

Operational Policy NO. OP-438, Change 1

Subject: Work Experience – Transitional Jobs Policy – Adult or Dislocated Worker

Effective: PY2020, effective date - 2/22/2021

PURPOSE

To provide policy direction to the Adult and Dislocated Worker Provider for the implementation of Work Experience — Transitional Jobs for WIOA eligible adults or dislocated workers. Under this Work Experience Policy, WCCNM defines and provide directions for Transitional Jobs.

Transitional Job

A transitional job is one that 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 Workforce Connection of Central New Mexico (WCCNM). Transitional 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 (per CFR S 680.190). This combination of services is intended to help adults and dislocated workers transition to unsubsidized employment by the time their transitional jobs come to an end.

In a transitional job, there is no expectation that the individual will continue his or her employment with the employer after the work experience is complete.

What funds may be used for Transitional jobs? (§680.195)

The local area may use up to 10 percent of their combined total of adult and dislocated worker allocations for the transitional jobs described in §680.190.

WCCNM may immediately implement any such “Waivers and Other Flexibilities” as approved or defined by NMDWS to raise the allowable funds of combined adult and dislocated worker allocations for transitional jobs.

If implemented, specific NMDWS Guidance and affiliated references will be included in the Operational Procedures as approved by the AE.

Transitional jobs must be combined with comprehensive career services (§ 680.150) and supportive services (§680.900).

Transitional Jobs are agreements between the WCCNM, the Transitional Jobs Employer, and the Adult/Dislocated Worker Participant. A transitional job is not be used to replace an existing employee or position.

Transitional Jobs as a WCCNM Paid Participant

Wages are provided by the WCCNM and paid directly to the participant developing an employer/employee relationship. Labor standards apply in any work experience where an employee/employer relationship exists, as defined by the Fair Labor Standards Act. Employers are not monetarily compensated.

POLICY

A Transitional Job must provide a planned and structured learning experience that will contribute to the achievement of the participant's employment goals through a measurable training component.

The Transitional Job Worksite Agreement must be signed by all parties prior to the start. This agreement sets forth responsibilities of the Worksite, the Worksite Supervisor and WCCNM. The Transitional Job Worksite Agreement is also required to be maintained in the Worksite's file documentation folder.

The Participant Agreement sets forth the participant's responsibilities of participation in the WIOA Transitional Jobs Program. The Participant Agreement includes items such as Program Orientation, Nondiscrimination and Equal Opportunity Provisions and Grievance Procedures, Drug Free Act, Individual Employment Plan, Follow Up Services, Standard Release Information, and the FERPA Agreement, etc.

The Transitional Job Learning Plan must also be signed by Worksite Supervisor and the Participant prior to the start. This plan includes: job title, responsibilities and specific tasks to be performed, start and end dates and compensation (computation of the anticipated wages to be earned).

A. Participant Eligibility

An individual with 1) barriers to employment who are 2) chronically unemployed or have inconsistent work history:

The term individual with a "barrier to employment" means a member of one or more of the following populations:

- Displaced homemakers
- Low-income individuals
- Indians, Alaska Natives, and Native Hawaiians
- Individuals with disabilities, including youth who are individuals with disabilities
- Older individuals, i.e. those aged 55 or older
- Ex-offenders
- Homeless individuals
- Youth who are in or have aged out of the foster care system | Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers
- Eligible migrant and seasonal farmworkers
- Single parents (including single pregnant women)

- Long-term unemployed individuals and Recipients of public assistance

WCCNM, for the purpose of determining eligibility for Transitional Jobs, will consider that a "Chronically Unemployed" or an "Inconsistent Work History" are those who:

1. Have been unemployed for 13 weeks or longer;
2. Were unemployed at least 26 of the past 52 weeks; or
3. Have held three or more jobs in the past 52 weeks and are currently unemployed or underemployed.

All participants must meet program eligibility requirements, be enrolled into the respective WIOA program, and have received an assessment resulting in the development of an Individual Employability Plan (IEP) that documents the participant's need for and benefit from a Transitional Job.

B. Worksite Eligibility

The Worksite:

- Must be registered with the Internal Revenue Service (IRS) and provide their Federal Employer Identification Number (FEIN); [20 CFR 683.2801].
- Must have an account with the State of New Mexico for state taxes NM-CRS and be current with all tax reporting, penalties, and or interest or related payment plans. NMCRS number must also be provided.
- Must have an account with the State of New Mexico Department of Workforce Solutions for Unemployment Insurance; [20 CFR 683.280] and must be current with their taxes, quarterly wage reporting, penalties, and/or interest or related payment plan. UI Tax Id # must to be provided.
- Must carry General Liability and Workman's Compensation Insurance (20 CFR 680.280). (although, WCCNM will provide Workman's Compensation Insurance for those Transitional Jobs participants that are paid (subsidized) by the program) Copies of Certificates of Insurances must be provided.
- Must have safe and healthy working conditions with no previously reported health and safety violations that have been reported but have not been corrected;
- Does not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, physical or mental disability, political beliefs or affiliations or age;
- Shall not terminate the employment of any of their current employees or otherwise reduce its workforce either fully or partially (such as reduction in hours or benefits) with the intention of filling the vacancy with a Transitional Jobs Participant or as the result of having a Transitional Jobs Participant; [20 CFR 683.2701]
- Shall not allow the Transitional Job activity to result in the infringement of promotional opportunities of their current employees; [20 CFR 683.2701]

- Shall not allow the Transitional Jobs Participant to be involved in the construction, operation or maintenance of any part of any facility that is used, or to be used, for religious instruction or as a place of religious worship. [29 CFR Part 2, Subpart 21]

WCCNM Business Consultants will collect the Transitional Jobs Request Form from a Worksite to determine Worksite eligibility and determine the worksite's needs.

C. Transitional Job Timeframe

A Transitional Job Participant may be placed in Transitional Job placement for up to 120 days or less, and up to 29 hours per week or less. When determining the duration of a work experience activity, the following should be considered:

- Objectives of the work experience;
- Length of time necessary for the participant to learn the skills identified in the learning plan;
- The employer having sufficient quantity of meaningful work activities for the participant; and
- Service provider budget.

D. Compensation

Transitional Job Participants enrolled in a WCCNM paid Transitional Job placement shall be compensated an hourly wage at not less than the State or local minimum, whichever is greater. Participants shall be paid only for the hours worked during the work experience as documented on the Transitional Jobs Attendance Report & Evaluation Bi-weekly Request form.

Paid Transitional Job Participants shall not include:

- Sick leave;
- Vacation breaks;
- Lunch breaks; or
- A holiday recognized by the service provider or employer as a "paid holiday".

Transitional Job Participants are not authorized to work overtime.

When determining the hourly wage for a Transitional Job participant, the following considerations should be taken into consideration (this list is not intended to be all inclusive):

- Objectives of the Transitional Job;
- Type of work performed during the engagement;
- Skill set of the participant; and
- Service provider budget.

PROCEDURES

A. Transitional Job Participant File Documentation

The following Transitional Job Participant documents must be located in WCOS, the participant file and/or the supplemental file:

- Comprehensive Assessment identifying a Transitional Job as an appropriate service;
- Completed IEP documenting the employment goals, achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, includes information about eligible training providers.
- Participant Agreement
- Transitional Job Learning plan (completed prior to the start of the Transitional Job);
- Transitional Job Participant Confidentiality Agreement;
- W-4 Employee Withholding Allowance Certificate;
- 1-9 Employment Eligibility Verification Certificate (with supporting documents);
- Transitional Job Participant Corrective Action Plan (if applicable);
- Transitional Job Participant Hours & Cost Cap Training Form;
- Transitional Job Participant Bi-weekly Timesheets and Evaluations;
- Transitional Job Participant Evaluation by Supervisor - Final;
- Evaluation by Transitional Job Participant - Final;
- Case notes;
- Follow-up Services.

B. Transitional Job Worksite Agreement

Transitional Job Worksite Agreements must contain, at a minimum, the following:

- Responsibilities of the Worksite/Agency, including following regulations as described in this Policy.
- Information and instructions regarding WCCNM's Workers Compensation coverage for Transitional Job Participants in the event of a participant's illness or injury while on the job.
- Worksite Supervisor's Responsibilities including the maintenance of Transitional Job required documents for three years.
- WIOA Required Posters.
- WCCNM's Responsibilities.
- Signatures of the Worksite and WCCNM Authorized Authority.

C. Transitional Job Worksite File documentation:

- Transitional Job Worksite Agreement
- Drug Free Workplace Certification
- Transitional Job Participant Learning Plan
- Transitional Job Participant Confidentiality Agreement
- Transitional Job Participant Orientation Check List

- Transitional Job Participant Attendance Report & Evaluation
- Transitional Job Participant Corrective Action Form (if applicable)
- Transitional Job Participant start and end dates

A single Transitional Job Worksite Agreement may be written for group training with a single training site provided the working conditions and terms of the Agreement are the same for all interns covered by the Agreement.

D. Monitoring

Service providers must ensure regular and on-going monitoring and oversight of the Transitional Job participants. Monitoring may include on-site visits and phone/email communication with the worksite supervisor and participant to review the participant's progress in meeting training plan objectives. Any deviations from the Agreements should be dealt with promptly.

The WIOA service provider's oversight of the participant's training and payroll records may be reviewed by Federal, State and local fiscal and program monitors. These entities will have the right to access, examine and inspect any site where any phase of the Transitional Jobs program is being conducted. The service provider and worksites are required to maintain its records and accounts in such a way as to facilitate the audit. Records must be maintained for three (3) years after the conclusion of the Transitional Job.

REFERENCES

- WIOA Sec. 129 and (3)
- 20 CFR 680.150, 680.190, 680.195, 680.900, 683.270 and 683.280.
- US DOL Wage and Hour Division

APPLICABILITY:

WCCNM Adult/Dislocated Worker Service Providers

INQUIRIES:

WIOA Manager at 505-724-3629

This Policy has received approval by the Workforce Connection of Central New Mexico Board and rescinds any policy previously in effect (if applicable).