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**DIVISION OF WORKFORCE SERVICES
ISSUANCE NUMBER PY19-16**

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From: Charisse Childers, Ph. D., Director

TO: Local Workforce Development Boards/Service Providers/ WIOA Partners

SUBJECT: 2020 Summer Employment Opportunities Work Experience Guidance

- I. **Purpose:** To provide general guidance and to reaffirm requirements regarding the administration of the Workforce Innovation and Opportunity Act (WIOA) youth program, especially during the summer months.
- II. **General Information:** Arkansas House Bill 1116, approved February 23, 2015 removed hours of employment restrictions for individuals 17 years of age. These individuals may be considered for employment opportunities that have previously been unavailable.

To view the Bill, use the following link: (if password box displays, "x" out)

<http://www.arkleg.state.ar.us/assembly/2015/2015R/Acts/Act162.pdf>

Poster – does not specify work hours for youth 17 years of age – use the following link:

https://www.labor.arkansas.gov/Websites/labor/images/POSTER_FINAL_2019.pdf

Work experience is one of the program elements that local areas must make available to youth participants. Paid and unpaid work experiences must include academic and occupational education components. WIOA combines summer youth employment programs and work experience so that Summer Employment Opportunities become one item in a list of work experiences which includes pre-apprenticeship programs, internships and job shadowing, and on-the-job training.

Work experiences are planned, structured learning experience that take place in a workplace for a limited period of time and provides the youth with opportunities for career exploration. Work experiences are designed to enable youth to gain exposure to the working world and its requirements. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job, and advance in

employment. A work experience may take place in the private for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act or applicable State law, exists.

WIOA includes a major focus on providing youth with work experience opportunities. Work experience is prioritized with the requirement that local areas must spend a minimum of twenty percent of the funds allocated to the local area to provide both in-school youth and out-of-school youth, with paid and unpaid work experiences. In order to ensure that local WIOA youth programs meet this requirement, the United States Department of Labor (USDOL) proposes that local WIOA youth programs track program funds spent on paid and unpaid work experiences, report such expenditures as part of the local WIOA youth financial reporting. Program expenditures from the work experience program element include, wages as well as staffing costs for the development and management of work experiences. Local area administrative costs are not subject to the twenty percent minimum work experience expenditure requirement. The work experience expenditure rate is calculated on local area funds after subtracting out funds spent on administrative costs and, is calculated based on the remaining total local area youth funds rather than calculated separately for ISY and OSY.

WIOA does not require local areas to offer summer youth employment opportunities because Summer Employment is no longer its own program element. **However, local areas are required to offer work experience opportunities which may include summer employment.**

Providers administering the work experience program element must be selected by the Local Board by awarding a grant or contract on a competitive basis. However, employers who are providing employment opportunities are not required to be selected through a competitive process.

[20 CFR: 681.460; 681.590; 681.600; 681.610; 681.620; 681.630; preamble pages 20731; 20735; 20737. WIOA: 129(c) (2) (C); 129(c) (4)]

Please be reminded of the requirements of the Arkansas and Federal Child Labor Laws and how they relate to the WIOA. Below are links to the current Arkansas Child Labor Laws and Administrative Regulations and the current USDOL Child Labor Bulletin 101.

<https://labor.publishpath.com/Websites/labor/images/AMWA%20POSTER%20010119.pdf>
<http://www.minimum-wage.org/arkansas/child-labor-laws>
<http://www.dol.gov/whd/regs/compliance/childlabor101.pdf>

The emphasis of summer programs should be to provide meaningful work experience. The USDOL strongly recommends that all participants, including 14 and 15-year-old, spend considerable time on an actual job.

During the operation of the WIOA youth summer employment activities, the Division of Workforce Services (DWS), as well as the Arkansas Department of Labor (ADOL), receive telephone calls from several participants asking questions and expressing concerns about child labor laws and requirements relative to work hours, working conditions and work requirements, etc. In addition, ADOL receives several requests for Child Labor Work Permits days or weeks after some youth have started working. To avoid special reviews, investigations of complaints and questions regarding youth program operations specifically on requesting work permits in a timely manner, we offer the following guidance.

All Local Workforce Development Boards (LWDBs) should ensure that worksites introduce and/or reinforce the rigors, demands, rewards and sanctions associated with holding a job. LWDBs are 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.

Summer Employment Opportunities is a type of Work Experience. Youth should also be encouraged to participate in other employment opportunities available throughout the school year.

Issuance of Child Labor Permits: Minors placed in employment by 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 specific employer in the local area.

Prior to the employment date, the LWDB must submit a child labor application to the ADOL. The application must include the name, address, and business type of the job site where the child is placed. ADOL must have this information in order to properly discharge its statutory obligations, to ensure the safety of children under the age of sixteen in the workplace. The youth must not begin employment until the employer has received a copy of the employment certificate. The job site employer must maintain the certificate on record for as long as the child is employed, and for a period of three years after the employment terminates. A copy must also be maintained in the WIOA participant folder.

All requests for work permits should be sent to the address below. The phone number is (501) 682-4534.

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 after WIOA Summer Employment Activities unless they are not expected to return to the program for further employment, training and/or services. **(Reference: 20 CFR 677.150 (c)(1))**
- b. Elected Officials:** The WIOA does not specifically refer to the Hatch Act, as well as several other federal, state or local laws and requirements. However, WIOA 194(6) provides guidance that WIOA funds must not be spent on political activities. Also, the WIOA Regulations at 20 CFR 683.250 provide a list of activities that are prohibited under Title I of WIOA; reference specifically 683.250(a)(3). Please be aware of the requirements of participants who 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: <https://uscode.house.gov/>.

Each LWDB 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, and contact information.
- c. 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 duration that the work was performed, time off work, and signatures with dates.
 - d. 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.
 - e. Health and Safety:** Arkansas Child Labor Law Regulations, Section 2.300, require 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 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, ADWS 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.

f. *Sling/Grass Blades:* Youth under age 16 are prohibited from using sling blades, grass blades, etc.

g. *Loading Goods:* Arkansas Child Labor Law Regulations, Section 2.300 (b), require 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.

h. *Use of Chemicals:* The Arkansas Child Labor Laws, Section 11-6-106, prohibit individuals under age 16 from using poisonous acids, gasses or other chemicals. This includes using these substances to spray weeds.

i. *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 must not be 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.

j. *Outside Helper:* The Arkansas Child Labor Law Regulations, Section 2.300, prohibit 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.

k. *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.

l. 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.

m. 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 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. For example, state the job title such as "secretary," then 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'.

n. Available Services: All youth should be provided information on the full array of applicable or appropriate services that are available through the local boards or eligible providers or one-stop partners, including those receiving funds under this subtitle. There must also be referrals made to appropriate training and educational programs, that have the capacity to provide youth services either on a sequential or concurrent basis. As an example of the need for service awareness, a participant may have childcare issues which result in poor attendance. If the participant is aware of the availability of childcare assistance, either through WIOA or partner services, then the attendance problem may not occur.

o. Supportive Services is one of the program elements local areas must make available to eligible youth. Supportive Services may include transportation, childcare, dependent care, housing, and other services that are necessary to enable an individual to participate in WIOA activities. [20 CFR 681.570]

p. 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 provided during the summer season.

When youth receive "Summer Employment Opportunities", select "Summer Employment Opportunities" on the Service and Training Plan (S&T) in Arkansas JobLink (AJL). Do not open a separate Work Experience service. As a reminder, all work experience must include an academic and occupational component. (Issuance 19-12)

The actual name of the employer and not the local workforce development board (unless both are the same) should be listed in the "provider field" on the Service and

Training screen. The “Actual Start Date” of Summer Employment Opportunities represents the actual day of the work experience.

Action Required: LWDBs are required to monitor 100% of the Summer Employment worksites, preferably monitoring heavily on the front end to detect and correct problems early. As a best practice, local workforce development boards should take photos of participants at the worksite to document and demonstrate recommended CDC guidelines, occupational health, safety and child labor laws/regulations are being followed. It is no longer required that all participant files be reviewed during this time; however, summer files must be reviewed by LWDBs during regular monitoring. LWDBs are also required to provide the State with a report of monitoring activities no later than October 30th. The report should be sent to WIOTA@arkansas.gov

The COVID-19 pandemic presents unique challenges for youth programs and participants. Local workforce development boards are encouraged to review local, state and federal health and safety guidance regarding COVID-19, and temporarily adjust program operations and services as needed.

- III. The State will conduct summer monitoring visits. Each LWDB scheduled for monitoring will be contacted via e-mail or telephone to request worksite information prior to a visit.
- IV. **Inquiries:** WIOTA@arkansas.gov
- V. **Expiration Date:** Continuing