



**Department of Workforce Services
and
Arkansas Workforce Investment Board Issuance PY07-18**

From: Artee Williams, Director
Kenneth Ferguson, Executive Director

Date: June 06, 2008

Subject: Child Labor Laws, Work Permits, the Hatch Act, AJL Data Entry, and Other Guidelines

1. **Purpose:** To provide general guidance and reiterate requirements regarding the administration of the Workforce Investment Act (WIA) Youth Programs, especially during the summer months.
2. **General Information:** During the operation of the WIA youth summer employment activities, DWS, as well as the Arkansas Department of Labor (ADOL), receive telephone calls from participants voicing complaints and/or asking questions 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 the lateness in requesting Work Permits, we offer the following guidance.

Please be reminded of the requirements of the Arkansas and Federal Child Labor Laws and the Hatch Act and how they relate to the WIA. The Workforce Investment Act does not specifically refer to the Hatch Act, as with a number of other federal, state or local laws and requirements. However, the WIA at §195(6) provides guidance that WIA funds must not be spent on political activities. Also, the WIA Regulations at §667.264 provides a list of activities that are prohibited under Title I of WIA. Reference specifically §667.264(a)(3).

We emphasize that summer programs should provide meaningful work experience that compliments and integrates the learning that takes place in the classroom. DOL also strongly recommends that all participants, including 14 and 15 year olds, spend considerable time on an actual job.

All LWIAs should ensure that worksites introduce and/or reinforce the rigors, demands, rewards and sanctions associated with holding a job. LWIAs should be 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.

Please be reminded that summer youth programs/activities are only one element of the required youth program activities. Youth services must be provided year-round.

Issuance of Child Labor Permits: Minors placed through grantees remain the employees of the 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 organization.

When an LWIA submits 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.

Please be reminded of the following:

- a. **Exit:** Participants should not be exited from the WIA summer activities unless they are not expected to return to the program for further employment, training and/or services funded under that title and have no partner services.
- b. **Employment Certificates:** Arkansas Child Labor Law Regulations, Section 2.200 and 2.202, require that Employment Certificates be obtained for 14 and 15 year old individuals prior to the date employment begins. They must not be employed until the employer has received a copy of the employment certificate. The 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.
- c. **Elected Officials:** You are cautioned relative to the requirements regarding participants being employed or out stationed in the offices of elected officials. Each LWIA must monitor work activities and maintain, in the participant's file, record of:
 1. A complete participant job description, including job title.
 2. A list of the job duties (don't just state the job title such as -- secretary) to show that they are not involved in political or campaign work. Do not use catch-all 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., type of business, location, supervisor's name, contact information, etc.

- d. **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.***
- e. **Seat Belts:** State law requires the use of seat belts. Be sure to remind supervisors that seat belts must be worn when in the passenger compartments of moving vehicles.
- f. **Health and Safety:** Arkansas Child Labor Law Regulations, Section 2.300, requires that youth not be permitted to work under conditions which are hazardous or dangerous to their health or safety. It prohibits Subrecipients 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 the 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 DOL 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 to the participant(s) in the event of even minor mishaps.

Other conditions, which are considered hazardous or dangerous, include situations where participants are mowing, spraying poisonous acids, gasses or other chemicals, or weed eating without eye protection. Riding in moving vehicles without using seat belts and the use of riding or power push mowers with defective safety switches are also considered hazardous and dangerous. Transportation of participants in the rear of vans not equipped with seat belts or with goods is also considered hazardous and dangerous.

- g. **Sling/Grass Blades:** Youth under age 16 are prohibited from using sling blades, grass blades, etc.
- h. **Loading Goods:** Arkansas Child Labor Law Regulations, Section 2.300 (b), requires that youth under age 16 are prohibited from loading goods to and from motor vehicles or anything that is attached to a motor vehicle such as a trailer.
- i. **Use of Chemicals:** The Arkansas Child Labor Laws, Section 11-6-106, prohibits individuals under age 16 from using poisonous acids, gasses or other chemicals. This includes using these substances to spray weeds.
- j. **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 previous painted area at a non-construction site is acceptable when:

1. Water based or water clean-up is being used. No oil based paint or oil based primers requiring turpentine or other solvents as cleanup can be used (see section on Use of Chemicals in this issuance).
 2. No ladders or any type of scaffold may be used as a working platform per section on Ladders and Scaffolding in this issuance.
 3. All painting must be done in a well-ventilated area.
 4. Operation of any type of paint sprayer is forbidden.
 5. All painting must be done in accordance with the guidelines and safety directions established on the label by the paint manufacturer.
- k. **Outside Helper:** The Arkansas Child Labor Law Regulations, Section 2.300 prohibits 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.
- l. **Education/Skills Training:** Reference the Act at Section 129 for a list of the required activities. The educational activity or training must be documented.
- m. **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.
- n. **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.
- o. **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 participant and supervisor. Job descriptions for participants involved in work experience are important since they contain a list the parameters for the worksite supervisor to follow. If written clearly, they can prevent inadvertent safety and child labor law violations. Do not just state the job title as "secretary," but 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.
- p. **Employment Goal:** 20 CFR 664.405(2) requires that a career goal be included on the Individual Service Strategy (ISS).
- q. **Arkansas JobLink (AJL) Enrollment Information:** We are required by the U.S. Department of Labor to report youth who are participating during the summer months. The enrollment data for this activity will be collected for WIASRD Item #346 and reported to the Department of Labor (DOL).

During the period of summer youth activities, all participating youth must be enrolled in AJL under the service, "Summer Employment Opportunities" if the youth received summer employment opportunities directly linked to academic and occupational learning. This service will not have a definition that is specific to a particular role.

Subsequent to enrolling youth in the "Summer Employment Opportunities" they must also be enrolled in all other services in which they participate during the summer, such as work experience. At the end of the summer program, staff must enter an ending date for the "Summer Employment Opportunities" and any other service in which the youth has completed. Staff must complete all appropriate fields on the service screens.

3. **Action Required:**

- a. LWIAs are required to monitor 100% of the summer program worksites and participants during the period in which the summer program is operating, preferably monitoring heavily on the front end to detect and correct problems early. **LWIAs are also required to provide the State with a report of monitoring activities, no later than September 16 each year.** The report should be sent to Idell Moseley - idell.moseley@arkansas.gov.
- b. LWIAs must conduct on-site monitoring of all contracts with universities participating in the YOU Program.
- c. The State may also conduct summer monitoring visits. Each LWIA scheduled for monitoring will be contacted via e-mail or telephone to request worksite information prior to a visit.

4. **Inquiries:** Contact Mike Kennedy 682-3142 (mike.kennedy@arkansas.gov), or Sandy Monaco 682-3131 (sandy.monaco@arkansas.gov)

5. **Expiration Date:** Continuing.