

Workforce Innovation and Opportunity Act (WIOA)
Temporary Assistance for Needy Families (TANF)
Summer Youth Program Guide



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Purpose

The purpose of the Summer Youth Employment Program (SYEP) Guide is to provide important program information on developing and operating a local summer youth program. The guide will assist with the design of your local program. It includes a review of existing law and guidance associated with summer youth employment activities under the Workforce Innovation and Opportunity Act (WIOA) and Temporary Assistance for Needy Families (TANF) programs, as well as information for payment of wages and stipends to participants. The SYEP should be a planned, structured learning experience that takes place in a workplace for a limited period of time. SYEP may be paid or unpaid, and can include private for-profit sector, non-profit sector, or public sector. SYEP employment opportunities provide youth participants with opportunities for career exploration and skill development, and must include academic and occupational education.

Common Terms and Definitions

Activities that help youth prepare for and transition to postsecondary education and training:

Activities include but are not limited to: skill development and college preparatory life skills (time management, mock interviews, independent living, and legal responsibilities after age of 18) and how to prepare for post-secondary education (college applications, essay writing, financial aid, and scholarships).

Basic Skills Deficient: A youth who has English reading, writing, or computing skills at or below the 8th grade (8.9 or lower) level on a generally accepted standardized test. It is expected that basic skills deficient will be determined using an objective, valid and reliable assessment, such as the Test for Adult Basic Education (TABE). Refer to WIA Policy 10-03, Change 1, Youth Literacy and Numeracy Gains, for further information on testing.

Dropout: According to WIOA section 3 (54), a dropout means an individual who is no longer attending any school and who has not received a secondary school diploma or its equivalent. For State clarification for Dropout, [click here](#).

Education offered concurrently with and in same context as workforce preparation: The three components of an integrated education and training program include: adult education and literacy activities, workforce preparation activities, and workforce training. Adult education and literacy activities are programs, activities, and services (such as English language services), to assist the participant to obtain a level of competence in reading, writing, speaking, and comprehension. Workforce preparation activities help individuals acquire a combination of basic academic, critical thinking, and digital literacy skills. The intent is to improve the participant's employability by improving their self-management abilities, increasing their ability to work with others, and developing other skills necessary for successful transition into postsecondary education, training, and employment.

English Language Learner: An individual who has limited ability in reading, writing, speaking, or comprehending the English language, and whose native language is a language other than English; or who lives in a family or community environment where a language other than English is the dominant language.

Entrepreneurial Skills Training: Training to provide the basics of starting and operating a small business.

Financial Literacy Training: Training focused on improving an individual's financial literacy or personal budgeting skills.

High Poverty Area: WIOA Law, Section 129(a) (2): A youth living in a high poverty area automatically meets the low-income criterion. A high poverty area is a Census tract, a set of contiguous Census tracts, Indian Reservation, tribal land, or Native Alaskan Village or county that has a poverty rate of at least 30 percent, as set every five years using American Community Survey 5-Year data.

***To view DEO Poverty Rate Map and additional info: [Click here](#)*

Homeless: An individual who lacks a fixed, regular, and adequate nighttime residence; including:

- Is sharing housing of other persons due to loss of housing, economic hardship, or a similar reason;
- Is living in a motel, hotel, trailer park, or campground due to lack of alternative adequate accommodations;
- Is living in an emergency or transitional shelter;
- Is abandoned in a hospital or;
- Is awaiting foster care placement;
- An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or
- Migratory children (as defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless because the children are living in circumstances described above.

Low-Income: An individual who meets any *one* of the following criteria satisfies the low-income requirement for Youth Program services:

- Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through TANF or the Supplemental Security Income (SSI) program, or state or local income-based public assistance;
- Receives an income or is a member of a family receiving an income that, in relation to family size, is not in excess of the current combined 70 percent Lower Living Standard Income Level;
- Is a homeless individual as defined in §41403(6) of the Violence Against Women Act of 1994, or a homeless child or youth as defined in §725(2) of the McKinney-Vento Homeless Assistance Act;

- Receives or is eligible to receive a free or reduced-price lunch under the Richard B. Russell National School Lunch Act;
- A foster youth on behalf of whom state or local government payments are made;
- Is an individual with a disability whose own income meets:
 - ✓ WIOA's income requirements, even if the individual's family income does not meet the income requirements; or
 - ✓ The income eligibility criteria for payments under any federal, state, or local public assistance program.

Migratory Child: A child who is, or whose parent or spouse, is a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work – has moved from one school district to another or resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

Compulsory School Attendance: WIOA Law, Section 129(5): Florida Law (Section 1003.21, Florida Statutes) states that all children who are either six years of age, who will be six years old by February 1 of any school year, or who are older than six years of age but who have not attained the age of 16 years, must attend school regularly during the entire school term. A student who attains the age of 16 years during the school year is not subject to compulsory attendance beyond the date the student attains that age if he/she files a formal declaration of intent to terminate school enrollment with the school district.

Out-of-Home Placement: Foster care, including family foster care, kinship care, relative care treatment foster care, and residential and group care.

Pay-for-Performance Contract: A procurement strategy that uses pay-for-performance contracts in the provision of training services (described in section 134(c) (3) or activities described in section 129(c) (2), and includes:

- Contracts which specify a fixed amount that will be paid to an eligible service provider based on the achievement of specified levels of performance on the primary indicators of performance for target populations as identified by the local workforce development board (LWDB), within a defined timetable, and which may provide for bonus payments to such service provider to expand capacity to provide effective training;
- A strategy for independently validating the achievement of the performance; and
- A description of how funds not paid to a provider because the achievement of performance did not occur will be reallocated
 - ✓ The 10% maximum is calculated based on non-administrative local area adult, dislocated worker and youth funds;

Pre-apprenticeship Program: A program or set of strategies designed to prepare individuals to enter and succeed in a registered apprenticeship program which has a documented partnership with at least one, if not more, registered apprenticeship program.

Requires additional assistance: The LWDB may establish a definition and eligibility documentation requirements for the “requires additional assistance to complete an educational program, or to obtain or retain employment” criterion of In-School Youth (ISY) and Out of School (OSY) eligibility.

Section 477 of the Social Security Act (John H. Chafee Foster Care Independence Program):

States are provided flexible funding to design and conduct programs:

- ✓ To identify children likely to remain in foster care until age 18 and to help these children make a transition to self-sufficiency by providing a variety of services.
- ✓ To help children who are likely to remain in foster care until age 18 receive the education, training, and services necessary to obtain employment.
- ✓ To help children who are likely to remain in foster care until age 18 prepare for and enter postsecondary training and education institutions.
- ✓ To provide personal and emotional support to children aging out of foster care, through mentors and promotion of interactions with dedicated adults.
- ✓ To provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency.
- ✓ To make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care.
- ✓ To provide these services to children who, after attaining age 16, have left foster care for kinship guardianship or adoption.

Services that provide labor market and employment information: These services may include but are not limited to: career awareness, career counseling, career exploration services of in-demand industry sectors or occupations available in local areas.

Youth Eligibility

To be eligible to receive youth services, an individual must:

- Be authorized to work in the United States;
- Meet Military Selective Service registration requirements (males only); and
- Be an In-School Youth (ISY) or Out-of-School Youth (OSY), as defined by WIOA §129(a)(1)(B)–(C).

In-School Youth (ISY)

An ISY is an individual who is:

- Not younger than 14 (unless an individual with a disability who is attending school under State law) and not older than 21 years of age at the time of enrollment;
- Attending school (as defined by State law), including secondary or post- secondary school;
- Low-income, as defined by WIOA §3(36), or lives in a high poverty area as outlined in WIOA §129(a)(2); and
- One or more of the following:
 - ✓ Basic skills deficient;
 - ✓ An English language learner;
 - ✓ An offender;
 - ✓ A homeless individual, a homeless child or youth, a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under §477 of the Social Security Act (42 USC §677), or reside in an out-of-home placement;
 - ✓ Pregnant and/or parenting;
 - ✓ Has a documented disability; or
 - ✓ Requires additional assistance to complete an educational program or to secure or hold employment.

Out-of-School Youth (OSY)

An OSY is an individual who is:

- Not younger than 16 and not older than 24 years of age at the time of enrollment;
- Not attending school (as defined by State law); and
- One or more of the following:
 - ✓ A school dropout;
 - ✓ Within the age of compulsory school attendance (age 6–18), but has not attended school for at least the most recent complete school year’s calendar quarter;
 - ✓ A recipient of a secondary school diploma, or its recognized equivalent, who is a low income individual and is either:
 - Basic skills deficient (see definition on page 18); or
 - An English language learner;
 - ✓ Subject to the juvenile or adult justice system;
 - ✓ A homeless individual, a homeless child or youth, a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under §477 of the Social Security Act (42 USC §677), or reside in an out-of-home placement;
 - ✓ Pregnant and/or parenting;
 - ✓ Has a documented disability; or
 - ✓ A low-income individual who requires additional assistance to enter or complete an educational program or to obtain or retain employment.

Low income is not a requirement to meet eligibility for most categories of OSY under WIOA. However, low income is a criterion for ISY who need additional assistance to enter or complete an

educational program, or to obtain or retain employment. Under WIOA, a youth is low-income if he or she receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

In order to comply with the State's compulsory attendance law, and WIOA's priority and noninterference requirements, youth at an age where they are required to attend school, do not have an exception to the regular school attendance as outlined in Section 1003.21, Florida Statutes, or have not graduated, may be served as an out-of-school youth if the LWDB makes school attendance a priority and provides services outside of the regular school day. Therefore, services provided to out-of-school youth must be provided outside of the regular or mandatory school day for youth who are not 18 and have not graduated, unless the service is returning to school. For purposes of compliance with the law, a regular school schedule is the days and times during which school is normally held, as set by the local school board.

WIOA has included Individual Training Accounts (ITAs) as a part of the program framework for the out-of-school youth ages 18 to 24 to:

- Expand training options;
- Increase flexibility;
- Enhance customer choice; and
- Reduce tracking, reporting and paperwork that comes with dual enrollment.

Youth Program Design

WIOA does not require Local Boards to offer summer youth employment opportunities. However, WIOA does require Local Boards to offer work experience, which may include summer employment opportunities as a component of the work experience program element.

WIOA requires that the local youth program design include:

- An objective assessment of academic levels, skills levels, and service needs, which include review of basic skills, occupational skills, prior work experience, employability, aptitudes, supportive services needs for the purpose of identifying appropriate services and career pathways.
- Service strategies that are directly linked to one or more of performance indicators and that identify career pathways that include employment and education goals, appropriate achievement objectives, and appropriate services based on the objective assessment results.
- The provision of:
 - ✓ activities leading to the attainment of a secondary school diploma or its recognized equivalent, or a recognized postsecondary credential;
 - ✓ preparation for postsecondary educational and training opportunities;
 - ✓ strong linkages between academic instruction (based on state academic content and student academic achievement standards established under section 1111 of the elementary and secondary education act of 1965 (20 U.S.C. 6311)) and occupational education that lead to the attainment of recognized postsecondary credentials;
 - ✓ preparation for unsubsidized employment opportunities, in appropriate cases; and
 - ✓ effective connections to employers, including small employers, in in-demand industry sectors and occupations of the local and regional labor markets.

For both objective assessment and individual service strategy, programs may use recently completed assessments or service strategies conducted by another education or training program rather than create new assessments or service strategies.

- Follow-up services.

General case management is necessary to document and support services provided to each youth.

The program design may also include, at the discretion of the local board, a pay-for-performance contract strategy for the youth program elements outlined in the next section. The local board may reserve and use up to 10 percent of the total funds allocated to the local area for pay-for-performance.

Youth Program Elements

Local programs have the discretion to determine what specific program services a youth participant receives based on each participant's objective assessment and Individual Service Strategy. Local programs are not required to provide every program service to each participant. WIOA indicates that the LWDBs must ensure that 14 services are available to youth participants. These services are defined and listed below:

1. Tutoring, study skills training, instruction, and evidence-based dropout prevention and recovery strategies
 - These are services that lead to the completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities), or for a recognized postsecondary credential.
2. Alternative secondary school services, or dropout recovery services, as appropriate
 - The youth school attendance/completion must be made a priority. Therefore, services that direct a youth back to school are strongly encouraged. The first goal of the Individual Service Strategy (ISS) must be to have the youth return to school. The LWDB can also provide services that encourage regular school attendance, such as counseling, tutoring, or exploring career options, as well as dropout prevention and recovery strategies that lead to completion of the requirements for a secondary school diploma or its recognized equivalent.
3. Paid and unpaid work experiences

These services must include academic and occupational skills education as a component of the work experience structure. Under WIOA, summer youth employment opportunities are one of the types of paid and unpaid work experience.

4. Occupational skills training
 - Occupational skills training is an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels. Local areas must give priority consideration to training programs that lead to recognized post-secondary credentials that align with in-demand industry sectors or occupations in the local area. Occupational Skills Training must:

- ✓ Be outcome-oriented and focused on an occupational goal in a participant's individual service strategy;
 - ✓ Be of sufficient duration to impart the skills needed to meet the occupational goal; and
 - ✓ Result in the attainment of a recognized post-secondary credential.
5. Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster
- This program element requires the integration of education and training academic skills, and hands-on occupational skills training are to be taught within the same time frame and connected to training in a specific occupation, occupational cluster, or career pathway. There are three components listed in the law as necessary for the integration of education and training programs:
 - ✓ Adult education and literacy activities such as basic academic skill training, critical thinking skills or digital literacy skills;
 - ✓ Workforce preparation activities such as self-management, grooming for employment, or following directions; and
 - ✓ Workforce training such as occupational skills training, on the job training, job readiness training or customized training.
6. Leadership development opportunities
- These opportunities encourage responsibility, confidence, employability, self-determination, and positive social and civic behaviors. These opportunities include, but are not limited to:
 - ✓ Community and service learning projects.
 - ✓ Direct exposure to post-secondary educational possibilities.
 - ✓ Peer enrichment activities.
 - ✓ Organizational and team work training.
 - ✓ Positive attitudinal development.
 - ✓ Maintaining healthy and effective lifestyles, including being alcohol and drug-free.
 - ✓ Civic engagement activities which promote the quality of life in their community.
7. Support services that enable an individual to participate in WIOA activities
- These services include, but are not limited to:
 - ✓ Linkages to community services.
 - ✓ Assistance with transportation.

- ✓ Assistance with child-care and dependent care.
- ✓ Assistance with housing.
- ✓ Needs-related payments.
- ✓ Assistance with educational testing.
- ✓ Reasonable accommodations for youth with disabilities.
- ✓ Referrals to health care.
- ✓ Assistance with uniforms, clothes for interviews.

8. Adult mentoring for a duration of at least 12 months

- Adult mentoring may occur both during and after program exit. It must be a formal relationship between a youth and an adult mentor that includes structured activities where the mentor offers guidance, support, and encouragement to develop competence and character of the mentee.
 - ✓ Group mentoring through electronic means is allowable as a part of the mentoring activities. The local program must match each youth with an individual mentor with whom the youth will meet face to face.
 - ✓ The local program may include workplace mentoring as a component.

9. Follow-up services for not less than 12 months after the completion of participation

- These services are critical to ensure that youth achieve a level of success in employment, post-secondary education or training. These services may include, but are not limited to:
 1. Regular contact with the participant's employer.
 2. Assistance in securing a better paying job, career pathways development, and further education or training.
 3. Work-related support groups.
 4. Adult mentoring.

10. Comprehensive guidance and counseling, which provide individualized counseling to the youth participant

- This service may include, but is not limited to:
 - ✓ Career and academic counseling.
 - ✓ Drug and alcohol abuse counseling.
 - ✓ Mental health counseling.
 - ✓ Referrals to partner programs. (The local program must coordinate with the organization it refers to in order to ensure continuity of service.)

11. Financial literacy education

- These are activities that provide financial education that are age appropriate, timely, and provides opportunities to put lessons into practice, such as by access to safe and affordable financial products that enable money management and savings. These services include, but are not limited to, the following activities:
 - ✓ Supporting the ability of participants to create budgets, initiate checking and savings accounts at banks, and make informed financial decisions;
 - ✓ Supporting participants in learning how to effectively manage spending, credit, and debt, including student loans, consumer credit, and credit cards; and
 - ✓ Supporting a participant's ability to understand, evaluate, and compare financial products, and services; and
 - ✓ Educating youth about identity theft, how to resolve cases of identity theft, and to understand their rights and protections related to personal identity and financial data.

12. Entrepreneurial skills training

- Entrepreneurial skills training provides the basics of starting and operating a small business. This training is designed to develop the skills associated with entrepreneurship, and may include, but are not limited to:
 - ✓ Taking initiative.
 - ✓ Creatively seeking out and identifying business opportunities.
 - ✓ Developing budgets and forecast resource needs.
 - ✓ Understanding various business options for acquiring funding and the trade-offs associated with each option.
 - ✓ Communicating effectively and marketing oneself and one's ideas.
- Approaches to teaching youth entrepreneurial skills include, but are not limited to:
 - ✓ Entrepreneurial education that provides an introduction to the values and basics of running a business. Education program must be able to guide youth through the development of a business plan, with a simulation of business startup and daily operations.
 - ✓ Enterprise development which provides support and services that incubate and help youth develop their own business.
 - ✓ Experimental programs that provide youth with experience in the day-to-day operation of a business.

13. Services that provide labor market and employment information about in-demand industry sectors or occupations available in the workforce

- Labor market and employment information may include, but is not limited to: career awareness, career exploration, career counseling, labor market trends, high demand occupations and job openings.

14. Activities that help youth prepare for and transition to post-secondary education and training

- These activities may include but is not limited to:
 - ✓ Informing participants of legal responsibilities after turning 18.
 - ✓ Assessing participants' strengths, abilities and interests.
 - ✓ Assisting participants to prepare and submit post-secondary education applications and financial aid.
 - ✓ Introducing participants to financial aid search, college scholarship portals and assist them with applying.
 - ✓ Teaching participants how to develop a portfolio that demonstrates accomplishments and competencies.

Administrative Requirements

Although providers administering the work experience program element must be selected by the LWDB by awarding a grant or contract on a competitive basis, the summer employment administrator does not need to select the employers who are providing the employment opportunities through a competitive process.

WIOA increased the minimum OSY expenditure rate for youth formula-funded programs to 75 percent. Administrative costs are limited to 10 percent of local youth funds and are not subject to the 75 percent minimum OSY expenditure requirement or 20 percent minimum work experience expenditure requirement. However, funds spent for a SYEP may be included in the required minimum 20 percent of youth funds for work experience.

LWDB youth programs must track program funds spent on paid and unpaid work experiences, including wages and staff costs for the development and management of work experiences, and report such expenditures as part of the local WIOA youth financial reporting. The percentage of funds spent on work experience is calculated based on the total local area youth funds expended for work experience, rather than calculated separately for in-school and out-of-school youth.

NOTE: Incentive payments are allowable under the WIOA program. However, the incentives must be in compliance with the requirements in 2 CFR Part 200. For example, federal funds may not be spent on entertainment costs. Therefore, incentives may not include entertainment, such as movie or sporting event tickets or gift cards to movie theaters or other venues whose sole purpose is entertainment. Additionally, under 2 CFR part 200, there are requirements related to internal

controls to safeguard cash, which also apply to the safeguarding of gift cards, which are essentially cash.

Workers' Compensation

In accordance with Florida Statute 445.009 One-stop delivery system:

A participant in an adult or youth work experience activity administered under this chapter shall be deemed an employee of the state for purposes of workers' compensation coverage. In determining the average weekly wage, all remuneration received from the employer shall be considered a gratuity, and the participant shall not be entitled to any benefits otherwise payable under s. 440.15, regardless of whether the participant may be receiving wages and remuneration from other employment with another employer and regardless of his or her future wage-earning capacity.

AmeriSys is the state's Workers' Compensation Provider and should be contacted using the toll free number 1-800-455-2079, in case of a work-related injury. The manager or supervisor will be asked to provide a 4-digit code to identify the program area of the injured employee.

When reporting a claim for any adult or youth in a WIOA-funded work experience activity for which Workers' compensation coverage is required, the location code is 2306.

The location code for Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF) participants is 2305.

LWDBs will need to track the number of participants and the number of hours that each participant is engaged in a work experience activity for which workers' compensation is required. LWDBs will be required to report that information at the end of the summer program year (June 30) for any WIOA adult or youth participants.

This data is reported to the Division of Risk Management, who will convert the hours worked into fulltime equivalents (FTEs) and then use that number, in addition to an "experience" or "claims history" element, by location code, to equitably distribute the cost of our Workers' Compensation premium.

Wages and Stipends

Background:

WIOA section 129(c)(4) prioritizes work experience with the requirement that local areas must spend a minimum of 20 percent of non-administrative local area funds on work experience. Under WIOA, paid and unpaid work experience, that include academic and occupational education as a component, may have the following four categories: summer employment opportunities and other employment opportunities available throughout the school year; pre-apprenticeship programs;

internships and job shadowing; and on-the-job training opportunities. The Department encourages local programs to coordinate work experiences, particularly summer employment, with other youth serving organizations and agencies. As was encouraged through joint letters in past years with the Departments of Health and Human Services and Housing and Urban Development, coordinating with Temporary Assistance for Needy Families, Community Services Block Grant, and Community Development Block Grant programs can strengthen local summer jobs efforts.

LWDBs have the option of including a classroom component to their summer youth programs. Usually, this is done to provide the younger age group the opportunity to further their academic skills. This would likely be less appropriate for the older youth.

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.

The issue of paying wages or stipends to youth participating in a summer employment program (and the impact this has on the tax liability of the participant, the worksite employer, and the LWDB) poses questions for the SYEP. DEO has determined that each circumstance must be evaluated on a case-by-case basis, and the factors discussed below should be applied.

Over the years, the IRS has stated consistently that the tax treatment of payments (wages or stipends) made under a federally-sponsored work-training program depends on the particular factual situation. In general, the IRS has provided the following guidance:

- Tax liability rests upon whether the participants are “employees” and whether the payments should be considered “wages.” Typically, an employer-employee relationship exists if the employer has the right to control, direct and discharge the employee, and if the employee receives compensation according to the general rate structure.

Additional factors to consider include:

- Whether the participants perform services. If so, income and employment taxes likely apply.
- The amount of training provided. Even if some training is provided, the payments still may be taxable.
- Whether payment is made for welfare purposes and measured according to the personal or family needs of the individual. If so, income and employer taxes do not apply.

In [TEGL 14-08](#), the USDOL states “**wage requirements under the Fair Labor Standards Act (FLSA) apply to all youth employed under WIOA.**” The FLSA applies to the extent that the activities performed in the work experience constitute employment. LWDBs must determine whether work experience constitutes training as opposed to employment. The guidance offered, [School-to-Work Opportunities and the Fair Labor Standards Act: A Guide to Work-Based Learning, Federal Child Labor Laws, and Minimum Wage Provisions](#), published by the U.S. Departments of Education and

Labor can be used to help determine if the summer youth program constitutes training as opposed to employment. LWDBs should also consider the factors cited by the IRS when determining whether the payments (wages or stipends) made to participants in a summer youth program are taxable.

If the worksite is relying on the participant to perform real work, i.e. to be productive, an employer-employee relationship probably exists. In this situation, there must be an employer of record and participants must receive no less than the applicable state or federal minimum wage. Related benefits are required, and payroll taxes should be deducted. The employer of record will be responsible for paying all taxes.

Incentives or stipends may be used in a training situation and are determined by the LWDB. Stipends should be issued through a uniform payment system. Such incentives are not required to meet minimum wage requirements, are not to be disbursed as payroll, and income tax is not to be withheld. However, a stipend may not be used as a substitute for wages and is generally limited to reimbursement for expenses such as books, tuition, or tools.

This guidance is intended to explain some of the factors that LWDBs should consider when determining whether to pay summer youth participants a wage or a stipend, and whether those payments are subject to income and employment taxes. The IRS has not issued definitive guidance and has ruled that each determination is based on particular factual situations.

We recognize that some LWDBs may design their summer youth programs (particularly for the younger youth) as more of an academic classroom situation where stipends may be appropriate. Each individual LWDB is responsible for making the ultimate determination of whether an employer-employee relationship exists based on a case-by-case basis.

FLSA Questions and Answers

The U.S. Departments of Education and Labor published a guide entitled: [School-to-Work Opportunities and the Fair Labor Standards Act: A Guide to Work-Based Learning, Federal Child Labor Laws, and Minimum Wage Provisions](#), that includes the following questions and answers that may be helpful for local SYEPs:

Q: Are all work-based learning experiences subject to the FLSA?

A: No. Activities occurring in the workplace that do not involve the performance of work are not “employment” subject to the Fair Labor Standards Act. Examples of this include:

- Career awareness and exploration.
- Field trips to a worksite.
- Job shadowing.

Q: When is a learning experience not employment, as defined by FLSA?

A: A participant would not be considered an employee within the meaning of FLSA when all of the following criteria are met:

- The participant receives ongoing instruction at the employer’s worksite and receives close, on-site supervision throughout the learning experience, with the result that any productive work that the participant would perform would be offset by the burden to the employer from the training and supervision provided; and
- The placement of the participant at a worksite does not result in the displacement of any regular employee i.e., the presence of the participant at the worksite cannot result in an employee being laid off or the employer not hiring an employee it would otherwise hire, and cannot result in an employee working fewer hours than he or she would otherwise work; and
- The participant is not entitled to a job at the completion of the work experience – but this does not mean that employers are to be discouraged from offering employment to participants who successfully complete the activity; and
- The employer, participant, and parent or guardian understands that the participant is not entitled to wages or other compensation for the time spent in the work experience activity (although the participant may be paid a stipend for expenses such as books or tools).

When all four of the above criteria are met, an employer is not be required to pay wages to the participant.

Q: What does it mean if a learning/work experience is not subject to FLSA?

A: It means that the participant is not an employee and wages are not paid. Payment of a stipend is optional. However, a stipend may not be used as a substitute for wages. A stipend is generally limited to reimbursement for expenses such as books, tuition, or tools.

Q: Is an individual enrolled in an adult education or GED program also considered to be a school dropout?

A: In consultation with our partners at the Florida Department of Education, it has been determined that: an individual who is not younger than 16 or older than age 24 at the time of enrollment into a WIOA- funded youth activity, who is not attending a regular or alternative school, but is enrolled in an adult education or GED program is considered, for purposes of WIOA, an out of school youth and is also, for purposes of WIOA, considered a dropout if the individual has not received a high school diploma. An age-eligible youth who has been determined to be a school dropout at the time of enrollment into a WIOA-funded program, does not need to be low-income.

USING TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS FOR SUMMER YOUTH EMPLOYMENT OPPORTUNITIES

Program Guidance

When developing summer youth programs under TANF, agencies may choose to target the program narrowly to youth in families already receiving TANF cash assistance, or expand eligibility to a more broadly defined group of “TANF-eligible” families. TANF funds must be spent on activities that further one of the following four purposes:

- Assist needy families so that children can be cared for in their own homes;
- Reduce the dependency of needy parents¹ by promoting job preparation, work, and marriage;
- Preventing out-of-wedlock pregnancies; and
- Encouraging the formation and maintenance of two-parent families.

NOTE: The State defines *TANF youth* as youth up to age 18, or up to age 19, if they are still in school.

The wages paid under these summer youth employment programs are not considered TANF cash assistance, and states may choose to disregard the earnings of summer jobs participants in determining a family’s eligibility or amount of assistance. Other sources of TANF funding may be utilized in an effort to provide supportive services for low-income youth. Furthermore, if the SYEP participant is not a Work Eligible individual, his or her hours of participation do not affect the State’s work participation calculation. A Work Eligible individual is defined as an adult or minor child head of household who receives TANF cash assistance or a non-recipient parent living with a child who is receiving cash assistance. If the participant is a Work Eligible individual, hours of participation can count towards helping the State meet work participation rate requirements. In addition to subsidizing wages, LWDBs may use TANF funds for this program and other related activities such as:

- Education and Training.
- Supportive Services.
- Transportation for employed persons for the purpose of attending work or training.
- Counseling and employment related services.
- Incentive payments that reward the participant for achieving a pre-determined milestone (i.e. a one-month job retention bonus).

1. Eligibility Categories

Purpose 1 - Assist needy families so that children can be cared for in their own homes.

Youth are eligible for the Summer Youth Employment Program (SYEP) if they are:

¹ A parent is defined as a natural/biological, legal, or adoptive father or mother of child. This includes stepparents.

- In a family receiving Temporary Cash Assistance (TCA).
- Residing in the home of a parent¹.
- Residing in the home of a caretaker relative.

Documentation

To support TANF Purpose One from the Florida Online Recipient Integrated Data Access (FLORIDA), LWDBs should attach the following documentation:

- AIHH – displays household members relationship;
- AIID – lists the household members;
- AIIM – displays school status and pregnancy;
- ARDT – displays the ages of individuals in the household; and
- IQCH- displays the family’s cash assistance history.

Purpose 2 - Reduce the dependency of needy parents by promoting job preparation, work, and marriage.

Youth are eligible for the SYEP program under Purpose Two if their family income does not exceed 200% of the Federal Poverty Level. [The 2016 Federal Poverty Rate Guidelines](#) can be found on the DEO website.

Documentation

To support TANF Purpose Two, LWDBs should attach the following documentation:

- Screening Form;
- Tax Returns;
- Last Pay Stubs;
- Unemployment Payment Verification;
- Disability Payment Verification;
- Free or Reduced Lunch Verification; and
- Employment Verification Form.

NOTE: LWDBs may use the TANF/SYEP screening/eligibility form template posted on DEO’s website, located under the WT tab, as the [TANF Summer Youth Employment Screening Template](#). LWDBs may also use their own locally developed screening form. If a LWDB chooses not to use DEO’s template, the LWDB’s locally developed screening form must include all pertinent information to determine eligibility. This includes selecting the appropriate qualifying TANF purpose.

2. OSST Data Entry

A LWDB opting to operate a TANF funded SYEP must ensure that all data for youth enrolled in the SYEP is entered in OSST using the codes/benchmarks as provided in this guidance.

Name: TANF Summer Youth Employment
FEID Number: 507607

Outcomes or Results for the SYEP

The data entry requirements for tracking TANF funded SYEP participation are as follows:

- Youth eligible under TANF Purpose One **must have a TANF *Benchmark-1*** entered and open under the ***Service Plan*** portion of the *Skill Development* screen. The *Actual Start Date* of Benchmark-1 should reflect the **date of enrollment** in the SYEP. The *Actual End Date* should reflect the date the youth left the SYEP. The *Outcome* should reflect the reason the youth left the SYEP. The enrollment benchmark **must remain open** until the youth exits the SYEP.

If the youth is part of a family receiving TCA, program staff will use TANF Benchmark – 1 to enroll the youth. This benchmark will be used to track the number of youth in TCA homes who are enrolled in the program.

- Youth eligible under TANF Purpose Two **must have a TANF *Benchmark-2*** entered and open under the ***Service Plan*** portion of the *Skill Development* screen. The *Actual Start Date* of Benchmark-2 should reflect the **date of enrollment** in the SYEP. The *Actual End Date* should reflect the date the youth left the SYEP. The *Outcome* should reflect the reason the youth left the SYEP. The enrollment benchmark **must remain open** until the youth exits the SYEP.

If the youth is part of a family whose income is below 200 percent of the Federal Poverty Level (FPL), program staff will use TANF Benchmark – 2 to enroll the youth. This benchmark will be used to track the number of youth whose family income is below 200 percent of the FPL.

- Youth being served with TANF funds must be reviewed for eligibility prior to receiving services. To demonstrate the eligibility determination was completed, the applicable enrollment benchmark, 1 or 2, must be entered in the system with an Actual Start Date on or after the SYEP start date. An Eligibility or Screening form for TANF Funded Services must be completed and retained in the youth's record, along with appropriate eligibility supporting documentation. This is applicable for all youth served with TANF funds for Summer Youth Employment opportunities.

NOTE: Eligibility determination dates and enrollment dates may differ. Once a youth is determined eligible for the SYEP, subsequent eligibility determination is not necessary if enrollment into the program does not immediately follow. For example, if a youth is determined eligible for the SYEP on May 10, 2016 and is not actually enrolled until June 10, 2016, the LWDB does not have to complete another screening form or collect more information for eligibility purposes. The LWDB would enter the actual enrollment date once the youth actively engages in the SYEP. ***However, a youth cannot be enrolled into the SYEP before they are determined eligible.***

3. Recording Employment

Codes have been added to OSST so that LWDBs can accurately record the youth's employment type as subsidized private or subsidized public:

a. Subsidized Private – SYEP

Choose this category if the youth has been placed with a private employer.

b. Subsidized Public – SYEP

Choose this category if the youth has been placed with a public employer.

4. Other Program Benchmarks

We are aware that the TANF-funded SYEP for each LWDB may differ in program design and services offered. In order to capture all of the great practices that each LWDB will offer, we have added two benchmarks where LWDBs can record other program elements provided to Florida's youth.

Skill Development Benchmarks can be used to record activities that are not already listed as activities in OSST. For example, if the youth will be attending a "Job Skills Training" offered or required by the LWDB before the youth can start with an employer, it may use the Job Skills Training code already provided in the system. However, if the LWDB will have activities such as pre- and post-program classes and workshops, they may record these workshops as benchmarks in OSST's Skill Development section.

TANF Benchmark 3 – use this benchmark to identify completion of:

- Pre-employment classes or workshops.
- Required Youth Orientation.
- Youth Employability Skills Workshops.

TANF Benchmark 4 – use this benchmark to identify completion of:

- Post-employment classes or workshops.
- Required employment wrap-up session.

Questions and Answers

Q: Under TANF Purpose Number 2, if a family is receiving reemployment assistance (RA) benefits, is the youth automatically **income eligible** for the **TANF SYEP**?

A: In the case of a single parent family where the adult is receiving RA benefits, the youth may be automatically considered income eligible for the **TANF SYEP**.

In a family where there are two parents, the income of both parents must be verified. If one parent is receiving UC benefits and the other is employed, the LWDB must take all income into consideration to determine if the youth is income eligible for the TANF SYEP.

Q: If the youth is part of a family receiving TCA, will their income affect the family's ability to continue to receive TCA?

A: No, the income of a child under age 18 and still in school (elementary, middle, or high school), or its equivalent, will not affect the family's eligibility for TCA. The child (youth's) income will be disregarded.

Q: Are youth receiving free and reduced lunch automatically income eligible for the TANF SYEP?

A: With verification of free or reduced lunch eligibility, a youth may be considered income eligible for the TANF SYEP.

Q: What other family income should be considered when determining whether or not a youth is potentially income eligible for the TANF SYEP?

A:

- ✓ Child support payments.
- ✓ Self-employment income.
 - Gross income minus business expenses.
- ✓ SSI/SSDI payments.

Q: Are there other source documents we can use to determine eligibility if common forms of verification are not readily available?

A: Yes. See table below.

| Eligibility Element | Acceptable Documentation |
|---------------------------------|--|
| 1. Earned Income | |
| | <ul style="list-style-type: none"> ➤ Wage receipts ➤ Wage Statements ➤ Pay stubs ➤ Employment verification form (containing all required information) ➤ Written Statement (containing all required information), including ➤ The Work Number (fax) ➤ Collateral Contact (with employer) |
| 2. Self-Employment | |
| | <ul style="list-style-type: none"> ➤ Proof of business expenses ➤ W-2 forms and income tax returns ➤ FLORIDA screen print-out (if updated within 2 months of the SYEP eligibility determination) |
| 3. Unearned Income | |
| a. Alimony | <ul style="list-style-type: none"> ➤ Court order ➤ Notarized agreement between the two parties ➤ FLORIDA screen print-out (if updated within 2 months of SYEP eligibility determination) |
| b. Child Support | <ul style="list-style-type: none"> ➤ Court Order ➤ Notarized agreement between the two parties ➤ Canceled child support checks ➤ Bank statement with child support direct deposit entries ➤ FLORIDA screen print-out (if updated within 2 months of SYEP eligibility determination) |
| c. Retirement Income | <ul style="list-style-type: none"> ➤ Retirement notification letter ➤ Bank statement with direct deposit entries for retirement income |
| d. SSI/SSDI (SSA Income) | <ul style="list-style-type: none"> ➤ Award letter ➤ FLORIDA screen print-out (if updated within 2 months of SYEP eligibility determination) |

| | |
|--|---|
| <p>e. Reemployment Assistance</p> | <ul style="list-style-type: none"> ➤ Print-out of claim history (can be requested from DEO by calling 1-800-204-2418, choose appropriate language, and follow the prompts a representative can assist with the request.) ➤ Copy of unemployment paper warrant ➤ Copy of bank statement showing UC benefit direct deposit record ➤ FLORIDA screen print-out (if updated within 2 months of SYEP eligibility determination) |
|--|---|

General References:

USDOL's *Summer Jobs+ 2012* website. <http://www.dol.gov/summerjobs/>

What's My Next Move? A Guide to Exploring Careers Using Online Documents from the U.S. Department of Labor.

http://www.careeronestop.org/TridionMultimedia/WMNM%20FINAL%20JAN%2007%202013_tcm24-13704.Pdf

[*School-to-Work Opportunities and the Fair Labor Standards Act: A Guide to Work-Based Learning, Federal Child Labor Laws*](#)

Workforce Innovation and Opportunity Act References:

The USDOL program guidance ([TEGL 14-08](#)) addresses the design and implementation of summer employment programs. The guidance states the following:

- Work experience is the core component of a summer employment program.
- All states and local areas should ensure that participating worksites introduce and reinforce the rigors, demands, rewards, and sanctions associated with holding a job.
- Provisions for wages under the amendments to the Fair Labor Standards Act (FLSA) apply to all youth participants employed under WIOA.
- Depending on the facts, FLSA regulations may apply only to the workplace portion, and not to the classroom portion, of summer employment. Any hours spent in classroom training as part of a summer employment opportunity may or may not fall under the FLS.

Policy Reference Table

| Category | WIOA Law | Proposed Regulations | TEGL 23-14 , 5-17 , 5-14 , 8-15 , 14-08 |
|---|--|--------------------------------------|--|
| Process used to select Eligible youth providers | SECTION 123 | 681.400 | 23-14, 05-14 |
| Funds percentage | sec. 129(b)(1) sec. 127(b)(1)(C)(iv)(II) sec.132(b)(1)(B)(iv)(II) sec. 129(a)(4) sec. 128(b)(4) | 681.410 | 23-14 |
| Youth program design | sec. 129(c)(1)(A) sec.116(b)(2)(A)(ii) sec.129(c)(3)(A) sec. 129(c)(3)(B)) sec. 129(c)(3)(C)) sec. 128(b).ec.129(c)(1)(A)) | 681.420 | 23-14 |
| Concurrent enrollment | sec. 129(c)(1)(A) | 681.430, 681.440 | 23-14 |
| Service duration | | 681.450 | |
| Services offered to youth/elements | sec. 129(c)(2)) sec. 123 | 681.460 | 23-14 |
| Youth program elements and funds | sec. 123 | 681.470 | 23-14, 12-14 |
| Pre-apprenticeship | | 681.480 | |
| Adult mentoring | | 681.490 | 33-12 |
| Financial literacy education | | 681.500 | |
| Comprehensive guidance and counseling | sec. 129(c)(1)(C)(J)) | 681.510 | |
| Leadership opportunities | sec. 129(c)(2)(F)) | 681.520 | |
| Social and civic behaviors | | 681.530 | |
| Occupational skills training | sec. 123 sec.129 ©(2)(d) | 681.540 | |
| Individual Training Accounts | | 681.550 | |
| Entrepreneurial skills | | 681.560 | |
| Supportive services | sec. 3(59) | 681.570 | |
| Follow up services | sec. 129(c)(2)(I) | 681.580 | |
| Work experience | sec. 129(c)(4), sec. 3(44) | 681.590, 600, 610 | |
| Summer employment administration | sec. 123 | 681.620, 681.630, | |
| Education concurrent with workforce preparation | sec.129(c)(2)(E)) | 681.640 | |
| Incentives | | 681.650 | |
| Community involvement | | 681.660 | |

TEGL 23-14: WIOA Youth Program Transition:

http://wdr.doleta.gov/directives/attach/TEGL/TEGL_23-14.pdf

TEGL 30-10 WIA Youth Program Guidance PY 2011.

<http://wdr.doleta.gov/directives/attach/TEGL/TEGL30-10ACC.pdf>

TEGL 15-10 Increasing Credential, Degree, and Certificate Attainment by Participants of the Public Workforce System. <http://wdr.doleta.gov/directives/attach/TEGL15-10acc.pdf>

TEGL 17-05 Common Measures Policy for the ETA's Performance Accountability System and Related Performance Issues. <http://wdr.doleta.gov/directives/attach/TEGL17-05.pdf>

TEGL 27-09 Workforce Investment Act (WIA) Youth Program Guidance for Program Year 2010.

<http://wdr.doleta.gov/directives/attach/TEGL/TEGL27-09acc.pdf>

Workforce Investment Act (WIA) Youth Program Guidance for Program Year 2010 Booklet.

http://www.doleta.gov/youth_services/pdf/WIA_Program_Guidance.pdf

TEGL 13-09 Contracting Strategies that Facilitate Serving the Youth Most In Need.

<http://wdr.doleta.gov/directives/attach/TEGL/TEGL13-09acc.pdf>

Department of Labor WIOA Resource Page:

<http://www.doleta.gov/WIOA>

Department of Education WIOA Resource Page:

<http://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

WIOA Youth Programs Fact Sheet:

https://www.doleta.gov/wioa/Docs/WIOA_YouthProgram_FactSheet.pdf

TEGL 5-14: WIOA Youth Program Guidance for PY2014:

http://wdr.doleta.gov/directives/attach/TEGL/TEGL_05-14.pdf

TEGL 23-14: WIOA Youth Program Transition:

https://wdr.doleta.gov/directives/attach/TEGL/TEGL_23-14_Acc.pdf

[Memoranda](#)

[WIOA – Youth Living in High Poverty Areas and Poverty Rate Map](#)

[Revised Guidance on Out-of-school and Dropout Status for Youth at Workforce Innovation and Opportunity Act \(WIOA\) Enrollment](#)

TANF References:

TANF Information Memorandum.

<http://www.acf.hhs.gov/programs/ofa/resource/policy/im-ofa/2012/im201201/im201201>

Using TANF Funds to Support Subsidized Youth Employment (Mathematica Policy Research, Inc.).

http://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_02.pdf

Creating Summer Jobs for Youth.

<http://www.clasp.org/admin/site/publications/files/TANFSummerJobs.pdf>

TANF SYEP Screening Form

Summer Jobs+ Bank. <https://webapps.dol.gov/summerjobs>

Although not a requirement, DEO encourages LWDBs and participating employers to use the Summer Jobs+ website to make information available to disconnected and low-income youth about **Summer Jobs+ opportunities**. Once a TANF agency or a Public/Private sector partnering organization has a summer youth employment opportunity available, they are encouraged to post the commitment online in the **Summer Jobs+ Bank**. The **Summer Jobs+ Bank** is a one-stop search tool for youth to access any of the participating employers' commitments posted online. For youth interested in obtaining more information about the initiative, the **Summer Jobs+ Bank** website can be found by following the link above.

To enter commitments, State/local TANF agencies and partnering organizations with summer youth employment opportunities should visit <http://www.dol.gov/summerjobs/addingopportunities.htm>.