



1. Background

An internship or work experience (WEX) is a planned, structured learning experience that takes place in a workplace for a limited period. Internships and other work experience may be paid or unpaid, as appropriate, and consistent with other laws, such as the Fair Labor Standards Act. A WEX may be arranged within the private for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any setting where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists.

2. Definitions

- **Brokering agency:** an entity designated by the Spokane Workforce Council (SWC) to be responsible for authorizing WEX contracts and providing WEX payments.
- **Career Planning:** The term “career planning” means the provision of a client-centered approach in the delivery of services, designed to:
 - Prepare and coordinate comprehensive employment plans (such as service strategies, individual employment plans, training plans, etc.) for individuals to ensure access to necessary workforce investment activities, using, where feasible, computer-based technologies; and
 - Provide job, education, and career counseling, as appropriate, during program participation and after job placement.
- **Employer-employee relationship:** A relationship determined by various factors establishing an individual as an employee of a business, rather than an independent contractor, as provided through the Fair Labor Standards Act (FLSA). The factors considered can vary, but in general an individual is considered an employee when:
 - The extent of the work performed is an integral part of the business;
 - There is an open-ended working relationship with the business; and
 - The business controls who sets pay amounts, work hours, how work is performed, and whether the worker is free to work for others and hire helpers.

Refer to the FLSA for additional factors and information regarding an employer-employee relationship.

- **Service provider:** a provider of workforce development services in Spokane County, such as the local one-stop center or other entity designated by the Spokane Workforce Council (SWC), that is responsible for providing services to WIOA title I adult, dislocated worker, and youth participants.
- **WorkSource System Tools (WST):** A management information system that workforce development organizations in Washington State use to collect data and manage themselves efficiently and effectively.

3. Policy

This policy applies only to paid internships and work experiences. Unpaid internship and work experience services are not subject to this policy, but utilize the definitions contained in SWC Policy WS816 R3 – Attachment C for WorkSource Spokane and Next Generation Zone. Paid internship and work experience services must comply with each of the criteria listed below as well as those listed in Section 4. Documentation and Data Entry Requirements:

- a. **Types of WEX services** – Work / internship experiences described in [SWC Policy WS816 R3 – Attachment C – WorkSource Spokane Services Catalog](#) may be funded through contract for adult, dislocated worker, national dislocated worker grant, and statewide activity grant participants. Internships / employment opportunities and pre-apprenticeship programs described under program element #3 in [SWC](#)

[Policy WS816 R3 – Attachment C – Spokane Next Generation Zone Services Catalog](#) may be funded through contract for in-school and out-of-school youth.

- b. **Eligibility to receive WIOA title I individualized career services** – WEXs may only be provided to an individual who is determined eligible for individualized career services as defined in [Section 1.3 – Training Services or Section 1.5 – Youth Services in SWC Policy WS816 R3 – Attachment A – Services and Program Eligibility Handbook](#).
- c. **Pre-contract review** – In order to contract with an employer for WEX, the service provider must review the potential WEX employer’s eligibility. A pre-contract review must include:
 - i. 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.
 - ii. Verification that the employer is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities;
 - iii. Verification that the employer does not have a history of, or is currently in violation of, local, state, or federal laws;
 - iv. The names under which the establishment does business, including predecessors and successors in interest; and
 - v. The name, title, and address of the establishment official certifying any of the above information.
 - vi. Any of the requirements above that are not certified by an establishment official can be documented using third party information checks, such as:
 - 1. Consultations with labor organizations and others in Spokane County or surrounding counties (including Kootenai County of Idaho);
 - 2. Asking to see the employer’s IRS tax number certificate or other official document containing the employer’s ID number;
 - 3. Telephoning the State Department of Revenue to verify status, provide number, name of business, name of owner, business address, and registration with the State;
 - 4. Checking with City/County Department of Taxes and Licenses for valid business license;
 - 5. Checking with other WorkSource staff;
 - 6. Checking with Dunn & Bradstreet to verify financial position of the establishment; and
 - 7. Checking [SAM.gov exclusion records](#) to verify that the employer is not debarred or suspended from receiving Federally funded contracts.
- d. **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 ([SWC Policy W406, R1 – Measure of Economic Self-Sufficiency](#)).
 - ii. For a paid WEX, the individual participating in the WEX contract must be hired as an employee of work site employer or the service provider as defined under the FLSA (see definitions above).
 - 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 working conditions of employees are equally applicable to 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 with the exception of 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. An 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 an 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 which 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).
- e. Contract modifications** – There are times when it is necessary to modify a WEX under certain circumstances. There are no limits to when a WEX may be modified or how often. A WEX should be modified when the original scope of the training, such as hours, job requirements, or wage has changed. A WEX 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, so a new WEX should be written.
- f. WEX authorization** – After a WEX is developed with an approved employer and eligibility to receive the WEX has been determined, authorization and obligation of the WEX contract is to be completed. WEX authorization is provided as follows:
- i. The SWC has chosen to contract all WEXs and wage payments through a brokering agency as identified through a competitive WIOA services RFP process and subsequently by subrecipient agreement. This brokering agency is responsible for authorizing and obligating all WEX contracts. The brokering agency may not deny a WEX contract to an individual who has been determined eligible for a WEX by an authorized service provider unless funding is limited.
 - ii. A WEX may not begin until authorized by the brokering agency.
 - iii. Payments by this agency for WEXs 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.
- g. Satisfactory progress** – Individuals must demonstrate satisfactory progress to continue to receive training in a WEX. 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 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.
- h. Wages** – An individual participating in a WEX 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 takes place. WEX 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).
- i. **Post-contract review:** Once an WEX completes, a post-contract review must be conducted to ensure continued eligibility for the employer to receive future WEXs. This review must document compliance or non-compliance with each of the requirements described above in section e. – WEX requirements.

4. 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 WST. Additionally, an assessment of need to receive individualized career services must be stored physically or electronically in the individual's file. Refer to [SWC Policy WS816 R3 – Attachment A – Program and Services Eligibility Policy Handbook](#), for more information on documenting eligibility and the need for individualized career services.
- 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. **WEX contract** – A contract satisfying the documentation requirements of the WEX 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 using title I funding. If funding comes from more than one title I program, 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;
 - vii. A termination clause for non-performance citing the types of and conditions surrounding termination of an WEX 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 assure 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 progress and completion** – information showing the progress of the WEX 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 WEX modifications, if applicable; and

- iii. Once the WEX has completed, documentation for the end date of the WEX, 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 must be entered into WST as follows:

- i. An appropriate qualifying service must be entered into WST to represent the WEX. WEX services are described in [SWC Policy WS816 R3 – Attachment C](#). 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 WEX as appropriate in WST.
- iii. Case notes must be entered detailing the start of the WEX, progress during the WEX at least once every two weeks, and the outcome of the training.

5. Action Required

Agencies responsible for managing WEX services, either as a brokering agency, a service provider, or both, are defined by subrecipient agreement with the SWC. Minimum requirements for these agencies are below:

a. **Brokering Agencies:** brokering agencies, as identified by subrecipient agreement, are required to:

- i. Maintain policies and procedures for the authorization and obligation of WEX contracts and wage payments;
- ii. Develop a method or methods with which WEX wage payments will be made, such as through electronic funds transfer or payroll check; and
- iii. Coordinate WEX modifications and de-obligations with service providers.

b. **Service Providers:** service providers who determine eligibility for individualized career services and WEXs, and refer to a brokering agency, as identified by subrecipient agreement, are required to:

- 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 brokering agencies; and
- iv. Track all WEX payments and expenditures in each individual's physical or electronic file.

6. References

- [SWC Policy WS816, R4 – Eligibility Policy & Handbook](#)
- [SWC Policy W406, R1 – Measure of Economic Self-Sufficiency](#)
- [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 667.270\(b\)](#)
- [US DOL Wage and Hour Division Fact Sheet #13](#)
- [Fair Labor Standards Act of 1938, as amended](#)

7. Supersedes

- N/A (New Policy)

Revision History:
N/A