

# WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

## CHAPTER 8 PROGRAM SERVICES

### SECTION 16 COMMUNITY SERVICE / WORK EXPERIENCE

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## 8.16.1 GENERAL

These policies and procedures contain specifics for administering Community Service (CS) and Work Experience (WE) activities for CHOICES and WIA customers of the Texoma Workforce Centers. Community Service / Work Experience placements should be used to improve the employability of customers who have been unable to find employment. Texoma Workforce Centers (WFC) are encouraged to use CS and WE based on individual needs. WE and CS activities provide employer benefits through providing a process to screen job seekers and providing qualified, productive workers with a strong career interest in the workplace. In addition, WE and CS provides customers with opportunities to acquire knowledge, skills, and work ethics, as well as for career exploration and skill development. In addition, WE and CS activities provide job seekers with opportunities to meet their work requirement, network with potential employers, and contribute valuable services to their communities.

Community Service / Work Experience activities may not include:

- Union or anti-union activity;
- Religious proselytism or evangelism; and
- Partisan or non-partisan political activity or campaigns.

## 8.16.2 DEFINITIONS

**8.16.2.1 Work Experience** is defined as follows:

**8.16.2.1.1 WIA** – For WIA participants, work experience is an intensive service that is a planned, structured learning experience that takes place in a workplace for a limited time. Work experience may be paid or unpaid and may take place in the private, for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act, (see 8.16.3 below) exists. (reference: WIA Final Rules **663.200(b)**) For the purposes of this policy, WIA Work Experience is defined as an unpaid activity in the private, for-profit sector. See WST Policy Chapter 8, Section 17 for subsidized work experience activities.

**8.16.1.1.2 Choices** – Work experience is a core activity that is performed under close supervision to assist the unemployed or underemployed Choices customers in gaining basic job skills and enhance existing skills that will lead to unsubsidized employment. Work experience sites are unsalaried, work-based training positions. Work experience placements are intended to be time-limited, to move Choices participants quickly into regular employment and have designated hours, tasks, skills attainment objectives, and daily supervision. (reference: **§811.45 and Choices Guide B-506**)

**8.16.2.2 Community Service and Workfare Experience** for Choices and ~~Food Stamp Employment & Training Supplemental Nutrition Assistance Program (FSE&FSNAP)~~ Able-Bodied Adults Without Dependents (ABAWD) customers is defined as a core activity to assist the customer in gaining basic job skills and enhancing

existing skills that will lead to unsubsidized employment. Community service sites are unsalaried, work-based positions in public or private non-profit sectors that must be supervised on a daily basis and must not be arranged by the Choices participant (reference: **§811.46 & §813.2(12)** [and Choices Guide B-506](#)).

### **8.16.3 FAIR LABOR STANDARDS ACT REQUIREMENTS**

All employment and training activities required by WST service providers will be in compliance with the Fair Labor Standards Act (FLSA). The FLSA protects workers from unfair labor practices and exploitation. It requires that workers receive federal minimum wage as compensation for work performed.

The Department of Labor's six criteria for determining whether a recipient is participating in an unpaid work activity is considered an "employee" or "trainee" under FLSA, as detailed in TWC Rule §811.21(b)(1-3), will be used by WST service providers in establishing community service and work experience worksites and procedures.

#### **8.16.3.1 CHOICES COMMUNITY SERVICE AND WORK EXPERIENCE RESTRICTIONS**

Program participation in activities that are not exempt from minimum wage and overtime under the FLSA for TANF recipients, sanctioned families or conditional applicants will be determined as described in TWC Rule §811.29(a) (1-3) [and Choices Guide B-605](#). Unemployed mandatory TANF recipients who have completed either their 4 or 6 week job search requirements and [FSE&TSNAP](#) ABAWD participants who have completed their 4 week job search requirement are required to participate in a CS or WE activity. TANF recipients who meet these guidelines must be scheduled to participate no less than the minimum weekly average hours which are calculated by dividing the monthly amount of benefits for TANF and/or Food Stamp family allotment by the current minimum wage to arrive at the number of hours the customer must participate each month. This amount should be reviewed and verified each month for all participants. Under no circumstances, will participants be required to participate in CS or WE training for more hours than is equal to their TANF/[FSE&TSNAP](#) -benefit calculation or for more than 40 hours per week. In addition, mandatory Choices participants in community service must be enrolled in the maximum numbers of hours allowed by FLSA as specified in Choices rule §8.29(b) [and Choices Guide B-605](#). However, this provision does not apply to work experience placements who are allowed to participate fewer than the calculated FLSA hours. Also, exempt Choices participants may participate in community service fewer than the maximum FLSA hours.

Documentation must be provided in the case file of calculation of community service hours and that a full explanation of this calculation was provided to the customer. As with regular participation hours, customers must report community service hours weekly, and an independent verification of hours (timesheet signed by employer, phone call to supervisor, and other verification) must be documented. All case file documentation and conversations with customers must refer to this type of participation

as "community service" or "work experience" not as "work" or "work hours." There must be documentation that participation hours are calculated each month upon monthly verification of the total of the TANF and/or ~~FSE&TSNAP~~ allotments. WST service providers will work with TANF/Choices participants to supplement additional core activities to enable participants to meet participation requirements where WE or CS hours are not sufficient to meet program participation requirements. In compliance with the WST work-first strategy outlined at 8.7.2 and ~~Choices Guide B-404; B-1101 WD-39-08~~ Choices customers will be stacked in a job search component along with other component activities to allow for the maximum program benefit possible. This will ensure that service provider has opportunity to engage customers in additional activities that will assist the customers in gaining workplace skills and have an opportunity to demonstrate learned skills. However, per WD 10-08, ABAWD's cannot combine another ~~FSE&TSNAP~~ activity with the workfare activity.

~~TA Bulletin 152, Attachment 1, page 3, Response #11 B-505 & B-506a describes work experiences and community service definitions. clarifies the difference between work experience and community service placements as w~~Work experience placements can be with any entity whereas community service placements are limited to sites that directly benefit the community and serve a useful community purpose.

~~TA Bulletin 152, Attachment 1 Choices Guide B-605~~ further clarifies that work experience can be an activity subject to FLSA but not all work experience placements are subject to FLSA as FLSA requirements depend on the type of relationship a Choices participant has with the work experience site. If there is an employee-employer relationship, regardless of whether actual wages are paid, the work experience is subject to FLSA requirements. If, instead, the Choices participant meets the definition of a volunteer or trainee at the work experience site, then FLSA requirements do not apply. ~~Page 1, Response 2 of TA Bulletin 152, Attachment 1 further goes on to define the difference between a volunteer or trainee from an employee as:~~

~~"For Choices participants, a volunteer at a work experience or community service site is different than an employee if the volunteer does not have the same responsibilities as a regular unsubsidized employee and performs tasks that do not benefit the employer. A Choices participant is considered a volunteer under FLSA if the individual: performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered although a volunteer can be paid expenses, reasonable benefits, or a nominal fee to perform such services; offers services freely and without pressure or coercion; and is not otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer.~~

Choices rule § 811 .29(a)(3), ~~and Choices Guide B-605~~ defines training that is not subject to FLSA requirements:

- The training is similar to that given in a vocational school;
- The training is for the benefit of the trainees;
- The trainees do not displace regular employees;

- The employers derive no immediate advantage from ~~trainees' activities~~ trainees' activities;
- The trainees are not entitled to a job after training is completed; and
- The employers and trainees understand that trainees are not paid.

If the work experience or the community service placement meets the definition of a volunteer or trainee, then the Choices participant is not subject to FLSA in the calculation of participation hours.

Work experience and community service activities are not tracked differently regardless of whether participation hours are subject to FLSA requirements.”

#### **8.16.4 WORK EXPERIENCE AND COMMUNITY SERVICE**

Work Experience (WE) and Community Service (CS) placements are made based on each customer's individual needs and based on an employment strategy outlined in the individual/family employment plan. Whenever possible, WE and CS placements will include responsibilities that match the customer's vocational and occupational interests and abilities. WE and CS placements will be scheduled for no more than three (3) months at any one location. WST service providers will re-evaluate WE and CS placements at least every four weeks to determine if participants are gaining necessary skills to enter employment. If it cannot be ascertained that customers are gaining employable skills, customers should be moved to another WE or CS site.

All WE and CS participants are required to follow the worksite's work rules, such as abiding by the dress code, maintaining a work schedule according to the hours approved by the supervisor, and notifying the supervisor of planned absences from work or tardiness before missing work.

WST Service provider will ensure that all programmatic policies and procedures are followed. In addition, documentation of Individual/Family Employment Plans, customer contact, supervisor liaison, and required TWIST data entry must occur in a timely manner.

#### **8.16.5 JOB DEVELOPMENT / PLACEMENT SERVICES**

In compliance with Workforce Solutions Texoma's integrated service model, job development/placement services for participants will be provided by the Business Services Unit (BSU), which is a joint effort of WST and service provider staff, TWC Employment Services Staff, and WFC partner organizations. The Business Services Unit will be responsible for contacting the public and private sector for-profit and non-profit organizations within their respective areas to develop Non-Financial Cooperative Agreements for CS and WE positions. Upon completing an agreement, the CS will be responsible for locating and referring eligible participants WE or CS site and provide liaison between the worksite and designated BSU Broker to resolve worksite issues. See the WST Business Services Unit Plan for additional job development/placement services strategies. WFC BSU staff will provide individualized assistance to Choices, ~~FSE&FSNAP~~, and WIA customers to assist in identifying employment opportunities. WST service provider staff will provide on-going case management and support to Choices, ~~FSE&FSNAP~~ & WIA customers to assist their efforts in successfully gaining and retaining employment.

#### **8.16.6 NON-FINANCIAL AGREEMENTS**

WST service providers will obtain work experience (WE) and community service (CS) sites through use of the Workforce Solutions Texoma Non-Financial Cooperative Agreement. This Agreement outlines and explains the responsibilities of the participating worksite, the WST Service Provider and WST. The original agreement must be forwarded to WST upon completion with a copy being retained at each workforce center. The goal of work experience and community service is to move each participant into unsubsidized employment as soon as possible. Each agreement will contain a local point of contact and telephone number for

individual worksites and individual WFCs. Each WFC will obtain a sufficient number and variety of sites to meet their individual customer's needs. Each [a](#)Agreement or worksite placement will contain a list of skills, knowledge, and/or abilities that customers will gain at the worksite. The customer, the worksite supervisor and the customer's career specialist will sign a copy of the list of skills, knowledge, and/or abilities and a copy of same will be provided to both the supervisor and the customer. The original list of skills, knowledge, and/or abilities must be placed in each customer's file.

#### **8.16.6.1 WORKSITE RESPONSIBILITIES**

Worksites must fulfill certain responsibilities to be eligible for Community Service (CS) / Work Experience (WE) placements. These responsibilities include verification that the placement meets the Assigned Standards for worker non-displacement, and the completion of an Agreement between Workforce Solutions Texoma Board or its service provider and the worksite.

The worksite must also agree to:

- Observe reasonable health and safety standards.
- Provide on-going supervision of participants.
- Provide supervision and training to placed individuals.
- Observe discrimination laws with regard to race, sex, national origin, religion, age, or handicapping condition.
- Observe health and safety standards established under state and federal law that otherwise applies to other individuals in similar activities.
- Notify the appropriate service provider staff within 24 hours when a participant: sustains an injury at the work site, neglects their assigned tasks, or fails to appear at the worksite without reasonable explanation.
- Provide a short description of the types of work to be performed.
- Provide signed documentation on a weekly basis of the number of hours for each participant.

See the Non-Financial Agreement for additional worksite responsibilities.

#### **8.16.6.2 SERVICE PROVIDER RESPONSIBILITIES**

WST service provider staff will:

- Act as the liaison between the participant and employer in
  - Setting up work hours.
  - Developing individualized local work plans that outline competencies to be gained from the WE/CS placement.
- Ensure customers have needed supportive services.
- Provide a process to handle programmatic grievances and/or complaints.

See the Non-Financial Agreement for additional service provider responsibilities.

#### **8.16.6.3.1 WST RESPONSIBILITIES**

WST will:

- Secure voluntary liability insurance, through use of program funds, for up to 60 participants participating in WE or CS activities at any one time.
- Provide necessary infrastructure to ensure participants have needed supportive services.

See Non-Financial Agreement for additional WST responsibilities.

#### **References:**

Choices §811.21, §811.25-26 & §811.45-46,

[Texas Workforce Commission, Choices Guide: February 2011](#)

[FSE&TSNAP](#) §813.2(12), §813.32(4)

20 CFR Part 652, et al., WIA Final Rules 669.110 (definition); 663.200(b) (adults & dislocated workers); 667.274 (health and safety standards); 664.460 & 470 (youth)

[TA Bulletin 152, Attachment 1—Choices Rules Q&A](#)