

WORK EXPERIENCE and TRANSITIONAL EMPLOYMENT

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Purpose:

A [transitional job](#) provides a time-limited work experience that is wage-paid and subsidized and is in the public, private, or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the Local WDB. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment. Transitional employment may be funded through contracts for adult, dislocated worker, and national dislocated worker grant participants.

In this Local Area, transitional employment is also designed for:

- Acquisition of additional behavioral, occupational-specific, or other job skills to enhance long-term employability
- Provision of an effective observational work-based component that includes employer feedback, thereby confirming assessment information or identifying work-based skills deficiencies

Participant Selection Criteria

- Potentially open to WIOA enrollees at any level of employment plan, including training or direct job placement
- Individual must have been unemployed (or) underemployed for at least 120 days, must demonstrate active job search, and must have been unable to secure permanent/full-time employment
- Other individuals experiencing significant barriers to employment, including; reentering citizens (justice-served population), unhoused, and long-term public assistance recipients, may be considered for transitional job participation
- Adult transitional employment must be combined with other activities enhancing employability or directly related to active permanent job search
- Completion of work readiness components as directed by the Career Advisor and identified in the individual employment plan
- Placement in the occupational field consistent with career objective identified in individual employment plan and with assessment results

Participant Requirements/Limitations

- Maximum allowable hours for any individual are 1000
- Balance of weekly time to be programmed by the Career Advisor and participant to include structured job search, employability skills upgrade, skill-specific training, and pre-vocational training
- Career Advisors will evaluate activities on a regular basis – participants not adhering to the individual employment plan may be removed from transitional employment activity as appropriate
- Total slots established by budget per funding source – participants enrolled on first come/first served basis until budget is completely encumbered
- Transitional employment wage will be determined by the prevailing wage of the occupation for which the participant is placed in

Worksite Organization Requirements/Limitations

- Worksite organizations must submit a Transitional Employment Worksite Request containing required

information to establish the Worksite Agreement

- All adult transitional employment placements must be for jobs in which organization worksite employees performing similar work are earning a minimum of \$15.00 per hour
- Because transitional jobs must be planned, structured learning experiences, the entity hosting the transitional job must designate an appropriate manager to provide supervision and feedback to the participant at regular intervals during participation
- Slots at participating companies (not-for-profit, public and for profit) are limited to no more than three (3) Adult transitional employment participants and may not be provided if such jobs would displace existing workers or replace jobs vacated by layoffs
- Worksite Agreement with the worksite organization must include individualized soft skill and/or skill-specific competency objectives, as appropriate for each participant, to be evaluated at the mid-point and completion of the work assignment. Monthly follow-up contact will be made to provide ongoing assistance.
- As part of attachment to the service provider payroll, participant would have a background and drug screen check paid through WIOA or special grant funds, as requested by worksite organizations
- Adult transitional employment may not be used to encourage or induce relocation of a business. In the case of a business that has relocated resulting in job losses at the previous location, then adult transitional employment may not be used at that business for a minimum of 180 days.
- Worksites must consent to regular monitoring visits designed to ensure adherence to policy

Work Experience (WEX) is defined in [Section 681.600](#) as:

- (a) Work experiences are a planned, structured learning experience that takes place in a workplace for a limited period. Work experience may be paid or unpaid, as appropriate. 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. Consistent with [§ 680.840 of this chapter](#), funds provided for work experiences may not be used to directly or indirectly aid in the filling of a job opening that is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage. Work experiences provide the youth participant with opportunities for career exploration and skill development.
- (b) Work experiences must include academic and occupational education. The educational component may occur concurrently or sequentially with the work experience. Further academic and occupational education may occur inside or outside the work site.
- (c) The types of work experiences include the following categories:
 - (1) Summer employment opportunities and other employment opportunities available throughout the school year;
 - (2) Pre-apprenticeship programs;
 - (3) Internships and job shadowing; and,
 - (4) On-the-job training (OJT) opportunities as defined in WIOA sec. 3(44) and in [§ 680.700 of this chapter](#).

Work experience, internship experience opportunities and pre-apprenticeship programs may be funded through contract for in-school and out-of-school youth. WEXs may only be provided to an individual who is determined eligible for individualized career services.

a. WEX requirements – the following requirements apply to internship and work experience activities:

- i. A completed Individual Employment Plan (IEP) or Individual Service Strategy (ISS) is required for an individual to receive a WEX.

- ii. For a paid WEX, the individual participating in the WEX contract must be hired as an employee of the service provider.
- iii. Individuals in a WEX must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations where the WEX takes place and who have similar training, experience, and skills. Such rates must be in accordance with applicable law but may not be less than the state's minimum wage where the WEX takes place.
- iv. Individuals in a WEX must be provided with benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.
- v. Health and safety standards established under Federal and State law otherwise applicable to the working conditions of employees are equally applicable to the working conditions of participants engaged in WEX.
- vi. To the extent that a state workers' compensation law applies, workers' compensation must be provided to individuals participating in WEX activities.
- vii. A WEX may not include activities that include foreign travel.
- viii. A WEX may not employ participants to carry out the construction, operation, or maintenance of any part of any facility used for sectarian instruction or as a place for religious worship except for maintenance of facilities that are not primarily used for instruction or worship and are operated by organizations providing services to WIOA participants.
- ix. A WEX is not allowed where any individual is on layoff from the same or any substantially equivalent job.
- x. A WEX is not allowed where the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WIOA participant;
- xi. A WEX is not allowed when a job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers as of the date of the participation.
- xii. A WEX must not impair existing contracts for services or collective bargaining agreements. When a WEX would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the WEX begins.
- xiii. A WEX may not be used to directly or indirectly assist, promote, or deter union organizing;
- xiv. A WEX may not be used to directly or indirectly aid in the filling of a job opening that is vacant because the former occupant is on strike, is being locked out in the course of a labor dispute, or the filing of which is otherwise an issue in a labor dispute involving a work stoppage.
- xv. **Youth only:** WEX's for WIOA title I youth programs must include academic and occupational education. The educational component may occur concurrently or sequentially with the work experience. Further academic and occupational education may occur inside or outside the work site. The academic and occupational education must be documented within the youth's individual service strategy (ISS).

Contract Expectations

Pre-contract review – In order to contract with an employer, the service provider must review the potential employer's eligibility. A pre-contract review must include:

- a) Verification that the employer has not relocated in the last 120 days resulting in a loss of employment at the prior location and assurance that the establishment is not seeking WIOA assistance in connection with past or impending job losses at other facilities, including a review of whether WARN notices relating to the employer have been filed.
- b) Verification that the employer is not debarred, suspended, or otherwise excluded from or ineligible

- for participation in Federal assistance programs or activities;
- c) Verification that the employer does not have a history of, or is currently in violation of, local, state, or federal laws;
 - d) The names under which the establishment does business, including predecessors and successors in interest; and
 - e) The name, title, and address of the establishment official certifying any of the above information.
 - f) Any of the requirements above that are not certified by an establishment official can be documented using third-party information checks, such as:
 - i. Consultations with labor organizations and others in Guilford County or surrounding counties (including Forsyth County);
 - ii. Asking to see the employer's IRS tax number certificate or other official document containing the employer's ID number;
 - iii. Telephoning the State Department of Revenue to verify status, provide number, name of business, name of owner, business address, and registration with the State;
 - iv. Checking with City/County Department of Taxes and Licenses for valid business licenses;
 - v. Checking with other NCWorks staff; and
 - vi. Checking [SAM.gov exclusion records](https://sam.gov) to verify that the employer is not debarred or suspended from receiving federally funded contracts.

Contract modifications – There are times when it is necessary to modify a contract under certain circumstances. There are no limits to when a contract may be modified or how often. A contract should be modified when the original scope of the training, such as hours, job requirements, or wage has changed. A contract should not be modified if the individual's employment goal changes or if a different employer is needed. These situations may impact the requirements of the WEX or Transitional Employment, therefore a new contract should be written.

WEX or Transitional Employment authorization – After a WEX or Transitional Employment is developed with an approved employer and eligibility to receive the participant has been determined, authorization and obligation of the WEX or Transitional Employment contract is to be completed. WEX or Transitional Employment authorization is provided as follows:

- i. GuilfordWorks has chosen to contract all WIOA funded WEX or Transitional Employment and wage payments through a sub-recipient as identified through a competitive WIOA services RFP process and subsequently by sub-recipient agreement. This sub-recipient is responsible for authorizing and obligating all WEX or Transitional Employment contracts. The sub-recipient may not deny a WEX or Transitional Employment contract to an individual who has been determined eligible by an authorized service provider unless funding is limited.
- ii. A WEX or Transitional Employment may not begin until authorized by the sub-recipient.
- iii. Payments by this agency for WEX or Transitional Employment may be made in a variety of ways, including electronic funds transfer, payroll checks, or other appropriate methods.
- iv. Wages cannot be paid until a proper time record certifying the eligible hours of training and pay rate has been approved.

Satisfactory progress – Individuals must demonstrate satisfactory progress to continue to receive training in a WEX or Transitional Employment. The minimum amount of time an individual needs to participate to demonstrate satisfactory progress is two weeks and should be repeated based on the length of the WEX and the circumstances of the individual. If an individual does not demonstrate satisfactory progress as determined by the service provider, the WEX or Transitional Employment must be terminated, and the participant paid for the hours of training provided prior to termination. WEX's are not subject to measurable skills gains.

Wages – An individual participating in a WEX or Transitional Employment is to be paid the wage rate of

employees who are situated in similar occupations. The wage rate must be in accordance with applicable law but may not be less than the state's minimum wage where the WEX or Transitional Employment takes place. WEX or Transitional Employment wages are to be paid according to the following guidelines:

- i. Overtime rates cannot be included in the wage rate.
- ii. Commission payments and tips cannot be included in the wage rate;
- iii. Raises may not be included in the wage rate unless a contract modification is completed;
- iv. Pay for sick leave, vacation, and other form of paid time off is required if employees who are situated in similar occupations at the workplace are offered the same;
- v. Fringe benefits must be included in the wage rate if employees who are situated in similar occupations at the workplace are offered the same;
- vi. Wages associated with activities that are not considered work-based learning, such as wages earned while in classroom training, cannot be paid. These costs require a training contract or an individual training account (ITA).

Post-contract review: Once a WEX or Transitional Employment is completed, a post-contract review must be conducted to ensure continued eligibility for the employer to receive future opportunities. This review must document compliance or non-compliance with each of the requirements described above in section a. – WEX requirements.

Documentation and Data Entry Requirements

- a. **Full WIOA registration** – Full WIOA eligibility determination and registration is required to receive any WIOA-funded individualized career service. If an individual is determined eligible for one or more Title I programs, all relevant registration elements must be collected and entered into ncworks.gov. Additionally, an assessment of the need to receive individualized career services must be stored physically or electronically in the individual's file.
- b. **Pre-contract and post-contract reviews:** All pre- and post-contract reviews must be maintained in a central location accessible to staff doing career planning to document initial and future employer eligibility.
- c. **Contract Requirements** – A contract satisfying the documentation requirements of the WEX or Transitional Employment must contain the following and be stored physically or electronically in the individual's file:
 - i. The employer's contact information;
 - ii. Job title;
 - iii. Wage rate and working hours;
 - iv. A copy of the job description;
 - v. The amount obligated for the WEX or Transitional Employment. If funding comes from more than one Title I program or special grant, such as WIOA Adult and WIOA Dislocated Worker, each program and the funding provided should be identified separately;
 - vi. The start date and estimated duration of the WEX or Transitional Employment;
 - vii. A termination clause for non-performance citing the types of and conditions surrounding the termination of the agreement;
 - viii. Assurances, including:
 1. A requirement that employers are to keep track of participant attendance and a description of the payroll records, and time and attendance records;
 2. A requirement that each entity shall ensure none of its activities discriminate against, deny benefits to, deny employment to, or exclude from participation any persons on the grounds of race, color, national origin, sex, disability, political affiliation or belief, or for participation in programs and activities or receiving funds under title I of WIOA;

3. A requirement that each entity shall ensure applicable workplace health and safety standards established under Federal and State law are adhered to;
4. A requirement that each entity will ensure participants, regular employees, and other interested parties are provided information about filing a grievance and/or discrimination complaint and that any grievances or complaints are referred to the appropriate entity for resolution.

Note: Each entity must make reasonable efforts to ensure that grievance and/or discrimination complaint procedures will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals.

- d. **IEP/ISS:** A completed Individual Employment Plan (IEP) or Individual Service Strategy (ISS) is present in the individual's physical or electronic file. **For youth only:** the ISS documents an academic and occupational component for the WEX.
- e. **WEX or Transitional Employment progress and completion** – information showing the progress of the activity and the outcome of the training once completed must be documented physically or electronically in the individual's file. Documentation of progress and completion must include:
 - i. Documentation demonstrating satisfactory progress, including virtual or on-site visitations with the participant and/or supervisor that includes a review of attendance and training progress;
 - ii. Any modifications, if applicable; and
 - iii. Once the activity has been completed, documentation for the end date of the activity, the outcome, and wages paid. To ensure proper payment, documentation must demonstrate compliance with the wage requirements through a review of hours worked and wages paid.
- f. **Service requirements** – information regarding the WEX or Transitional Employment must be entered into ncworks.gov as follows:
 - i. An appropriate qualifying service must be entered into ncworks.gov to represent the WEX or Transitional Employment. If funding is being provided by more than one Title I funding source, a service must be entered for each funding source as appropriate;
 - ii. This service (or these services) must document the start date, end date, and outcome of the activity as appropriate in ncworks.gov or a standard case management platform.
 - iii. Case notes must be entered detailing the start of the activity, progress at least once every two weeks, and the outcome of the activity.

1. WEX Expenditure Requirement (Youth Only)

Local WIOA Title I youth programs must expend not less than 20% of the WIOA title I youth funds allocated to them on youth work experiences. Local WIOA Title I youth programs must track program funds spent on paid and unpaid work experience, including wages and staff costs for the development and management of work experiences, and report such expenditures as part of the local WIOA Title I youth program reporting. The percentage of funds spent on work experience is calculated based on the local area youth funds expended for work experience rather than calculated separately for in-school and out-of-school youth.

Local area administrative costs are not subject to the 20% minimum expenditure requirement. Leveraged resources do not count towards the 20% WEX expenditure requirement.

Expenses that count toward the 20% WEX expenditure requirement include:

- Wages paid for participation in a work experience.
- Staff time working to identify and develop a work experience opportunity, including staff time spent working with WEX host sites to identify and develop the work experience.
- Staff time working with WEX host sites to ensure a successful work experience, including staff time managing the work experience.

- Staff time monitoring the work experience.
- Intern work experience orientation sessions.
- WEX host site work experience orientation sessions.
- Classroom training or the required academic education component directly related to the work experience.
- Supportive services necessary for participation in the work experience.
- Incentive payments directly tied to the completion of the work experience.
- Employability skills/job readiness training to prepare young adults for work experiences.

2. WEX and Transitional Employment Timeframe

Transitional jobs for individuals enrolled in the WIOA Title I Adult and Dislocated Worker or special grant programs are authorized for up to 1000 hours and may not exceed 35 hours per week. WIOA Title I Youth programs are limited to 640 hours per calendar year and may not exceed 35 hours per week.

The employer cannot hire the individual and pay for additional hours separate from the Work Experience during the Work Experience.

Example: Joe is on a Work Experience at XYZ Company 25 hours a week, and the company wants to hire him on the side for an extra 10 hours a week and pay him separately.

When determining the duration of a WEX or Transitional Employment, the following must be considered:

- Objectives of the activity as defined by the participant’s employment and training goals.
- Length of time necessary for the intern to learn the skills identified in the learning plan.
- The employer host site has sufficient meaningful work activities for the intern to remain fully engaged.
- WEX or Transitional Employment sponsor’s budget.

3. Action Required

WIOA Title I service providers must ensure regular and ongoing monitoring and oversight of WEX placements. Monitoring may include onsite visits and phone or email communication with the WEX host site and the WEX intern to assess the intern’s progress in meeting their learning plan objectives. Any deviations from the WEX intern training agreement must be addressed immediately.

The WIOA Title I service provider’s oversight and monitoring of the WEX placements and payroll records will be reviewed by local compliance monitors and may be reviewed by state and federal monitors and auditors. These entities have the right to access, examine, and inspect any site where any phase of the WEX activity is being conducted. The WIOA Title I service provider must maintain its records and accounts in such a manner as to facilitate the compliance review. Records must be maintained for a minimum of three (3) years after the conclusion of the WEX placement.

Outcomes of the oversight and monitoring of the WEX placement must be documented in case notes recorded in the WEX service touchpoint in ncworks.gov. The minimum requirements for these sub-recipients are below:

- i. Maintain policies and procedures for determining individualized career services eligibility and how the eligibility and requirements for WEXs will be documented;
- ii. Develop guidelines for staff doing career planning to monitor progress in a WEX. At a minimum, progress must be documented every two weeks and/or every pay period to ensure satisfactory progression (defined above) or if necessary, to de-obligate a WEX award if the individual has left training prior to completion;
- iii. Coordinate WEX modifications and de-obligations with sub-recipient; and
- iv. Track all WEX payments and expenditures in each individual’s physical or electronic file.

REFERENCES

- [TEGL 21-16](#)
- [Federal Register – 2 CFR 200 Subpart A](#)
- [Federal Register – 2 CFR 200.214](#)
- [Federal Register – 20 CFR 680 Subparts A & F](#)
- [Federal Register – 20 CFR 681.460\(a\)\(3\)\(I\)-\(iii\)](#)
- [Federal Register – 20 CFR 681.600](#)
- [Federal Register – 20 CFR 683.260 – 683.285](#)
- [Federal Register – 20 CFR 680.190](#)
- [Federal Register – 20 CFR 667.270\(b\)](#)
- [US DOL Wage and Hour Division Fact Sheet #13](#)
- [Fair Labor Standards Act of 1938, as amended](#)