

**DEPARTMENT OF DEVELOPMENTAL SERVICES**  
**OFFICE OF QUALITY MANAGEMENT**  
**LICENSURE AND CERTIFICATION**  
***GUIDELINES AND TOOLS FOR RATINGS***  
***FOR***  
***INDICATORS CONCERNING DOL***

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Appendix L  
revision 2021

While it is the primary role of DOL itself to assure compliance with all aspects of DOL standards, there is a key role for OQE. The role of the OQE surveyor is to assess whether the individuals are paid comparable wages and benefits as other employees, by evaluating general compliance with DOL standards. In most circumstances, OQE will point out any possible inconsistencies and request that the agency seek out further clarification from the Regional Dept of Labor office. There are several indicators which will be rated:

L72: Sub-minimum wages are earned in accordance with the Department of Labor (DOL) requirements for compensation.

L73: The provider has a current DOL certificate.

C32: Wages earned are in accordance with at least minimum wage or prevailing wage rate.

L73: If the agency pays any individual sub-minimum wage, ask to see the **Certificate Authorizing Special Minimum Wage Rates Under Section 14(c) of the Fair Labor Standards Act**. These are identified as Community Rehabilitation Program or Work Center certificates. They must be publicly displayed and are renewed every two years.

L72: Review **prevailing wage** surveys for both piece rate and hourly wage jobs. The prevailing wage is the rate paid to experienced non-disabled workers in the geographical vicinity, performing essentially the same work under the same conditions.

- a) may be equal to minimum or higher
- b) not based on entry level wages
- c) usually based on three sources, which must be documented.  
Documentation must include name, address and phone number of firm or other source contacted. Must be reviewed and adjusted at least annually.

The prevailing wage must be used when determining piece rate or hourly rate time study.

1. Ask to see the production records of the individual for at least the last six months.
2. See if individual is being provided work for full day or if engaged in excessive 'down-time'. (Ask staff how they code non-productive time.)
3. Review wages and productivity averages.
4. Check that time studies for hourly rated work have been completed semi-annually and that the time study reflects the current duties of the individual. (Not required for piece rate.)

**Definitions:**

The following information is offered for surveyors to become familiar with some of the frequently used DOL terminology. There may be times when surveyors may want to provide some technical assistance to agencies based on the information below. Examples are included in some cases to illustrate common and acceptable practices.

**Piece Rate** - Usually determined by the provider using stopwatch time study to establish standard production rates or normal productivity of non-disabled workers.

- a) Determined by taking the prevailing industry wage rate divided by the standard number of units per hour. Example: 900 units per hour /5.50hr = 16.3 cents per unit.
- b) Not required to pay for lunch or break times.

**Hourly Rate** - Used when piece rates cannot be determined (janitorial, cafeteria etc.)

- a) Should be based on a simplified job analysis Example--kitchen worker

Mop/ Sweep - 1.0 hours per day x 25% productivity \* = .25

Dishwashing - 3.0 hours per day x 80% productivity \* = 2.40

Pots and Pans -1.0 hours per day x 25%productivity \* = .25

**Totals 5 hours 2.90**

$$2.9 / 5 = 58\%$$

\* Productivity should be determined by time study comparing the individual's time to those of experienced workers.

- b) D.O.L. recommends using a 90/10 form (Productivity/Quality), although not required.

Quantity of work       $58\% \times .9 = 52.2\%$

Quality of work       $100\% \times .1 = \underline{10.0\%}$

Total      62.2 %

- c) Hourly rate would be 62.2% of prevailing wage
- d) Initial productivity evaluation should be made within first month of employment.
- e) Productivity must be evaluated and adjusted at least every 6 months.
- f) Break periods need to be paid for when paid on an hourly basis.

**Minimum Wage** - Minimal wage established by federal or state government primarily for entry-level positions

**Prevailing Wage.** - The rate paid experienced nondisabled workers in the vicinity, performing essentially the same work under the same conditions.

- a) may be equal to minimum or higher
- b) not based on entry level wages

c) usually based on three sources which must be documented.

Documentation must include name, address and phone number of firm or other source contacted. Must be reviewed and adjusted at least annually.

**Commensurate Wage** - The wage paid to a worker with a disability based on the individual's productivity in proportion to the productivity of an experienced worker.

**Worker Certificate** - Certificate granted to employers by Department of Labor, authorizing them to pay special minimum wages. Must be publicly displayed and renewed annually.

**Compensable Time** - Those hours during which an individual is actually performing productive work and those hours when no productive work is performed but the individual is required to remain available for the next assignment. Examples - individual works at car wash, or is part of a work crew which travels from one work site to another (travel time must be paid).

**Noncompensable time** - Individual is completely relieved from job duties and is not required to remain available. Alternative programming or activities such as self-help skill training and job interviewing training fall under this category.

**D.O.L. Guidelines Related To Work Experience-** There are some instances where individuals can do work and not be compensated. For example individuals can work anywhere with support for up to **2 hours** and not be paid. This provides organizations with a strategy to determine both interest and skill level of individuals. (This strategy is often underutilized by the agency.) Longer non-paid work experiences are also possible utilizing the guidelines below:

- 1 Limited to 5 hrs voc exploration, 90 hours voc assessment, 120 hours voc training
2. The training is for the benefit of the individual.
3. Regular employees are not displaced.
4. The employer derives no immediate advantage from the activities of the individual.
5. Individual is not entitled to a job after training.
6. Individual under direct supervision from rehabilitation staff or employees of business.
7. Placement written into rehabilitation plan.

The key to compliance is often the existence of #7, a written plan outlining the purpose of the experience with agreement by all parties.

#### **D.O.L. Guidelines Related To Volunteer Work**

1. Position should be open to the general public plus 2-6 above.

The key issue to check on is who performs the job when the individual is not there. If other volunteers are used then it is likely a true volunteer position; if paid employees are being used then it is not a purely volunteer position.

**Worksheet for rating comparable treatment, wages and benefits:**

**Individual performs paid work?** ☐ **Yes** ☐ **No** If no, stop here.

**Individual is paid a sub-minimum wage?** ☐ **Yes** If yes, complete all sections ☐ **No**

**Individual is paid at least state minimum wage?** ☐ **Yes** If yes, move to section 3. ☐ **No**

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**SECTION 1: Organizational considerations** *(This section need only be completed by one team member designated to collect this information for the team.)*

Provider has Federal DOL Certificate for Authorizing Special Minimum Wage Rates? ☐ **Yes** ☐ **No** Provider has State DOL Certificate? ☐ **Yes** ☐ **No**

Provider has conducted **Prevailing Wage Surveys** for:

Piece Rate Wages ☐ **Yes** ☐ **No** ☐ **N/A** (These types of jobs not offered.)

Hourly Rate Wages ☐ **Yes** ☐ **No** ☐ **N/A** (These types of jobs not offered.)

Prevailing Wage Surveys are in line with the guideline definitions (see below): ☐ **Yes** ☐ **No**

- a. Equal to state minimum wage or higher
- b. Not based on entry-level wages
- c. Based on three sources, which must be documented.
- d. Reviewed and adjusted at least annually

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**SECTION 2: Individual considerations for sub-minimum wages.** *(Review production records, including wage and productivity averages for past six months)*

Individual performs: ☐ **Piece work\*** ☐ **Hourly wage jobs**

Individual participates in: ☐ **Employment Supports** (Day support's primary focus is on employment)  
☐ **Combination of work and non-work activities** (e.g., CBDS)

Individual's wage is calculated using prevailing wage as determined by the Prevailing Wage Surveys? ☐ **Yes** ☐ **No**

Is the work performed in the manner upon which the time study was determined? ☐ Yes ☐ No

Have time studies for hourly wage been completed semi-annually? \* ***Not required for piece rate*** ☐ Yes ☐ No

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**SECTION 3: Individual Considerations for equitable treatment and benefits.**

Wages are comparable to other company employees performing the same work? ☐ Yes ☐ No  
(If individual is paid a sub-minimum wage, this question would be answered to correspond with the findings of section 2.)

Individual is eligible for comparable benefits (holiday, sick, vacation leave, raises, bonuses, overtime, etc.) to those offered other company employees? ☐ Yes ☐ No

Does the individual participate in any volunteer activities? ☐ Yes ☐ No

If so, does this position meet the criteria for volunteering outlined in the guidelines? ☐ Yes ☐ No

**Comments:** \_\_\_\_\_  
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