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WORKFORCE DEVELOPMENT PROGRAMS

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TECHNICAL ASSISTANCE NOTICE: 06-4
SUBJECT: Colorado Minimum Wage
DATE: December 18, 2006

Please Note: The following technical assistance notice should be viewed as an Official state communication from CDLE's Workforce Development Programs Office. The contents of this TAN may be incorporated into future PGLs on related subjects.

PURPOSE: To provide guidance and technical assistance to Regions regarding the impacts of Amendment 42, which raises the Colorado minimum wage for hourly and tipped employees.

Question: Regions have requested guidance regarding the applicability of the new Colorado minimum wage to WIA training wages for Work Experience, On-the-Job Training, and Customized Training, as well job orders received by the workforce centers.

Answer: Given the language of Amendment 42, section 181 of the Workforce Investment Act, and the State's PGL (#01-04-WP1) regarding job orders, it has been determined that WIA program training wages, which were previously covered by the Federal minimum wage law, will be covered by the new Colorado minimum wage. In addition, job orders received by the regions should be checked for appropriate wage levels under the new amendment, effective January 1, 2007. JobLink will be modified in time to meet this deadline and will edit for the minimum wage applicable to tipped employees. However, staff will be responsible for insuring that orders for all other occupations covered by the minimum wage meet the new minimum wage requirements. In addition, regions will need to revise any local policies that reference a minimum wage for training activities or job orders, and will need to evaluate the impact on local budgets for training-related activities.

Referenced Documents:

1. Amendment 42, Colorado Minimum Wage: The following is the full text of Amendment 42, which was passed by Colorado voters in November 2006, and becomes law on January 1, 2007:

Ballot Title: An amendment to the Colorado constitution concerning the state minimum wage, and, in connection therewith, increasing Colorado's minimum wage to \$6.85 per hour, adjusted annually for inflation, and providing that no more than \$3.02 per hour in tip income may be used to offset the minimum wage of employees who regularly receive tips.

Text of Proposal: *Be it enacted by the People of the State of Colorado:*
Article XVIII of the Colorado Constitution is amended BY THE ADDITION OF A
NEW SECTION to read:

Section 15. State minimum wage rate.

Effective January 1, 2007, Colorado's minimum wage shall be increased to \$6.85 per hour and shall be adjusted annually for inflation, as measured by the Consumer Price Index used for Colorado. This minimum wage shall be paid to employees who receive the state or federal minimum wage. No more than \$3.02 per hour in tip income may be used to offset the minimum wage of employees who regularly receive tips.

2. Section 181 of the Workforce Investment Act addresses minimum wage requirements as follows:

WIA SEC. 181. REQUIREMENTS AND RESTRICTIONS.

(a) Benefits.--

(1) Wages.--

(A) In general.--Individuals in on-the-job training or individuals employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

3. PGL #01-04-WP1 (January 31, 2001) provides the following guidelines regarding job orders and minimum wage requirements:

7. Orders That Are In Violation of Law

- a. Job orders that contain job duties or terms or conditions of employment that are contrary to law should be refused. Examples of such orders would be those specifying pay below the legal minimum wage, requiring the worker to perform illegal activities, or specifying hours for a youth worker in violation of child labor laws.
- b. Workforce centers should explain the legal basis for refusing the job order to the employer and offer the opportunity for the job order to be modified. If the employer agrees to an appropriate modification, the job order may be accepted. Otherwise, the job order must be refused.

For more information on the Federal minimum wage, including covered and non-covered occupations, please access the following website:

<http://www.dol.gov/esa/minwage/q-a.htm>

For more information on the Colorado minimum wage, including covered/non-covered industries and occupations, please access the following website:

<http://www.coworkforce.com/lab/MinimumWageFactSheet.pdf>

Please refer employer and job seeker customers to the Colorado Division of Labor/Labor Standards for specific questions they may have regarding the new minimum wage requirements. Labor Standards Customer Service can be reached at:

labor.stand@state.co.us or

(303) 318-8441

Toll Free 1-888-390-7936