

Youth Work Experience

WIOA Youth Program Element

May 16, 2024





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Agenda

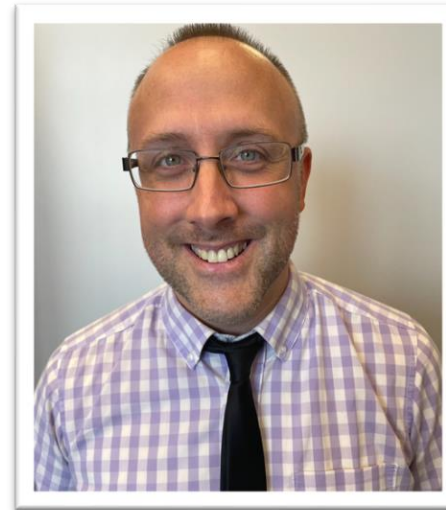
May 16, 2024 (Section times are approximate)

- 1** | **Welcome & Introductions** **2:00 – 2:10**
Facilitated by Tara Smolock
- 2** | **WIOA Youth Work Experience** **2:10 – 2:25**
Facilitated by Michael White
- 3** | **PA Wage and Hour Requirements** **2:25 – 3:00**
Facilitated by Bryan Smolock
- 4** | **Wrap up/Questions** **3:00 – 3:30**
Facilitated by Bryan Smolock, Michael White, and Tara Smolock

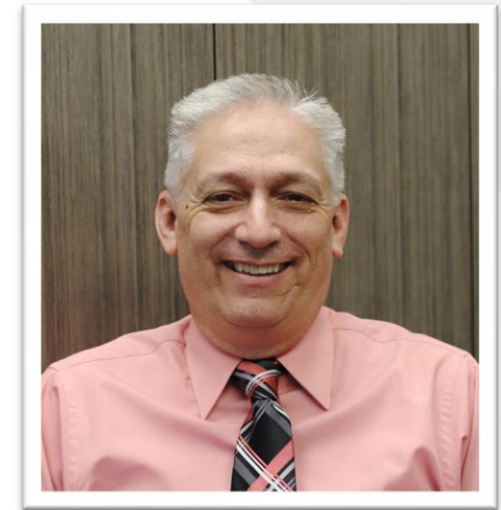


Welcome!

Meet your presenters!



Bryan Smolock
Director, Labor Law Compliance



Michael White
BWDA Deputy Director



20 CFR § 681.460

What services must local programs offer to youth participants – 14 Youth Program Elements

Paid and unpaid work experience is one of the 14 program elements for the WIOA youth program. Work experience is a planned, structured learning experience that takes place in a workplace and provides youth with opportunities for career exploration and skill development. A work experience may take place in the private for-profit section, the non-profit sector, or the public sector. *[20 CFR § 681.460(a)(3)]*



WIOA Work Experience for Youth

WIOA identifies four types of work experience for youth: summer employment and other employment opportunities available throughout the school year, pre-apprenticeship programs, internships and job shadowing, and on-the-job training.

Pre-apprenticeship programs are programs or set of strategies designed to prepare individuals to enter and succeed in Registered Apprenticeship programs and have a documented partnership with at least one, if not more, Registered Apprenticeship programs.

An **internship** is a system of gaining on-the-job experience by placement in a work environment for a period with the goal to build technical and job awareness skills. Internships may be paid or unpaid.

A **job shadow** is a worksite experience during which an individual spends time one-on-one with an employee observing daily activities and asking questions about the job and industry. Individuals participate before, during and after the job shadow to help them understand and reflect on what is learned at the worksite. The job shadow allows the individual to determine career compatibility and responsibilities. Job shadowing is like an expanded informational interview.

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

- Provides knowledge or skills essential to the full and adequate performance of the job;
- Is made available through a program that provides reimbursement to the employer of a percentage of the wage rate of the participant; and
- Is limited in duration as appropriate to the occupation for which the participant is being trained, considering the content of the training, prior work experience of the participant, and the service strategy for the participant.



Work Experience versus Non-Work Experience

The Federal Fair Labor Standards Act (FLSA) will apply in any situation where an employer/employee relationship exists (*work experience*). WIOA participants are subject to the requirements of the FLSA to the extent that the activities performed in the work experience constitute employment.

A local area shall ensure that the youth provider determines whether work experience is a “learning” situation or an “employment” situation. The LWDB should establish a process for making these determinations. *Note: A work experience is either one or the other.*



WIOA Youth Experience for Youth

Non-Work Experience

According to the Wage and Hour Division of the U.S. Department of Labor, Employment Standards Administration, if all the following six (6) items exist, the work experience can be considered a "training" situation, and an employment relationship does not exist under the FLSA:

- The training, even though it includes actual operation of the facilities of the work experience provider is essentially a training experience like a vocational school;
- The participant is primarily the beneficiary of the experience;
- Regular employees are not displaced, and the experience is closely supervised/observed;
- The work experience provider that hosts the experience derives no immediate or significant advantage (and may even be adversely impacted);
- The participant is not guaranteed a job at the conclusion of the experience; and
- There is mutual understanding between the participant and the host agency that the participant is not entitled to wages for this time because the activity is essentially a training experience.

As the participant is a "trainee" and an employment relationship does not exist under the FLSA, the FLSA's minimum wage and overtime provisions do not apply to the participant.

WIOA Youth Experience for Youth

Work Experience

On the other hand, if the youth participants are engaged in the primary operations of the work experience provider and are performing productive work (for example, filing, performing other clerical work, or assisting customers), then receiving some benefits in the form of a new skill or improved work habits is unlikely to make the participant a trainee, given the benefits received by the work experience provider.

If the worksite uses the youth participants as substitutes for regular full time or part time employees, it is more likely that the participants are employees as opposed to trainees. Also, if the work experience provider would have needed to hire additional employees or require overtime had the participants not performed the work, then the participants are likely employees.





WIOA Youth Experience

Work Experience versus Non –Work Experience

Questions



Please continue
to post your
questions and
comments in the
chat.



Thank you!



Michael White, BWDA Deputy Director



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