State of Arkansas
Department of
WORKFORCESERVICES
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DEPARTMENT OF WORKFORCES SERVICES
ISSUANCE NUMBER PY 10-13

Artee Williams, Director **June 22, 2011**

TO: Local Workforce Investment Areas/Service Providers

SUBJECT: 2011 Summer Employment Opportunities Program Guidance

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, the Department of Workforce Services (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 requesting Work Permits in a timely manner, we offer the following guidance.

   Please be reminded of the requirements of the Arkansas and Federal Child Labor Laws and how they relate to the WIA. Below are links to the Arkansas Child Labor Laws (October 2005), the Arkansas Administrative Regulations Pertaining to Child Labor (April 1992), and the DOL Child Labor Bulletin 101 (Revised July 2010).

   http://www.arkansas.gov/labor/pdf/child_labor_laws_and_regs.pdf)
   http://www.state.ar.us/labor/pdf/child_labor_regs.pdf
   http://www.dol.gov/whd/regs/compliance/childlabor101.pdf

   We emphasize that summer programs should provide meaningful work experience. The United States Department of Labor (USDOL) also strongly recommends that all participants, including 14 and 15 year olds, spend considerable time on an actual job.

   All Local Workforce Investment Areas (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.

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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 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 organization.

When a 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.

All youth work permits in the state should be sent to the Little Rock office 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 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 are not receiving any partner services (Refer to DWS Issuance 08-05).

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*:** 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). Please be aware of the requirements of participants that 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 LWIA 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., 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.* 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 times worked and times off work must be indicated.

e. ***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.

f. ***Health and Safety***: Arkansas Child Labor Law Regulations, Section 2.300, requires 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 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 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 or with goods.

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 be prohibited from loading goods to and from motor vehicles or anything that is attached to a motor vehicle such as a trailer.

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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 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.

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. ***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.

m. ***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.

n. ***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 of 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'.

o. ***Employment Goal*:** 20 CFR 664.405(2) requires that an age appropriate career goal for formula funded participants be included on the Individual Service Strategy (ISS). Local areas have the flexibility to determine the appropriate type of assessment and ISS for youth served with 2009 ARRA funds during the summer. Although some level of assessment and development of an ISS is required, a full objective assessment and comprehensive ISS as specified in the WIA regulations is not required for youth served only during the summer months.

p. ***Youth Who Need Additional Assistance – 6th Eligibility Barrier*:** Youth who do not have one of the eligibility barriers listed in the WIA Regulations at 664.200 may be eligible for the program by meeting the sixth barrier, which is a barrier that the Regulations allow each LWIA to define. All staff who conducts eligibility determination should be provided the local sixth barrier definition along with documentation requirements that will be sufficient for data validation.

q. ***Available Services***: All participants 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 serve the participant or applicant either on a sequential or concurrent basis" (WIA Section 129(c) (3) (A) (i) & (ii)). 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 WIA or partner services, then the attendance problem may not occur.

Supportive Services is one of the ten 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 WIA. For LWIAs that still have ARRA funds, 2009 ARRA funds may be used to provide Supportive Services through June 30, 2011.

r. ***Difference between Summer Employment Opportunities and Work Experience:*** There is a difference between "Summer Employment Opportunities" and "Work Experience". Summer Employment Opportunities according to the WIASRD (Item #346) is if the participant receives summer employment opportunities directly linked to academic and occupational learning. Work Experience is generally employment as described in the WIA Regulations at 664.460. When a WIA formula funded youth receives services that meet the WIASRD definition of "Summer Employment Opportunities", then enter "Summer Employment Opportunities" on the Service and Training (S&T) Plan and enter all provider information pertaining to the work experience, including O*Net code, phone number and dates. The "Actual Start Date" of this service represents the actual day the work experience started, which cannot be prior to May 1st. However, if the youth receives Work Experience only (664.460), then enter "Work Experience" on the S&T Plan and do not enter "Summer Employment Opportunities".

3. **<u>WIA ARRA and Formula Program Information</u>:** Youth ages 14-24 served only with 2009 Recovery Act funds who participate between May 1 and June 30, 2011 will not be reported in

the regular WIA performance measures, they will not be reported in the WIA Annual or Quarter reports, and they will not be included in data validation. These youth will be included in the Youth Recovery Act report. The Work Readiness indicator and the completion rate will be the only measures that apply to such youth.

Enrollment in AJL

Staff may begin AJL data entry prior to May 1st. Enter the demographics using the actual eligibility date, and complete the enrollment. The enrollment date may be prior to May 1st since enrollment does not make an individual a WIA participant. Next, staff may enter the services that will be provided.

Due to early eligibility determination, there may be a situation where a 24 year old (ARRA) has been determined eligible; however, if the 25th birthday occurs prior to the date of participation, the individual will not be eligible. The individual must be the correct age on the date of participation for each program.

To serve a currently enrolled formula funded youth with stimulus funds during the summer, and the "eligibility" on the Case Details screen does not display "WIA Youth Stimulus Funding", update the demographics and then the stimulus eligibility will display. Enroll the youth on the Program Details screen by selecting "Youth Stimulus Funding". The participant will then have two enrollments, a formula funded enrollment and a stimulus-funded enrollment. Enter end dates for open formula services if they are not provided during the summer.

If a 22-24 year old youth is enrolled for the summer program, there will not be an option in AJL to enroll them in the formula younger youth or older youth programs because they are out of that age range. If a youth in the age range of younger youth (14-18) or older youth (19-21) is enrolled in the Summer Employment Opportunities program, there will be an option in AJL to enroll in either the formula younger youth or older youth program.

The eligibility date, enrollment date and participation date may be different dates, or they may all be the same date depending on each actual enrollment. Staff must complete required fields in AJL including fields on the service screens (Refer to Department of Workforce Issuance PY 05-16, AJL Data Entry dated June 2, 2006).

To enroll ARRA funded youth in AJL, select the "Youth Stimulus Funding" program enrollment.

Services

For ARRA enrollments use the "Summer Employment Opportunities" service in the S&T Plan. In the "Participant Group" field on the service screen, select either "In School Youth 2009 Stimulus Funding" or "Out of School Youth 2009 Stimulus Funding". Summer Employment Opportunities entered on the Service and Training (S&T) Plan will be used to record the work experience information. Enter all the provider information pertaining to the work experience, including O*Net code, phone number and dates.

Summer Employment Opportunities entered on the Service and Training (S&T) Plan will be used to record the work experience information. Enter all the provider information pertaining to the work experience, including O*Net code, phone number and dates. The "Actual Start Date" of this service represents the actual day the work experience started, which cannot be prior to May 1st. Do not select Work Experience ARRA Summer 2011.

For any of the youth enrollments, do not record a service of work readiness on the S&T Plan. Instead, record the work readiness information in the goals section on the Enrollment Details Screen.

If services related to the 2011 summer program are entered into AJL prior to May 1st, the estimated start date must be May 1st or after, and the service status must be marked "scheduled". A "scheduled" service does not make an individual a participant. When the service is actually started, complete the dates and change the status to "in progress". The individual will become a participant on the date of the first service. The service start date represents the first day the participant actually began receiving the service. The service end date is the actual day the service ended. When all WIA and partner funded services are ended, the participant will exit 90 days from the final service end date, and the date of the exit will be that same date. (Refer to the Department of Workforce Services Issuance PY 08-05 dated August 22, 2008).

Completion Rate

TEGL 14-08 (applies to ARRA) requires local areas to report the completion rate of those in summer employment. AJL is programmed to use the Summer Employment Opportunities service to determine if the participant has completed the summer program for the Summer Employment Completion Rate. To track whether a participant completed, select the status "completed" on the Summer Employment Opportunities service screen.

The selection of "completed" means that the participant has completed their summer program according to their Individual Service Strategy, and then will be included in the numerator of the completion rate. For example, if the ISS states that their program will end on July 30th (estimated service end date in AJL), and they actually stop receiving services on that date (except for follow-up services), then their status for Summer Employment Opportunities should be marked "completed". If they quit for any reason prior to July 30, then select the status of "unsuccessful completion" for Summer Employment Opportunities, and they will be in the denominator only for the completion rate.

Work Readiness

The Work Readiness portion of the Skill Attainment Rate will be the only performance measure used for youth who participate in Summer Employment Opportunities funded by ARRA. The basic skills and occupational skills portions of the Skill Attainment Rate will not be required. For additional information on work readiness and the work readiness tool, refer to DWS Issuance PY 10-02, 2010 Summer Youth Employment Opportunities Program Work Readiness Tool (July 8, 2010).

"45 Day Rule"

Historically, participant eligibility determination for the summer program has been completed several weeks prior to the date of participation. This process includes collecting documentation and completing the intake/application form. Since eligibility determination for many individuals may be completed early, 45 days may pass before the date of participation occurs.

Under usual circumstances, if 45 days has passed since eligibility determination and the individual has not received a service then eligibility would have to be completed again. There will be no 45 day rule for the 2011 ARRA summer program. Eligibility determination will not have to be re-determined if a service is not provided within 45 days of the initial eligibility determination.

4. **Action Required:**

   a. LWIAs are required to monitor 100% of the summer program worksites and 100% participant file review 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 October 31st. The report should be sent to Sheila Wilkerson (sheila.wilkerson@arkansas.gov).

   b. The State may 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.

5. **Inquiries:** Contact Sandy Monaco at 501-682-3131 (sandy.monaco@arkansas.gov).

6. **Expiration Date:** Continuing.