

 <p style="text-align: center;">WEST VIRGINIA DIVISION OF JUVENILE SERVICES</p>	<p><u>POLICY NUMBER:</u></p> <p style="text-align: center; font-size: 2em;">900.00</p>	<p><u>PAGES:</u></p> <p style="text-align: center; font-size: 1.5em;">8</p>
	<p><u>CHAPTER:</u> Miscellaneous</p>	<p><u>REFERENCE AND RELATED STANDARDS:</u> WV Code Chapter §49-5E-1 et seq.</p>
<p><u>SUBJECT:</u> Prison Industries Enhancement (PIE) Program</p>		
<p><u>DATE:</u> January 1, 2010</p>		

POLICY

The purpose of this policy is to establish guidelines for the West Virginia Division of Juvenile Services (WVDJS), an agency of the West Virginia Department of Military Affairs and Public Safety (WVDMAPS), directing the operation and administration of its Prison Industries Enhancement (PIE) Program, and work projects certified under the federal Prison Industry Enhancement Certification Program (PIECP). The WVDJS PIE Program shall meet the requirements of W.Va. Code §25-7-1, et seq. as well as the requirements of 18 U. S. C. §1761(c), the Prison Industry Enhancement Certification Program (PIECP).

CANCELLATION

This is a new policy.

APPLICABILITY

This Policy applies to ALL Division of Juvenile Services' facilities.

DEFINITIONS

1. Compensation: (For this Policy only.) Payment to a resident for labor or other services rendered while working on a Prison Industry Enhancement Program work project distributed in accordance with W.Va. Code §25-7-16.
2. Correctional Industries Program Coordinator: The person appointed by the Director of the West Virginia Division of Juvenile Services to have administrative oversight of the Prison Industry Enhancement Certification Program, Prison Industries Enhancement Program work projects, and other prison industry programs and activities.
3. Deductions: (For this Policy only.) Amounts deducted from gross wages, as authorized by W.VA. Code §25-7-16, which do not go into resident funds or mandatory savings.

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4. Director: The Director of the West Virginia Division of Juvenile Services.
5. Facility: Any facility or Day Reporting Center operated by the West Virginia Division of Juvenile Services or any facility operated under contract with the West Virginia Division of Juvenile Services.
6. Federal Minimum Wage: The lowest possible wage that can be paid to private sector employees under the Fair Labor Standards Act.
7. Gross Wages: (For this Policy only.) All money earned for the total number of hours worked by an resident who has been employed at any time during the pay period.
8. Job Description: (For this Policy only.) A written position description developed for each potential resident work assignment to be utilized by a Prison Industries Enhancement Program work project and submitted to the Division of Labor for a wage determination in accordance with this policy, which outlines the major duties of the position and identifies it with the most appropriate standard occupational classification listing.
9. Locality: (For this Policy only.) The geographic area impacted by the presence of a Prison Industries Enhancement Program work project.
10. Net Pay: (For this Policy only.) The resident's portion of gross wages as determined by W.Va. Code §25-7-16.
11. PIE Program Work Project: A specific resident work project that is part of the Prison Industry Enhancement Program.
12. Prevailing Wage: A wage rate that is not less than that paid for work of a similar nature in the locality in which the work is to be performed.
13. Prison Industry Enhancement Certification Program (PIECP): A program authorized under 18 USC § 1761(c) and administered by West Virginia Division of Juvenile Services that requires certification by the Department of Justice, Bureau of Justice Assistance of a resident work program before goods produced through that program can be shipped in interstate commerce.
14. Prison Industry Enhancement (PIE) Program: A West Virginia Division of Juvenile Services resident work program that is certified under the Prison Industry Enhancement Certification Program and meets the requirements of W.Va. Code 25-7-1, et seq.
15. Resident: An individual who is committed to the custody and/or supervision of the Director

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of the West Virginia Division of Juvenile Services.

16. Resident Funds: Resident's personal money in the care and custody of the West Virginia Division of Juvenile Services that is managed by the Division.
17. Room and Board: (For this Policy only.) The amount of deduction paid to the resident industries account to offset costs of commitment, including, but not necessarily limited to, the costs of food, health care, housing and clothing.
18. Standard Occupational Classification: The system used by Federal statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data. All workers are classified into one of over 820 occupations according to their occupational definition.
19. Voluntary Resignation: (For this Policy only.) Voluntary separation from employment within a Prison Industries Enhancement Program work project by the resident upon provision of a thirty (30) days written notice.

PROCEDURES

POLICY

1. Resident Work Activities. The WVDJS recognizes the value of fully engaging residents in productive activities, such as PIE Program work projects, in order to assist residents to successfully re-enter society with practical skills and a viable work ethic.
2. General Policy. It is the policy of the WVDJS to provide sufficient work and training programs to ensure that eligible residents are productively involved in work and training programs.
3. Agreements with Private Business. It is the policy of the WVDJS to seek opportunities to enter into agreements with private business concerns to accomplish the production or marketing of goods produced by residents.

General Guidelines

1. This Policy and Procedure applies only to residents working on PIE Program work projects when the goods manufactured will be transported in interstate commerce.
2. These rules do not apply to residents involved in the production of agricultural commodities on WVDJS owned/leased property or parts for the repair of farm machinery, nor do they apply to residents involved in the production of commodities intended for use by the federal

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government, the District of Columbia, any state or political subdivisions thereof, or not-for-profit organizations.

3. These rules also do not apply to residents who produce goods solely for intrastate transport, and residents on parole, supervised release, or probation.

4. Resident Compensation

a. Residents participating in a PIE Program shall be paid compensation as determined by the Director of the WVDJS.

b. In accordance with 18 USC § 1761, residents participating in a PIE Program work project shall be paid compensation for actual work performed that is not less than the amount paid for work of a similar nature in the locality in which the work is to be performed.

i. In no case shall compensation paid be less than federal minimum wage.

ii. Residents who work more than forty (40) hours per work week shall be paid compensation for additional hours worked at a rate equal to one and one half (1 ½) times their base hourly compensation rate.

iii. If the Director or his/her designee determines that WVDJS shall pay residents piece work compensation for their participation in a particular PIE Program work project, the piece work compensation rate shall be determined and established by converting the piece work compensation to an hourly compensation equivalent. Piece work compensation shall not result in the resident drawing less than the equivalent to federal minimum wage for each hour worked regardless of the resident's level of production nor less than one and one half (1 ½) times the equivalent to federal minimum wage for each hour worked in excess of a forty (40) hour work week regardless of the resident's level of production.

c. Prior to implementation of a PIE Program work project and the setting of the compensation rate, the Prison Industries Program Coordinator shall request from the West Virginia Division of Labor (WVDOL), or other appropriate agency, data regarding compensation paid for work of a similar nature to the PIE Program work project in the locality in which the work is to be performed.

d. WVDJS shall develop a full job description detailing the duties to be performed for each resident position being considered.

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- e. Those job descriptions shall be submitted to the WVDOL for a determination of prevailing wage in the locality for that specific type of employment using standard occupational classifications as a guide (i.e., farm laborer, warehouseman, machine operator, shipping and receiving clerk, etc.).
- f. WVDJS shall request WVDOL to establish an entry level wage that is within the tenth percentile for that standard occupational code in that locality.
- g. WVDJS shall work with the private entity to establish a wage plan, using data obtained from the WVDOL for that occupational specialty, which provides for higher than entry level wages for residents who obtain required work skills and/or continue to meet or exceed production expectations.
- h. The Director may rely upon this data and on other available information to determine and establish compensation for residents participating in a PIE Program work project.
- i. The Prison Industries Program Coordinator shall, on an annual basis, request the WVDOL, or other appropriate agency, to review and provide updated compensation data to WVDJS. In the absence of available, relevant rate information, the Director may establish compensation at the federal minimum wage rate, or its piece work compensation equivalent.

5. Labor Analysis

- a. Prior to implementation of a new PIE Program work project, the Prison Industries Program Coordinator shall submit a request to the WVDOL, or other appropriate agency, to provide a written analysis of the potential impact the proposed project may have on private labor in the locality in which the project will be performed.
- b. The Prison Industries Program Coordinator shall not implement a new PIE Program work project that would result in significant displacement of employed workers, utilize skills or trades in which there is a surplus of available gainful labor in the locality, or impair existing private sector contacts for services.

6. PIE Programs will comply will all National Environmental Policy Act (NEPA) requirements.

7. Local Business and Labor Union Consultation – Prior to implementing a new PIE Program work project, the Prison Industries Program Coordinator shall consult with representatives of local businesses and local union central bodies or similar labor organizations that would potentially be directly affected by the project, if such organizations exist in the locality.

8. The Prison Industries Program Coordinator shall:

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- a. Provide a notice of intent to the local Chamber of Commerce, appropriate trade organizations and appropriate local labor union central bodies or similar labor organizations, requesting comments, concerns, recommendations and names of private businesses and local labor organizations that would potentially be affected by the project.
- b. The notice of intent shall include a general description of the PIE Program work project, a description of the project location, the type and quantity of goods to be produced, the number of residents expected to be employed, the potential market for the goods, the project initiation date, and an explanation that federal law requires this consultation; and
- c. Maintain a file of all replies and WVDJS responses, if applicable, and submit them to the Director, or any other appropriate agency, for their consideration prior to final approval of the new PIE Program work project.

9. Conditions of Resident Participation in the PIE Program.

- a. Resident participation in a PIE Program work project shall be voluntary.
- b. Prior to acceptance for participation in a PIE Program work project, all resident applicants shall sign a form indicating the resident's intent to voluntarily participate in the work project and acknowledging the resident's consent to WVDJS's PIE Program requirements, including the compensation disposition procedure set forth in this policy.
- c. Distribution of gross wages, and applicable deductions, earned by residents employed in a PIE Program work project shall be in accordance with W.Va. Code §25-13-16.
- d. Residents who wish to resign from participation in a PIE Program work project following assignment and training may do so without penalty by providing a thirty (30) day written notice of intent to resign.

10. Charges for Room and Board

- a. The Director or his/her designee shall determine a reasonable monthly room and board charge based on the average total cost to WVDJS for resident care including, but not limited to, cost of food, health care, administrative costs, housing and clothing costs.
- b. Daily room and board charges are calculated through the budgeting process on a

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biennial basis.

- c. The monthly room and board charge shall be calculated by multiplying the daily room and board charge by thirty (30).
- d. Any portion of the resident's gross wages distributed to the industries account in accordance with W.Va. Code §25-13-16, which exceeds the monthly calculation for room and board charges, shall be credited back to the resident's account (i.e., the resident will not be required to pay more to the industries account than the calculated actual costs of room and board incurred during the month).

11. Worker's Compensation Eligibility.

12. Residents participating in a PIE Program work project who are injured on the job in a work-related incident may receive benefits under the Workers' Compensation program for non-state provided medical expenses in accordance with WVDOL guidelines. Residents who have continuing work-related disabilities may be eligible for disability benefits following release from commitment only.

13. Reporting Requirements - the Prison Industries Program Coordinator of WVDJS, shall:

- a. Ensure that the reporting requirements of the PIECP are met as required by applicable federal and state law and this policy;
- b. Establish a schedule for the payment of all deductions from gross wages including crime victims, family support, correctional industries and mandatory saving;
- c. Determine the reporting format and frequency of report to residents regarding pay information. On a monthly basis residents will receive a summary of the previous month's payroll information;
- d. Determine the method of handling the savings account and reconciliation of all detailed resident savings balances to the savings accounts totals;
- e. Ensure that all reporting requirements regarding PIECP are made to the Department of Justice, Bureau of Justice Assistance; and
- f. Determine the method of accounting and maintenance of all records regarding PIECP and PIE Program work projects. These records shall be made available for review or audit by state and federal entities.

14. Each facility who participates in this program will have in place an operational policy and

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procedural plan to ensure the standards and practices of this policy are followed.

RIGHTS RESERVED

The Director reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

APPROVED:

Deborah Humphrey

Director

January 1, 2010

Date