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DEPARTMENT OF WORKFORCE SERVICES
ISSUANCE NUMBER PY18-18

Daryl Bassett, Director **June 19, 2019**

TO: Local Workforce Development Boards/Service Providers
WIOA Partners

SUBJECT: 2019 Summer Employment Opportunities Program Guidance

I. **Purpose**: To provide general guidance and to reaffirm requirements regarding the administration of the Workforce Innovation and Opportunity Act (WIOA) youth program, especially during the summer months.

II. **General Information**: Arkansas House Bill 1116, approved February 23, 2015 removed hours of employment restrictions for individuals 17 years of age. These individuals may be considered for employment opportunities that have previously been unavailable.

To view the Bill, use the following link: (if password box displays, "x" out)
http://www.arkleg.state.ar.us/assembly/2015/2015R/Acts/Act162.pdf

Poster – does not specify work hours for youth 17 years of age – use the following link:
http://www.labor.arkansas.gov/Websites/labor/images/1POSTER2015.pdf

Work experiences are one of the program elements that local areas must make available to youth participants. Paid and unpaid work experiences must include academic and occupational education components. WIOA combines the two WIA elements of summer youth employment programs and work experience so that summer employment opportunities become one item in a list of work experiences which includes pre-apprenticeship programs, internships and job shadowing, and on-the-job training.

Work experiences are designed to enable youth to gain exposure to the working world and its requirements. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. Work experiences are a planned, structured learning experience that takes place in a workplace for a limited period of time. A work experience may take place in the private for-profit sector, the non-profit 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 or applicable State law, exists. Work experiences provide the youth with opportunities for career exploration and skill development.

WIOA includes a major focus on providing youth with work experience opportunities. Work experience is prioritized with the requirement that local areas must spend a minimum of twenty percent of the funds allocated to the local area to provide youth participants, both in-school youth (ISY) and out-of-school youth (OSY), with paid and unpaid work experiences. In order to ensure that local WIOA youth programs meet this requirement, the United States Department of Labor (USDOL) proposes that local WIOA youth programs track program funds spent on paid and unpaid work experiences and report such expenditures as part of the local WIOA youth financial reporting. Program expenditures from the work experience program element include wages as well as staffing costs for the development and management of work experiences. Local area administrative costs are not subject to the twenty percent minimum work experience expenditure requirement. The work experience expenditure rate is calculated on local area funds after subtracting out funds spent on administrative costs and is calculated based on the remaining total local area youth funds rather than calculated separately for ISY and OSY.

WIOA does not require local areas to offer summer youth employment opportunities because summer employment is no longer its own program element. However, local areas are required to offer work experience opportunities which may include summer employment.

Providers administering the work experience program element must be selected by the Local Board by awarding a grant or contract on a competitive basis. However, employers who are providing employment opportunities are not required to be selected through a competitive process.

[20 CFR: 681.460; 681.590; 681.600; 681.610; 681.620; 681.630; preamble pages 20731; 20735; 20737. WIOA: 129(c)(2)(C); 129(c)(4)]

Please be reminded of the requirements of the Arkansas and Federal Child Labor Laws and how they relate to the WIOA. Below are links to the Arkansas Child Labor Laws and Administrative Regulations (2006), and the USDOL Child Labor Bulletin 101 (Revised November 2016).

http://www.minimum-wage.org/arkansas/child-labor-laws
http://www.dol.gov/whd/regs/compliance/childlabor101.pdf

The emphasis of summer programs should be to provide meaningful work experience. The USDOL strongly recommends that all participants, including 14 and 15 year olds, spend considerable time on an actual job.

During the operation of the WIOA youth summer employment activities, the Department of Workforce Services (DWS), as well as the Arkansas Department of Labor (ADOL), receive

telephone calls from participants asking questions and expressing concerns about child labor laws and requirements relative to work hours, working conditions and work requirements, etc. In addition, ADOL receives a number of requests for Child Labor Work Permits days or weeks after some youth have started working. To avoid special reviews and investigations of complaints and questions regarding youth program operations, and specifically requesting work permits in a timely manner, we offer the following guidance.

All Local Workforce Development Boards (LWDBs) should ensure that worksites introduce and/or reinforce the rigors, demands, rewards and sanctions associated with holding a job. LWDBs are reminded that working with local business leaders utilizing the Work Opportunity Tax Credit (WOTC) program (a federal income tax incentive which encourages private business participation) might be helpful in planning for youth work activities.

Summer Employment Opportunities is only one component of the youth program elements. Youth should be encouraged to participate in the program year-round, and be provided appropriate services if they remain active in the program.

Issuance of Child Labor Permits: Minors placed in employment by sub-grantees remain the employees of the sub-grantee, due to the nature of the operation of such organizations. Therefore, ADOL will not issue child labor permits until complete arrangements have been made for the child to be placed with a particular employer through the local area.

Prior to the date employment begins; the LWDB must submit a child labor application to the ADOL. The application must include the name, address, and type of business of the job site where the child is placed. ADOL must have this information in order to properly discharge its statutory obligations to insure the safety of children under the age of sixteen in the workplace. The youth must not begin employment until the employer has received a copy of the employment certificate. The job site employer must maintain the certificate on record as long as the child is employed and for a period of three years after the employment terminates. A copy must also be maintained in the WIOA participant folder.

All requests for work permits should be sent to the address below. The phone number is (501) 682-4500.

Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205-2190

Please be reminded of the following:

a. ***Exit*:** Participants should not be exited after WIOA summer activities unless they are not expected to return to the program for further employment, training and/or services. **(Reference: 20 CFR 677.150 (c)(1)**

b. ***Elected Officials*:** The WIOA does not specifically refer to the Hatch Act, as well as a number

of other federal, state or local laws and requirements. However, WIOA 194(6) provides guidance that WIOA funds must not be spent on political activities. Also, the WIOA Regulations at 20 CFR 683.250 provide a list of activities that are prohibited under Title I of WIOA; reference specifically 683.250(a)(3). Please be aware of the requirements of participants who are employed or out-stationed in the offices of elected officials. The Hatch Act, 5 USC Sec. 1501-1508, Political Activity of Certain State and Local Employees, is available at: http://uscode.house.gov

Each LWDB must monitor work activities and maintain, in the participant's file, a record of the following:

1. A complete participant job description, including job title.
2. A list of the job duties to show that they are not involved in political or campaign work. Do not use catchall phrases such as 'other duties as required' or 'assigned or appropriate duties' in the job description.
3. Assurance that the participant will not be involved in any political activity.
4. Pertinent information about the worksite, i.e., name and type of business, location, supervisor's name, and contact information.

c. ***Time Sheets*****:** Arkansas Child Labor Law Regulations, Section 2.600, require that employers of individuals under age eighteen maintain records that contain the hours worked each workday, including starting and ending time, and total hours worked each workweek. Time sheets are a method for collecting this information. *NOTE: Time sheets must not be completed or signed in advance of time worked.* A verification process should be initiated to check timesheets for accuracy. Timesheets must include a pay period to indicate the time period that the work was performed, signatures must be dated, and all time worked and time off work must be indicated**.**

d. ***Seat Belts*****:** State law requires the use of seat belts. Supervisors should be aware that seat belts must be worn when participants ride in the passenger compartments of moving vehicles.

e. ***Health and Safety*****:** Arkansas Child Labor Law Regulations, Section 2.300, require that youth not be permitted to work under conditions that are hazardous or dangerous to their health or safety. It prohibits sub-recipients from assigning participants to work for employers who do not comply with applicable labor laws, including wage and hour, occupational health and safety, and child labor laws/regulations. Youth may not ride in the back of a truck with goods that are being transported, since this is considered hazardous or dangerous to their health. If goods and youth are transported in the same truck, the youth must be inside of the cab. Although, according to the USDOL Wage and Hour Unit, the transportation of youth in the back of a pickup truck is not a violation of child labor laws in itself, we discourage the transportation of youth in this manner due to the potential for injury in the event of mishaps. Other conditions that are considered hazardous or dangerous include situations where participants are mowing; spraying poisonous acids, gasses or other chemicals; weed eating without eye

protection; the use of riding or power push mowers with defective safety switches; and transportation of participants in the rear of vans not equipped with seat belts.

f. ***Sling/Grass Blades*****:** Youth under age 16 are prohibited from using sling blades, grass blades, etc.

g. ***Loading Goods*****:** Arkansas Child Labor Law Regulations, Section 2.300 (b), require that youth under age 16 be prohibited from loading goods to and from motor vehicles or anything that is attached to a motor vehicle such as a trailer.

h. ***Use of Chemicals*****:** The Arkansas Child Labor Laws, Section 11-6-106, prohibit individuals under age 16 from using poisonous acids, gasses or other chemicals. This includes using these substances to spray weeds.

i. ***Painting (14- and 15-year-old youth)*****:** Painting and/or any type of work at a construction site is not allowed. However, re-painting of a previously painted area at a non-construction site is acceptable when the following is observed:

1. Only water based or water clean-up paint or primer is used. There can be no use of oil-based paint or oil-based primers requiring turpentine or other solvents for clean- up (see section on "Use of Chemicals" in this issuance).
2. Ladders or any type of scaffolding cannot be used (see section on "Ladders and Scaffolding" in this issuance).
3. Painting is done in a well-ventilated area.
4. There is no operation of any type of paint sprayer.
5. Painting is done in accordance with the guidelines and safety directions established on the label by the paint manufacturer.

j. ***Outside Helper*****:** The Arkansas Child Labor Law Regulations, Section 2.300, prohibit the occupation of outside helper, defined as any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods**.**

k. ***Ladders and Scaffolding*****:** Arkansas Child Labor Regulations, Section 2.301(b) (4), prohibits individuals under the age of 16 from using ladders, scaffolds, or their substitutes.

l. ***Special Situations*****:** Special effort should be made to ensure that participants working at law enforcement facilities are not placed in a position that violates Section 2.300 (b)(6) of the Arkansas Child Labor Regulations regarding explosives.

m. ***Job Descriptions*****:** A copy of the participant's job description should be placed in the participant's file. The original should be at the worksite for easy reference by both the p articipant and supervisor. Job descriptions for participants involved in work experience

are important since they contain a list of parameters for the worksite supervisor to follow. If written clearly, they can prevent inadvertent safety and child labor law violations. For example, state the job title such as "secretary," then list the duties that the participant will be expected to perform. Job descriptions must not contain such general catchall phrases as: 'other duties as required', 'other duties as assigned', or 'duties determined by the supervisor'.

n. ***Available Services***: All youth should be provided information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or one-stop partners, including those receiving funds under this subtitle; and referral to appropriate training and educational programs that have the capacity to provide youth services either on a sequential or concurrent basis. As an example of the need for service awareness, a participant may have child care issues which result in poor attendance. If the participant is aware of the availability of child care assistance, either through WIOA or partner services, then the attendance problem may not occur.

o. Supportive Services is one of the program elements local areas must make available to eligible youth. Supportive Services may include transportation, child care, dependent care, housing, and other services that are necessary to enable an individual who is unable to obtain the services from other programs to participate in activities authorized under WIOA. *[20 CFR 681.570]*

p. ***Difference between Summer Employment Opportunities and Work Experience:*** "Summer Employment Opportunities" and "Work Experience" are similar because there is a common work experience component. The difference is that "Summer Employment Opportunities" is provided during the summer season.

When youth receive "Summer Employment Opportunities", select "Summer Employment Opportunities" on the Service and Training Plan (S&T) in Arkansas JobLink (AJL). Do not open a separate Work Experience service, and do not open a service that represents the academic component. On the Summer Employment Opportunities service screen, use the notes text box to write a brief description of the academic learning that is provided to the participant. Case notes should be used to describe the history of both the employment and academic/occupational learning components.

A note of explanation: When the Summer Employment Opportunities service is reported in the Participant Individual Record Layout (PIRL)), then DWS is reporting to the USDOL that the youth is receiving both the occupational and academic components. If the Summer Employment Opportunities service is entered on the S&T, and an academic service, such as tutoring, is also entered on the S&T for the summer period, then DWS will be reporting the academic portion two times in the PIRL. It would be reported one time because it is included in the summer service, and reported a second time for the tutoring service.

In both cases enter all provider information pertaining to the work experience, including employer name (i.e., participant job site), address, O*Net code, and dates. The "Actual Start Date" of Summer Employment Opportunities represents the actual day the work experience or academic component began (whichever was first).

III. **Action Required:** LWDBs are required to monitor 100% of the summer program worksites, preferably monitoring heavily on the front end to detect and correct problems early. It is no longer required that all participant files be reviewed during this time; however summer files must be reviewed by LWDBs during regular monitoring. LWDBs are also required to provide the State with a report of monitoring activities no later than October 31st. The report should be sent to Stephanie Blair at (stephanie.blair@arkansas.gov)

IV. The State will conduct summer monitoring visits. Each LWDB scheduled for monitoring will be contacted via e-mail or telephone to request worksite information prior to a visit.

V. **Inquiries:** Contact Stephanie Blair, Program Operations Manager for WIOA Accountability and Compliance. Phone number: 501-682-3136 or Email: Stephanie.Blair@Arkansas.gov

VI. **Expiration Date:** Continuing