

EmployIndy

Defining Success. Driving Growth.

POLICY OF EMPLOYINDY

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| Policy Name | Work-Based Learning for Youth and Young Adults |
| Policy Number | 2017-002 |
| Program Funding Stream | WIOA Youth, Career Pathways for Youth |
| Executive Team Approval | (please date & initial below) |
| CFO | <i>SW</i> 4/19/17 |
| COO | <i>MM</i> 4/19/17 |
| President Approval | <i>Ar</i> 4/19/17 |

| REV | Description of Change | Author | Effective Date | Review Date |
|-----|-----------------------|-----------|----------------|-------------|
| | Initial Release | E. Cheney | Upon Approval | 6/30/2018 |
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1. Purpose

To establish criteria around valid Work-Based Learning Opportunities for youth and young adults under the Workforce Innovation and Opportunity Act (WIOA).

2. Scope

To provide guidance to Service Providers and work experience hosts on qualifying and suitable work-based opportunities under WIOA.

3. Summary of the Law, Rules, and Governing Policies

Under Section 129(c)(2) of WIOA, work experience (WEX) is one of the fourteen (14) required program elements that must be made available to all registered youth and should be offered throughout the program year.¹ The finalized rules cite work experience as a critical element that can be correlated to higher high school graduation rates and success in the labor market.

The Fair Labor Standard Act (FLSA) is a federal law that sets minimum wage, overtime, and minimum age requirements for employers and employees.² The FLSA creates two classifications of employees for minimum wage and overtime purposes: exempt employees and non-exempt employees. FLSA minimum wage and overtime requirements apply differently to employees depending on how they are classified. It is also important to note that the FLSA standards may not be the only legal standards that apply to employers and employees regarding minimum wage,

¹ 29 U.S.C. § 3164(c)(2)(C)

² 29 U.S.C. § 201 et seq

overtime, and child labor. Many states have enacted their own labor standards laws, some of which have higher minimum wage rates, more stringent overtime rules, and different child labor requirements with which employers must also comply.³

4. Responsibilities

Service Providers are responsible for implementing all facets of this policy, appointing those who will carry out the daily activities and assisting in drafting any necessary procedures required to fulfil the requirements of this policy.

EmployIndy's Youth Department is responsible for oversight, implementation and revision of this policy.

5. Policy Statement

Youth work-based learning shall:

- a. Be paid or unpaid, as appropriate;
- b. Provide the youth participant with opportunities for career exploration and skill development, as defined in the participant's Individual Service Strategy plan;
- c. Include academic and occupational education; and
- d. Include one of the following categories:
 - (1) Job Shadowing;
 - (2) Work Experience (Summer Employment Opportunities, Internships, and Other Employment Opportunities Available)
 - (3) Pre-Apprenticeship Programs; or
 - (4) On-the-Job Training Opportunities as defined in WIOA Sec. 3 (44) and in 29 C.F.R. § 680.700.

EmployIndy, has established the following guidelines on the provision of paid Work-Based Activities:

| Work-Based Activity | Minimum Hours | Maximum Hours | Minimum Wage | Maximum Wage |
|---|---------------|---------------|--|--|
| Job Shadowing (one opportunity per student per semester limit) | 15 hours | 15 hours | If paid, no less than \$100 stipend per occurrence | If paid, cannot pay more than \$100 stipend per occurrence |
| Work Experience (Summer employment, Internship) | 80 hours | 320 hours | Indiana Minimum Wage | Cannot pay greater than wage paid to employees in comparable positions |
| Pre-Apprenticeship | 160 hours | 320 hours | Indiana Minimum Wage | Cannot pay greater than wage paid to employees in comparable positions |
| On-the-Job Training | 160 hours | 520 hours | \$10/hr | No more than \$13,000 total |

³ 29 C.F.R. § 541.4

Job restrictions

Child Labor Rules restrict the jobs that youth may perform on the basis of the age of the youth and the type of employment:

- A youth **18 years or older** may perform any job, whether hazardous or not, unless restricted by local policy.
- A youth **16 or 17 years old** may perform any job **not** identified as hazardous⁴ by the Secretary of Labor.⁵

EmployIndy and their Employer of Record have the right to disallow an employer and restrict participant WEX placement if the placement does not provide a meaningful experience, is potentially hazardous or harmful to the participant, or could increase EmployIndy's or the Employer of Record's liability.

Employer Eligibility

Employers providing a WEX to a participant will meet the following guidelines:

- 1) The employer must not be involved in a current labor dispute and must not have a history of frequent layoffs. The employer must not utilize a WEX agreement to displace currently employed workers, replace laid-off workers, or reduce the hours of current employees below their normal schedule.
- 2) The employer is an equal opportunity employer and complies with all relevant local, state, and federal laws.
- 3) Appropriate standards of health and safety will be maintained in the participant's work and learning environment.
- 4) The employer must provide adequate worker's compensation insurance coverage.

Employers providing an OJT, must follow EmployIndy's *OJT Policy*.

EmployIndy reserves the right to terminate a WEX, Pre-Apprenticeship, or OJT contract if the employer does not meet or follow the guidelines of this policy.

6. Exceptions

Exceptions to this policy may be granted by EmployIndy's President or Chief Operating Officer.

7. Definitions

The following definitions are taken from the Indiana Department of Workforce Development's Interim Guidance on WIOA Title 1 Youth Work Experience.⁶

Job Shadowing Opportunities: A job shadowing experience is a short-term, non-wage activity which introduces a participant to the workplace and provides exposure to occupational areas of

⁴ <http://youth.gov/youth-topics/youth-employment/hazardous-jobs>

⁵ 29 C.F.R § 570 et. seq. See U.S. Department of Labor "Fair Labor Standards Act Advisor."
<http://webapps.dol.gov/elaws/whd/flsa/docs/haznonag.asp>

⁶ http://www.in.gov/dwd/files/Policy_Youth_Work_Experience.pdf

interest to increase career awareness. Job shadowing is limited and allows youth to observe only.

Work Experience (Summer Employment Opportunities, Internship, and Other Employment Opportunities throughout the school year): A short-term employment opportunity or work experience, either full or part-time, that is conducted mainly during the summer months or for a similar timeframe during other months of the year. These opportunities could arise as are necessary for the youth or be part of a larger scale summer employment program. An internship is a form of learning that integrates classroom knowledge with practical application and skills development in a professional setting. Internships should be viewed as an extension of the participant’s educational experience and, where possible, should align with their career interests and pathways. Internships could be paid or unpaid but should align with the Fair Labor Standards Act’s, “Test for Unpaid Interns.”⁷

Pre-Apprenticeship Programs: A program or set of strategies designed to prepare individuals to enter and succeed in a Registered Apprenticeship program and that has a documented partnership with at least one, if not more, Registered Apprenticeship program.

All pre-apprenticeship programs must meet the following quality standards:

- a. Approved training and curriculum
- b. Strategies for long-term success
- c. Access to appropriate support services
- d. Promotes greater use of Registered Apprenticeship to increase future opportunities
- e. Provides meaningful hands-on experience that does not displace paid employees
- f. Facilitated entry and/or articulation

On-the-Job Training Opportunities: On the-job training is training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- a. Provides knowledge or skills essential to the full and adequate performance of the job;
- b. Is made available through a program that provides reimbursement to the employer of a percentage of the wage rate of the participant; and
- c. Is limited in duration as appropriate to the occupation for which the participant is being trained; taking into account the content of the training, prior work experience of the participant, and the service strategy for the participant.
- d. Provides the expectation that the employer will hire the OJT participant upon successful completion of the OJT.

Individual Service Strategy Plan: An Individual Service Strategy (ISS) plan is a plan developed for each participant that is directly linked to one or more of the indicators of performance, and identifies a career pathway which includes education and employment goals. The ISS must:

- Include career planning and the results of objective assessments
- Include education and employment goals
- Include achievement objectives and services
- Directly link to one or more performance indicators
- Identify an appropriate career pathway. Assessment tools to identify appropriate career pathways can include:
 - Indiana Career Connect.
 - Indiana Career Explorer.

⁷ <https://www.dol.gov/whd/regs/compliance/whdfs71.htm>

8. Related Policies and Documents

Department of Workforce Development Interim Guidance on WIOA Title 1 Youth Work Experience⁸

EmployIndy *On-The-Job Training* Policy

EmployIndy Worksite Agreement

Department of Workforce Development On-the-Job Training Guidelines under the Workforce Innovation and Opportunity Act (WIOA), Policy 134-P1⁹

⁸ http://www.in.gov/dwd/files/Policy_Youth_Work_Experience.pdf

⁹ http://www.in.gov/dwd/files/OJT_policy_final_6-9-15_134_P1.pdf