



March 14, 2022

Cash Assistance Manual Transmittal Letter No. 179

TO: All Cash Assistance Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: **Five Year Rule Review: Work experience program and On-the-job training.**

In accordance with section 106.03 of the Ohio Revised Code (ORC), each state agency is required to review each of its rules in the Ohio Administrative Code a minimum of once every five years. The intent of the review is to ensure that Administrative Code rules are clearly written and that program requirements are accurate, up-to-date and clearly expressed. To the extent possible, unnecessary paperwork will be eliminated, local agencies will be given increased flexibility, and any adverse impact on businesses will be eliminated or reduced. As a result of the review, the agency may amend these rules; rescind these rules; or continue these rules without amendment.

The Office of Family Assistance (OFA) has completed a review of the following rules and the rules were subject to a review by the Joint Committee on Agency Rule Review (JCARR). These rules will become effective on 4/1/2022.

Chapter 2000

5101:1-3-12.3 "Work Experience Program."

This rule describes the work experience program for Ohio Works First participants. OFA amended this rule. The following changes have been made to the rule:

- The title to paragraph (A) has been amended to "Which section of the Revised Code applies to the work experience program (WEP)?"
- Language in paragraph (A)(1) was removed and replaced with "Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan";
- Paragraph (A)(3) was stricken as language under paragraph (A)(2) already references that the county agencies shall follow requirements contained in this rule and not in accordance with sections 5107.40, 5107.54, 5107.541 and 5107.61 of the Revised Code;
- Minor language changes were also made to improve clarity.

5101:1-3-12.4 "On-The-Job Training."

This rule describes the on-the-job training program for Ohio Works First participants. OFA rescinded and replaced this rule by new 5101:1-3-12.4 in accordance with the five year rule review because more than fifty percent of this rule was stricken. The following changes have been made to the rule:

- The title to paragraph (A) has been amended to “Which section of the Revised Code applies to on-the-job training?”;
- Language in paragraph (A)(1) was removed and replaced with “Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan”;
- Paragraph (A)(3) was stricken as language under paragraph (A)(2) already references that the county agencies shall follow requirements contained in this rule and not in accordance with sections 5107.40 and 5107.60 of the Revised Code;
- Minor language changes were also made to improve clarity.

5101:1-3-12.3 **Work experience program.**

(A) Which section of the Revised Code applies to the work experience program (WEP)?~~Conflict with Revised Code~~

(1) Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan~~Section (5) of Amended Substitute Senate Bill 238 of the 126th General Assembly (9/2006) sets forth the following provision: Not later than September 30, 2006, the director of job and family services shall adopt rules as necessary for the state to comply with 42 U.S.C. 607(i)(2)(8/1996). If necessary to bring the state into compliance with 42 U.S.C. 607(i)(2)(8/1996), the rules may deviate from Chapter 5107. of the Revised Code. Rules adopted under this section that govern financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. All other rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.~~

(2) The county agencies shall administer the work activity programs in accordance with the requirements contained in this rule and not in accordance with sections 5107.40, 5107.54, 5107.541 and 5107.61 of the Revised Code.

~~(3) All applicable requirements contained in the Revised Code sections referenced in paragraph (A) (2) of this rule have been incorporated into this rule.~~

(B) What is the definition of a work experience program ~~(WEP)?~~

(1) WEP is a work activity that is:

(a) Performed in return for cash assistance; and

(b) Provides an individual an opportunity to acquire the general skills, knowledge, and work habits necessary to obtain employment.

(2) WEP activities may include, but are not limited to:

(a) Work associated with the refurbishing of publicly assisted housing;

(b) Service as an Ohio works first (OWF) ombudsperson pursuant to sections 329.07 and 5107.61 of the Revised Code; and

(c) Work as a school volunteer or classroom aide. A work-eligible individual may be assigned at a nonpublic or public school when they have a minor

child enrolled in that school. Assignments pursuant to this paragraph shall meet the definition of WEP.

- (i) A county agency may contract with the chief administrator of a nonpublic school or with any school district board of education that has adopted a resolution under section 3319.089 of the Revised Code.
- (ii) A contract shall provide for a participant to volunteer or work at the school as a classroom aide. When that is impossible or impractical, the contract may provide for the participant to volunteer to work in another position at the school.
- (iii) A contract may provide for the nonpublic school or board of education to receive funding to pay for coordinating, training, and supervising participants volunteering or working in schools.
- (iv) Notwithstanding section 3319.088 of the Revised Code, a participant volunteering or working as a classroom aide under this section is not required to obtain an educational aide permit or paraprofessional license. The participant shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code and is not entitled to any immunity or defense available under that chapter, the common law of this state, or section 9.86 of the Revised Code.

(C) What activities do not meet the definition of WEP?

- (1) Job search and job readiness activities;
- (2) Vocational education;
- (3) Caring for a disabled family member; and
- (4) Attending medical appointments.

(D) What requirements apply to WEP?

- (1) Hours assigned to WEP are subject to the Fair Labor Standards Act (5/2011) requirements pursuant to paragraph (J) of rule 5101:1-3-12 of the Administrative Code.
- (2) Each county agency shall make a list of WEP sites available to the public.

- (3) Work-eligible individuals assigned to WEP are not employees of the Ohio department of job and family services (ODJFS) or the county agency. The operation of WEP does not constitute the operation of an employment agency by the ODJFS.
- (4) Unless a county agency pays the premiums for an entity, a private or government entity with which a work eligible individual is placed for WEP activities shall pay premiums to the bureau of workers' compensation on account of the work eligible individual.

Effective: 4/1/2022

Five Year Review (FYR) Dates: 12/22/2021 and 04/01/2027

CERTIFIED ELECTRONICALLY

Certification

03/11/2022

Date

Promulgated Under: 119.03

Statutory Authority: 5107.05

Rule Amplifies: 5107.05

Prior Effective Dates: 09/29/2006 (Emer.), 12/29/2006, 10/01/2008,
02/01/2012, 01/01/2017

5101:1-3-12.4 **On-the-job training.**

(A) Which section of the Revised Code applies to on-the-job training?

- (1) Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan.
- (2) The county agencies are to administer the work activity programs in accordance with the requirements contained in this rule and not in accordance with sections 5107.40 and 5107.60 of the Revised Code.

(B) What is on-the-job training?

- (1) On-the-job training means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides the knowledge and skills essential to the full and adequate performance on the job.
- (2) Paid internships and situations in which someone is engaged in subsidized employment and training may be considered on-the-job training.

Replaces: 5101:1-3-12.4
Effective: 4/1/2022
Five Year Review (FYR) Dates: 04/01/2027

CERTIFIED ELECTRONICALLY

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Promulgated Under: 119.03
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