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DEPARTMENT OF WORKFORCE SERVICES
ISSUANCE NUMBER PY 15-02

Daryl E. Bassett, Director **July 27, 2015**

TO: Local Workforce Development Area Administrators and Service Providers

SUBJECT: 2015 Youth Summer Employment Opportunities Program Guidance

1. **Purpose:** To provide general guidance and to reaffirm requirements regarding the administration of the Workforce Investment Act (WIA) and Workforce Innovation and Opportunity Act (WIOA) youth programs, especially during the summer months.

2. **General Information:** During the operation of the summer youth employment opportunities program, the Department of Workforce Services (DWS), as well as the Arkansas Department of Labor (ADOL), receive telephone calls from participants asking questions and expressing concerns about child labor laws and requirements relative to work hours, working conditions, 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 WIA and to WIOA. Below are links to the Arkansas Child Labor Laws and Administrative Regulations, and to the U.S. Department of Labor 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

   Transitioning from WIA to WIOA: WIOA shifts the primary program focus of Title I youth formula programs to support the educational and career success of out-of-school youth (OSY). A minimum of 75% of WIOA youth funds is to be expended on OSY, which is an increase from the minimum of 30% under WIA. It is critical that local areas begin to incorporate strategies for recruiting and serving more OSY while not prematurely exiting in school youth (ISY) from the program due to the shift in emphasis under WIOA to OSY. At the same time, new enrollments must reflect the shift in emphasis to OSY programs.

   New Eligibility Criteria: WIOA Section 129(a)(1) provides new eligibility criteria for the WIOA youth program. To be eligible to participate in the WIOA youth program, an individual must be an OSY or an ISY. An OSY is an individual who is not younger than 16 or older than 24 at the time of enrollment, not attending any school and has one or more of the barriers listed in WIOA Section 129(a)(1)(B). An ISY must be attending school, not younger than 14 or older than 21, low income, and have one or more of the barriers listed in WIOA Section 129(a)(1)(C).

Additionally, WIOA Section 129(c)(2) includes 14 program elements, which include the original 10 program elements under WIA (which have been consolidated to nine as the summer employment opportunities program element is now a sub-element under paid and unpaid work experiences) and 5 new program elements; financial literacy education, entrepreneurial skills training, services that provide labor market and employment information about in-demand industry sectors or occupations available in the local areas, activities that help youth prepare for and transition to post-secondary education and training, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster.

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

Tom Perez, U.S. Secretary of Labor, stated the following during a press conference on summer jobs.

> *"Summer jobs tell young people that they have worth and can add value. These jobs restore hope and build self-confidence. They allow young people to imagine a brighter future. Even something as basic as attention from a mentor pays huge dividends.*
>
> *This is a long-term investment with a big return. This isn't just about kids having a little spending money today; young people who experience summer jobs have higher graduation rates, better future job prospects and higher lifetime earnings. And this is critically important: summer jobs don't just teach so-called hard skills; they help young people develop the essential life skills that are essential to success in any workplace. I'm talking about things like leadership, punctuality, teamwork and problem-solving. Some people call those "soft skills", but I don't think there's anything soft about showing up on time, with the right attitude, ready to work."*

All Local Workforce Development Areas (LWDAs) should ensure that worksites introduce and/or reinforce the rigors, demands, rewards and sanctions associated with holding a job. LWDAs should be reminded that in 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 LWDA 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/WIOA summer activities unless they are not expected to return to the program for further employment, training and/or services 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 of employment. 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 or Workforce Innovations and Opportunity Act do not specifically refer to the Hatch Act, as with a number of other federal, state or local laws and requirements. However, the WIA at section 195(6) and WIOA at Section 194(10) provide guidance that funds must not be spent on political activities. Also, the WIA Regulations at §667.264 and WIOA Regulations at §683.250 provide a list of activities that are prohibited. Specific references are also in the WIA Regulations at §667.264(a)(3) and WIOA Regulations at §683.255. 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/view.xhtml?path=/prelim@title5/part2/chapter15&edition=prelim

   Each LWDA 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 work start and end times must be recorded, including lunch breaks.

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***: WIA Regulations at §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. Under WIOA, the ISS must be developed and updated as needed for each youth participant, must be directly linked to one or more of the indicators of performance described in WIOA Section 116(b)(2)(A)(ii), must identify appropriate career pathways that include both educational and employment goals, must consider planning and the results of the objective assessment, and must prescribe achievement objectives and services for the participant.

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 or in WIOA Section 129 may be eligible for the program by meeting the sixth barrier, which is a barrier that the Regulations allow each LWDA to define. All staff conducting eligibility determinations should be provided with the local area's 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)) and (WIOA 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/WIOA or partner services, then the attendance problem may not occur.

r. **Supportive Services**: May include transportation, child care, dependent care, housing, referrals to health care 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 and WIOA. Supportive services is one of the ten elements in WIA and one of the 14 elements local areas must make available to eligible WIOA youth.

Notes:

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 (#1303), it is when the participant receives Summer Employment Opportunities directly linked to academic and occupational learning. Work Experience is employment only and is described in the WIA Regulations in §664.460. WIOA does not require Local Boards to offer Summer Employment Opportunities as summer employment is a program element. WIOA requires 20 percent of LWDAs funding to be used to provide work experience opportunities, which may include summer employment (WIOA §681.620).

When a youth receives services that meet the WIASRD definition of "Summer Employment Opportunities", select "Summer Employment Opportunities" on the S&T Plan in Arkansas JobLink (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 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. participant 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:**

   LWDAs are required to monitor 100% of the summer program worksites, preferably monitoring heavily on the front end to detect and correct problems early. It is no longer required that all participant files be reviewed during this time; however files must be reviewed by LWDAs during regular quarterly or annual monitoring. LWDAs are also required to provide the State with a report of monitoring activities no later than October 29th. The report should be forwarded to Stephanie Blair at Stephanie. Blair@Arkansas.gov

   The State will conduct summer monitoring visits. Each LWDA scheduled for monitoring will be contacted via e-mail or telephone to request worksite information prior to a visit.

4. **Inquiries:** Contact Stephanie Blair at 501-682-3136 or Stephanie.Blair@Arkansas.gov).

5. **Expiration Date:** Continuing.