

NOTE:

Transitional Jobs for Dislocated Workers

We don't typically think of Dislocated Workers as being chronically unemployed or having an inconsistent work history. Even so, some Dislocated Workers do suffer from these problems. For example, displaced homemakers and spouses of members of the Armed Forces on active duty are two categories of Dislocated Workers who may have a need for Transitional Job activities. Individuals in other DLW categories may also require assistance. In any case, an individual assessment of the employment needs of the Dislocated Worker is required.



The limitation also refers to **subsection (c)(3)** of Section 134. This is the part of the WIOA law that describes, “Training Services.” Transitional Jobs are listed in this portion of the law at Section 134(c)(3)(D)(viii).

NOTE:

Training Service or Career Service?

Although Section 134(c)(3)(D) of the WIOA law includes “transitional jobs” in a list of Training Services, the listing is not definitive. Elsewhere in the law – in Section 134(d)(5) – transitional jobs are described as, “time-limited work experiences.” To resolve this ambiguity, the U.S. Department of Labor states in the WIOA Final Rule that, “...Transitional jobs are a type of work experience, and thus a career service.”¹



(d) STATE & FEDERAL REQUIREMENTS. In developing a policy for Transitional Job activities, the Central Oklahoma Workforce Investment Board, its One-Stop Operator, One-Stop Center staff, and WIOA Service Provider must be mindful of the requirements of our State and Federal funding sources.

Federal Policy: Transitional Jobs activities are addressed in the WIOA Regulations under a subpart titled, “Subpart A — Delivery of Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act.” The following references to Transitional Jobs appear in the WIOA Final Rule:

§ 680.190 What is a transitional job?

§ 680.195 What funds may be used for transitional jobs?

Additionally, the WIOA Final Rule offers guidance on work experience activities for Adults and Dislocated Workers in the following sections:

¹ See the Preamble portion of the WIOA Final Rule – particularly, the discussion of “Section 680.140 - What Workforce Innovation and Opportunity Act title I adult and dislocated worker services are Local Workforce Development Boards required and permitted to provide?”

Approved – October 27, 2016

- § 680.180 What is an internship or work experience for adults and dislocated workers?
- § 680.530 What eligibility requirements apply to providers of on-the-job-training, customized training, incumbent worker training, and other training exceptions?
- § 680.840 May funds provided to employers for work-based training and other work experiences be used to fill job openings as a result of a labor dispute?
- § 683.270 What safeguards are there to ensure that participants in Workforce Innovation and Opportunity Act employment and training activities do not displace other employees?

State Policy: As of the date of publication of this policy, the State of Oklahoma had not yet issued any policy guidance on the use of WIOA funds for Transitional Jobs.

(e) **General Statement of COWIB Policy.** It shall be the policy of the Central Oklahoma Workforce Investment Board (COWIB) and its Board of Local Elected Officials (LEO) that all Workforce Innovation and Opportunity Act Title I-funded services shall be delivered in a manner that fully complies with the WIOA law and regulations.

A copy of this policy shall be distributed to managers and staff members of the COWIB's One-Stop Operator and Service Providers who are responsible for implementing any aspect of a Transitional Jobs activity.

POLICY ADDITIONS AND CLARIFICATIONS: The COWIB Chief Executive Officer is authorized to issue additional instructions, guidance, forms, etc., to further implement the requirements of this policy. Inquiries about this policy should be directed to the COWIB's Program Operations Manager at (405) 622-2030.

(2) Participant Eligibility / Referral Requirements

The WIOA Final Rule provides the following definition:

§ 680.190 *What is a transitional job?*

A transitional job is one that provides a time-limited work experience, that is wage-paid and subsidized, and is in the public, private, or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the Local WDB. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment.

Transitional jobs are not appropriate for all Adults and Dislocated Workers. The law allows only a small fraction of Adult and Dislocated Worker program funds to be used for transitional activities.

Consequently, it is important to carefully define the general characteristics of participants who are eligible to participate in the Transitional Jobs component.

The main criterion for deciding which participants may be referred to a Transitional Job is this: As stated in § 680.190, the participant must have a Barrier to Employment.

In particular, Transitional Jobs are reserved for workers who *are chronically unemployed or have an inconsistent work history.*

(a) Chronically Unemployed

The term “chronically unemployed” is not defined in the WIOA law or the WIOA Final Rule. COWIB interprets this term to describe a worker who is currently unemployed² (as of the time of program registration) and who has been without work for a long period of time prior to entering the WIOA program.

For the purpose of determining eligibility for Transitional Jobs, we will consider that a “Chronically Unemployed” individual is a worker who:

- Is unemployed at the time of service delivery – that is, at the time of referral to a Transitional Job; and
- Has been without work for 15 or more of the last 26 weeks.

The phrase “has been without work” is used intentionally. It includes participants who have suffered from long periods of unemployment. It also includes displaced homemakers, recently-released ex-offenders, and participants who are discouraged workers.³



² According to Section 3(61) of the WIOA law, “the term ‘unemployed individual’ means an individual who is without a job and who wants and is available for work.”

³ See the BLS definition of “discouraged worker” at www.bls.gov/cps/lfcharacteristics.htm#discouraged

Approved – October 27, 2016

(b) Inconsistent Work History

The term “inconsistent work history” is not defined in the WIOA law or the WIOA Final Rule.

COWIB interprets this term to mean a worker who, in the 12 months prior to program registration, has lacked steady, full-time, permanent employment.

For the purpose of determining eligibility for Transitional Jobs, we will consider that an “Inconsistent Work History” includes:

- Work that is seasonal;
- Work that is temporary;
- Work that is part-time (less than 32 hours / week); or
- Other periods of employment of less than 10 consecutive weeks.

Examples of a participant with an Inconsistent Work History would include—

- An individual who had only seasonal employment in the 12 months prior to program registration;
- An individual who had only temporary employment in the same period;
- An individual who had one or more part-time jobs; or
- An individual who had short period(s) of full-time, permanent employment – less than 10 consecutive weeks in any single job.

An Inconsistent Work History may include a combination of seasonal, temporary, part-time, and short-term employment.

(c) Individual Assessment

Before being referred to any Transitional Jobs activity, the WIOA participant must be assessed to determine if s/he meets the eligibility criteria described in sections (a) and (b), above.

The assessment of the participant’s skills and qualifications will be directed by the One-Stop Operator, and it may include formal and informal evaluation(s) of the participant’s interests, abilities, aptitudes, and basic skills. The assessment may also include a pre-hire interview by the worksite supervisor of the Transitional Job assignment.

Participants should only be referred to Transitional Job assignments in which there is a reasonable expectation of success.

As stated in Section 134(d)(5) of the WIOA law, Transitional Jobs:

Approved – October 27, 2016

“...Are designed to assist the [eligible] individuals... to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.”

Contraindications:

(1) Transitional Jobs provide wages to eligible participants, but the intent of the Transitional Job is *not* simply to place the participant into an income-producing activity. Rather, a Transitional Job is intended to be used as an effective solution for a program participant to gain necessary work experience that they would otherwise not be able to get through training or an OJT contract.

(2) The Transitional Jobs component is different from an OJT activity. The difference between a transitional job and an OJT contract is that in a transitional job there is no expectation that the individual will continue his or her hire with the employer after the work experience is complete. Therefore, a Transitional Job should *not* be used as a substitute for an OJT activity or for referral to unsubsidized employment or other training (when suitable).



(3) When delivered in the public sector, the Transitional Jobs component is *not* the same as Public Service Employment. Section 194(10) of WIOA imposes a general prohibition on the use of WIOA funds for Public Service Employment. The difference between these two activities can be summarized as follows:

Transitional Job

- ... Time-Limited*
- ... Offered to Workers with Barriers to Employment*
- ... Designed to help the individual*

Public Service Employment

- ... No time limit*
- ... Workers are not required to have a barrier*
- ... Designed to support local government programs / services*

Any attempt to improperly refer a participant to a Transitional Job activity will be regarded as a violation of COWIB Policy. Disallowed costs may result.

(d) Priority of Service

When referring eligible participants to Transitional Job activities, the requirement of Section 134(c)(3)(E) of WIOA shall be honored:

(E) PRIORITY. — *With respect to funds allocated to a local area for adult employment and training activities..., priority shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient....*

Additionally, the COWIB Policy on Priority of Service for Veterans and Eligible Spouses must be followed.

(e) Equal Employment Assurance

At all times when referring eligible participants to Transitional Job opportunities, the COWIB's One-Stop Operator will ensure equal opportunity for all customers who are similarly situated -- with a similar degree of need.⁴

(3) General Requirements for Transitional Jobs

By definition, Transitional Jobs are work experience activities. They are time-limited. They may be offered in the public, private, or nonprofit sectors. As with any work experience activity, there are general program requirements that pertain to Transitional Jobs.

In the WIOA Final Rule, Work Experience activities for Adults and Dislocated Workers are described in § 680.180:

§ 680.180 What is an internship or work experience for adults and dislocated workers?

For the purposes of WIOA sec. 134(c)(2)(A)(xii)(VII), an internship or work experience is a planned, structured learning experience that takes place in a workplace for a limited period of time. Internships and other work experience may be paid or unpaid, as appropriate and consistent with other laws, such as the Fair Labor Standards Act. An internship or other work experience may be arranged within the private for profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience setting where an employee/employer relationship, as defined by the Fair



⁴ Discrimination is prohibited on the grounds of race, color, religion, sex, national origin, age, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIA Title I --financially assisted program or activity.

Approved – October 27, 2016

Labor Standards Act, exists. Transitional jobs are a type of work experience, as described in §§ 680.190 and 680.195.

For the purpose of this policy, we will use the definition of “work experience” given above – with the recognition that Transitional Jobs are a type of paid work experience activity for Adults and Dislocated Workers.

(a) Requirements Related to Work Experience Activities

As defined in this policy, Work Experience activities are paid work assignments in which the COWIB’s One-Stop Operator / WIOA Service Provider typically acts as the employer of record and pays a wage to the program participant (even though the Transitional Job assignment may be with another agency, organization, or business).

There are a number of ways that Transitional Jobs may be organized. The WIOA Final Rule states that, “*Transitional jobs may be structured as offsite placements with private-sector, public-sector, or nonprofit employers or as in-house social enterprise or work crew placements.*”⁵

The Preamble portion of the WIOA Final Rule carries this statement: “*The Department has added regulatory text defining transitional jobs as providing an individual with work experience that takes place within the context of an employee-employer relationship, in which the program provider may act as the employer, and with an opportunity to develop important workplace skills. The Department will provide further guidance and technical assistance on transitional jobs programs, including best practices.*”

The following requirements are applicable to all Work Experience activities, including Transitional Jobs:

Labor Standards / Wages. Labor standards apply in any work experience activity where an employee / employer relationship exists, as defined by the Fair Labor Standards Act (FLSA). Therefore, our policy defines a Transitional Job as a paid activity since a COWIB Service Provider is, by definition, acting as an employer of record. All standards of the FLSA must be observed when a Transitional Jobs activity is being conducted, including the wage and hour provisions.

Additionally, Section 181 of WIOA includes a requirement regarding the wage rate paid to Transitional Job participants:

SEC. 181. REQUIREMENTS AND RESTRICTIONS.

(a) BENEFITS.—

(1) WAGES.—

⁵ See the Preamble portion of the WIOA Final Rule – particularly, the discussion of “*Section 680.190 - What is a transitional job?*”

Approved – October 27, 2016

(A) IN GENERAL. — Individuals in on-the-job training or individuals employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

Therefore, the COWIB and its Service Provider will establish Transitional Job wage rates based upon a reasonable review of the training, experience and skills required for the positions that are being filled. Since the Transitional Job positions will be filled by individuals who generally lack exposure to good work habits, job skills, and/or the working environment, it is assumed that the compensation for each position will be equivalent to an entry-level wage – that is, at or near the minimum wage level.

Health and Safety Standards. Health and safety standards established under Federal and State law apply to the working conditions of participants engaged in programs and activities under Title I of WIA. (Reference: Section 683.280 of the WIOA Final Rule, “*What health and safety standards apply to the working conditions of participants...?*”).

The following requirement appears in Section 181(b) of the WIOA law:

(4) HEALTH AND SAFETY. — Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers’ compensation law applies, workers’ compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

Therefore, the COWIB and its service providers in Central Oklahoma must take necessary steps to assure that:

- Worksites are safe and well supervised;
- To the extent that a State workers’ compensation law applies, the requirements of the law are being met; and
- If a State workers’ compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

NOTE: For additional information on the requirements of Section 683.280 of the WIOA Final Rule, see ***Attachment A***, “*Administrative Provisions Under Title I of the Workforce Innovation and Opportunity Act.*”

Non-Displacement of Employees. Under Section 181(b) of WIOA, Transitional Job activities must be designed and implemented so that no employee suffers a loss of work, wages, or employment benefits:

“(2) DISPLACEMENT.—

“(A) PROHIBITION. — A participant in a program or activity authorized under this title (referred to in this section as a “specified activity”) shall not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).”



Additionally, if the worksite has a union contract or collective bargaining agreement, the Transitional Jobs activity must not negatively impact any such contract. The following excerpt is also from Section 181(b)(2) of WIOA:

“(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS. — A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.”

Where a collective bargaining agreement exists, the Worksite Agreement for the Transitional Jobs activity must include a sign-off by the labor organization as well as the employer.

Other Prohibitions. As if to re-iterate the point about non-displacement, the WIOA law includes the following explicit prohibitions:

(3) OTHER PROHIBITIONS. — A participant in a specified activity shall not be employed in a job if—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) the job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

Employment Conditions. Section 181(b) of WIOA also assures that participants working in Transitional Jobs will enjoy the same employment conditions as their peers in the workplace:

(5) EMPLOYMENT CONDITIONS. — Individuals in on-the-job training or individuals employed in programs and activities under this title shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

**(b) Measuring the Cost of Transitional Job Activities;
Observing the 10 Percent Limit**

The following guidance from the WIOA Final Rule is relevant to Transitional Job activities:

§ 680.195 What funds may be used for transitional jobs?

The local area may use up to 10 percent of their combined total of adult and dislocated worker allocations for transitional jobs as described in § 680.190. Transitional jobs must be combined with comprehensive career services (see § 680.150) and supportive services (see § 680.900).

With regard to the 10 percent limit on expenditures for Transitional Jobs, an immediate question arises: What is included in the cost of Transitional Jobs?

There are two potential sources of guidance on this question. First, the U.S. DOL ETA Financial Report (ETA-9130) provides instructions for reporting “Transitional Jobs Expenditures.” Additionally, the Preamble portion of the WIOA Final Rule offers some useful, relevant guidance.

The instructions on the ETA-9130 Report are simple, straightforward:

“Enter the cumulative amount of expenditures charged to the Local Adult⁶ grants for transitional jobs costs. This line item should represent the total accrued transitional jobs contract expenditures for all local areas and it is a portion of the amount reported in 10e (Federal Share of Expenditures).

“WIOA Sec. 134 (d)(5) sets a transitional jobs expenditure cap of ten percent of the amount of Federal funds allocated to local areas to carry out the Adult program for a program year.”

The instructions do not provide more detail on what is included in the meaning of the phrase, “total accrued transitional jobs contract expenditures.”

⁶ The excerpted text is from the Adult grants version of the ETA-9130 Report form. DLW version of the ETA-9130 Report has similar language.

Approved – October 27, 2016

A second source of information is the discussion of Section 680.195 in the Preamble portion of the WIOA Final Rule. The Department of Labor offers this comment:

“The Department considers transitional jobs to be a targeted service that includes comprehensive career and supportive services.”

The reference to “comprehensive career and supportive services” is significant. These services are included in the Department’s interpretation of a Transitional Jobs activity. However, the DOL interpretation does not imply that the associated costs of these services are included in the meaning of the phrase, “*total accrued transitional jobs expenditures.*”

In fact, the Preamble makes clear that the cost of “comprehensive career and supportive services” are *not* included in the cost of Transitional Job activities. This comment appears later in the same discussion of the WIOA Final Rule:

“Comprehensive career services and supportive services, which are required to be provided as part of any transitional jobs strategy, are not subject to the 10 percent cap described at § 680.195.” (Emphasis added)

So, the costs of career services that are associated with supporting Transitional Job activities – services such as assessment, counseling, career guidance, etc. – are *not* included in the meaning of “*total accrued transitional jobs expenditures.*”

Consequently, it is COWIB’s interpretation that Transitional Jobs expenditures encompass the following items (which apply to the 10 percent limitation):

- ✓ The staff costs of developing a Transitional Jobs worksite;
- ✓ Wages paid to participants in Transitional Jobs; and
- ✓ Fringe Benefits associated with those wages.

We generally consider that the staff cost of developing a Transitional Jobs worksite is a programmatic function that should properly be included as a Transitional Jobs expenditure. We regard the development of worksites to be a programmatic – rather than an administrative function – because the negotiation of a worksite agreement does not involve any form of payment. The agreement is non-financial. Consequently, the function of developing a worksite is not the same as a procurement activity.⁷

COWIB’s interpretation, in this regard, is consistent with DOL’s discussion of Transitional Jobs expenditures in the Preamble portion of the WIOA Final Rule. Commenting on Section 680.140 of the WIOA Final Rule, the Department of Labor says:

⁷ See the Federal Acquisition Regulation, <https://www.acquisition.gov/?q=browsefar>

Approved – October 27, 2016

“WIOA allows Local WDBs to set aside and use up to 10 percent of their adult and dislocated worker funds... on transitional jobs (see WIOA sec. 134(d)(5)).... Administrative activities necessary to initiate or procure... transitional jobs must be consistent with § 683.215, which discusses how to determine whether an activity is administrative or programmatic for purposes of WIOA. If the activity would be considered programmatic under § 683.215, then the cost would be subject to the caps discussed above. If the activity would be considered administrative under § 683.215, it may be paid for out of the Boards’ usual administrative funds, and it is not subject to the caps. Therefore, the Board would not need to specifically account how much of the administrative funds are spent on these particular programs.”

(c) Providing Comprehensive Career Services and Supportive Services

By definition, Transitional Jobs are work experiences that “...are combined with comprehensive employment and supportive services.”

In the WIOA Final Rule, DOL uses the phrase, “Comprehensive career and supportive services.”

Asked for a clarification of the phrase, “comprehensive career services,” the Department of Labor provided the following response in the Preamble portion of the Final Rule:

*“Department Response: Comprehensive career services may include both basic and individualized career services and are based on the needs of the participant. Comprehensive career services and supportive services, which are required to be provided as part of any transitional jobs strategy, are not subject to the 10 percent cap described at § 680.195. However, the Department is providing flexibility to allow for these services to be provided with the funds set-aside for transitional jobs. **Local areas determine which comprehensive and supportive services are appropriate for each individual.** There is no sequence of service required.” (Emphasis added)*

(d) Other Requirements and Limitations

Beyond the general programmatic requirements that appear in the WIOA law, this policy embraces the following requirements and limitations.

Nepotism. As provided in Section 683.200(g) of the WIOA Final Rule:

(g) Nepotism. (1) No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.

(2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement must be followed.

Approved – October 27, 2016

For the purpose of this policy, the term “immediate family” includes a spouse, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild.

Limited Duration. As given in Section 136(d)(5) of WIOA, Transitional Jobs are, by definition, time-limited.

For eligible Adult and Dislocated Worker participants, the duration of a Transitional Jobs activity in Central Oklahoma shall be limited to 1,040 hours.

In the event that a Transitional Job assignment ends early for any reason, the participant may be assigned to a subsequent Transitional Job activity – provided that the cumulative hours in both assignments combined does not exceed 1,040 hours.

Demand Skills. One of the purposes of a Transitional Jobs activity is to provide WIOA participants with exposure to good work habits and skills. Within this context, the COWIB recognizes that there are many different types of “skills” – including problem-solving skills, social skills, technical skills, etc. Each of these may be a determinant of a participant’s long-term success in the labor market.

To more fully describe the types of skills that are required for success in the workplace, the COWIB has defined a list of Demand Skills for the Central Oklahoma area. “Demand Skills” are a set of traits, aptitudes, abilities, attributes, and work habits that are essential to the productivity of business in the 21st century.

As defined by the COWIB, the “Demand Skills” for the Central Oklahoma workforce development area include:

- Ethical Standards and Integrity;
- Work Ethic;
- Self-Direction and Initiative;
- Interpersonal Skills (communications);
- Dependability and Attendance;
- Listening Skills;
- Teamwork;
- Ability to Work with Others;
- Critical Thinking Skills; and
- Accountability.

As a matter of policy, the COWIB is committed to using our energy, resources, and influence to persuade job-seekers to acknowledge, understand, and embrace the value of possessing these skills.

Approved – October 27, 2016

Consequently, it is expected that every Transitional Jobs activity will be designed to support the development of these Demand Skills in each individual participant.

Worksite Agreements. For every participant who is referred to a Transitional Jobs worksite, the COWIB's Service Provider will maintain a signed Worksite Agreement.

(4) Worksite Agreement

The WIOA Worksite Agreement is designed to establish certain assurances and conditions that must be mutually agreed upon between the COWIB's Service Provider and the Transitional Jobs worksite.

A Worksite Agreement must be executed prior to the start date of any Transitional Jobs activity. A properly completed Worksite Agreement will carry the signature of: (a) A representative of the COWIB's Service Provider; and (b) The signature of the Worksite Representative. The Worksite Representative must be someone who is authorized to enter into contracts on behalf of the worksite.

A single Worksite Agreement may be written for more than one Transitional Jobs participant. However, the agreement must include a unique Trainee Work Plan for each participant.

A model Worksite Agreement is given in *Attachment C*.

(a) Worksite Development and Outreach

Worksite development will begin through an outreach process in which potential qualified businesses (including non-profit organizations, governmental agencies, etc.) are identified and Worksite Agreements are written.

The COWIB's Service Provider will assure that properly-trained staff members are assigned to the task of engaging qualified businesses, non-profit organizations, governmental agencies, etc. The Service Provider will develop effective outreach tools and protocols that are appropriate to the needs of Central Oklahoma businesses. To the extent possible, all outreach methods and materials will be designed from a business perspective. Outreach activities should be delivered in a manner that highlights the benefits of properly-designed Transitional Job activities.

The COWIB's Chief Executive Officer will have the ultimate authority to approve all outreach methods, materials, and tools. Members of the COWIB's Business Services Unit may be assigned to help identify potential worksites.

The goal of these Worksite Development and Outreach activities is to develop a set of eligible worksites that reflect the following objectives:

Approved – October 27, 2016

- Eligible worksites should represent a cross-section of governmental, non-profit, and for-profit businesses in the Central Oklahoma labor market.
- Eligible worksites should encompass business activities involving a variety of occupations and potential career tracks.
- Eligible worksites should have a business model that is successful and can stand on its own merits – regardless of whether a Worksite Agreement is approved or not. Participation in a Worksite Agreement should be inconsequential to the success of the business.
- Eligible worksites should include businesses, agencies, and organizations that are motivated by a sense of civic engagement and an opportunity to participate in the betterment of their community.

There is not a requirement or an expectation for a Transitional Jobs activity to culminate in the worksite's hiring of the WIOA participant. To be eligible to participate as a Worksite, it is not necessary for the business to have available job openings. Even so, worksite development and outreach activities should be designed so that a cross-section of businesses are engaged. Optimally, these worksite development activities will result in the identification of one or more businesses where potential future employment opportunities will exist.

(b) Worksite Eligibility

Worksite Agreements may be written with businesses (including governmental agencies, etc.) from the public, private non-profit, or private for-profit sectors.

In general, businesses are eligible to participate in a Worksite Agreement if they are willing to meet the following program guidelines:

- The worksite must assure that each Transitional Jobs participant will be supervised on a full-time basis by a qualified supervisor.
- The worksite must assure that all work will be conducted in a safe and sanitary drug-free environment.
- The worksite shall provide sufficient work to occupy the trainee's work hours and shall provide sufficient equipment and/or materials to enable the trainee to carry out the work assignments.
- The worksite will provide job orientation to all Transitional Job participants as related to work policies, job safety, and job expectations. The work policies and job expectations for WIOA participants must be the same as for non-WIOA workers at the site.
- Each worksite supervisor shall maintain an accurate record of time and attendance of each trainee to be recorded on the Time and Attendance Record.
- The worksite supervisor for each trainee shall conduct evaluations of the Transitional Jobs participant.



- The worksite shall adhere to all applicable Federal, State, and local labor laws.
- The worksite shall, upon request of the COWIB's Service Provider, release the trainee for attendance at labor market orientations, career orientations, job readiness training, or other WIOA program activities.
- The worksite must assure that any Transitional Jobs participant will not displace currently employed workers.

Other worksite requirements and restrictions include:

- Each worksite must provide information such as an IRS Employer Identification number to demonstrate that they are a legitimate business, having full-time employees, and conducting their trade or business at an appropriate worksite.
- The Transitional Job activities must be conducted at the worksite's place of business (as described on the Worksite Agreement), and may not be subcontracted.
- The duties of the Transitional Jobs participant must not involve religious or political activity.
- A Worksite Agreement cannot be written for job duties or a job position in which a worker is currently on layoff or for a position which will deny a current worker promotional opportunities.
- The worksite must not utilize a Worksite Agreement to displace currently employed workers or to reduce the hours of those employed workers below their normal schedule.
- The worksite must not be involved in a current labor dispute and must not have a history of frequent layoffs.
- No individual may be placed into a Transitional Jobs position if a member of his /

Approved – October 27, 2016

her family is engaged in an administrative capacity with the worksite, including any person involved with the supervision responsibilities for the WIA trainee.

(c) Worksite Survey

To document that a business or organization qualifies as an eligible worksite, the COWIB's WIOA Service Provider must complete a Worksite Survey. The survey is an interview / review to verify that the business meets the minimum criteria to function as an approved site for a Work Experience activity.

A Worksite Survey review form, with instructions, is provided as an attachment to this Policy. *See Attachment B.*

(d) Sections of the Worksite Agreement

The Worksite Agreement is a three-part agreement containing:

- The Worksite Terms and Conditions;
- The Trainee Work Plan; and
- The Trainee Time Sheet.

The Worksite Terms and Conditions.

Section 1 of the Worksite Terms and Conditions identifies the parties to the Worksite Agreement. Also, the Start and End dates of the Agreement are defined.

Section 2 includes a complete description of worksite responsibilities as well as responsibilities of the Service Provider.

Section 3 provides that, "Accurate time and attendance records will be kept by the Worksite supervisor on each Trainee." Additional provisions are given.

The process for modifying the Worksite Agreement is given in Section 4. Amendments to the agreement are limited: "The Worksite Terms and Conditions may only be modified two times and if additional changes need to be made after the second modification, the Worksite and... Service Provider must enter into a new WIA Worksite Agreement."



Section 5 authorizes on-site monitoring to be conducted by the COWIB as well as by any state or federal agencies that administer funds under the Workforce Innovation and Opportunity Act.

Provisions for termination of the Agreement are described in Section 6. Then, in Section 7, a provision is given describing the Worksite's financial liability for "costs deemed

illegal by auditors or monitors.”

The Trainee Work Plan.

The Worksite Agreement is structured so that several Trainee Work Plans may be encompassed within a single Worksite Agreement. The Trainee Work Plan requires signatures from the Trainee, the Worksite Supervisor, and a representative of the COWIB service provider.

In the “General Training Information” section of the Trainee Work Plan, there is a space to record the hourly wage that will be paid to the trainee. Enter the hourly rate of pay that is proposed. The Service Provider will establish the Transitional Job wage rate based upon a reasonable review of



the training, experience and skills required for the Work Experience position that is being filled. Since each position will be filled by individuals who lack exposure to good work habits, job skills, and/or the working environment, it is assumed that the compensation for each position will be equivalent to an entry-level wage – that is, at or near the minimum wage level.

NOTE: Pursuant to Section 181(a)(1)(A) of WIOA, individuals in Transitional Job activities “shall be compensated at the same rate as the same trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.”

The “Duties and Responsibilities” described in the Trainee Work Plan must provide sufficient work to occupy the trainee’s work hours. The job tasks described in the statement may include routine duties that are regularly performed by other employees at the worksite. Alternatively, they may represent special assignments that are performed on an occasional, seasonal, intermittent, or temporary basis.

The duties of the Work Experience participant must not involve religious or political activities.⁸

⁸ NOTE: See Clarification Number 4 in the Question and Answer section of this policy, “Regarding the Restriction on ‘Sectarian’ Activities.”

Approved – October 27, 2016

It is expected that the duties of the Work Experience position will be generally equivalent to the tasks assigned to an entry-level employee of the worksite.

The Trainee Time Sheet.

Accurate time and attendance records will be kept by the Worksite supervisor on each Trainee. “Under no circumstances should any Trainee work more than 40 hours in one week.”⁹

(e) Orientation for Worksite Supervisors

Before the placement of the first trainee at the worksite, an orientation must be provided to the front-line worksite supervisor(s) who will provide guidance and direction to the Transitional Jobs participant. The purpose of the orientation is to make sure that each worksite supervisor understands the purpose of the Transitional Jobs program, program guidelines, and responsibilities of the Worksite.

The orientation may be provided in the form of a group session or an individual briefing. Each COWIB Service Provider shall prepare an orientation packet in the form of a hard copy and/or online document which may be used as a reference tool by the worksite supervisor. The orientation packet must include the minimum elements described in ***Attachment E***, “COWIB Model Worksite Orientation Packet.”

As provided in OETI #05-2010:

“The Worksite Supervisor(s) must sign an acknowledgement of receipt that orientation has been given and this must be attached to the WIA Worksite Terms and Conditions. A copy of the orientation packet must be given to the Worksite.”

In the Central Oklahoma area, the COWIB’s Service Providers must utilize the Worksite Orientation Acknowledgement of Receipt form that is provided in OETI #05-2010. (See ***Attachment F***).

At a minimum, the topics to be covered in the orientation must include the following:

- ✓ The purpose of the Work Experience activity;
- ✓ The content and requirements of the Worksite Agreement;
- ✓ Role / duties of the Worksite Supervisor;
- ✓ Safety;
- ✓ Accidents, On-the-Job Injuries, and Incident Reporting;
- ✓ Sexual Harassment;

⁹ NOTE: See Clarification Number 3 in the Question and Answer section of this policy, “Regarding the Proper Method for Counting the Hours in a Workweek.” (See Attachment K).

Approved – October 27, 2016

- ✓ Discrimination;
- ✓ Prohibited Activities;
- ✓ Attendance and Timesheets;
- ✓ Pay and Wage Information;
- ✓ The Payroll Calendar;
- ✓ A discussion of steps to be taken when a participant fails to perform properly at the worksite;
- ✓ A discussion of conditions that may result in the termination of a Worksite Agreement;
- ✓ Termination;
- ✓ Trainee Evaluations; and
- ✓ Trainee Orientation at Worksite.

(f) Incident Reporting

Worksite Supervisors must document all incidents occurring at the Worksite that involve participants. An incident may include but is not limited to:

- Trainee involvement in fighting;
- Trainee leaving the Worksite without permission or notice;
- Any inappropriate behavior by a Trainee towards the Worksite Supervisor or Worksite staff, such as the usage of profanity, threats or assault;
- Drug use by the Trainee at the Worksite;
- Property theft or damage by a Trainee;
- Suspected incidents of abuse – including physical, sexual, emotional or verbal abuse, or any other mistreatment of a Trainee at the Worksite; or
- Accidents involving the Trainee that occur at the Worksite, even if no injuries were sustained.”



These Incident Reporting procedures are stated in the COWIB’s Model Worksite Orientation packet.

Approved – October 27, 2016

In the Central Oklahoma area, the COWIB's Service Providers must utilize the WIA Work Experience Incident Report form that is provided in OETI #05-2010. (See *Attachment G*).

(g) Time and Attendance Record

From OETI #05-2010:

Time, Attendance, and Compensation:

Accurate time and attendance records will be kept by the Worksite supervisor on each Trainee. The... Grantee and/or Service Provider must complete the Trainee Information and Pay Period Trainee Information of Time Sheet. Trainees will be paid only for actual hours worked. No pay will be given for lunch breaks, holidays, or absences. Under no circumstances should any Trainee work more than 40 hours in one week. Time and attendance may be recorded on time sheets provided in this policy or by the Worksite's method such as a -in on badge time clock scanning system (referred to as a Worksite Time Report). If the Worksite Time Report i Grantee and/or Service Provider must secure a copy of the report containing the following information at the end of each pay period:

- Worksite Name,
- Worksite Address and Telephone,
- Trainee Name,
- Time In, Time Out & Total Hours Worked per Pay Period,
- Record of lunch break/rest periods 30 minutes or longer, and
- Worksite Supervisor signature, Trainee signature and Date.

Time and attendance records will be signed at the end of the pay period by the Trainee and the Worksite Supervisor, whose signatures will certify accuracy.

Errors on the WIA Trainee Time Sheet:

In certain circumstances it might be necessary to make changes to the... Trainee Time Sheet. There are two main categories of errors that can be a s s o c i a t e d Trainee Time Sheet. e ...

Errors in Recording Time Worked

Corrections made to timesheets regarding this type of error must be initialed by both the Worksite supervisor and the Trainee.

Other Errors

Approved – October 27, 2016

Corrections made regarding other errors, such as incorrect calculation of hours worked, must be initialed by the party responsible for payment. If a correction is made, the party responsible for payment must notify the Service Provider so that the Trainee can be informed of the correction. The case manager must document in case notes in OSL that the Trainee has been notified of the correction.

Rounding of hours. The duration of the daily time worked by the trainee must be recorded accurately. To account for extra minutes worked (beyond an exact number of hours), the following conversion table may be used:

<u>Total Minutes Daily Over Exact Hours</u>	<u>Conversion to Fraction of an Hour</u>
0 to 7 Minutes	No Extra Time
8 to 22 Minutes	¼ Hour = .25
23 to 37 Minutes	½ Hour = .50
38 to 52 Minutes	¾ Hour = .75
53 to 59 Minutes	1 Hour = 1.00

NOTE: A similar conversion table may be utilized by the Service Provider if it provides a reasonably precise record of the daily time worked by each trainee. Any such conversion methodology must be applied uniformly to each trainee employed by the Service Provider.

Before signing the Time & Attendance Record, the COWIB Service Provider representative will examine the signatures of the Trainee and the Worksite Supervisor, respectively. Before accepting the timesheet as a true and accurate record of the time worked by the participant, the COWIB Service Provider will check to make sure that:

- ✓ Trainee and Worksite Supervisor have signed their names in ink;
- ✓ The signature of the Trainee closely resembles other samples of the Trainee’s signature as it appears in the Participant file (including the Trainee Work Plan);
- ✓ The signature of the Worksite Supervisor closely resembles the Worksite Supervisor’s signature as it appears on the Trainee Work Plan; and
- ✓ Proper names are spelled correctly.

(h) Evaluation of Skills Being Developed

From OETI #05-2010:

“Trainee Evaluations:

“The Worksite supervisor must schedule evaluations at least three times throughout the duration of the Trainee’s work experience work sites to complete additional evaluations for the purpose of monitoring Trainee performance. If such additional evaluations are requested of the Worksite, it is the

Approved – October 27, 2016

W I A G r a n t e e a n d / o r S e r v i c e P r o v i d e r ' s r e s p o n s e
Supervisor during the Worksite Orientation. For your convenience, Attachment A,
WIA Work Experience Trainee Evaluation, has been provided as a sample. The
WIA Grantee and/or Service Provider may utilize Attachment A or create their own
evaluation.”

In the Central Oklahoma area, our local standard for trainee evaluations will reflect the minimum requirement described in OETI #05-2010:

- ✓ At least three trainee evaluations must be scheduled by the worksite supervisor during the course of the trainee’s work experience assignment;
- ✓ The WIA Work Experience Trainee Evaluation should be utilized. (See *Attachment D*).

(i) Participant Payroll Procedures

For Transitional Job activities, the COWIB’s WIOA Service Provider is authorized to act as the employer of record and pay a wage to the program participant. Each Transitional Jobs participant will be treated as a temporary employee of the Service Provider.

The WIOA Service Provider and the Worksite must adhere to current workplace safety guidelines and applicable federal / state wage laws¹⁰. Provisions for wages under the amendments to the FLSA apply to all Transitional Jobs participants.¹¹

In addition, all provisions for employment eligibility verification must be followed. The Form I-9, Employment Eligibility Verification, must be filled out according to instructions with all appropriate documentation on file. To access the form and instructions, consult <http://www.uscis.gov/files/form/i-9.pdf>.

¹⁰ For questions regarding wages or labor statutes, contact the Oklahoma Department of Labor, Wage and Hour division, by calling 1-888-269-5353 or visiting their website at www.ok.gov/odol/Wage_and_Hour/index.html.

¹¹ For information regarding the Fair Labor Standards Act (FLSA), consult <http://www.dol.gov/esa/whd/flsa/>.

Attachments

	<u>Page</u>
A. The WIOA Final Rule (<i>Excerpts</i>)	26
B. Worksite Survey (<i>for determining worksite eligibility</i>) ...	27
C. Worksite Agreement	29
D. Trainee Evaluation Form	36
E. COWIB Model Worksite Orientation Packet ...	38
F. Worksite Supervisor Orientation Receipt Form ...	73
G. Incident Report Form	75
H. Questions and Answers	77

Attachment A.

WIOA Final Rule (Excerpts)

As Published in the Federal Register Æ August 19, 2016

§ 683.200 What general fiscal and administrative rules apply to the use of Workforce Innovation and Opportunity Act title I and Wagner-Peyser funds?

(g) Nepotism. (1) No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.

(2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement must be followed.

§ 683.270 What safeguards are there to ensure that participants in Workforce Innovation and Opportunity Act employment and training activities do not displace other employees?

(a) A participant in a program or activity authorized under title I of WIOA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(b) A program or activity authorized under title I of WIOA must not impair existing contracts for services or collective bargaining agreements. When a program or activity authorized under title I of WIOA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.

(c) A participant in a program or activity under title I of WIOA may not be employed in or assigned to a job if:

(1) Any other individual is on layoff from the same or any substantially equivalent job;

(2) The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WIOA participant; or

(3) The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers as of the date of the participation.

(d) Regular employees and program participants alleging displacement may file a complaint under the applicable grievance procedures found at § 683.600.

§ 683.275 What wage and labor standards apply to participants in activities under title I of the Workforce Innovation and Opportunity Act?

(a) Individuals in on-the-job training or individuals employed in activities under title I of WIOA must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in sec. 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(b) The reference in paragraph (a) of this section to sec. 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is not applicable for individuals in territorial jurisdictions in which sec. 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) does not apply.

(c) Individuals in on-the-job training or individuals employed in programs and activities under title I of WIOA must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

§ 683.280 What health and safety standards apply to the working conditions of participants in activities under title I of the Workforce Innovation and Opportunity Act?

(a) Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under title I of WIOA.

(b) (1) To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under title I of WIOA on the same basis as the compensation is provided to other individuals in the State in similar employment.

(2) If a State workers' compensation law applies to a participant in work experience, workers' compensation benefits must be available for injuries suffered by the participant in such work experience Æ

Attachment B.

Worksite Survey **(for determining Worksite Eligibility)**

This survey should be used in the process of identifying potential worksites for Transitional Jobs activities. After a potentially suitable worksite has been identified, a Worksite Survey must be conducted prior to the execution of a Worksite Agreement in order to verify that the worksite is eligible to participate in a Transitional Jobs activity. The review must be completed before any WIOA Trainees are referred to the worksite.

The survey should be conducted by an independent evaluator. That is, it must be completed by a staff person other than the individual who was responsible for the initial outreach to the worksite. For example, if the worksite outreach was performed by an individual in the Staffing Unit, then the independent review may be completed by:

- A workforce professional in a different unit . e.g., Skills Development; or
- Any functional unit supervisor.

The review will be completed using the Worksite Survey form shown on the following page.

The survey will cover questions such as:

- Does the worksite represent a safe, sanitary, and drug-free environment?
- Have there been any wage and hour, or child labor law violations in the past twelve (12) months?
- Does the worksite have a skilled worker available who is able to function in the role of a full-time Worksite Supervisor?
- Is the worksite capable of providing sufficient hours?
- Will the duties of the Transitional Jobs participant involve religious or political activity?
- Is the worksite involved in a current labor dispute?
- Do any managers or supervisors at this worksite (that is, anyone engaged in an administrative capacity with the worksite) have a familial relationship with the WIA trainee who is being considered for this Transitional Jobs activity?

If any problematic answers are discovered as the result of this review, the evaluator will make a note of the particular problem(s) and attach a description of the circumstances to the completed survey.

Following the completion of the Worksite Survey, the original will be maintained by the COWIB Service Provider.



Worksite Survey Review Form

For Potential Participant Referrals to Transitional Job Activities

Name of Business or Organization: _____

IRS Employment Identification Number: _____

Worksite Address: _____ City / Zip: _____

Worksite Representative: _____ Telephone: _____

Type of Business/Industry: _____ Number of Employees (this location): _____

Yes No

- | % | % | |
|---|---|---|
| % | % | 1. Will the Transitional Job activity be conducted at this location? |
| % | % | 2. Will the worksite provide sufficient equipment and/or materials to enable the trainee to carry out his/her work assignments? |
| % | % | 3. Can the worksite assure that any trainee will not displace currently employed workers? |
| % | % | 4. Is this worksite currently involved in a labor dispute (strike, work slowdown, picketing, etc.)? |
| % | % | 5. Are any workers currently on layoff at this location? |
| % | % | 6. Will the presence of the trainee result in the reduction of work hours for employed workers below their normal schedule? |
| % | % | 7. Will the presence of the trainee result in the denial of a promotional opportunity for any employee? |
| % | % | 8. Does the worksite represent a safe, sanitary, and drug-free environment? |
| % | % | 9. Have there been any wage and hour, or child labor law violations in the past twelve (12) months? |
| % | % | 10. Does the worksite have a skilled worker available who is able to function in the role of a full-time Worksite Supervisor? |
| % | % | 11. Is the Worksite Supervisor capable of maintaining an accurate record of time and attendance of the trainee? |
| % | % | 12. Is the Worksite Supervisor capable of conducting objective evaluation of the WIOA trainee's worksite performance? |
| % | % | 13. Does the worksite agree to provide information to each trainee as related to work policies, job safety, and job expectations? |
| % | % | 14. Will the duties of the Transitional Job participant involve any religious, sectarian, or political activity? |
| % | % | 15. Do any managers or supervisors at this worksite (that is, anyone engaged in an administrative capacity with the worksite) have a personal relationship with any WIOA trainee who is being considered for Transitional Job activity? |

Certification

Survey Conducted Signature _____

Name / Title / Date _____

Approved – October 27, 2016

Attachment C.

Worksite Agreement

(Based on Oklahoma Employment & Training Issuance #05-2010)

The Worksite Agreement is designed to establish certain assurances and conditions that must be mutually agreed upon between the WIOA Service Provider and the Transitional Jobs worksite. The COWIB considers the Worksite Agreement to be a contract, so each worksite agreement should be numbered.

Approved – October 27, 2016

Attachment D.

Trainee Evaluation Form

For Transitional Job activities, the Worksite supervisor must schedule evaluations at

| ^ æ• c Á c @! ^ ^ Á c ã { ^ • Á c @! [~ * @[~ c Á c @^ Á á ~ i æc ã [} Á [~ Á c @^

The following Work Experience Trainee Evaluation form will be used.

Approved – October 27, 2016

Attachment E.

COWIB Model Worksite Orientation Packet

Before placement of the first trainee at the worksite, an orientation must be provided to the front-line worksite supervisor(s) who will provide guidance and direction to the WIOA Trainee. The purpose of the orientation is to make sure that each worksite supervisor understands the purpose of the Transitional Jobs program, program guidelines, and responsibilities of the Worksite.

The orientation may be provided in the form of a group session or an individual briefing. The COWIB Service Provider is authorized to prepare an orientation packet in the form of a hard copy and/or online document which may be used as a reference tool by the worksite supervisor.

The orientation packet must include the minimum elements described in the Model Worksite Orientation Packet.

The Model Worksite Orientation Packet is 34 pages in length.

Approved – October 27, 2016

Attachment F.

Worksite Supervisor Orientation Receipt Form

As provided in OETI #05-2010:

Í H \ Y ' K c f _ g] h Y ' G i d Y f j] g c f f l g Ł ' a i g h ' g] [b ' U b ' U W _ orientation has been given and this must be U h h U W \ Y X ' Worksite \ Y Å Terms and Conditions. A copy of the orientation packet must be given to h \ Y ' K c f _ g] h Y " Í ' .

Q } Á c @ ^ Á Ô ^ } c | æ | Á U \ | æ @ [{ æ Á æ | ^ æ Ê Á c @ ^ Á Ô U Y Q Ó q • Á Ù ^ | ç ã & Orientation Acknowledgement of Receipt form that is provided in this Attachment.

Attachment G.

Incident Report Form

Pursuant to OETI #05-2016, the Worksite Supervisor shall be required to document all incidents occurring at the Worksite that involve Trainees. An incident may include but is not limited to:

Incident Report Form
The Worksite Supervisor shall be required to document all incidents occurring at the Worksite that involve Trainees. An incident may include but is not limited to:

- *Trainee involvement in fighting;*
- *Trainee leaving the Worksite without permission or notice;*
- *Any inappropriate behavior by a Trainee towards the Worksite Supervisor or Worksite staff, such as the usage of profanity, threats or assault;*
- *Drug use by the Trainee at the Worksite;*
- *Property theft or damage by a Trainee;*
- *Suspected incidents of abuse including physical, sexual, emotional or verbal abuse, or any other mistreatment of a Trainee at the Worksite; or*
- *Accidents involving the Trainee that occur at the Worksite, even if no injury or damage occurred.*

Additional instructions on Incident Reporting procedures are included in the Worksite Orientation packet.

In the Central Oklahoma area, Service Providers must utilize the Work Experience Incident Report form that is included here. (See next page).

Questions & Answers

Policy Clarifications

1. FY [U f X] b [' h \ Y ' K = 5 ' F Y g h f] Wh] c b ' c
Activities

From: bill bryant
Sent: Friday, October 05, 2007 9:36 AM
To: 'Pollard, Phyllis'
Cc: 'Roberts, Dorcas'; 'Pamela Kirby'; 'Eddie Foreman'; 'Bond, Pat'
Subject: St. John Christian Heritage Academy

Phyllis-

I have reviewed the worksite agreements that have been written with St. John Christian Heritage Academy. One agreement is for a Teacher Assistant position . 3 positions, actually; one is for a Custodial Assistant (1 position).

From my review, I have determined that St. John Christian Heritage Academy is accredited by the Oklahoma State Department of Education. It is located at 5700 N. Kelley Ave. . the same address as the St. John Missionary Baptist Church.

I have reviewed these agreements with particular regard to the question of whether these Y [' \ • ā c ^ Á Œ* ' ^ ^ { ^ } c • Á @æç ^ Á ā ^ ^ } Á ā ^ ç ^ |&[æ' ā Áā]+ Á & [[ç |ā ā ā] & ^ the WIA Act and Regulations.

The Agreements include the following paragraphs:

- 10. The WIA service provider and worksite shall adhere to all applicable Federal, State, and local child labor laws and the Workforce Investment Act regulations.
- 11. The WIA service provider shall inform the WIA trainee of grievance procedures, nepotism rules, equal pay, and non-discrimination assurances. The worksite shall not, in any manner or for any reason, discriminate against any WIA trainee.

So, the Worksite Supervisors have an understanding that there are non-discrimination rules that must be followed. Here is a brief review of the relevant rule.

Please take a look at 20 CFR 667.275 from the WIA Final Regulations:

Í G Y W" ' * What are a) recipient's obligations to ensure nondiscrimination and equal opportunity, as well as nonparticipation in sectarian activities?

%Ç æ D Ç F D Á Ü ^ & ā] ā ^ } c • Ê Á æ • Á ā ^ ~ ā } ^ ā Á ā d i s c r i m i n a t i o n a n d e q u a l o p p o r t u n i t y p r o v i s i o n s o f W I A s e c t i o n 1 8 8 a n d i t s i m p l e m e n t i n g r e g u l a t i o n s , c o d i f i e d a t 2 9 C F R p a r t 3 7 . U n d e r t h a t d e f i n i t i o n , t h e t e r m " r e c i p i e n t s " i n c l u d e s S t a t e a n d L o c a l W o r k f o r c e I n v e s t m e n t B o a r d s , O n e - S t o p o p e r a t o r s , s e r v i c e p r o v i d e r s , v e n d o r s , a n d s u b r e c i p i e n t s , a s w e l l a s o t h e r t y p e s o f i n d i v i d u a l s a n d e n t i t i e s .

%Ç G D Á Þ [] á ā • & ; ā { ā } æ c ā [] Á æ } á Á ^ p r o c e d u r e s , i n c l u d i n g c ~ } ā c ^ Á ! ^ ~ ā c o m p l a i n t p r o c e s s i n g a n d c o m p l i a n c e r e v i e w s , a r e g o v e r n e d b y t h e r e g u l a t i o n s i m p l e m e n t i n g Y Q Œ Á • ^ & c ā [] Á F ì ì õ È

Approved – October 27, 2016

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity that is primarily or inherently devoted to sectarian instruction or religious worship.

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

DEPARTMENT OF LABOR
Office of the Secretary
29 CFR Part 37

Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998

ACTION: Interim final rule; Request for comments.

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

§ 76.60 What specific discriminatory actions, based on prohibited grounds other than disability, are prohibited by this part?

§ 76.60 This paragraph prohibits participants in a WIA Title I--financially assisted program or activity from being employed or trained to construct, operate, or maintain any part of a facility that is or will be used primarily for sectarian instruction or religious worship. This paragraph is directly based on, and implements, Section 504 of the Rehabilitation Act of 1973.

(2) This paragraph applies to any facility that is, or will be, primarily used or inherently devoted either:

- (A) For sectarian instruction; or
- (B) As a place of worship,

(ii) A recipient must not permit participants to be employed or trained in any way to:

- (A) Construct any part of such a facility,
- (B) Operate any part of such a facility, or
- (C) Maintain any part of that facility.

(3) If a facility is not primarily or inherently devoted to sectarian instruction or religious worship, a recipient may permit the use of WIA Title I funds to employ participants to maintain the facility, if the organization that operates the facility is part of a program or activity that is primarily or inherently devoted to sectarian instruction or religious worship.

From this, it is my understanding that a Work Experience participant may be employed to provide custodial assistance to St. John Christian Heritage Academy ONLY IF:

Approved – October 27, 2016

- ◆ **H\ Y'] b X] j] Xi U` Đg' ^ c V' Xi h] Yg' Xc' b ch'] b W' i XY' a U] b h U**
primarily or inherently used for worship or sectarian instruction.

P ^ | ^ q • Á { ^ Á ã } c ^ |] | ^ c æ c ã [} K

(1) V @^ Á Ô ~ • c [á ã æ | Á Ć • • ã • c æ } c q • Á á ~ c ã ^ • Á { æ ^ Á ã } & | ~ á ^ Á c @^ Á & | etc., that are used for non-sectarian instruction: e.g., Math, English, Science, Gymnasium, and so on.

(2) V @^ Á] æ | c ã & ã] ~~encompass cleaning or maintaining~~ the sanctuary (the part of the facility that is inherently used for worship). Also, if there is any other part of the facility that is primarily used for sectarian instruction, then the participant may not be assigned to clean or maintain that part of the facility. This would include a chapel or other space that is primarily used for Bible instruction or for the teaching of Christian beliefs or precepts.

The same type of reasoning ma^ Á à ^ Á æ] | | ã ^ á Á c [Á c @^ Á % V The WIA Rules Á Ć • • ã • c æ } c -] | [@ã à ã c Á] æ | c ã & ã] æ } c • Á ~ | [{ Á % [] ^ | æ c ã } * + Á æ } ^ Á] æ | c Á [~ Á æ A instruction. So, the job duties assigned to the Teacher Assistant should not include any activities c @æ c Á ã } ç [| ç ^ Á • ~]] [| c ã For example, the participant should not be ~ & c ã [] È + assigned the task of grading papers having to do with Bible instruction, etc. Even so, as I interpret the rule, it would be perfectly acceptable for the Teacher Assistant to participate in other types of activities that fit within the Workplace Skills Statement as agreed to by St. John Christian Heritage Academy. These include activities designed to:

- ◆ Develop the skills of working with and caring for children;
- ◆ Develop the skills of assisting teachers with grading (non-sectarian subjects); and
- ◆ Develop the skill of reading to children.

RECOMMENDATIONS:

- (1) The Worksite Supervisors at St. John Christian Heritage Academy should review the requirements of 29 CFR 37.6. They should have a proper understanding of the restrictions on sectarian activities that apply to WIA participants.
- (2) When the worksite is monitored, the duties and activities of the Work Experience participants should be reviewed for program compliance. If any violations are discovered, the participants should be withdrawn from the worksite.
- (3) If you feel the need for a more thorough review of the requirements of 29 CFR 37.6, you { æ ^ Á • ^ ^ \ Á | ^ * æ | Á * ~ ã á æ } & ^ Á ~ | [{ t o m e @^ Á Ô [~ } c ^ q • Á Ć • • ã • c æ

If you have any other questions about the requirements of the WIA Act and Regulations, please be sure to let me know.

I hope this helps,

Bill Bryant, Program Operations Manager
Central Oklahoma Workforce Investment Board
3813 N. Santa Fe, Suite 135
Oklahoma City, OK 73118
Office: (405) 622-2030
Mobile: (405) 760-5322
Email: billbryant@cowib.org

Approved – October 27, 2016

2. 8 c b Ð h ´ D U m ´ D U f h] W] d U b h g ´ Z c f ´ @ i b V

From: Livingston, Pamela [mailto:Pamela.Livingston@oesc.state.ok.us]
Sent: Thursday, October 11, 2007 9:00 AM
To: Pamela Kirby
Cc: Hewitt, Donna
Subject: Time and Attendance Sheets; Lunch Breaks

Good Morning Pam,

QÁ æ{ Á • ^ } á ã } * Á c @ã • Á c [Á ^ [~ Á c [Á ~ [! , æ! á Á c [Á c @^ Á à [æ! á Á { [] } á

Michelle was good enough to research the question about whether lunch breaks were mandatory. All we could find was the stipulation for the under 16 age group.

Donna and I are aware that some of your worksites might require that participants have a working lunch. Please be cautious that if a participant gets a lunch break, the time away must be reflected on the Time and Attendance Sheet. Participants cannot be paid for time not worked (lunch breaks, holidays, etc). And of course, participants may not be paid over 40 hours/week.

Hope this helps!
Pam

*Pam Livingston
Program Manager
OESC Workforce Quality
Desk (405) 557-5316
Cell (405) 436-6703
Fax (405) 557-1478*