



**BUFFALO AND ERIE COUNTY
WORKFORCE INVESTMENT BOARD, INC.**

LOCAL POLICY BULLETIN
BECWIB BULLETIN # 6-19 DATE: January 14, 2019

TO: Lavon Stephens, Administrative Director, WDC, Inc.
FROM: Heather Gresham, Executive Director, WIB, Inc.
SUBJECT: **PAID WORK EXPERIENCE FOR WIOA ELIGIBLE ADULTS AND DISLOCATED WORKERS ENROLLED IN TRAINING.**
REFERENCES: Title 1 of the Workforce Innovation and Opportunity Act, Section 134 (c)(2)(A)(xii)(VII), and its Regulations at 20 CFR Subpart A, Section 680.180; TEGL No. 19-16 (March 1, 2017); 29 CFR 95.53 and Super-Circular 2 CFR 200.333.

EFFECTIVE DATE: Immediately

Effective immediately, and in accordance with the Workforce Innovation and Opportunity Act, our Local Workforce Development Area (LWDA) adopts the following policy concerning work experience for WIOA eligible Adults and Dislocated Workers enrolled in Training.

POLICY STATEMENT

The Workforce Innovative Opportunity Act (WIOA) offers internships and work experiences as an available individualized career service for Adults and Dislocated Workers. This local policy bulletin authorizes paid work experience for WIOA eligible Adults and Dislocated Workers enrolled in training provided through Individual Training Accounts (ITAs). This policy does not authorize funds for transitional jobs, which WIOA defines as a type of paid work experience.

This policy is based on funding availability and must be implemented in conjunction with BECWIB’s ITA, Priority of Service, and Supportive Services Policies.

Please share this information with appropriate staff.

:FN/bhs

c: Terry Chatfield, Demone Smith, Denise Raymond, Lavon Stephens, Mary Zerpa and WIB staff.

**PAID WORK EXPERIENCE
FOR
WIOA ELIGIBLE ADULTS AND DISLOCATED WORKERS**

BACKGROUND

Work experience is a career pathway activity that connects theoretical classroom learning to real world application. It provides a planned and structured learning experience that contributes to the achievement of the participant's employment goals through a measureable training component.

WIOA Regulations [20 CFR 680.180] define work experience as "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. WIOA does not distinguish between "work experience" and "internships." The definition of both is the same.

A work experience may be in the private for profit sector, the nonprofit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists.

WORK EXPERIENCE REQUIREMENTS

The paid work experience must be part of an ITA tied to the participant's occupational skills training curriculum. It must be related to a career pathway in a demand occupation, and help the participant gain the competencies and experience necessary to meet local employer demands.

Adults or DWs who are enrolled in ITAs funded through WIOA or other funding sources are eligible for paid work experience.

Development and Authorization

The paid work experience shall be developed by the ITA's Eligible Training Provider and BECWIB's fiscal agent, the WDC, or its designee. The WDC's Administrative Director must provide written authorization for the paid work experience prior to its commencement.

Duration:

A paid work experience is provided in the workplace for a limited period of time. The length of a paid work experience will be determined by the participant's ITA training curriculum, the work and supervision offered by the worksite employer, and funding available. The number of weeks in a paid work experience will be no less than 4 weeks and no more than 10 weeks. A written modification of this requirement may be authorized at the discretion of BECWIB's Executive Director on a case by case basis.

Funding

Funding for paid work experience is subject to funds allocated and received by BECWIB pursuant to its grant(s) under WIOA or other dedicated funding sources.

Compensation

Participants enrolled in paid work experience must be compensated at an hourly wage that is not less than the federal or New York State minimum wage, whichever is higher. Participants shall be paid only for the hours worked during the paid work experience as documented on the participant's paid work experience time sheet. Participants are not authorized to work overtime.

Participants will not be paid for:

- Sick leave
- Vacation breaks
- Lunch breaks, or
- Holidays recognized as "paid holidays"

EMPLOYER OF RECORD

A staffing organization procured in accordance BECWIB's Procurement Policy will be the employer of record for paid work experiences and shall enter into a duly executed contract with BECWIB, the WDC and the organization hosting the paid work experience (the "worksite organization").

The employer of record will be responsible for paying all state and federal withholding taxes, and providing the benefits that are available to other similarly staffed employees.

The employer of record must provide the trainee's weekly time sheets, authorized and signed by the worksite organization, to the WDC prior to receiving reimbursement for the trainee's paid work experience.

PARTICIPANT ELIGIBILITY

Participants who meet WIOA eligibility requirements as an Adult or Dislocated Worker (DW) are eligible for paid work experience; provided, however, that the paid work experience is a component of the participant's ITA training curriculum and such funding is available.

In addition, the participant must have received an assessment resulting in the development of an Individual Employment Plan that documents the participant's need for and benefit from occupational skills training.

ELIGIBILITY OF A WORK-SITE ORGANIZATION

The worksite organization must designate an appropriate manager or supervisor to provide supervision and feedback to the participant at regular intervals during the course of the program.

Health and safety standards otherwise applicable to working conditions of the worksite organization are equally applicable to working conditions of trainees in programs and activities under Title I of WIOA. This includes, where applicable, workers' compensation insurance.

Although the work experience is intended to provide employers with a pool of technically trained employees from which to fill future positions and reduce recruitment costs, the worksite organization is under no obligation to offer regular employment to the participant subsequent to the conclusion of the work experience.

Worksite organizations participating in the paid work experience must:

- Be located in New York State and hold valid business/occupational licenses
- Be registered with the Internal Revenue Service (IRS), have an account with the New York State Department of Labor, and carry Worker's Compensation Insurance, as appropriate (20 CFR 683.280);
- Be licensed to operate in New York State as verified by the New York State Department of State, Division of Corporations, and have an active business that has operated at its current location for at least 120 days;
- Provide its Federal Employer Identification Number (FEIN) to the WDC and the Employer of Record;
- Have safe and healthy working conditions with no previously reported health and safety violations that have been reported but not corrected;
- 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 work experience participant or as the result of having a paid work experience participant (20 CFR 683.270);
- Not infringe the promotional opportunities of their current employees due to the engagement of a participant in paid work experience;
- Not illegally discriminate in training or hiring practices because of race, color, sex, sexual orientation, national origin, religion, physical or mental disability, political beliefs or affiliations, or age (WIOA Sec 188(a)(2));
- 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 (20 CFR 188(a)(3)); and
- Have sufficient quantity of meaning work experience for the participant and able to provide the appropriate staff supervision and mentoring.

WORK EXPERIENCE AGREEMENT

The work experience will be guided by an agreement between BECWIB, the WDC, the worksite organization, and the employer of record. The agreement will specify the relationship and responsibilities of all parties, the work experience for the participant(s), include standard BECWIB contractual terms, as well as other provisions required by federal or state policies, regulations or laws. The agreement must be signed by all parties prior to the start of the paid work experience.

Any modifications to the agreement must be in writing and signed by all parties prior to the effective date of the modification. Verbal modifications are not valid.

The loss or disruption of funding will be cause for termination of the agreement.

MONITORING

The worksite organization must agree to regular and on-going monitoring and oversight of the paid work experience. Monitoring by the WDC may include on-site visits and phone/email communication with the worksite and participant to review the participant's progress in meeting training plan objectives. Any deviation from the paid work agreement should be dealt with promptly.

RECORD RETENTION

The WDC's oversight of 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 paid work experience program is being conducted. As a result, the Employer of Record will be required to maintain its WIOA work experience records and accounts in such a way as to facilitate such audit. Records must be maintained for a three (3) year Record Retention Period. The Record Retention Period begins on the date that final expenditure reports are submitted by NYSDOL to USDOL. Should any audit or litigation issues arise, the records must be retained for the full three (3) year Record Retention Period or until all issues are resolved, whichever is longer [29 CFR 95.53 and Super-Circular 2 CFR 200.333].