



Ohio Valley Employment Resource

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Serving Monroe, Morgan, Noble & Washington Counties Since 2000

OVERWIOAPL 15-12-13 Work Experience Checklist:

Determination whether work experience is a "training" situation or an "employment" situation. According to the Wage and Hour Division of the U.S. Department of Labor, Employment Standards Administration, if all of the following six (6) items exist, the work experience can be considered a "training" situation and an employment relationship does not exist under the FLSA:

1. The training, even though actual operation of facilities is essentially a training experience similar to a vocational school;
2. The participant is primarily the beneficiary of the experience;
3. Regular employees are not displaced & experience is closely supervised/observed;
4. The provider that hosts the experience derives no immediate or significant advantage
5. The participant is not guaranteed a job at the conclusion of the experience; and
6. There is mutual understanding, the participant is not entitled to wages for this time because the activity is essentially a training experience.

As the participant is a "trainee" and an employment relationship does not exist under the FLSA, the FLSA's minimum wage and overtime provisions do not apply to the participant.

Is this a "training" situation or an "employment" situation? _____

Who is the "Employer of Record?" _____

This is the entity who retains the I9, W4 and any other payroll setup records. If the WIOA entity is not the "Employer of Record," the WIOA entity may assist with the documentation and completion of these forms, but is not required to maintain, as citizenship and date of birth have already been verified in enrollment into the program.

Age of participant at commencement of work experience? _____

The local area must ensure compliance with child labor laws. The employer must comply with all applicable federal laws and with state child labor laws if the participant is less than 18 years of age. The Fair Labor Standards Act (FLSA); Ohio Revised Code (O.R.C.) Chapter 4109 Employment of Minors, and Chapter 3331 Age and Schooling Certificates; and Ohio Administrative Code (O.A.C.) Chapter 4101:9-2 Employment of Minors in Occupations Hazardous or Detrimental to Health and Well-Being, are primary legislation which governs the employment of minors at the federal and state levels.

If Minor, file must contain:

- _____ Parental consent must be given for both paid and unpaid work experience.
- _____ Minors participating while school is in session also require a work permit.
- _____ Minors under 16 also must have an Age and Schooling Certificate (work permit)

Employer review:

- _____ Site reviewed for safety and health concerns.
- _____ The position did not result in displacement of another employee or a lay off.
- _____ Is it union? If so, union acceptance is noted on the signature page.
- _____ Verified Employer has not been debarred, suspended, declared ineligible or voluntarily excluded from Federal contracting.
- _____ Verified/reviewed no illegal discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, or his or her status as a WIOA participant.
- _____ Stressed the “partnership” of employer-WIOA and importance of employer notifying WIOA at the beginning of an issue for our assistance before it’s too late.
- _____ Explained the requirement of midpoint and final evaluation to employer (may wish to schedule tentative dates?)
- _____ Work experience contract completely signed and evaluation criteria complete & explained to participant.

WCMS entry

- _____ The objective assessment and ISS both indicate a need for work experience.
- _____ The objective assessment and ISS have been updated in WCMS.
- _____ Entry into CFIS client tracking.

Section Two – Monitoring

Monitoring is required in state WIOAPL15-12 and 15-13. The monitoring will occur approximately every three months or more frequently, depending on participant need. The monitoring will be done by representative of the WIOA entity signing the contract.

Pre-placement

Based on participant objective assessment, ISS and work experience, is a three month on-site review of the work conditions and safety concerns appropriate? _____ If not, detail in the case notes. It is understood your communication with the participant will be more frequent.

Date of Review:_____ Location Participant will be located:_____

1. Safety concerns noted:_____

If noted, detail your explanation of avoidance to participant.

(If outside cover possible sun exposure, insect bites, poisonous plant recognition)

2. Health concerns noted: _____
If noted, detail your explanation of avoidance to participant.
(Attempt to inquire to health conditions and/or allergies if they may pertain to working conditions.)

_____3. Review that there is no apparent illegal discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, or his or her status as a WIOA participant. Any noted? _____ If so, do not contract.

_____4. Inquire as to the understanding of the participant of the work and associated equipment/tools to be performed/utilized. Comments, if needed:

_____5. Assess the communication skills required. Does the participant appear to need additional coaching? If so, explain.

6. Based on review of work environment does this arrangement have the potential to be successful work experience? _____

Schedule tentative next visit _____ (approx. 3 months, alert all parties to notify WIOA if circumstances/environment change substantially for reschedule)

Other issues?

Name of Monitor: _____

Follow-up Visit, (most beneficial if supervisor review is received prior to visit/can be done in conjunction with visit) Attempt to minimize time and disruption to employer.

Date: _____ Name of Monitor: _____

Review Initial visit notes, follow up on any concerns identified:

Did changes occur in work environment?

If possible review any low ratings of supervisor to understand and correct. Elicit examples from supervisor and follow up with participant when possible. Comments?

Gauge communication level with co-workers and supervisor. Offer suggestions for improvement, if appropriate. Comments?

Identify participant's level of enthusiasm and ways that work experience has changed work perception.

Other? Time left on contract/is future monitoring warranted? If so, schedule.

____ County Job and Family Services
WORK EXPERIENCE CONTRACT

The following identifies the terms of the contract:

This contract is made and entered into on the ___ **Date**, by and between the ____ County Department of Job and Family Services hereinafter referred to as the “**Workforce agency**,” and ____ hereinafter referred to as the “**employer**,” and ____, hereinafter referred to as the “**participant**” and/or “**employee**.”

ALL PARTIES OF THIS CONTRACT AGREE TO ABIDE BY THE TERMS OF THE ATTACHED ARTICLES OF AGREEMENT.

ARTICLE I: Terms of Contract

The employer hereby agrees to employ the above named employee for up to ___ **hours** in the period of beginning no earlier than ____ and no later than ____, **contingent upon funding**.

ARTICLE II: Employee Conditions

- A. The employee will be employed as __ **position title** __ (see attached job description or listing of activities in Addendum C) and shall work at ____, Ohio (location) or at such places as may be directed by the employer. The employee shall perform the duties assigned and perform the work as described by the employer.
- B. The employee shall also abide by all personnel policies, procedures regulations, and business practices of the employer.

ARTICLE III: Employer Conditions

- A. The employer certifies that the position to be filled by the employee will not result in displacement of another employee or an employee who has been laid off.
- B. If union, union acceptance must be noted on the signature page.
- C. The employer agrees to schedule the employee: **NOT MORE THAN 40 Hours per week**.
- D. The Employer shall comply with all applicable Federal, State, and local laws, rules and regulations, which deal with or relate to employment and health & safety in the workplace, including but not limited to the Fair Labor Standards Act, as amended.
- E. The Employer has not been debarred, suspended, declared ineligible or voluntarily excluded from Federal contracting.
- F. No one under this contract shall be illegally discriminated against on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship, or his or her status as a CCMEP and/or WIOA participant.
- G. If the major job duties of the employee changes, the employer shall provide the Workforce agency with the appropriate job description prior to reassigning the employee.
- H. The employer shall maintain employee documentation including I9, W4 and any other withholding records, as well as payroll and attendance records which sufficiently and properly reflect all direct and indirect costs of any nature, expended in the performance of this contract. Such records shall be subject at all reasonable times to review or audit by duly authorized federal, state, or Workforce agency audit personnel. Such records shall be maintained for a period of five years from the date of the final payment on this contract.

ADDENDUM "A"

UNEMPLOYMENT COMPENSATION GUIDANCE

James Durbin in the Office of Unemployment Compensation, ODJFS has provided the following update and clarification for unemployment claims concerning the summer youth program.

ORC 4141.01(B)(3)(a) and OAC 4141-05-05 state that services must be provided for a nonprofit organization, the state or its instrumentalities to be excluded for unemployment purposes. Therefore, wages paid to youth in a work-relief or work-training program by a for-profit organization are covered wages and must be reported, and contributions paid, for those individuals in the work-relief or work-training programs. In addition, the wages paid to these individuals may be used in determining an unemployment claim.

The key decision point is determining who "is the employer of record". For *unemployment purposes*, the employer of record is the entity that has direction and control over the participating individuals in the summer youth program, or more simply put; hires and/or would dismiss any individual whose performance was unsatisfactory. The next key point is determining if the employer of record is a non-profit or governmental entity. Here are some examples that should guide your agency in determining whether or not the wages paid to the youth are covered for unemployment compensation purposes:

- If the employer of record is a "For Profit" entity then the services performed by and wages paid to the youth *would be covered* for unemployment and reported to ODJFS.
- If the employer of record is a "Not for Profit" entity then the services performed by and wages paid to the youth *would be excluded* for unemployment and should not be reported to ODJFS.
- If the employer or record is a "Governmental or Public" entity then the services performed by and wages paid to the youth *would be excluded* for unemployment and should not be reported to ODJFS.

ADDENDUM "B"

**WORKFORCE PROGRAM
WORK EXPERIENCE
EMPLOYMENT INVOICE**

Pay Period from: _____ to _____

Employer's Name: _____

Address: _____

Employee's Name: _____

Gross Wages: _____ hours at \$___ per hour = _____

Workers Comp Premium: _____

FICA: _____

TOTAL: _____

I certify that the above report of hours worked is true and accurate, and that the company has proper documentation of these hours on file in the company's office.

Signature Authorized Representative

Title of Representative

Date

Authorized By Workforce Agency Staff: _____ Date: _____

ADDENDUM "C"

TRAINING OUTLINE & EVALUATION – WORK EXPERIENCE

Employer: _____ Training Period: _____ to _____
Participant's Name: _____ Training Schedule Time: __:00am-__:00pm
Participant's Supervisor: _____ Hours/week: _____ **Not to Exceed** _____ Total Hrs.
Supervisor Contact info: _____(phone or email) Pay Periods: Weekly Other _____

Trainee's Age: _____ If minor, is Parental Consent and Minor Wage Agreement in the file? ____ Yes ____ No

Participant Job Title and O-NetCode: _____ (51-____.00)

SKILLS TO BE LEARNED:	Starting Capability	**Mid-Point Review Date:	**Ending Capability Date:

**Record the date on which the "Mid-Point and Ending Capability" assessment is made and the skill level which has been obtained using the following rating scale:

- | | |
|------------------|--------------------------------------|
| 1. Beginning | Can do only simple parts of the task |
| 2-4 Intermediate | Showing growth in the task |
| 5. Skilled | Can do all parts of the task |

TRAINING OUTLINE & EVALUATION – WORK EXPERIENCE

Employer Name/Location:		Participant Name:		
FOUNDATION SKILLS	PERFORMANCE EXPECTATIONS	Mid-Point Evaluation	Post Evaluation	
ATTENDANCE	Understanding work expectations for attendance and adhering to them. Notifying supervisor in advance in case of absence.			
PUNCTUALITY	Understanding work expectations for punctuality. Arriving on time for work, taking and returning from breaks on time, and calling supervisor prior to being late.			
WORKPLACE APPEARANCE	Dressing appropriately for position and duties. Practicing personal hygiene appropriate for position and duties			
TAKING INITIATIVE	Participating fully in task or project from initiation to completion. Initiating interaction with supervisor for next task upon completion of previous one.			
QUALITY OF WORK	Giving best effort, evaluating own work, and utilizing feedback to improve work performance. Striving to meet quality standards			
COMMUNICATION SKILLS	Speaking clearly and communicating effectively – verbally and non-verbally. Listening attentively. Using language appropriate for work environment.			
RESPONSE TO SUPERVISION	Accepting direction, feedback, and constructive criticism with positive attitude and using information to improve work performance.			
TEAMWORK	Relating positively with co-workers. Working productively with individuals and teams. Respecting diversity in race, gender, and culture.			
WORKPLACE CULTURE POLICY & SAFETY	Exercising sound reasoning and analytical thinking. Using knowledge and information from job to solve workplace problems.			
SPECIFIC WORKPLACE & CAREER SKILL	Demonstrating understanding of workplace culture and policy. Complying with health and safety rules. Exhibiting integrity and honesty.			

Use the following numbers/criteria to score the above areas:

- (1) Performance Improvement Plan Needed
- (2) Needs Development
- (3) Proficient or;
- (4) Exemplary

	Date Reviewed	Employer Signature	Trainee Signature	Workforce Initials
Starting				
Mid-Point				
Ending				

Worksite Review to be completed by Workforce staff. Date: _____ Initials: _____

Safe work environment: Yes No
 Child labor laws posted: Yes No
 WIOA Complaint: Yes No