



**DEPARTMENT OF WORKFORCES SERVICES
ISSUANCE NUMBER PY 12-12**

Artee Williams, Director

May 28, 2013

TO: Local Workforce Investment Areas/Service Providers

SUBJECT: 2013 Summer Employment Opportunities Program Guidance

1. **Purpose:** To provide general guidance and reiterate requirements regarding the administration of the Workforce Investment Act (WIA) youth program, 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 and Administrative Regulations, and the DOL Child Labor Bulletin 101 (Revised February 2013).

http://www.labor.ar.gov/divisions/Documents/child_labor_laws_and_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.

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 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 from 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., name and 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 time worked and time 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.

- 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 participants be included on the Individual Service Strategy (ISS). 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 conducting eligibility determinations should be provided with the local areas sixth barrier definition, along with a list of acceptable documentation to meet data validation requirements.
- 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.

- r. **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 used during the summer season and, according to the WIASRD (#346), it is when the participant receives summer employment opportunities directly linked to academic and occupational learning. A Work Experience is employment only and is described in the WIA Regulation at 664.460.

When a youth receives services that meet the WIASRD definition of “Summer Employment Opportunities”, select “Summer Employment Opportunities” on the S&T Plan in AJL. Do not open a separate Work Experience service, and do not open a service that represents the academic/occupational learning component. On the Summer Employment Opportunities service screen, notes text box, provide a brief description of the academic/occupational 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.

As a note of explanation – when the Summer Employment Opportunities service is sent to the WIASRD, then DWS is reporting to DOL that the youth is receiving both components. If the Summer Employment Opportunities service is open and an academic related service such as tutoring is also open on the S&T, then DWS would be reporting the academic portion two times on the WIASRD. It would be reported one time because it is included in the summer service, and reported a second time with the tutoring service. This explanation is only good for the summer season. It does not apply during the remainder of the year because the summer service is not used during the remainder of the year.

Whenever the youth receives Work Experience only (664.460) during the summer season, then select “Work Experience” on the S&T Plan in AJL and do not use “Summer Employment Opportunities”.

In both cases enter all provider information pertaining to the work experience, including employer name (i.e. participants 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/occupational component began.

3. **Action Required:**

- a. LWIAs are required to monitor 100% of the summer program worksites and all participant files during the period in which the summer program is operating, preferably monitoring heavily on the front end to detect and correct problems early. LWIAAs 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 Robinson (Stephanie.V.Robinson@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.

4. **Inquiries:** Contact Stephanie Robinson at 501-320-5629 (stephanie.v.robinson@arkansas.gov).

5. **Expiration Date:** Continuing.