in writing to

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the ICWDB within 30 days of issuance of the denial. The appeal must include: a) name of the business(s) (b) business point of contact d) point of contact phone and email e) a statement of the desire to appeal f) reasons for the appeal, including documentation supporting the grounds for the appeal g) signature of the appropriate contact person. All appeals must be submitted to the following:

Imperial County Workforce and Economic Development Office
2799 S. 4th Street
El Centro, CA, 92243

Staff will then set up an informal meeting with the business as an attempt to identify a simple solution to resolve the dispute. A final decision will be made within 30 days following the meeting. The business will be notified of the final decision in writing.

Documentation to be Maintained

Documentation of work experience activities must be maintained in the WIOA 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 the work experience;
- A copy of the agreement between the participant, the worksite and the ICWED, including any attachments to the agreement, such as a training plan; and
- Time sheets, attendance sheets and performance records, as appropriate.

MONITORING:

ICWED and AJCC staff is responsible for ensuring regular and on-going monitoring and oversight of work experience activities. Monitoring will include on-site visits and phone/email communication with employer/trainer and participant to review the participant's progress in meeting training plan objectives. Any deviations from the work experience agreement should be dealt with promptly.

Work experience participant's training and payroll records may be reviewed by Federal, State, and ICWED fiscal and program monitors. These entities have the right to access, examine, and inspect any site where any phase of the work experience program is being conducted. Proper work experience documentation must be maintained in such a way to facilitate an audit. Work experience training and payroll records must be maintained for five (5) years after the participant's conclusion of the work experience.

ACTION:

Please bring this policy to the attention of ICWDB, AJCC system staff and appropriate WIOA funded service providers and sub-recipients. This policy is effective immediately. All submitted forms are live documents and subject to change according to local, State, and Federal needs. Once the forms and exhibits pertaining to this policy are approved by the ICWDB, they will not require board approval if other changes occur, unless the change affects protocols. Should you have any questions, please feel free to contact ICWDB staff at (442) 265-4974, (442) 265-4959, (442) 265- 4955 or the Program and Compliance Manager (442) 265-4963.

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