Workforce Innovation and Opportunity Act Table of Contents

Mike DeWine, Governor  
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Ohio Department of Job and Family Services

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I. Purpose
To define participant eligibility, allowable services, and other policy parameters to enable participating local workforce development areas (local areas) to implement and deliver opioid emergency grant services.

II. Effective Date
Immediately

III. Background
Opioid use disorder and overdose deaths have become the most pressing public health issue and workforce challenge facing Ohio. According to the Ohio Chamber of Commerce, half the businesses surveyed report suffering the consequences of substance abuse in the form of absenteeism, decreased productivity, and worker shortage. The effects of the crisis in Ohio and other states prompted the President to declare an opioid epidemic national health emergency on August 10, 2017. The U.S. Department of Labor (DOL) then published Training and Employment Guidance Letter No. 4-18 to provide instructions on how states could apply for Disaster Recovery Dislocated Worker Grants to respond to the opioid crisis.

In response, the Ohio Department of Job and Family Services (ODJFS) applied for and received an $11 million discretionary National Health Emergency Disaster Recovery National Dislocated Worker Grant. This time-limited grant will be used to:

- Facilitate community partnerships that are central to dealing with this complex public health crisis;
- Provide training that builds the skilled workforce in professions that could impact the causes and treatment of the opioid crisis: addiction treatment, mental health, and pain management;
- Ensure the timely delivery of appropriate, necessary career, training, and support activities to eligible participants, including participants who have been impacted by opioid use, to promote successful reemployment;
- Create temporary disaster-relief employment that addresses the unique impacts of the opioid crisis in affected communities; and
- Increase engagement with and support for employers to modify hiring practices and drug-free workplace policies that ensure more job opportunities and job retention.

IV. State Requirements
As the state workforce agency and grantee, ODJFS shall:

- Submit grant applications, modifications, quarterly reports, and other communications to DOL on behalf of the local areas;
• Assign a project manager to serve as the point-of-contact and coordinator of grant related resources and information;
• Review and approve implementation plans and budgets submitted by the local areas;
• Manage grant funds including the determination of sub-award amounts;
• Manage incremental funding to local areas and potential revisions to such awards to address underspending, ensure maximum investment of the available resources, and take action designed to ensure ODJFS qualifies for the second and third funding increment from DOL;
• Form and/or enhance partnerships with other state agencies and initiatives to implement a comprehensive statewide response to the opioid crisis, such as collaboration with RecoveryOhio to leverage work with other state departments, boards, and commissions and partnership with the Ohio Bureau of Workers Compensation (BWC) to educate employers about substance use and recovery and to encourage establishment of Second Chance policies; and
• Provide technical assistance to local areas and other stakeholders on the terms and conditions of the Opioid Emergency Recovery grant.

V. Local Workforce Development Area Requirements

The Opioid Emergency Recovery grant is a national Disaster Recovery Dislocated Worker grant issued to local areas under the authority of the WIOA subgrant agreement between ODJFS and each local area. Therefore, local areas must implement the grant-funded services and activities in accordance with the terms and conditions of the WIOA subgrant agreement, along with the requirements found in this policy letter.

A. Local Area Planning

Local areas must submit a budget and implementation plan describing the partnerships, service design, planned number of participants, and other details for implementing the Opioid Emergency Recovery. Local area plans and budgets must be submitted by September 30, 2019. Local areas that have not submitted a plan and received OWD approval will not be eligible to receive the second increment of funding when DOL releases the state’s second increment.

As changes to the local plan occur, such as the provision of new services not identified in the plan or significant changes in the number of planned participants, local areas must submit to the designated ODJFS project manager a revised implementation plan explaining the changes as soon as possible, but no later than 30 days after each change.

B. Eligible Participants

Local areas shall ensure that individuals served under the Opioid Emergency Recovery grant have met all eligibility criteria, including those in 20 C.F.R. § 687.170 and the policy letter on adult and dislocated worker eligibility.

Individuals eligible to receive Opioid Emergency grant services must be one of the following:

1. A dislocated worker;
2. An individual temporarily or permanently laid off as a consequence of the opioid emergency;
3. A long-term unemployed individual; or
4. A self-employed individual who became unemployed or significantly underemployed as a result of the opioid crisis.

The eligible individuals are not required to have a history of opioid use disorder to qualify for Opioid Emergency Recovery grant services and cannot be required to disclose whether they have been impacted by the opioid crisis as a condition of participation. However, to target services to individuals...
impacted by opioid use disorder and to make appropriate referrals, the only permissible question that local areas may ask applicants or participants regarding opioid use disorder is:

Your answer to this question is voluntary. Do you, a friend, or any member of your family have a history of opioid use? Please answer “Yes,” or “No.”

Local areas must treat applicant and participant responses to the above question as confidential information, along with any other medical information obtained from applicants or participants or shared by partners, mental health providers, addiction recovery centers, or other organizations pertaining to the individual's health, disability, or medical conditions. If the above question is presented on a form, it must be separate from the WIOA intake or assessment forms. In accordance with 29 C.F. R. § 38.41(b)(3), the confidential information must be:

- Used only for determining appropriateness for services;
- Maintained in a separate file apart from the WIOA case file;
- Locked up or otherwise secured (such as through password protection if maintained in an electronic system); and
- Restricted from access by unauthorized individuals.

**C. Opioid Disaster Grant Communities**

Extensive research has shown that the opioid crisis in Ohio is so pervasive in multiple impact categories that disaster recovery requires a comprehensive approach.

Data for each county in the state was reviewed for four key categories of impact:

A. overdose mortality rates,
B. costs per capita of opioid abuse (costs for health care and treatment, criminal justice, lost productivity among current opioid users, and lost productivity due to overdose deaths),
C. limited or no access to medication-assisted treatment, and
D. the percentage of children entering County Children Services custody due to parental opioid use.

Ohio then organized the counties into nine Opioid Emergency Recovery grant communities according to the combination of common impacts they are experiencing. These categories and corresponding communities can be found in Attachment B to this policy.

Local areas shall ensure that each county provides allowable activities in the assigned community.

After determining the impacts experienced by each community, Ohio further identified the humanitarian and clean up needs as well as the healthcare, treatment, and training needs specific to those communities.

**D. Allowable Services and Activities**

In planning and implementing services under the Opioid Emergency Recovery grant, local areas should consider that the grant is meant to alleviate the devastating effects of the opioid crisis through:

- Disaster-relief employment aimed at alleviating the issues caused by the opioid crisis in affected communities;
- Career, Training, and Supportive services for eligible participants aimed at increasing the number of qualified professionals in fields that can have an impact on the opioid crisis;
- Providing a full array of workforce services to eligible participants who disclose that they have been impacted by the opioid crisis, in an effort to reintegrate them into the workforce; and
Increasing engagement with and support for, employers to modify their hiring practices and drug-free workplace policies to ensure job opportunity growth and greater job retention.

Participants enrolled in disaster-relief employment may be co-enrolled in employment and training activities and receive supportive services. Individual enrollment in temporary employment is limited to 12 months or 2,040 hours.

In addition to disaster-relief employment, participants (both those who are and those who are not enrolled in disaster-relief employment) may receive employment and training activities.

Participants may only be enrolled in:

- Disaster-relief employment only;
- Employment and training activities only; or
- Both disaster-relief employment and employment and training activities. These may occur concurrently, or one may occur prior to the other.

**Career Services**

Local areas will provide basic and individualized career services such as job search assistance, initial and specialized assessments of skill levels, career planning, and prevocational services as outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-08.1, Career Services for Adults and Dislocated Workers. Additional services for individuals may include job coaching and peer support to address barriers to employment, such as criminal history, drug relapses, probation and treatment requirements, and gaps in employment.

**Training**

Training services provided under this grant must prepare eligible individuals for employment in high-growth sectors within the local economy.

Individuals who disclose that they, a family member, or friend have been impacted by the opioid crisis may be trained in any in-demand occupation. The link below provides access to in-demand occupation data: [http://omj.ohio.gov/OMJResources/In-DemandOccupations.stm](http://omj.ohio.gov/OMJResources/In-DemandOccupations.stm)

Individuals who state that they are not impacted by the opioid crisis or do not respond, may only be approved for training in addiction treatment services, mental health treatment, pain management services and practices, and professions that are approved by DOL specific to each community that will mitigate the underlying circumstances of the opioid crisis.

The limitations on training apply to all training services funded by this grant, which include On-the-Job Training and Occupational Skill Training.

Long-term training may be supplemented with WIOA formula funds if the training extends beyond the grant period.

**Temporary Disaster-Relief Employment**

Ohio analyzed data related to the opioid crisis for each county using four types of impacts, labeled A, B, C, and D. Counties were grouped into nine communities that have the same types of impacts and needs. A map of the developed communities can be found in Attachment C of this policy.

Disaster-relief employment must quickly address immediate, specific needs of the community. DOL approved specific types of disaster-relief jobs based on each community’s needs. Disaster-relief jobs funded by the Opioid Emergency Recovery grant are allowable only for jobs that alleviate the unique impacts caused by the opioid crisis, as well as jobs that provide humanitarian assistance to those impacted by the crisis, which include: actions to save lives, alleviate suffering, and maintain human dignity. Humanitarian assistance jobs must directly relate to the effects of widespread opioid abuse.
A table that details the types of disaster-relief jobs that are allowable based on community assignment grouping can be found in Attachment B to this policy.

Local Areas will use assessments (including those conducted by partners) to determine each individual’s needs, interests, skills, work experience, and readiness for work as they relate to the requirements for the types of disaster-relief employment available, to determine whether an individual will be placed in such jobs and if employment and training activities are needed prior to or during disaster-relief employment.

Temporary disaster-relief employment jobs are time-limited to 12 months (or 2,040 hours). Disaster-relief employment provides income maintenance to participants and services to the community while moving participants into permanent, unsubsidized jobs.

Supportive Services

Grant-funded supportive services such as transportation, child care, and housing assistance, and referrals to mental health, addiction, and trauma specialists may be provided to grant participants in need of such services. Individuals with substance use disorder may be offered additional partner services such as addiction and other outpatient treatment, support during training and employment, and referrals to health and mental health care.

Assessments completed by mental health service providers and other partners should be used to customize supportive services to each participant’s needs. Local areas should review their policies to ensure that the types of supportive services needed by the population targeted for services under this grant are authorized.

Local areas must not spend more than 20% of their Opioid Emergency Recovery grant funding on supportive services for participants. Grantees may submit a modification request to spend more than 20% of their award on supportive services if the request demonstrates the criteria outlined in TEGL 4-18.

Other Allowable Services and Activities

Participants may receive Opioid Emergency Recovery grant services before, during, or after receiving treatment for substance use disorder.

The services and activities may be delivered under the local area’s existing policies applicable to dislocated workers, or the local workforce development board (local WDB) may opt to implement new or revised policies specific to the Opioid Emergency Recovery grant.

Examples of such policy revisions may include:

- Extending the length of training or increasing the maximum training funds available to participants who plan to enter occupations that impact the opioid crisis;
- Permitting funding for transitional jobs to help participants with barriers to establish a work history, develop workplace skills, and enter or re-enter the workforce; or
- Expanding the supportive services definition and benefit limits to allow for outpatient mental health and addiction treatment and related barrier removal if not covered by Medicaid, private health insurance, or other sources.

In addition to the allowable services for eligible participants, local areas may use Opioid Emergency Recovery grant funds for activities meant to impact the crisis on a wider scale, including, but not limited to:

- Piloting innovative approaches to combating the opioid problem – for example, by supporting employers that develop second-chance policies or hire individuals in recovery;
- Using peer recovery specialists in the community to support individuals in recovery during treatment, training, and employment;
- Building the addiction and substance-abuse treatment, mental health, and pain management workforce through education and training, such as by enabling participant enrollment in the new addiction services apprenticeship being established at Ohio’s two-year colleges;
• Funding full- or part-time program positions to provide on-site basic and/or individualized career services to eligible individuals who are involved with children services agencies, jails, courts, or recovery housing due to opioid use; and

• Facilitating peer learning and sharing of best practices through cross-discipline learning collaboratives across partner agencies.

Up to ten percent of the funds awarded to the local area may be used for administrative costs as defined in 20 C.F.R. § 683.215 that are associated with operating the grant.

E. Unallowable Services and Activities

Opioid Emergency Recovery Grant funds may not be used to pay for:

• Testing of participants for the use of controlled substances;

• In-patient treatment for substance use disorder; or

• Incentive payments to participants.

F. Community Partnerships

To address the wide-ranging impacts of the opioid crisis on the labor market, local areas must implement an integrated, comprehensive service delivery model by establishing partnerships with other organizations in the community that have expertise in treatment and recovery or that serve individuals who require assistance with employment and training to enter or re-enter the workforce.

Examples of such partnerships include, but are not limited to:

• Alcohol, Drug, and Mental Health (ADAMH) boards to coordinate treatment for individuals with substance use disorder;

• Rehabilitation facilities and other providers of evidence-based drug and alcohol addiction treatment;

• Training providers including community colleges that can offer education, credentialing, and licensure in career fields that treat substance use disorder or provide related interventions;

• Courts and the criminal justice system (e.g., county jails, state prisons, probation departments) to assist restored citizens with employment solutions to aid their transition back into society;

• Local libraries that can provide outreach and referral of potentially-eligible individuals; and

• BWC staff participating in the Safety Grant pilot program which educates employers on managing employees in recovery and adopting recovery-friendly human resource policies.

• Public children services agencies that can coordinate referrals for participants in need of such services and serve as employers of record for temporary disaster relief employment.

• Providers of recovery housing that can coordinate referrals for participants in need of such services and serve as employers of record for temporary disaster relief employment.

G. Subrecipients and Contractors

Local areas may enter into subrecipient agreements or contracts with public entities, not-for-profit organizations, and private-for-profit entities, including organizations that assist individuals in recovery from substance use disorder. The determination of subrecipient or contractor status must be based on the considerations in 2 C. F. R. § 200.330.

Competitive procurement of a provider that meets the definition of a subrecipient is not required but is recommended when feasible to increase the likelihood of obtaining the highest quality of services at the lowest cost.
Contractors must be competitively selected in accordance with federal, state, and local procurement rules. For-profit contractors and subrecipients may keep the profits earned from performance of grant activities. The amount of profit must be negotiated as a separate element of the overall price of the services with consideration given to the complexity, risk, past performance, and industry profit rates in the surrounding geographical area for similar work. Profits that are excessive or that are not justified using the aforementioned criteria will be disallowed and cannot be paid from grant funds.

VI. **Reporting Requirements**

Local areas must report grant participants served under the Opioid Emergency Recovery grant in the state’s designated case management reporting system under the special grant office created for the grant. Within 30 days of participant enrollment and provision of each service, all services and activities must be entered into the case management reporting system special grant office section.

The outcomes of participants in the Opioid Emergency Recovery grant will not affect the local area’s WIOA performance measures, unless the local area opts to co-enroll participants in local WIOA formula-funded programs.

Local areas must request cash draws and report expenditures and other financial information using the State’s designated financial reporting system, including the client tracking detail for participant-level direct service costs.

In addition, local areas must submit quarterly narrative reports on a template provided by the designated ODJFS project manager. Reports must be mailed to OpioidRelief@jfs.ohio.gov no later than the last day of the month that follows after the end of each calendar quarter.

VII. **Monitoring**

Local areas that issue subawards must assess the risk of non-compliance of each subrecipient and develop monitoring policies outlining the procedures, frequency, and methods for assuring that grant-funded services carried out by the subrecipient are compliant and for resolving any findings of non-compliance.

Through the state’s monitoring system, ODJFS program and fiscal monitors will review the local area’s implementation of Opioid Emergency Recovery grants, including participant file review and verification of actual expenditures, during the onsite monitoring review of the local area for compliance with all applicable federal and state laws, regulations, and guidance letters including this guidance letter. Any findings will be addressed through the state’s monitoring resolution process.

VIII. **Technical Assistance**

For additional information or to request technical assistance, contact the project manager designated by the ODJFS Office of Workforce Development to oversee implementation of the Opioid Emergency Recovery grant. To receive the project manager’s contact information, email opioidrelief@jfs.ohio.gov.

IX. **References**

Workforce Innovation and Opportunity Act §§ 134 and 170, Pub. L. 113-128.

USDOL, Training and Employment Guidance Letter No. 4-18, National Health Emergency Phase Two: Disaster Recovery National Dislocated Worker Grants to Address the Opioid Crisis (September 14, 2018).


29 C.F. R. § 38.41.

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility, (July 15, 2015).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers, (June 6, 2017).

Strategies for Helping Individuals Impacted by Opioid Use Disorder, A Toolkit for Ohio's Public Workforce System.

Attachment A: Glossary of Opioid Emergency Recovery grant terms
Attachment B: Community I – IX Descriptions
Attachment C: Opioid Emergency Recovery Communities Targeted map
Attachment D: Allowable Source Documentation
TO: Local Workforce Development Boards Directors  
Fiscal Agents  
OhioMeansJobs Center Operators  
FROM: Kimberly Hall, Director  
SUBJECT: Transitional Jobs  

I. **Purpose**
To provide guidance to local workforce development areas (local areas) regarding the provision of Transitional Jobs (TJ), when they are appropriate, and considerations for development of a local area policy.

II. **Effective Date**
Immediately

III. **Background**
Transitional jobs (TJ) are a type of work-experience that local areas may provide under WIOA and are considered an individualized career service. TJs are time-limited and wage-paid work experiences that are subsidized up to 100 percent. These jobs are in the public, private, or nonprofit sectors and are only available for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history, as determined by the local area.

Because TJs are a type of work experience, the requirements delineated in the policy letter on work experience for adults and dislocated workers, including the requirement for the local WDB to establish a worksite agreement between the participant, the host employer, and the provider of career services, also apply to TJs.

However, TJs are differentiated from other types of work experiences by the following characteristics:

- TJs are a paid, subsidized work experience, unlike other types of work experience that may be unpaid;
- TJs are meant to establish work history while demonstrating success in an employer-employee relationship and developing skills, whereas the purpose of other types of work experience may be to explore various career options or to assess the participant’s employability; and
- TJs must be combined with the provision of comprehensive career services and supportive services, which is not mandated for other types of work experiences.

Similar to other types of work experience, neither the employer-of-record nor the host employer where the TJ participant performs his or her work duties is required to employ the participant after the conclusion of the TJ (however, retention, where appropriate, is preferred for the benefit of the worker and employer).

Local areas may only use up to 10 percent of adult and dislocated worker formula funds for TJs. Also, national dislocated worker grant (NDWG) funding may be spent on TJs in accordance with any requirements, limitations, or maximum expenditure amounts related to TJs that apply to each such grant.

IV. **Definitions**
Individuals with barriers – For purposes of this policy, individuals who meet one or more of the criteria listed in Attachment A to this policy letter or anyone who certifies that they have been directly impacted by the opioid crisis.

Individual with a disability: An individual who:
1. Has a physical or mental impairment that substantially limits one or more major life activities of the individual;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

Unemployment compensation (UC): Short-term insurance benefits paid by ODJFS to individuals who are involuntarily out of work through no fault of their own, and who meet all statutory eligibility criteria to qualify to receive benefits.

V. Local Workforce Development Area Requirements

A. Local Policy

Local areas are not mandated to provide TJs. If the local workforce development board (WDB) opts to use TJs as part of its service delivery strategy, it must implement a local policy or policies to define the following aspects of TJ services:

1. Participant Eligibility

To receive TJs, participants must be either chronically unemployed or have an inconsistent work history, in addition to qualifying as “individuals with barriers.” The local WDB may identify additional populations beyond those in Attachment A that are considered to have barriers to employment and may therefore qualify for TJs. The definitions of chronic unemployment and inconsistent work history will be determined by the local area, which may include individuals who are long-term unemployed, ex-offenders, and individuals who are currently receiving or have exhausted Temporary Assistance to Needy Families (TANF) benefits.

In defining these factors, the local area should consider:

- Criteria that reasonably justify and relate conceptually to the status of “chronic unemployment” such as being low income (as defined in WIOA Section (3)(36)), having a work history showing primarily minimum wage employment, employment with wages below the local living wage definition, currently claiming and/or having exhausted unemployment insurance (UI) benefits, and other unemployment-related qualifying criteria; and
- Quantifiable definitions of what it means to have an “inconsistent work history” (i.e. specific lengths of time without employment, a specific number of jobs within a specified duration, etc.).

2. Appropriate Host Employers

The local TJ policy should identify appropriate or targeted employers (public, private, or nonprofit) that may serve as hosts for TJ placements. The local area should seek employers who are:

- Committed to helping participants;
- Able to provide work-skills development in coordination with the comprehensive career services and supportive services provided by the local area;
- Willing to retain participants when feasible; and
- Compliant on their state and federal business taxes.
In addition, local areas should focus on employers that offer occupations that are
determined to be “in-demand” at the State or local level, as described in WIOA §3(23).
For employers to maintain future consideration for subsidized TJ participant placement,
the local policy may establish a minimum level of hiring, such as at least 10 percent of
prior TJ employees who complete the full length of their agreement and are hired by the
host employer.

3. Wages and Benefits

The local policy must affirm that TJ participants will be compensated at the same pay
rates as similarly situated trainees or employees. In the local policy, the local area may
opt to establish a minimum wage that an employer must pay in order to qualify as a TJ
host employer. Participants must also be covered either by state workers’ compensation
or by relevant on-site insurance. The local TJ policy must define the amount or
percentage of reimbursement for the jobs (up to 100 percent of the participant’s wage)
and any co-funding requirements that apply to the host employers.

4. Length of Agreement

The length of a TJ agreement will vary based upon the number of hours worked per
week. If a position is full-time (meaning 30 or more hours per week), the maximum length
of the agreement is 26 calendar weeks. Any part-time position (less than 30 hours) has a
maximum of 52 weeks. A 26-week extension may be granted if the participant is an
individual with a disability who requires more time to establish a sufficient work history
and to develop employable skills. The local TJ policy must also define a required
minimum duration that ensures participants are able to establish sufficient work history
through the TJ.

B. Complementary Services

TJs must be combined with comprehensive career services and supportive services if needed
by the participant; participants must not be enrolled in TJ without receiving other services. The
comprehensive career services provided to TJ participants may include job readiness instruction
if determined appropriate by the local WDB.

C. UC Requirements

For participants receiving UC benefits, TJs fulfill the definition of work relief or work training
under OAC 4141-5-05, and thus are not covered employment that are required to be reported to
the UC program. The local area should ensure that employers and participants follow necessary
protocol to ensure cooperation with the UC program, as listed below:

- Employers-of-record must be notified that they should not report earnings/wages to the
  UC program for TJ participants, including for-profit employers;
- Employers must be notified that TJs are not covered employment for the purposes of UC,
  which can be done through the worksite agreement, an informational flyer, or other
  means deemed sufficient by the local area;
- For TJ participants receiving UC benefits, wages earned from TJs are considered income
  that must be reported to ODJFS and may therefore impact the claimant’s ongoing
  eligibility for UC benefits; and
- Enrollment in a TJ does not waive a participant’s mandatory work search requirements
  under the UC program.

VI. Reporting

All participants must be eligible and enrolled in WIOA (either the local adult or dislocated worker
program or a discretionary grant), and any data about them that is required to be reported must be
entered into the State’s designated case management reporting system. TJ participants may also be co-enrolled in other state-funded WIOA programs.

In the State’s designated financial reporting system, the local area’s fiscal agent must report all TJ expenditures using the appropriate sub-project code, so that the expenses may be isolated, properly reported, and tracked against the limits on TJ spending by grant.

VII. Monitoring

Through the State’s monitoring system and during the onsite monitoring review of the local area, ODJFS’s program and fiscal monitors will review the local area’s TJ implementation, including participant file review and testing of actual expenditures, for compliance with all applicable federal and state laws, regulations, and guidance letters (including this guidance letter). Any findings will be addressed through the State’s monitoring resolution process.

VIII. Technical Assistance

For additional information, contact the Office of Workforce Development at WIOAQNA@JFS.OHIO.GOV.

IX. References

20 C.F.R. §§ 680.190, 680.195, and 683.275

USDOL, Training and Employment Guidance Letter No. 19-16, Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).

O.A.C. 4141-5-05.

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers (June 6, 2017).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 18-02, Implementation of Workforce Development Services Under the Trade and Economic Transition National Dislocated Worker Grant (Opioid Transition Grant) (April 1, 2019).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-12, Work Experience for Adults and Dislocated Workers (July 15, 2015).


Workforce Innovation and Opportunity Act, § 170, Pub. L. 113-128.
TO: Local Workforce Development Board Directors
Fiscal Agents
OhioMeansJobs Center Operators

FROM: Kimberly Hall, Director

SUBJECT: Employment Recovery National Dislocated Worker Grants

I. **Purpose**

To provide the eligibility requirements and application procedure for National Dislocated Worker Grants (NDWG), and to assist local workforce development areas (local areas) in policy development and service provision for the implementation of these grants. This policy letter applies to all NDWG categories except for Emergency/Disaster Relief, for which policy guidance can be found in a separate policy letter.

II. **Effective Date**

Immediately

III. **Rescission**

ODJFS, Workforce Investment Act Policy Letter No. 09-11, National Emergency Grants (NEGs), (July 8, 2010).

IV. **Background**

National Dislocated Worker Grants are discretionary awards issued by the Department of Labor for states to respond to large, unexpected layoff events causing significant job losses. Specific categories of NDWGs include:

- **Layoff NDWGs** – Qualifying events for layoff NDWGs include single company dislocations of 50 or more workers (in which smaller layoffs caused by the primary layoff are also eligible under the same grant), industry-wide layoffs of 50 or more workers, or a series of multiple small dislocations occurring over a period of 12 months that amount to at least 50 impacted workers.

- **Dislocated Service Member NDWGs** – These grants may provide assistance to areas where demand for WIOA services from dislocated military service members exceeds what state and local resources can provide. To qualify, administrative data must be provided that shows increased unemployment levels among veterans in the local area over the past year, or there must be at least 50 veterans in the local area that are within 48 months of separation.

- **Trade Impacted Worker NDWGs** – These grants provide dislocated workers who are certified as eligible for Trade Adjustment Assistance (TAA) with WIOA services in cases where such services are not available through the TAA program and cannot be provided with WIOA formula funds. Qualification requires 50 or more impacted workers from a layoff event in which at least one impacted worker group is TAA-eligible.

- **Disaster Recovery NDWGs** – This policy does not apply to Disaster NDWGs; guidance on this NDWG category can be found in a separate policy letter.

**Other** – Any new or revised NDWG categories will be described in future policy guidance.

Services permissible under NDWG provision include basic and individualized career services, training services, supportive services, and needs-related payments. Allowable service activities are listed under
Section 134 of WIOA. Grants may specify minimum and maximum spending requirements on specific services; directors will be notified of these restrictions when the grant is issued.

Additionally, these grants are opportunities to pilot innovative services and activities not listed in Section 134 of WIOA. Examples include transition centers, peer counselors, and labor management committees.

V. **State Requirements**

The state is responsible for submitting all NDWG applications on behalf of one or more local WDBs. If DOL issues a grant to the state, the award amount will likely only be a portion of the requested amount. Successful expenditure of at least 70% of the initial award will allow the state to request additional funding up to the amount approved by DOL. If the project operator does not expend the initial allocation, funds may be taken away and reallocated to the other project operators.

ODJFS will serve as the grantee and pass-through entity for grant funds. Upon receiving grant funding, ODJFS will:

- Provide technical assistance to participating local areas;
- Prepare and submit a project implementation plan to DOL within 60 days of receipt of the grant award, along with a full application if the qualifying layoff event is classified as an “emergency”;
- Conduct monitoring of local areas to review eligibility, expenditures, and operations; and
- Submit required program and fiscal reports and grant modifications to USDOL, including requests for additional funding.

VI. **Local Workforce Development Area Requirements**

Local areas will need to provide detailed information to support the NDWG application.

A. **Application Process**

**Timing of Application** – Applications for Layoff NDWGs should be submitted within 120 days of a qualifying layoff event. Eligibility begins upon notification of layoff, or the date of the layoff itself. Layoff NDWGs can be submitted with “emergency” status if the qualifying layoff event occurred without notice to the workers. In this event, an application must be submitted within 15 days, in addition to a full application submitted within sixty business days of the date of the award.

**Items to Include** – The NDWG application may include a detailed description of: local area grant needs and services, the type of NDWG being requested, workforce area information including services currently being provided and impacted locations, plans for the determination of participant and service eligibility, plans for outreach and co-enrollment in other programs, budget justification, project operator and fiscal agent names and contact information, and the processing of layoff event data. ODJFS will provide a plan template to local areas participating in the NDWG.

**Application Review** – When a request is submitted to ODJFS, the Office of Workforce Development (OWD) will review the information with an emphasis on, but not limited to:

- WIOA dislocated worker formula fund expenditures;
- rapid response fund expenditures;
- statewide (discretionary) fund expenditures; and
- each local area's progress towards attaining WIOA performance standards and expenditure rate.

ODJFS will review the submitted information and additional documents requested and use this information to complete and submit the NDWG application.
Award Notification – The United States Department of Labor (USDOL) issues its funding decision within 45 calendar days of receipt of a valid application. If the application is approved, ODJFS will notify the participating local areas of their sub-grant award amounts.

Incremental Funding – Additional funds are awarded on an incremental basis. Provision of additional funding is based on demonstrated needs, evidenced by the number of participants and expenditures accrued. Supplemental funding may be requested once expenditures surpass 70 percent of the total NDWG funds awarded. Additionally, ODJFS may cut unobligated grant funds at their discretion.

B. Local Implementation Plan
Within the first 60 days of the grant period or as needed, the local area will submit a local implementation plan based on a template provided by ODJFS. The plan should include: a line item budget, identification and justification of any equipment required, local policies for relevant supportive services, a description of local area monitoring procedures, and a comprehensive staffing plan with job titles, wages, and benefits by position. The local area must notify ODJFS and submit a revised plan when modifications to these components are necessary.

C. Participant Eligibility
Any dislocated worker (pursuant to the provisions in WIOAPL 15-02) is eligible for grant services. Additional persons eligible for grant services are:

- previously self-employed individuals;
- temporary or contract workers impacted by a plant closure or layoff; or
- certain individuals that have served National Guard active duty as described under WIOA section 170(c)(2)(A)(iv).

Governors and local WDBs have the authority to establish policies and procedures for frontline staff to determine dislocated worker eligibility. The definition of dislocated worker can be found in WIOA section 3(15).

VI. Reporting
The local area must report grant participants and services in the state’s designated case management reporting system under the special grant office created for the grant.

Costs of services, including accruals and obligations, must be updated at the sub-area level every two weeks in the state’s designated financial reporting system using the project code established for the grant. All expenditures must be supported with acceptable documentation, including timesheets signed by a supervisor for payroll costs.

VII. Monitoring
Participating local areas that issue NDWG subawards must assess the risk of non-compliance of each subrecipient and develop monitoring policies outlining the procedures, frequency, and methods for assuring that grant-funded services carried out by the subrecipient are compliant, and for resolving any findings of non-compliance.

Through the state’s monitoring system, ODJFS program and fiscal monitors will review the local area’s NDWG implementation (including participant file review and evaluation of actual expenditures) during the monitoring review of the local area for compliance with federal and state laws, guidance letters including this guidance letter, and applicable regulations. Any findings will be addressed through the state’s monitoring resolution process.

VIII. Technical Assistance
For additional information, contact the Office of Workforce Development at WIOAQNA@JFS.OHIO.GOV.
IX. References

Workforce Innovation and Opportunity Act, §§ 134 and 170, Pub. L. 113-128.


USDOL, Training and Employment Guidance Letter No. 02-15, Operational Guidance for National Dislocated Worker Grants, pursuant to the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act), (July 1, 2015).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility (July 15, 2015)

WIOAPL 18-03 (WIOA Funds Rescission Policy)

Workforce Innovation and Opportunity Act Policy Letter No. 18-03

May 6, 2019

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Kimberly Hall, Director

Subject: WIOA Funds Rescission Policy

I. Purpose

The purpose of this policy is to provide guidance on the methodology for determining potential budget reductions in formula or discretionary allocations issued to the local workforce development areas (local areas) when a rescission of State funding occurs.

II. Effective Date

Immediately

III. Rescission


IV. Background

Under the Workforce Innovation and Opportunity Act (WIOA), the State may be subject to reductions in formula or discretionary grants for several reasons including sanctions and penalties, budget reductions enacted by Congress, or the federal budget sequestration process.

Also, pursuant to 20 C. F. R. § 683.135, the United States Department of Labor (USDOL) may recapture a portion of the State’s WIOA Title I funds for the adult, dislocated worker, or youth program and reallocate them to other States if the State has not obligated at least 80 percent of the funds by the end of the first program year in which they were allotted as determined separately for each of the three programs.

To minimize the impact of rescissions on individuals, businesses, and local areas, the Ohio Department of Jobs and Family Services (ODJFS) will absorb rescissions at the state level by reducing the ODJFS budget for statewide activities to the maximum extent possible. However, if ODJFS is unable to fully absorb a rescission due to its budget constraints, local area allocations will be reduced to comply with the rescission.

V. Definitions

Affected grant: A sub-award subject to a State or local budget reduction due to a rescission.

Obligations: The sum value of orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment during the same or a future period.

Rescission: The cancellation of budget authority previously provided by Congress or the reduction in a federal program allotment by a federal agency.

VI. Requirements

A. Sequential Rescission Process

In the event of a grant rescission, the State will reduce budgets funded by the grant using a five-step sequential process until the rescission is fully covered. Each subsequent step in the process will be implemented only if the rescission has not been fully covered by the previous step(s) and only to the extent necessary to cover the remaining amount of funding rescinded.
from the State but not covered in the previous step(s). This process is designed to minimize the likelihood of having to reduce a local area’s funding involuntarily.

The steps in the sequential rescission process are as follows:

1. The amount of affected grant funding reserved by ODJFS for statewide activities must be reduced to no more than 15 percent of the State’s remaining allotment following the rescission. In addition, statewide funds will be further reduced to the maximum extent feasible while not jeopardizing the ability of ODJFS to:
   - Carry out the required WIOA statewide activities;
   - Ensure the quality, integrity, and sustainability of the workforce development system and WIOA Title I services, including the ongoing operation of statewide information systems; and
   - Complete critical State workforce development strategic priorities.

2. ODJFS will notify the local areas of the remaining amount of the rescission and invite them to voluntarily reduce their allocations. The level of voluntary local area budget reduction will be determined by the local workforce development board (WDB) and submitted in writing to ODJFS by the local WDB chair or director prior to the deadline specified by ODJFS.

3. Each local area’s allocation of the affected grant funds will be reduced across the board by an equal percentage value up to 10 percent, except that any local area that had voluntarily reduced its budget in the prior step will receive a dollar-for-dollar credit toward its reduction in this step equal to its voluntary reduction.

4. For local areas that are not on track to expend at least 70 percent of their allocation of the affected grant funds by the end of the program year, their remaining allocations will be reduced by an equal percentage value up to an additional 15 percent. For purposes of this determination, a local area is considered not on track to expend at least 70 percent of the allocation if, in the quarter in which the rescission is announced, the local area has spent less than the target spending total for that quarter based on the reports submitted in the State’s designated financial reporting system. The local area’s target spending total for each quarter shall be based on the following formulas:

   Quarter 1 target spending total for July through September rescissions based on financial reporting as of June 30th:
   
   \[\text{[Prior Year PY + FY Allocation]} \times [70\%]\]

   Quarter 2 target spending total for October through December rescissions based on financial reporting as of September 30th:
   
   \[\text{[Prior Year PY + FY Allocation]} \times [70\%] + \text{[Current Year PY Allocation]} \times [17.5\%]\]

   Quarter 3 target spending total for January through March rescissions based on financial reporting as of December 31st:
   
   \[\text{[Prior Year PY + FY Allocation]} \times [70\%] + \text{[Current Year PY + FY Allocation]} \times [35\%]\]

   Quarter 4 target spending total for April through June rescissions based on financial reporting as of March 30th:
   
   \[\text{[Prior Year PY + FY Allocation]} \times [70\%] + \text{[Current Year PY + FY Allocation]} \times [52.5\%]\]
5. The local areas’ remaining allocations (after applying the above steps) will be reduced proportionately to cover the entire remaining rescission amount, with each area’s proportionate share of the remaining rescission equal to its remaining allocation divided by the sum of all local areas’ remaining allocations.

B. Local Workforce Development Area Budget Adjustments

If the rescission process results in the reduction of a local area’s allocation, the local WDB must reduce its commitments and obligations as needed to avoid overspending the affected grant. The local WDB must determine the best strategy for providing continued services to WIOA participants and businesses with minimal negative impacts to job seekers and other customers of the workforce delivery system by reviewing and considering:

- Current contracts and sub-recipient awards;
- The number of affiliate OhioMeansJobs centers funded with WIOA dollars;
- The number of participants currently enrolled in training;
- Unobligated training commitments for future quarters or semesters; and
- Costs of other services, activities, and operations.

Local WDBs must also consider the priority of service for veterans and eligible spouses and, under the adult program, the priority of service for recipients of public assistance, other low-income individuals, individuals with disabilities, and other individuals with significant barriers to receive individualized career services and training.

If the local area’s reduced budget affects the delivery of WIOA services in the OhioMeansJobs centers, the number of centers in the local area, or the WIOA partner contribution to the infrastructure or additional costs of the workforce system, an amended memorandum of understanding (MOU) should be submitted to ODJFS documenting the changes.

VII. Technical Assistance

For additional information, contact ODJFS, Office of Workforce Development at WIOAQN@JFS.OHIO.GOV.

VIII. References

Workforce Innovation and Opportunity Act, §§ 106 – 107, Public Law 113-128.

20 C.F.R. §§ 680.600, 683.120, 683.135, 683.140.


Workforce Innovation and Opportunity Act Policy Letter No. 18-02
April 1, 2019

To: Workforce Innovation and Opportunity Act Local Workforce Development Boards Directors, Fiscal Agents, and OhioMeansJobs Center Operators
From: Kimberly Hall, Director
Subject: Implementation of Workforce Development Services Under the Trade and Economic Transition National Dislocated Worker Grant (Opioid Transition Grant).

I. Purpose

To define participant eligibility, allowable services, and other policy parameters to enable participating local workforce development areas (local areas) to implement and deliver opioid transition grant services.

II. Effective Date

Immediately

III. Background

Opioid use disorder and overdose deaths have become the most pressing public health issue and workforce challenge facing Ohio. According to the Ohio Chamber of Commerce, half the businesses surveyed report suffering the consequences of substance abuse in the form of absenteeism, decreased productivity, and worker shortage. The effects of the crisis in Ohio and other states prompted the President to declare an opioid epidemic national health emergency on August 10, 2017.

In response to the emergency, the Ohio Department of Job and Family Services (ODJFS) applied for and received a discretionary Trade and Economic Transition National Dislocated Worker Grant from the U.S. Department of Labor (DOL). This time-limited opioid transition grant will be used to address long-term worker absences, dislocations, and disruption in skill and labor availability in geographic areas that have suffered the most severe negative impacts of the crisis by providing innovative training and employment services to dislocated workers.

Increasing their skill levels will enable the participants to compete for growing or high-demand employment opportunities, including occupations that help to minimize the effects of the opioid crisis, and move dislocated workers toward in-demand careers. This will increase labor force participation and improve the long-term economic health of the severely impacted geographic areas, thereby reducing substance use disorder through gainful employment.

IV. Definitions

Authorized county: A county located in a participating local area in which eligible dislocated workers may receive opioid transition grant services, or an Ohio county suffering from the most severe impacts of the opioid crisis (see Attachment A.)

Participating local area: A local area in receipt of opioid transition grant funds.

V. State Requirements

As the state workforce agency and grantee, ODJFS shall:

- Submit grant applications, modifications, quarterly reports, and other communications to DOL on behalf of the participating local areas;
• Assign a project manager to serve as the point-of-contact and coordinator of grant related resources and information;
• Review and approve operational plans submitted by the participating local areas;
• Manage grant funds including the determination of sub-award amounts and incremental funding to participating local areas and potential revisions to such awards to address underspending and to ensure maximum investment of the available resources;
• Form partnerships with other state agencies to implement a comprehensive statewide response to the opioid crisis, such as collaboration with the Ohio Bureau of Workers Compensation (BWC) to educate employers about substance use and recovery and to encourage establishment of Second Chance policies; and
• Provide technical assistance to participating local areas and other stakeholders on the terms and conditions of the opioid transition grant.

VI. Local Workforce Development Area Requirements

The opioid transition grant is a national dislocated worker grant issued to participating local areas under the authority of the WIOA subgrant agreement between ODJFS and each local area. Therefore, participating local areas must implement the grant-funded services and activities in accordance with the terms and conditions of the WIOA subgrant agreement, along with the requirements found in this policy letter.

A. Local Area Planning

To receive its full allocation of opioid transition grant funds (other than a nominal start-up grant), a participating local area must submit an operational plan describing the priorities, organizational capability, service design, outcomes, and other details for implementing the opioid transition grant services. The services and activities identified in the operational plan must align with the state combined plan, regional and local WIOA plan, and any economic development strategies and priorities pertaining to the local area. Following ODJFS approval of the operational plan, opioid transition grant funding will be allocated to the local area in increments. After spending or obligating at least 70 percent of the prior increment(s), the local area may email the designated ODJFS project manager to request the next increment.

As changes to the local plan occur, such as the provision of new services not identified in the plan or significant changes in the number of planned participants, local areas must submit to the designated ODJFS project manager a revised operational plan explaining the changes as soon as possible, but no later than 30 days after each change.

B. Eligible Participants

Participating local areas shall ensure that individuals served under the opioid transition grant have met all eligibility criteria, including those in 20 C.F.R. § 687.170(a)(1)(i) – (iii), and the policy letter on adult and dislocated worker eligibility. Also, eligible participants must reside in or work in an authorized county or must have been dislocated from an employer located in an authorized county.

The focus of outreach and services should be to:

• Dislocated workers who have a history of opioid use, or have a friend or family member with a history of opioid use; and
• Dislocated workers seeking to enter or transition into professions that could impact the causes and treatment of the opioid crisis (e.g., addiction treatment, mental health, pain management.)

The eligible dislocated workers do not need to be directly impacted by the opioid crisis nor suffering from substance use disorder to qualify for opioid transition grant services and cannot be required to disclose whether they have been impacted by the opioid crisis as a condition of participation. However, to target services to individuals impacted by substance use disorder and to make appropriate referrals, local areas may ask applicants or participants the following optional question:
Your answer to this question is voluntary. Do you, a friend, or any member of your family have a history of opioid use? Please answer “Yes,” or “No.”

Local areas must treat applicant and participant responses to the above question as confidential information, along with any other medical information obtained from applicants or participants or shared by partners, mental health providers, addiction recovery centers, or other organizations pertaining to the individual’s health, disability, or medical conditions. If the above question is presented on a form, it must be separate from the WIOA intake or assessment forms. The confidential information must be:

- Used only for determining eligibility and appropriateness for services;
- Maintained in a separate file apart from the WIOA case file;
- Locked up or otherwise secured (such as through password protection if maintained in an electronic system); and
- Restricted from access by unauthorized individuals in accordance with 29 C.F. R. § 38.41(b)(3).

C. Allowable Services and Activities

In planning and implementing services under the opioid transition grant, local areas should consider that the grant is meant to alleviate the devastating effects of the opioid crisis, either directly or indirectly, through:

- Economic improvement of the community through skill development, talent enhancement, and re-entry of workers into the labor force;
- Barrier removal for job seekers, including individuals impacted by the opioid crisis; and
- Business services that lead to greater opportunities for job seekers with barriers.

Eligible opioid transition grant participants may receive the full array of workforce development services available to WIOA dislocated workers (i.e., career, training, and supportive services.) Because the intent of the transition grant is to mitigate the impact of the opioid crisis by strengthening the local economy and generating employment opportunities, any participants who are eligible and in need of training may receive training services to enable them to enter career fields that provide relief to the opioid crisis (e.g., social worker, counselor, nurse, etc.) or to enter an in-demand occupation.

Career and training services provided under this grant must prepare eligible dislocated workers for employment in high-growth sectors within the local economy. The industry sectors of focus into which investments of grant funding should be prioritized include: advanced and additive manufacturing; transportation; logistics and warehousing; healthcare practitioners; technical and healthcare support (especially related to mental health and addiction services); maintenance and repair including electricity, HVAC, and plumbing; business and administrative professionals; information technology; and other sectors targeted in each participating area’s regional and local four-year WIOA plan.

Grant-funded supportive services such as transportation, child care, and housing assistance; and referrals to mental health, addiction, trauma, and drug-testing specialists may be provided to grant participants in need of such services. Assessments completed by mental health service providers and other partners should be used to customize supportive services to each participant’s needs. Participating local areas should review their policies to ensure that the types of supportive services needed by the population targeted for services under this grant are authorized.

Participants may receive opioid transition grant services before, during, or after receiving treatment for substance use disorder.

The services and activities may be delivered under the local area’s existing policies applicable to dislocated workers, or the local workforce development board (local WDB) may opt to implement new or revised policies specific to the opioid transition grant. Examples of such policy revisions may include:
• Extending the length of training or increasing the maximum training funds available to participants who plan to enter occupations that impact the opioid crisis;
• Permitting funding for transitional jobs to help participants with barriers establish work history, develop workplace skills, and enter or re-enter the workforce; or
• Expanding the supportive services definition and benefit limits to allow for mental health and addiction treatment and related barrier removal if not covered by Medicaid, private health insurance, or other sources.

In addition to the allowable services for eligible participants, local areas may use opioid transition grant funds for activities meant to impact the crisis on a wider scale, including, but not limited to:

• Piloting innovative approaches to combating the opioid problem – for example, by supporting employers that develop second-chance policies or hire individuals in recovery;
• Using peer recovery specialists in the community to support individuals in recovery during treatment, training, and employment;
• Building the addiction and substance-abuse treatment, mental health, and pain management workforce through education and training, such as by enabling participant enrollment in the new addiction services apprenticeship being established at Ohio’s two-year colleges; and
• Facilitating peer learning and sharing of best practices through cross-discipline learning collaboratives across partner agencies.

Up to ten percent of the funds awarded to the local area may be used for administrative costs as defined in 20 C.F.R. § 683.215 that are associated with operating the grant.

D. Unallowable Services and Activities

Opioid transition grant funds may not be used to pay for:

• Testing of participants for the use of controlled substances;
• In-patient treatment for substance use disorder;
• Incentive payments to participants; or
• Strategic planning or related activities.

E. Community Partnerships

To address the wide-ranging impacts of the opioid crisis on the labor market, participating local areas must implement an integrated, comprehensive service delivery model by establishing partnerships with other organizations in the community that have expertise in treatment and recovery or that serve individuals who require assistance with employment and training to enter or re-enter the workforce. Examples of such partnerships include, but are not limited to:

• Alcohol, Drug, and Mental Health (ADAMH) boards to coordinate treatment for individuals with substance use disorder;
• Rehabilitation facilities and other providers of evidence-based drug and alcohol addiction treatment;
• Training providers including community colleges who can offer education, credentialing, and licensure in career fields that treat substance use disorder or provide related interventions;
• Drug courts and the criminal justice system to assist restored citizens with employment solutions to aid their transition back into society;
• Local libraries that can provide outreach and referral of potentially-eligible individuals; and
• BWC staff participating in the Safety Grant pilot program which educates employers on managing employees in recovery and adopting recovery-friendly human resource policies.

F. Subrecipients and Contractors

Participating local areas may enter into subrecipient agreements or contracts with public entities, not-for-profit organizations, and private-for-profit entities, including organizations that assist individuals in
recovery from substance use disorder. The determination of subrecipient or contractor status must be based on the considerations in 2 C. F. R. § 200.330.

Competitive procurement of a provider that meets the definition of a subrecipient is not required but is recommended when feasible to increase the likelihood of obtaining the highest quality of services at the lowest cost.

Contractors must be competitively selected in accordance with federal, state, and local procurement rules. For-profit contractors and subrecipients may keep the profits earned from performance of grant activities. The amount of profit must be negotiated as a separate element of the overall price of the services with consideration given to the complexity, risk, past performance, and industry profit rates in the surrounding geographical area for similar work. Profits that are excessive or that are not justified using the aforementioned criteria will be disallowed and cannot be paid from grant funds.

VII. Reporting Requirements

Participating local areas must enroll participants served under the opioid transition grant in the special grant office established for this project in the State’s designated workforce case management system. Participants and services must be entered under the special grant office within 30 days. The outcomes of participants in the opioid transition grant will not affect the local area’s WIOA performance measures, unless the local area opts to co-enroll participants in local WIOA formula-funded programs.

Local areas must request cash draws and report expenditures and other financial information using the State’s designated financial reporting system, including the client tracking detail for participant-level direct service costs.

VIII. Monitoring

Participating local areas that issue subawards must assess the risk of non-compliance of each subrecipient and develop monitoring policies outlining the procedures, frequency, and methods for assuring that grant-funded services carried out by the subrecipient are compliant and for resolving any findings of non-compliance.

Through the state’s monitoring system, ODJFS program and fiscal monitors will review the local area’s implementation of opioid transition grants, including participant file review and verification of actual expenditures, during the onsite monitoring review of the local area for compliance with all applicable federal and state laws, regulations, and guidance letters including this guidance letter. Any findings will be addressed through the state’s monitoring resolution process.

XI. Technical Assistance

For additional information or to request technical assistance, contact the project manager designated by the ODJFS Office of Workforce Development to oversee implementation of the opioid transition grant. To receive the project manager’s contact information, email WIOAQNA@JFS.OHIO.GOV.

X. References

Workforce Innovation and Opportunity Act §§ 134 and 170, Pub. L. 113-128.


USDOL, Training and Employment Guidance Letter No. 4-18, National Health Emergency Phase Two: Disaster Recovery National Dislocated Worker Grants to Address the Opioid Crisis (September 14, 2018). Note: although certain provisions from TEGL 4-18 were used in this WIOAPL, the dislocated worker grants referenced in this policy are not disaster recovery grants.


29 C.F. R. § 38.41.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility, (July 15, 2015).

**Attachment A:** Opioid Transition Grant, Participating Local Workforce Development Areas and Authorized Counties.
Workforce Innovation and Opportunity Act Policy Letter No. 18-01

April 1, 2019

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Kimberly Hall, Director

Subject: Funding for Rapid Response Layoff Aversion

I. Purpose

The purpose of this policy is to outline the requirements for requesting WIOA rapid response (RR) funding to implement layoff aversion (LA) strategies in accordance with the policy letter on RR program requirements for layoff aversion.

II. Effective Date

Immediately

III. Background

Per section 133(a)(2) of WIOA, the State may reserve 25 percent of the federal allotment of dislocated worker funds for statewide RR activities including the implementation of LA strategies. To identify, prevent, and defer potential layoff events and to minimize the negative impacts of a layoff on workers, the employer, and the community, a local workforce development area (local area) may apply for LA funds according to the guidelines in this policy.

IV. Definitions

**Designee:** The fiscal agent representative or other individual who is designated by the local workforce development board (WDB) director through local WDB by-laws, local area policies, or procedures to request RR funding on behalf of the local WDB director for any applications or requests. The designation may be temporary or permanent.

**Employer:** An individual, business, company, firm, agency, or organization that employs one or more people.

**Fiscal agent:** The entity designated by the chief elected official(s) to perform accounting and funds management on their behalf, including coordination with the WDB regarding funding for the planned array of WIOA-funded services and ensuring fiscal integrity and accountability for expenditure of the funds.

**Incumbent worker:** An employed individual who meets the Fair Labor Standards Act requirements for an employer-employee relationship and has an established employment history with the employer for six months or more or is a member of a training cohort in which most of the workers have such an employment history.

**Incumbent worker training (IWT):** Training designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment. IWT is conducted with the commitment of the employer to retain or avert the layoffs of the incumbent workers trained. IWT may be funded with adult or dislocated worker formula dollars or with statewide RR funds.

**Layoff aversion (LA):** A strategy that prevents and/or minimizes unemployment for employees of companies that have either announced layoffs or are struggling and at risk of downsizing.

**Layoff aversion (LA) project:** A single strategy, or mix of strategies, intended to:
V. **Limitations on and Requirements for Local Workforce Development Area’s Receipt and Use of LA Funds**

WIOA-funded providers of employer services, in coordination with economic development, education, and other partners that serve businesses, shall identify employers in the local area or region at risk of laying off workers, assess their needs, and identify the LA strategy or mix of strategies likely to avert the layoffs in accordance with the policy letter on RR layoff aversion program requirements.

If the costs of implementing the LA strategies exceed the WIOA formula funds, and employer and partner resources available for LA, the local WDB director or designee may request RR funding to implement one or more LA projects by submitting the Layoff Aversion Service Plan (JFS 01815 form). The completed and signed plan should be emailed to RAPDRESP@jfs.ohio.gov.

To maximize the positive impacts of LA strategies and to distribute limited RR funding across employers and local areas, each LA project shall only be approved for RR funding once. For example, if an LA project were approved to provide IWT to a group of workers, no subsequent LA project will be awarded for the same employer to continue training the same workers, but a project may be approved to provide IWT to a different group of workers. Similarly, if a local area implemented a proactive LA strategy using RR funds, no subsequent request will be approved for the same local area to continue or repeat the same strategy using RR funds.

RR funds awarded for implementation of LA projects are not intended to cover the long-term maintenance of such projects, such as ongoing staff costs or system enhancements. Therefore, each approved LA project may incur RR costs for a maximum of 24 months following the approval date of the initial application. When applying for ongoing LA strategies that will continue beyond the 24-month RR funding period, the local area shall list in the application the funding sources that will be used to sustain the project.

Applications for and approval of RR funds occur within a federal fiscal year (FFY) which begins October 1 and continues for 12 months to September 30. In the application, the local area must submit a budget for the entire project up to 24 months, and for the current FFY allocation period (i.e., costs to be incurred from October 1 through the subsequent September 30). At the beginning of the second, and possibly third, FFY in the project lifespan, a new application and budget must be submitted to request the portion of funding necessary to continue the LA project in the new FFY.

In the application budget, the local area may include WIOA administrative costs that will be incurred to implement the LA strategies (e.g., negotiating service contracts, reimbursing invoices, entering data, monitoring financial records, etc.) Administrative costs cannot exceed ten percent of the LA project budget. ODJFS expects that, for most LA projects, actual administrative costs will be significantly lower than the maximum ten percent allowance and should vary from project to project based on actual costs. Therefore, ODJFS will decrease or eliminate the administrative cost allowance for local areas that routinely request and expend the full ten percent permitted for administrative costs unless the local area can verify and explain how actual administrative costs consistently equal ten percent.

For additional information on applying for LA funding or to request technical assistance, email RAPDRESP@jfs.ohio.gov.

VI. **State Protocol for LA Funding**
A. RR Funding for LA

In each FFY, ODJFS shall reserve a portion of its RR allotment for local area projects, of which a percentage may be earmarked for the implementation of LA projects. During the FFY, local area requests for LA funding will be evaluated in the order received and compared to the unobligated balance of reserved RR funding or the earmark for LA activities. If a local area’s request to implement an LA project exceeds the reserved or earmarked RR funds available, ODJFS shall:

- Re-evaluate budget priorities to reserve more RR funds for local area projects;
- Increase the percentage of RR funds earmarked for LA projects;
- Identify and make available other available resources; or
- Deny the pending request and invite the local area to apply again when more resources are available, such as in the subsequent FFY.

B. Review and Approval of LA Funding

The ODJFS Office of Workforce Development (OWD) RR Unit will review local area requests for LA funds for compliance, feasibility, and the merits of the planned goals and outcomes. Within three business days of receiving the application, the RR Unit will respond to the local area by email indicating approval, denial, or the need for additional information on the application.

RR funding awarded to a local area is meant to supplement, not replace, dislocated worker formula funds. Therefore, the RR Unit will review the following, in addition to the application, to reach a funding decision:

1. The local area's frequency of transferring dislocated worker and adult formula funds, including how the local area has strategized to respond to unforeseen events when they transferred funds;
2. For LA requests to implement IWT services, the local area’s expenditure of the 20 percent of adult and dislocated worker funding that may be used for IWT; or the local area’s willingness to co-fund the LA project by committing to spend the local funds available for IWT prior to using RR funding; and
3. The local area’s expenditure of adult and dislocated worker formula funds.

ODJFS expects each local area to spend its WIOA formula carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of each fiscal year. To evaluate a local area's financial need for RR funding over the course of the year, a quarterly target spending total shall be computed using the following formulas:

Quarter 1 target spending total for August through October applications using expenditure data as of June 30:

70% Cumulative (Spent 70% of 2nd year PY & FY grants)

Quarter 2 target spending total for November through January applications using expenditure data as of September 30:

80% Cumulative (Spent 100% of 2nd year PY & FY and 0% of 1st year PY; areas have not received new FY funding)

Quarter 3 target spending total for February through April applications using expenditure data as of December 31:

62.5% Cumulative (Spent 100% of 2nd year PY & FY, 100% of 1st year PY, and 0% of 1st year FY)

Quarter 4 target spending total for May through July applications using expenditure data as of March 31:
If the cumulative expenditure of local area combined adult and dislocated worker funds are below its target spending total for the quarter in which it requests RR funding, information on the local area’s adult and dislocated worker commitments will be reviewed to determine the likelihood of expending at least 70 percent of funds within the first year. The local area’s commitments shall be reported in the State’s designated financial reporting system using commitment reporting functionality available in the client tracking module.

If the local area does not meet the target spending total, the spending rate of the county requesting RR funding will be evaluated by applying the above target spending formulas to the adult and dislocated worker funds sub-awarded to the county. ODJFS may opt to approve RR funding for a county that has exceeded its spending target even if the local area has not met the requirement.

If the planned LA strategies involve a planning region or multiple local areas, the actual spending relative to the target will be evaluated separately for each local area involved in the LA project.

C. Distribution of RR Funding

Most LA projects will be funded incrementally. Up to four increments per FFY may be issued depending on when the initial application was submitted. In most cases, the dollar amount of the increments will be equal unless the local area justifies a need for unequal increments, for example, due to the timing of specific high-cost strategies in the LA project plan.

Local areas may request increments by emailing RAPDRESP@jfs.ohio.gov. Requests will be reviewed against the application for services, progress toward completion of the project’s goals and outcomes, participant service data in OWCMS if applicable, and spending and obligation of the prior increment(s) (which must exceed at least 70 percent of the sum of previous increments.)

When a local area request for RR funding or an increment of funding is approved, ODJFS will issue an allocation to the local area fiscal agent by the Friday following the first Wednesday after the approval date.

If the LA plan changes during implementation, including budget line item increases or decreases that exceed ten percent of the planned cost, the local area must submit a modified application to request approval of the changes.

If the local area expends at least 70 percent of the total RR funds approved for an LA project, a new application may be submitted to request additional LA funds to continue implementing the strategies within the same project.

VII. Monitoring

During the implementation of RR-funded LA projects, the RR Unit will review the services being provided and the expenditure of RR funds allocated to the local area. Periodic discussions will be conducted with local areas in receipt of RR funds to share the outcome of these reviews. The purposes of these reviews are to ensure that funds are being utilized in accordance with the application and to monitor expenditure of the RR allocation. If it becomes apparent that a local area will not spend the allocated funding, the RR Unit reserves the right to rescind a portion of these funds from the local area.

Through the state's monitoring system, program and fiscal monitors will review the area's implementation of RR activities during the annual onsite monitoring review for compliance with local procedures, the funding application, as well as federal laws and regulations. Any findings will be resolved through the state's monitoring resolution process.

For local areas that request RR funding for LA strategies, the local WDB must develop policies that outline the procedures, frequency, and manner in which monitoring of LA project implementation will be accomplished and how any findings of non-compliance will be resolved.
VIII. References

Workforce Innovation and Opportunity Act §§ 133 and 134, Pub. L. 113-128.

20 C.F.R. §§ 682.300-682.370.

USDOL, Training and Employment Guidance Letter WIOA No. 19-16 Guidance on Services Provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as Amended by title III of WIOA, and for implementation of the WIOA Final Rules, (March 1, 2017).

JFS 01815 Layoff Aversion Service Plan
I. **Purpose**

To provide the requirements of Disaster Recovery National Dislocated Worker Grants (disaster grants) and to assist local workforce development areas (local areas) in the development of policies and the provision of services when implementing such grants.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

Disaster grants are discretionary awards that create temporary jobs for eligible individuals to assist with clean-up, recovery, and humanitarian efforts in areas impacted by an emergency or disaster. Allowable clean-up activities include the demolition, cleaning, repair, renovation, and reconstruction of damaged or destroyed structures or facilities and lands located within the disaster area related to the emergency or disaster.

Disaster grants may also provide employment and training services if needed to help impacted individuals return to full employment, including situations where a substantial number of individuals have relocated to Ohio from a state in which an emergency or disaster occurred.

V. **Definitions**

**Disaster area:** A geographic region that has suffered from, or in which has occurred, an emergency or disaster.

**Emergency or disaster:** A natural or manmade catastrophic event (e.g., tornado, storm, flood, explosion, etc.) declared eligible for public assistance by the Federal Emergency Management Agency (FEMA) or declared to be a situation of national significance by a federal agency with authority or jurisdiction over the response to the event.

**Equipment:** Tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds $5,000 or the local area’s established equipment threshold, whichever is less.

**Long-term unemployed individual:** A person who meets one of the following criteria, in descending order of priority for services:

1. Has a substantial employment history (i.e., at least 12 months of full-time or 24-months of part-time work experience), is currently unemployed, and has been unemployed for at least 15 of the past 26 weeks;
2. Is currently unemployed and has been unemployed for at least 15 of the past 26 weeks;
3. Is currently employed but had been unemployed for 15 of the past 26 weeks and is not currently self-sufficient based on local policy; or
4. Is either currently unemployed or working part-time, has not worked over 30 hours per week in any 15 of the past 26 weeks, has been seeking but unable to secure full-time employment, and is not currently self-sufficient based on local policy.

Public service employment: subsidized employment provided to eligible individuals to perform work normally provided by governments, including but not limited to work in fields of human betterment and community improvement, child care, health care, education, crime prevention, public transportation, streets and parks, solid waste removal, housing and neighborhood improvement, and rural development.

VI. State Requirements

A. Application Process

When an emergency or disaster has met the criteria for disaster grant funding, the Ohio Department of Job and Family Services (ODJFS) will coordinate with the impacted local area(s) to assess the need for clean-up or humanitarian efforts, ascertain the availability of eligible individuals to perform the disaster relief work, and provide technical assistance on the application process and operational considerations.

If a need for disaster grant funding is identified, the state will work with impacted local areas interested in participating to submit either:

1. An emergency application within 15 days of the disaster declaration using an abbreviated format to facilitate rapid implementation of services (followed by a full application within 60 days of award notification if funding is approved); or

2. A full application within 60 days of the disaster declaration which must include a narrative describing the project and services, a list of worksites in each county, job titles for the temporary positions being created, and line item budget for each participating county.

B. Award Notification

The United States Department of Labor (USDOL) issues its funding decision within 45 calendar days of receipt of a valid application. If the application is approved, ODJFS will notify the participating local areas of their sub-grant award amounts.

Disaster grants are issued incrementally. A maximum funding level will be approved, but a lesser amount will be initially disbursed. Request(s) for additional funds must be submitted when needed and must be supported by enrollments, completion of work goals, and expenditures.

As participating local areas require additional funding to continue operating, ODJFS may temporarily or permanently reduce another area’s maximum funding level or allocation amount to maximize utilization of the grant resources statewide.

C. State Implementation

ODJFS will serve as the grantee and pass-through entity for disaster grant funds. Upon receiving disaster grant funding, ODJFS will:

- Provide technical assistance to participating local areas;
- Prepare and submit a project implementation plan and full application within 60 days of receipt of the grant award;
- Coordinate disaster grant activities with activities funded by federal and state emergency management agencies and other providers to ensure a comprehensive approach and non-duplication;
- Conduct monitoring of local areas and worksites to review eligibility, expenditures, operations, and safety procedures;
• Request prior approval from USDOL for the purchase of any equipment needed at worksites and ensure proper disposition of the items when no longer needed;

• Submit required program and fiscal reports and grant modifications to USDOL, including requests for additional funding; and

• Submit to USDOL any modifications to the original grant proposal, including addition of new worksites. New worksites must be approved by USDOL prior to work commencing on such sites.

VII. **Local Workforce Development Area Requirements**

The local area will administer disaster grant activities in accordance with its sub-grant agreement with ODJFS and the local implementation plan for the disaster project. Funds may be used to provide wages and benefits to participants working in disaster relief employment; to lease facilities, equipment, and supplies; to purchase supplies, personal protective equipment, immunizations, and other supportive services; to dispose of debris; to purchase equipment (if prior approval was obtained); and to employ program staff to manage operations and supervise workers. Up to 10 percent of the funds may be expended on administrative costs.

The local area must receive prior approval through ODJFS before purchasing any equipment items. The equipment request may be included with the emergency application, local implementation plan, or in a modification of the local plan. The request must include identification of the types of equipment, quantity and estimated cost per unit of each type, and a brief justification explaining the need.

**A. Local Implementation Plan**

Within the first 60 days of the disaster project grant period, the local area must submit a local implementation plan based on a template provided by ODJFS. The plan must include:

1. Prioritized list of worksites;
2. Line item budget;
3. Staffing plan identifying job titles, job descriptions, number of full time equivalent staff, and salaries and benefits for all positions funded in whole or in part by the grant;
4. Identification of, and justification for, any equipment required to perform the work;
5. Policies governing supportive services for participants; and
6. Description of the local area monitoring procedures.

The local area must notify ODJFS and submit a revised plan when modifications are necessary. Circumstances that require a plan modification include:

• An increase in the area’s commitment of funding to continue providing services;
• Budget variances that result in more than a 10 percent increase in cost per participant or in any budget line item;
• An extension in the project end date beyond the original plan;
• Additions to, or deletions from, the list of worksites where disaster relief work will be performed;
• Changes in the job titles, duties, or wage levels of participants; and
• Changes to supportive services policy or monitoring procedures.

**B. Contractors**

The local area may enter into contracts with public entities, not-for-profit organizations, and private for-profit entities including staffing agencies to assist with carrying out disaster grant activities, such as
serving as employer of record for the temporary disaster relief workers. Contractors must be competitively selected in accordance with procurement rules. For-profit contractors may keep the profits earned from performance of disaster grant activities. The amount of profit must be negotiated as a separate element of the overall price of the contract with consideration given to the complexity, risk, past performance, and industry profit rates in the surrounding geographical area for similar work. Profits that are excessive or that are not justified using the aforementioned criteria will be disallowed and cannot be paid from WIOA grant funds.

C. Participant Eligibility

Eligible disaster grant participants include:

1. Individuals temporarily or permanently laid off due to the emergency or disaster;
2. Self-employed individuals who became unemployed or significantly underemployed due to the emergency or disaster;
3. Dislocated workers; and
4. Long-term unemployed individuals.

Priority for participation in services must be given to individuals affected by the emergency or disaster followed by dislocated workers and long-term unemployed individuals. Each participant may work no more than 2,080 hours in temporary disaster relief employment related to recovery from a single emergency or disaster.

Local areas must keep any medical or disability-related information obtained through administration of the grant confidential. The confidential information must be:

1. Used only for determining eligibility and appropriateness for services;
2. Maintained in a separate file apart from the WIOA participant case;
3. Locked up or otherwise secured (such as through password protection, if maintained in an electronic system); and
4. Restricted from access by unauthorized individuals in accordance with 29 C.F.R. § 38.41(b)(3).

D. Participant Employment

Although public service employment is generally prohibited for WIOA participants, temporary disaster relief employment is an allowable exception. The goals are to provide income maintenance to participants and services to the community while moving the participants into permanent, unsubsidized jobs.

Participants must be paid comparable rates of pay, including periodic increases, as other individuals who are similarly situated in like occupations having similar training, experience, and skills. Participants must be paid at least the federal, state, or local minimum wage, whichever is highest. Fringe benefits should be provided according to the policies of the employer of record. Workers’ compensation insurance must be established for each disaster grant participant in case of injury.

E. Worksite Selection

Worksites must be located within the geographic region identified in the disaster declaration. The local area must maintain a prioritized list of worksites in each county with the status updated as work is completed or priorities change. Highest priority should be given to public lands or facilities with the most severe damage, consistent with the strategic plans of the community, as determined in consultation with state and local emergency management agencies, local elected officials and their staff, and other stakeholders and citizens.

If private property must be crossed to gain access to a worksite, the local area must secure a right-of-access agreement signed by the property landowner. Under limited circumstances, work on private
property may occur, such as to remove public health and safety hazards or repair the homes of economically disadvantaged individuals eligible for the federal Weatherization program. Local areas should seek further guidance from ODJFS before beginning work on private property.

Activities performed in natural areas must not negatively impact endangered species or their habitats. If an endangered species or its habitat exists at a worksite, the local area must consult with the Fish and Wildlife Service (FWS) to mitigate negative impacts before performing any work. Regardless of the presence of endangered species, disaster grant operations should be conducted in a manner that minimizes damage to riparian and other natural areas, maintains existing vegetation, and avoids the removal of living trees unless necessary to ensure health and safety.

F. Safety Considerations

During periods of severe inclement weather when outdoor operations cannot be performed safely, participants may be scheduled to perform project-related activities such as inventory control, safety training, or maintenance of tools and equipment but may not perform re-employment activities such as job search or resume-writing instruction while on the disaster grant payroll. Extended periods of inclement weather may require temporary shut-down of disaster grant operations.

Local areas must ensure that applicants and participants will be able to safely perform assigned duties which are often physically demanding. A position description explaining the working conditions and physical requirements should be provided to applicants. Local areas shall follow the same hiring protocols for any grant-funded workers for whom the local area will become the employer of record, that the local area would follow for its other prospective employees. Any costs associated with adhering to such hiring protocols may be charged to the disaster grant, including for those applicants who do not enter the program as participants and do not become temporary employees of the local area.

The same health and safety standards applicable to other employees also apply to participants in disaster relief employment. The work environment must be free from recognized hazards likely to cause injury or death. Initial and on-going safety instruction must be provided on relevant topics such as Occupational Safety and Health Administration (OSHA) rules, First Aid, and chainsaw operation. The OSHA workplace compliance poster at [https://www.osha.gov/Publications/osha3165.pdf](https://www.osha.gov/Publications/osha3165.pdf) must be posted and visible to all employees.

Employers of record must implement policies, procedures, and controls to ensure compliance with OSHA standards relevant to their operations, such as personal protective equipment for rigging and logging operations, and Material Safety Data Sheets for flammable and combustible liquids, etc.

Public sector organizations should consult with the Public Employee Risk Reduction Program (PERRP) to schedule regular safety training, compliance visits, and site-specific evaluations. All employers of record should schedule compliance visits with the Ohio Bureau of Workers’ Compensation every six months during disaster grant operation.

G. Reporting Requirements

The local area must report disaster grant participants and services in the Ohio Workforce Case Management System (OWCMS) under the special grant office created for the grant. Participants enrolled in disaster relief employment will not affect the local area’s WIOA performance measures unless they are co-enrolled in formula funded programs.

Costs of services, including accruals and obligations, must be updated at the sub-area level every two weeks in the County Finance Information System (CFIS) using the project code established for the grant. All expenditures must be supported with acceptable documentation, including timesheets signed by a supervisor for payroll costs.

If necessary, additional reporting such as progress, injury, or monitoring narratives may also be required. ODJFS will provide instructions and due dates to local areas after the disaster grant is in progress.
H. Monitoring

If participating in a disaster grant, local areas must develop monitoring policies outlining the procedures and frequency for reviewing disaster grant operations and how staff will resolve findings of non-compliance. At a minimum, monitors should review the following items monthly and issue findings as appropriate:

- Ensured use of required safety protective gear;
- Employer payroll records and signed timesheets;
- Participant file documentation such as eligibility verifications;
- Program fiscal records, including timekeeping information and administrative charges;
- Observations of workplace safety;
- Assessment of environmental hazards;
- Participant feedback on relevant matters such as safety training, protective equipment, and payroll accuracy.

VIII. Technical Assistance

For additional information, contact the Office of Workforce Development at NEG@JFS.OHIO.GOV.

IX. References

Workforce Innovation and Opportunity Act, § 170, Pub. L. 113-128.
20 C.F.R. §38.41.

USDOL, Training and Employment Guidance Letter No. 02-15, Operational Guidance for National Dislocated Worker Grants, pursuant to the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act), (July 1, 2015).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility, (July 15, 2015).
Workforce Innovation and Opportunity Act Policy Letter No. 17-05

May 25, 2018

To: Local Workforce Development Board Directors, Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Funding for Rapid Response – Employer Closure, Mass Layoff, Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events

I. Purpose

The purpose of this policy is to outline the requirements for requesting Rapid Response Emergency Assistance Funds (RREAF) to deliver the rapid response (RR) program services during an employer closure, mass layoff, disaster mass job dislocation, and/or filing of a Trade Adjustment Assistance (TAA) petition event.

II. Effective Date

Immediately

III. Background

RR is a State-administered program implemented by the local workforce development area’s (local area) RR team. The purpose of the RR program is to assist dislocated workers in obtaining reemployment as soon as possible, when one or more of the following circumstances occur:

1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
2. Announcement or notification of a mass layoff;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

Per section 133(a)(2) of WIOA, the State shall reserve 25 percent of the total State allotment of dislocated worker funds for statewide rapid response activities. These reserved funds are available to local areas to serve potentially affected workers (PAWs) and employers affected by an RR event within the last six months. The State must use these funds within three years of its original allocation.

RR funds, or RREAF, are intended to supplement the local dislocated worker formula-funded program, not to replace these funds. RREAF must not take the place of dislocated worker formula funds when providing RR services. RREAF are available on a limited basis when the current dislocated worker funds are not sufficient to provide the necessary services during an RR event.

RREAF are to be used to ensure the effective delivery of RR services and an efficient transition to any additional services needed for reemployment (e.g., referrals to WIOA Title I formula-funded programs, Wagner-Peyser Employment Services program, vocational rehabilitation, Aspire (formerly ABLE) services, etc.). State and local resources shall be used before outsourcing services that are being paid for through RR funds.

When a layoff event occurs, the area must provide services to the dislocated workers as appropriate even if the layoff does not meet the RR event definition and regardless of whether RR funding is issued to the local area. The local area will fund services for these layoffs through local dislocated worker formula funds. Pursuant to section 134(c)(1) of WIOA, funds allocated to the local area for dislocated workers shall be used to establish a workforce delivery system, to provide career services to dislocated
workers, to provide training services to dislocated workers, to establish and develop relationships with
large and small employers, and to develop, convene, or implement industry and sector partnerships.
The local workforce development boards (WDBs) determine the most appropriate mix of these
services, and both career and training services must be available to eligible dislocated workers. It is
expected that the local area will provide career and/or training services to dislocated workers whose
dislocation does not meet the threshold for RR program services using the local area's dislocated
worker program formula funds.

IV. Definitions

**Designee:** The fiscal agent or other individual who is designated by the local WDB through local WDB
by-laws, local area policies, or procedures to request RR funding on behalf of the local WDB director
for any applications or requests. This designation may be temporary or permanent.

**Disaster mass job dislocation:** Any reduction in force, due to a disaster as defined by state or local
emergency management policy, that does not result in a total plant/branch/office closing, but still
results in the filing of a Worker Adjustment and Retraining Notification Act notice, regardless of the
number of workers affected by the layoff announced; or, if no WARN correspondence is issued,
employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

**Employer:** An individual, business, company, firm, agency, organization, etc. that employs one or more
people.

**Employer closure:** The permanent shutdown of an Ohio business, facility or agency.

**Event:** Any situation in which workers are at risk of layoff from a downsizing or closure of an employer's
Ohio business, facility, or agency.

**Fiscal agent:** The entity designated by the chief elected official(s) to perform accounting and funds
management on behalf of the chief elected official(s). The fiscal agent coordinates with the local
workforce development board regarding funding for the planned array of dislocated worker and rapid
response services and ensures fiscal integrity and accountability for expenditure of these funds.

**Layoff:** A separation due to the lack of work or other factor(s) not related to the behavior or
performance of the employee.

**Local plan:** A comprehensive four-year plan developed by the local WDB, in partnership with the chief
elected official, and submitted to the State which provides descriptions of the strategic planning
elements and services provided in the local area.

**Mass layoff:** Any reduction in force that does not result in a total plant/branch/office closing, but still
results in the filing of a Worker Adjustment and Retraining Notification Act notice, regardless of the
number of workers affected by the layoff announced; or, if no WARN correspondence is issued,
employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

**Notification:** The process by which an individual on the RR team is made aware of a possible or actual
RR event. A notification can come from a variety of sources, including, but not limited to: a WARN
letter, word of mouth, the media, local Chamber of Commerce, ODJFS Trade Unit, American Job
Center (which in Ohio is called OhioMeansJobs center), union officials, local government, affected
workers, etc.

**Ohio Rapid Event Data (OhioRED):** An information tracking system that records all employer event
information and data on the delivery of RR services.
Ohio Rapid Response Workforce Survey (RRWS): The standardized survey (JFS 08124) and related software used in Ohio to identify demographics of the affected workforce and serve as a preliminary needs assessment.

Ohio Workforce Case Management System (OWCMS): A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

Planning region: Two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

Potentially affected workers (PAW): Employees at risk of becoming unemployed due to an event.

Rapid response emergency assistance funds (RREAF): State rapid response funding allocated to local areas for the provision of reemployment services outlined in the service plan to workers and employers who have been affected by an RR event.

Rapid response (RR) event: When one or more of the following circumstances occur:

1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
2. Announcement or notification of a mass layoff;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

Rapid response team: Individuals from state and local workforce entities that respond collectively to layoffs and closures that occur within their local area or planning region and assist in providing RR services to employers and affected workers.

Service plan: A plan, entered into OhioRED, which details all RR services that will be provided to an affected workforce and a timeline of when services will be delivered.

Trade Adjustment Assistance (TAA): A program which provides assistance, including reemployment and training services, to workers whose jobs have been threatened or lost due to foreign imports, or shifts in production and/or services to a country outside the United States.

Worker Adjustment and Retraining Notification (WARN) Act: The Act that protects workers, their families, and communities by requiring most employers with 100 or more employees to provide notification 60 calendar days in advance of plant closings and mass layoffs. The general provisions of the WARN Act cover employers with 100 or more employees, not counting those who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week; or at least 50 employees at a single site of employment. Additional materials to assist with compliance can be found at [http://www.doleta.gov/layoff/warn.cfm](http://www.doleta.gov/layoff/warn.cfm).

Workforce development board (WDB) director: The individual hired or designated by the local WDB to assist in completion of duties for the local WDB, including oversight of workforce development employment and training programs and development of the budget for the local area.

**V. Local Workforce Development Area Requirements**

The process for requesting RREAF allows for a quicker release of funds. However, the local area should be continuously assessing and creating a strategic plan for the use of dislocated worker formula funds. This is especially important as the request for RREAF may be made on behalf of a county or counties within a local area using the review of not only the local area's expenditures, but also the individual county's expenditures, to assist in the approval process of the RREAF.

When applying for a National Dislocated Worker Grant (NDWG), the state's financial need for additional funds is determined on whether the state spent at least 70 percent of its prior program year
dislocated worker and rapid response funding. Therefore, the local area must be aware that there is a potential adverse impact if the local area’s expenditure rate is significantly lower than the individual county’s expenditure rate and not on track to achieve the 70 percent expenditure level by the end of the program year.

Prior to any request for RREAF, the RR team must have conversations with the affected business and survey employees using the JFS 08124, Ohio Rapid Response Event Data, to determine which services must be provided. When providing RR services, all local area and/or state policies pertaining to the delivery of career services, training services, individual training accounts (ITA), supportive services, and on-the-job trainings (OJT) must be followed. Furthermore, all training provided as an RR service and funded by RREAF should be short-term training not to exceed 12 months, with an emphasis on a six to eight month duration. For training lasting more than 12 months, RR will only fund the initial 12 months; local dislocated worker funds must be used for the remaining duration. Maximum financing amounts for ITAs using RR funds must be in compliance with the local area’s ITA policy.

If determined necessary, requests for RREAF must come from the local WDB director based on the local RR team’s service plan. The local WDB, through WDB by-laws, policies, or procedures, may designate, either permanently or temporarily (e.g., during a temporary absence of the WDB director), a designee to request RR funding and/or sign the RREAF application. If the local WDB director does have a designee, the WDB director must communicate this designation to the ODJFS Office of Workforce Development (OWD), RR Unit at RAPDRESP@jfs.ohio.gov using “RR Funding Designee” in the subject line. The RR Unit will not approve any funding if the request is signed by someone other than the WDB director unless there is notification of a designee.

Application for and approval of funds is for the federal fiscal year (October-September). If the delivery of RR services goes beyond the federal fiscal year, the WDB director must submit a new RREAF application to the OWD RR unit requesting additional funding for the next federal fiscal year (FFY). Moreover, the local area or county must meet the spending criteria for adult and dislocated worker formula funds.

A. Request for Transition Services Funding

The local area may request no more than $10,000 to commence transition services. The request for funds must be necessary and reasonable based upon the transition services to be provided. These funds should provide the RR team with emergency resources to immediately respond and begin generalized services and information gathering.

The transition services include only the following:

1. Establishing a transition center;
2. Conducting initial meetings;
3. Holding worker reemployment sessions;
4. Convening labor management committees; and,
5. Surveying PAWs using the JFS 08124.

To request funding for transition services, the WDB director, or designee, on behalf of the local area and/or the county or counties within their local area, will email the following information to RAPDRESP@jfs.ohio.gov:

1. Name of business experiencing the RR event;
2. Verification that the business is closing, experiencing a mass layoff or a disaster mass job dislocation, or filing a TAA petition;
3. Date of anticipated or actual RR event;
4. Estimated number of PAWs;
5. Description of what and how transition services will be provided;

6. Identification of any other local area, planning region, or other state which is impacted by this RR event;

7. Begin date of transition services (begin date cannot be later than six months from the date of submission or more than six months prior to the anticipated or actual RR event); and

8. Amount of funds being requested, including detailed information on how money will be spent on the transition services listed above.

This request should only be completed when there is the intent to submit an RREAF application in the future.

B. Initial Application for RREAF

The results of the RRWS (JFS 08124) must be used to determine appropriate RR services to be provided to PAWs and the employer. The service plan is developed to outline necessary RR services to assist PAWs to become quickly re-employed. The local area must first assess whether the local area has adequate dislocated worker formula funds available to fund RR services. RREAF are based on the need for additional financial resources to serve PAWs and employers during an RR event, when there is a shortage of a local workforce development area's dislocated worker formula funds.

If the local RR team determines that RREAF are needed for an RR event, the local WDBs must apply using the most current JFS 18126, Application for Rapid Response Emergency Assistance Funds that is available on the ODJFS Forms Central webpage.

The application submitted by the local WDB director or designee for RREAF must only be completed once a survey of affected workers using the RRWS is completed, a strategy meeting has been conducted, and a service plan has been developed. The service plan must be discussed with and supported by the employer and labor union (as appropriate), and aligned with the local plan.

1. Funding RR Services

The local WDB director, or designee, on behalf of the local area or counties within an area, may apply for up to $4,200 per RR participant. The number of RR participants is 75 percent of the total PAWs who completed the RRWS (JFS 08124) and are registered in OWCMS. RREAF applications shall budget no more than 25 percent of the total requested budget for career services. For example, company ABC issues a WARN impacting 100 PAWs; 40 PAWs complete surveys and are entered in OWCMS. The number of RR participants is 30 (75 percent of 40 PAWs). The local area may request a maximum of $126,000.00 (30 X $4,200) to implement the plan of services as described in the application, with no more than 25 percent (or $31,500) budgeted for career services.

In addition to funds for implementing the plan of services to the PAWs, the application may also include the creation and maintenance of a transition center, including hiring temporary WIOA staff for the center or paying additional staff expenses, if established in the initial request for RREAF. If the application includes maintenance of a transition center, the application must include a description of how OhioMeansJobs center partners (e.g., Wagner-Peyser Employment Services program staff) were considered and utilized within the plan for staffing and maintaining the transition center prior to submission of the request for RREAF.

RR funds are for RR services only and do not include administrative costs.

The JFS 18126 must be e-mailed to the OWD RR Unit: RAPDRESP@jfs.ohio.gov.
2. **Coordinating Funding for RR Services**

If an RR event involves a planning region or multiple local areas, one application for RREAF will be submitted on behalf of the planning region and/or all affected local areas. Funds will be available to all local affected areas to assist in the delivery of RR services. The RREAF application should include all PAWs, a designation of what services will be provided by each local area, and the specific funding that should be associated with each affected local area. The RREAF application will be submitted by the WDB director of the local area in which the employer experiencing the RR event is headquartered. ODJFS will award RR grant funds to each participating local area individually based on planned services and the current expenditure rate of that local area’s formula funding.

3. **Use of other Funding Sources**

The policy on Training Services for Adults and Dislocated Workers applies to training funded with RREAF dollars, including the requirement to obtain grant assistance from other sources to pay the costs of training before utilizing WIOA funds. If the local area has requested RREAF for training services, including OJTs, and the employer's TAA petition is later approved, the local area must co-enroll and transition all eligible PAWs to the TAA program for continued training services as described in the On-the-Job Training Policy. TAA will become the funding source for training services.

VI. **State Requirements**

A. **Review and Approval for Funding Transition Services**

The OWD RR Unit will review and approve funding requests for transition services based upon the following:

1. Whether the event triggering the funding request is an RR event;
2. Which of the five transition services will be provided;
3. How much funding is being requested; and
4. Whether the request is necessary and reasonable based upon the transition services being provided.

The OWD RR Unit will not approve a request for funding over $10,000. Also, requests for transition services not listed within this policy, or for services in response to events that are not an employer closure, mass layoff, disaster mass job dislocation, or TAA petition filing will not be approved.

B. **Review and Approval of Initial RREAF**

Since RREAF is based on need and should not replace dislocated worker formula funds, the OWD RR Unit will review the following, in addition to the RREAF application, to assist in making a funding determination:

1. The local area's frequency of transferring dislocated worker formula and adult formula funds, including how the local area has strategized to respond to unforeseen events when they transferred funds.
2. The local area’s demonstrated success through the RREAF application, in achieving a streamlined service delivery model, by reducing duplicative efforts and leveraging available resources, including Wagner-Peyser Employment Services and other workforce development system partner staff.
3. The local area's level of spending of adult and dislocated worker formula funds. Spending rates will be reviewed to determine a financial need for RREAF. ODJFS requires the local area to spend carry-in funds and to be on track to spend at least 70% of first year funds
by the end of the current fiscal year. The target spending total is based upon the quarter in which the RREAF is requested and is computed using the following formulas:

**Quarter 1 Target Spending Total for August – October applications using expenditure data as of June 30:**

70% Cumulative (Spent 70% of 2nd year PY/FY)

**Quarter 2 Target Spending Total for November – January applications using expenditure data as of September 30:**

80% Cumulative (Spent 100% of the 2nd year PY/FY and 0% of 1st year PY, counties have not received new FY funding)

**Quarter 3 Target Spending Total for February – April applications using expenditure data as of December 31:**

62.5% Cumulative (Spent 100% of the 2nd year PY/FY, 100% of 1st year PY, 0% of 1st year FY)

**Quarter 4 Target Spending Total for May – July applications using expenditure data as of March 31:**

75% Cumulative (Spent 100% of the 2nd year PY/FY, 100% of 1st year PY, 35% of 1st year FY)

If the spending thresholds are not met, information on the local area's commitments through the end of the current program year will be reviewed to demonstrate the local area being "on track" to spend at least 70 percent of first year funds and to demonstrate a financial need for RREAF. For direct services to participants, the local area's commitments shall be reported in the County Finance Information System (CFIS) Client Tracking System.

4. If the local area does not meet the spending thresholds outlined in the previous paragraph, the spending levels of adult and dislocated worker formula funds in the county where the RR event occurred will be reviewed. Like the local area, ODJFS requires the county to spend the carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of the current fiscal year using the formulas stated in the previous paragraph. The target spending total is based upon the quarter in which the RREAF application is submitted.

If the spending thresholds are not met, information on the county's commitments through the end of the current fiscal year will be reviewed to demonstrate the county being "on track" to spend at least 70 percent of first year funds and to demonstrate a financial need for RREAF. For direct services to participants, the county's commitments shall be reported by the participant in the CFIS Client Tracking System.

5. If the RR event involves a planning region or multiple local areas, the spending threshold will be evaluated for each local area to determine the need for RREAF.

C. **Distribution of RR Funding**

The OWD RR Unit will fund RR requests incrementally. Up to four increments per application may be requested depending on when the initial application was submitted. In most cases, the dollar amount of the increments will be equal unless varying increments are justified based upon the services to be provided.

Local areas may request subsequent increments by e-mail to RAPDRESP@jfs.ohio.gov. The requests must include the employer name and the increment being requested.

Requests will be reviewed against the plan for services and outcomes, participant service data in OWCMS, and spending and obligation of the prior increment(s). The outcomes will need to be
on track according to the plan for services for incremental approval. To receive another increment, the local area must have spent at least 70 percent of all previous increments.

If the service plan changes while providing rapid response activities, the local area must submit a modification to the "proposed services" portion of the RREAF application.

Also, if the local area expends at least 70 percent of the total requested funds according to the plan of services, the local area may submit a new application for additional funding to serve additional PAWs from the RR event.

If the number of PAWs to be served is significantly reduced after application and allocation of funds, the local area must return unused RREAF to the State. Additionally, all unused RR funds that were allocated to the local area for training services prior to TAA petition approval must be returned to the State unless the local area modifies the application to include other services or additional PAWs not initially included in the RREAF application.

VIII. Reporting
A. OhioRED
OhioRED records all significant information and data from each event beginning with notification and initial contact with the employer, through the transition of PAWs to the OhioMeansJobs centers and the local workforce development system.

Specific RR events to be funded by RREAF must be entered into OhioRED with expected layoff dates and the number of PAWs. The service plan, which outlines the details of all RR services, must also be entered into OhioRED prior to application for RREAF.

B. OWCMS
OWCMS is the system of record for all RR service delivery to PAWs. Information about all PAWs who attend a reemployment session or other provided RR service must be entered into OWCMS within 30 days or prior to RREAF application. This information is used to determine potential RR funding as well as to report participant data and outcomes to the local area.

IX. Monitoring
A. OWD RR Unit
The OWD RR Unit will conduct desk reviews on all RREAF, which includes reviews of the services being provided under RREAF and the expenditure of RR funds allocated to the local area. Periodic discussions will be conducted with local areas in receipt of RREAF to share the outcome of these reviews. The purpose of these reviews is to ensure that funds are being utilized for what they were requested and to monitor how much of the RREAF is being spent. If, during these reviews, it becomes apparent the local area will not spend the allocated RREAF, the OWD RR Unit reserves the right to pull back a portion of these funds from the local area.

B. Local WDB Monitoring
The local WDB’s oversight and monitoring must include a review of the effectiveness of the local area’s rapid response program. This may include:

1. An assessment of collaboration among RR teams and members;
2. The efficiency of service delivery to employers and PAWs;
3. Timeliness and completeness of data entry into OhioRED and/or OWCMS; and
4. Use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures.

C. State Monitoring
Through the state’s monitoring system, program and fiscal monitors will review the following during the annual onsite monitoring review:

1. The local area's implementation of RR activities, including results from local monitoring efforts;
2. The funding application, and
3. Compliance with federal laws and regulations and state and local policies.

Any compliance issues will be handled through the state's findings resolution process.

X. **Technical Assistance**

The OWD RR Unit will oversee Ohio's RR program to identify notable practices and document RR activity throughout the state. The Unit will also provide oversight of the activities of the local RR teams.

The OWD RR Unit provides the following activities:

1. Technical assistance for the development of an RR team protocol;
2. Ongoing support, guidance, training, and technical assistance to local teams, local WDBs, and OhioMeansJobs centers;
3. Reviewing, managing, and reporting out on data derived from local activity; and
4. Providing financial resources to the local RR teams and stakeholders.

For additional information, questions may be sent to the OWD RR Unit: RAPDRESP@jfs.ohio.gov.

XI. **References**


20 C.F.R. §§ 682.300 - 682.370.


USDOL, Training and Employment Guidance Letter No. 19-16, Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers (June 6, 2017).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-09.1, Training Services for Adults and Dislocated Workers (January 8, 2018).


WIOAPL 17-04 (Waivers for Implementation of the Comprehensive Case Management and Employment Program)

Workforce Innovation and Opportunity Act Policy Letter No. 17-04

January 22, 2018

To: Local Workforce Development Board Directors, Comprehensive Case Management and Employment Program Lead Agencies, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Waivers for Implementation of the Comprehensive Case Management and Employment Program

I. Purpose

The purpose of this policy is to provide guidance on the use of the United States Department of Labor (USDOL) approved waivers of Workforce Innovation and Opportunity Act (WIOA) laws and regulations.

II. Effective Date

December 21, 2017 through June 30, 2020

III. Background

The Comprehensive Case Management and Employment Program (CCMEP) was created to transform the network of human services and workforce programs across Ohio. To help Ohioans move beyond poverty to meaningful employment, Ohio has modernized its system by integrating youth programs funded by Temporary Assistance for Needy Families (TANF) and WIOA to create a new way to work.

By integrating WIOA and TANF youth programs, Ohio may more effectively utilize and leverage federal dollars from these funding sources to support the needs of customers who are eligible for these separate funding sources. Braiding funds allows the WIOA youth program to provide more comprehensive services to participants while maximizing partner resources to assist youth.

To allow more flexibility with WIOA youth program funds to implement CCMEP, Ohio requested the following waivers:

1. Waiver of section 129(a)(4) of the Workforce Innovation and Opportunity Act (WIOA) and 20 C.F.R. 681.410 which requires that the local workforce development area (local area) expend at least 75 percent of local area WIOA youth funds to provide services to out-of-school youth. This waiver allows the State to satisfy the 75 percent expenditure threshold for out-of-school youth using a combination of WIOA and Temporary Assistance for Needy Families (TANF) funds.

2. Waiver of section 129(a)(4) of WIOA and 20 C.F.R. 681.410 to allow calculation of the 75 percent out-of-school youth expenditure threshold at the State level rather than local level; and

3. Waiver of 20 C.F.R. 681.550 to allow local workforce development boards (WDBs) to use individual training accounts (ITAs) for in-school youth.

On December 21, 2017, the Ohio Department of Job and Family Services received a letter from the United States Department of Labor (USDOL) fully approving Ohio’s requested waivers. These waivers are approved through Program Year (PY) 2019 or June 30, 2020, consistent with the approval period of Ohio's four-year WIOA state plan.

IV. Requirements

A. Waiver of the requirement that the local area expend at least 75 percent of local area WIOA youth funds to provide services to out-of-school youth.

Under CCMEP, with its emphasis on co-funding to benefit a more cost-effective service delivery, the number of disconnected youth that can be served will increase, particularly given the large
infusion of TANF dollars. This will ultimately allow WIOA youth dollars to have a further reach and greater impact in local communities. Additionally, by allowing the calculation of the expenditure rate to be statewide, there would be more flexibility amongst all the local areas to serve the population of participants unique to that local area.

To recognize the influx of TANF dollars being invested in the WIOA out-of-school youth population under CCMEP, the Office of Workforce Development (OWD) will include the amount of TANF dollars spent on co-enrolled WIOA out-of-school youth during a program year (PY) both the numerator and denominator of the out-of-school rate calculation. The formula below defines the calculation to be used beginning with PY 2016 funds:

### Out-of-School Youth (OSY) Rate Calculation Under Waiver Authority

<table>
<thead>
<tr>
<th>WIOA OSY expenses</th>
<th>TANF spent on co-enrolled WIOA OSY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total WIOA OSY + In-School Youth expenses</td>
<td>TANF spent on co-enrolled WIOA OSY</td>
</tr>
</tbody>
</table>

To align TANF spending to a WIOA program year, the time period for CCMEP TANF expenses to be included in both the numerator and denominator will be the TANF expenses for co-enrolled out-of-school youth reported in the twelve months preceding the end-date of the WIOA Youth funds at the local area level. For example, PY16 Youth funds are available to local areas until June 30, 2018, so the calculation will include TANF dollars invested in local services benefitting out-of-school youth from July 1, 2017 until June 30, 2018.

The example below compares the out-of-school youth rate calculation under current WIOA law to the proposed waiver flexibility for a local area that spent $400,000 of its $600,000 in PY16 WIOA Youth program funds during the two years of availability as well as $200,000 of its CCMEP TANF funds spent during the second year of the Youth grant on services for out-of-school youth who are co-enrolled:

<table>
<thead>
<tr>
<th>Of $600,000 in Youth spending, $400,000 was $600,000</th>
<th>The area also invests WIOA TANF</th>
</tr>
</thead>
<tbody>
<tr>
<td>$400,000 was Spent on OSY: = 67%</td>
<td>$200,000 of its TANF $600,000</td>
</tr>
<tr>
<td>$600,000</td>
<td></td>
</tr>
<tr>
<td>OSY WIOA youth: = 75%</td>
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</table>

To determine the amount of TANF funds spent on co-enrolled WIOA out-of-school youth, OWD will pro-rate the CCMEP TANF expenditures in a program year based on the number of participants served in each CCMEP TANF population during that year (i.e., served with TANF funds only, co-enrolled in WIOA in-school youth, and co-enrolled in WIOA out-of-school youth). Only the proportion of CCMEP TANF expenses for the program year attributable to co-enrolled WIOA out-of-school youth based on relative participant counts in the three categories will be included in the out-of-school youth rate calculation.

### B. Waiver to allow local workforce development boards (WDBs) to use individual training accounts (ITAs) for in-school youth.

The intent of using ITAs in the WIOA out-of-school program is to expand training options, increase program flexibility, enhance customer choice, and reduce paperwork. Ohio wanted in-school youth to also have this option. This waiver encourages this population to seriously look at career pathways and in-demand occupations and empowers them to make their own decisions.
Under this waiver, local WDBs and CCMEP lead agencies may use ITAs for in-school youth. Local WDB directors should contact the lead agencies and/or youth program providers to coordinate this activity and ensure local area policies pertaining to ITAs will be adhered to.

By using an ITA, the local WDB does not have to competitively procure training services funded by WIOA for in-school youth. However, training services must still be provided in a manner which maximizes informed consumer choice in selecting an eligible training provider.

This waiver expands the population of individuals who may receive an ITA. Therefore, the requirements for providing an ITA found in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11.1, Use of Individual Training Accounts, and paragraph (E)(4)(a) of rule 5101:14-1-02 of the Administrative Code will also include in-school youth in addition to out-of-school youth.

V. Technical Assistance

Ongoing support, guidance, training and technical assistance on workforce development area designation, subsequent designation, or redesignation requirements, including stakeholder consultation, are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov or CCMEPQNA@jfs.ohio.gov.

VI. References

Workforce Innovation and Opportunity Act, §§ 129 and 189, Public Law 113-128.


To: Chief Elected Officials,  
Local Workforce Development Board Chairpersons, and  
Local Workforce Development Board Directors

From: Cynthia C. Dungey, Director

Subject: Procurement of the Comprehensive Case Management and Employment Program Provider for WIOA Youth-Funded Activities and Services

I. Purpose
The purpose of this policy is to outline the requirements for procurement of the youth program provider.

II. Effective Date
Immediately

III. Background
Ohio has implemented the Comprehensive Case Management and Employment Program (CCMEP). This program transforms the network of human services and workforce programs throughout Ohio by integrating youth programs funded by Temporary Assistance for Needy Families (TANF) and the Workforce Innovation and Opportunity Act (WIOA) to create one program. CCMEP is Ohio’s WIOA youth program. If the local workforce development board (WDB) has authorized the use of WIOA youth funds for this program, delivery of the WIOA youth program services and activities are provided within the framework, rules, and procedures of CCMEP.

By integrating WIOA and TANF youth programs, Ohio can more effectively utilize and leverage federal dollars from these funding sources to support the different needs of customers who are eligible for these separate funding sources. Braiding funds allows the WIOA youth program to provide more comprehensive services to participants while maximizing partner resources to assist youth.

Each WDB is responsible for establishing the WIOA youth program within the overall strategy of the local workforce development area (local area) as envisioned by the WDB. Other key points when serving WIOA youth participants are:

1. WIOA envisions regional and cohesive service delivery;
2. The local WDB’s need to respond to the needs of regional economies;
3. The local WDB’s responsibility to provide strategic and operational oversight to help develop a comprehensive and high-quality workforce development system for the local area; and
4. The local WDB’s responsibility to maximize and continue to improve the quality of services, customer satisfaction, and effectiveness of services provided in the local area.

Per 20 C.F.R. 679.370(l)(1), another responsibility of the local WDB includes the selection of providers of youth workforce investment activities. Youth workforce investment activities include all the following:

1. Outreach;
2. Youth program eligibility determinations;
3. Completion of the objective assessment (in CCMEP, called comprehensive assessment);
4. Completion of the individual service strategy (in CCMEP, called individual opportunity plan);
5. Case management; and
6. Provision of the 14 program elements.

A. Selection of the Provider of WIOA Youth-Funded CCMEP Services

The provider of CCMEP WIOA youth-funded services may be selected in one of the following ways:

1. **Award Competitive Grants and Contracts**
   
The local WDB awards grants or contracts to youth service providers to carry out some or all of the youth workforce investment activities on a competitive basis. It is expected that local WDBs will contract with youth service providers to provide the activities and program elements which youth service providers are best positioned to offer. The length of youth service provider contracts shall be for no more than 4 years, including any extensions.

2. **Use Partner Resources**
   
   For those program elements not funded by the WIOA youth program, the local WDB may leverage partner resources to provide some of the readily available program elements. However, the local WDB must ensure that if a program element is not funded by WIOA, there is an agreement in place with the partner organization to ensure the program element will be offered. The local WDB must also ensure the program element is closely connected and coordinated with CCMEP.

3. **Discretion of the Local WDB**
   
   Per Training and Employment Guidance Letter (TEGL) No. 21-16, the State has the authority to establish a policy regarding the provision of youth activities the State determines are likely to enhance the performance of the program.

   With the implementation of CCMEP and the ongoing relationship between the local WDB and the CCMEP lead agency, the local WDB may determine that the CCMEP lead agency could most efficiently and cost-effectively provide specific youth services and activities. Therefore, the local WDB may allow the CCMEP lead agency to conduct any or all the following services and activities within the lead agency’s county of designation:
   
a. Outreach;
b. WIOA youth program eligibility determinations;
c. Completion of the CCMEP comprehensive assessment (WIOA objective assessment);
d. Completion of the CCMEP individual opportunity plan (WIOA individual service strategy);
e. Case management;
f. Development and management of individual training accounts (ITA) and on-the-job training (OJT);
g. Provision of labor market information and labor exchange activities, including but not limited to, resume development and job placement;
h. Supportive services; and
i. Follow-up services.
The provision of the remaining activities and program services and/or elements will either be competitively procured or provided through partner resources.

If the local WDB allows the CCMEP lead agency to conduct WIOA youth-funded services and activities, the local WDB must ensure there is a sub-recipient agreement in place with the CCMEP lead agency to demonstrate how these activities will be provided.

The local WDB must make sure the amount of WIOA youth program funds provided to the CCMEP lead agency for the delivery of such activities and services and/or elements are reasonable and do not infringe on the local area’s ability to competitively procure and contract with a youth program provider(s) to deliver the remaining program elements/services. The local WDB must be mindful of all federal mandates regarding the use of WIOA youth program funds and any statutory requirements for spending levels on the program and certain program services and/or elements being procured, specifically the 75% spending requirements for out-of-school youth and the 20% spending requirements for work experience.

CCMEP, in conjunction with the WIOA youth program, serves youth and young adults possessing many barriers to employment and training, making these individuals harder to serve. Hard to serve individuals typically need more costly services and/or elements. Therefore, the local WDB must ensure sufficient funds are available for the program elements being procured as these program elements are designed to reduce these barriers.

Additionally, the local WDB must also make certain a fair and open competition is conducted for the procurement of the remaining youth program activities and services, including enough youth program funds available to solicit a competitive procurement.

The State holds the right to require that a percentage of WIOA youth program funds be available for procurement if it is determined that local WDBs did not allocate adequate funding for the delivery of procured services.

Within the board resolution that allows the lead agency to deliver one or more of the above services, the local WDB must also specify whether each CCMEP lead agency in the local area is permitted to bid on the request for proposal (RFP) for the remaining WIOA funded youth program services and activities. If this language is absent for any CCMEP lead agency, then by default, the CCMEP lead agency is not permitted to submit a proposal in response to the RFP for the remaining services. If a CCMEP lead agency is specifically permitted by the local WDB to participate in the competitive procurement, then the local WDB must ensure that the CCMEP lead agency is not part of the development of such RFP.

B. Competitive Procurement

The local WDB shall not delegate its procurement responsibility. However, the local WDB and the WDB director may elect to utilize the fiscal agent to assist if the fiscal agent has no conflict of interest, and the local WDB retains authority and responsibility for the selection, oversight, and evaluation of the procured services.

Furthermore, the local WDB must collaborate with the CCMEP lead agency in designing procured youth services and activities. The local WDB may also partner with the CCMEP lead agency to jointly procure youth program providers for CCMEP, unless the CCMEP lead agency wishes to bid to become a provider of WIOA youth-funded services. If a joint procurement is conducted, the local WDB must take the lead in all aspects of the procurement process. A joint procurement may provide the following benefits:

1. Maximize the use of both WIOA and Temporary Assistance for Needy Families (TANF) funds for CCMEP participants;
2. Ensure the local WDB and the CCMEP lead agency have the same goals and expectations for the youth program providers; and

3. Provide coordination of services for CCMEP youth participants.

The selection process must be planned to maximize competition. The selection process must be conducted on a local area-wide basis. There must not be a separate selection process conducted by each county in a local area as such a practice would be contrary to the WIOA vision for an integrated service delivery system. Further, such a practice is a hindrance to a fair and open competition in that entities interested in competing would be required to prepare and submit multiple proposals.

C. Procurement Considerations

There are considerations that the local WDB must examine when initiating the procurement process.

1. Provision of Services for WIOA In-School Youth and Out-of-School Youth

The local WDB must decide whether the local area should deliver both WIOA in-school and out-of-school youth services or just out-of-school services. Under WIOA, a minimum of 75 percent of WIOA youth program funds must be spent on services for out-of-school youth. Per TEGL No. 23-14, “the 75 percent expenditure rate is a minimum requirement; therefore, states and local areas may spend up to 100 percent of the local area youth funds on out-of-school youth if they choose.” Therefore, the local WDB may choose to procure youth program providers specifically to serve only out-of-school youth.

As part of this consideration, the local WDB evaluates the impact that serving only out-of-school youth will have on CCMEP, the youth this program is designed to serve, and the goals of this program. Therefore, this decision to serve only out-of-school youth is made based upon the best interests of the youth in the community. Additionally, the decision of the local WDB will apply to the whole local area (an individual county within the local area may not serve only out-of-school youth if the local WDB decides to serve both populations of youth). The local WDB's decision, including the reasons the decision was made, must be documented as part of the official board meeting notes.

2. Conducting Services and Activities

The local WDB may procure a youth program provider to conduct all WIOA youth workforce investment activities and services. Having a program provider conduct all activities may ease administrative burden and allow for a more consolidated delivery of services.

On the other hand, the local WDB may procure a provider to conduct only certain activities or services. Using this method would allow providers who have expertise or experience conducting certain activities or services to provide only those activities and services.

3. Delivery Methodology

The local WDB must consider the delivery methodology. The primary examples include the following:

a. **Area-wide youth program provider:** One organization is selected to provide youth program activities and services across the local area.

   Benefits of area-wide selection:
   
   i. **Fosters consistency of services:** The same staff training, processes, procedures, and menu of services are provided across the local area, promoting uniformity;
ii. **Streamlines management:** Area-wide management rather than center-based hierarchies are utilized, providing cost savings that can be reinvested into client services;

iii. **Reduces administrative burden:** A single selection of one resulting contract is employed, reducing the local WDB’s administrative burden of overseeing multiple youth program providers; and

iv. **Encourages more robust competition:** Funding is consolidated into a single, larger selection, potentially attracting a wider field of respondents to choose from, including those with best practices and experiences from outside of the local area that are interested in establishing a presence in or relocating to serve the local area.

b. **Center-based youth program providers:** Different organizations are selected to provide youth program activities and services on a center-by-center basis. If this methodology is chosen, the local WDB must still competitively select the youth program provider. The selection must not be delegated to an individual center or county. When considering this methodology, a local WDB must consider whether there have been challenges in the past in the selection of a youth program provider for a center or county.

Benefits of center-based service provider methodology is:

i. **Encourages local expertise:** Center-based selections typically attract county-based service providers, resulting in responses from organizations with specific knowledge of and expertise in the local area; and

ii. **Hedges performance outcomes:** In a local area with multiple service providers, even if one service provider is doing poorly, another may be doing well, resulting in a potential safety net for performance outcomes.

c. **Service-based youth program providers:** Multiple organizations are selected to provide youth program activities and services based on an expertise. These service providers may be selected to serve an entire local area, or on a center-by-center or county basis.

A benefit of the service-based methodology is that each service provider is selected to provide a specific service based on skills and expertise that could substantially improve outcomes for participants served by such providers.

The three models are examples of primary methods that local WDBs may consider for youth program providers. However, it should be noted that these methods are not mutually exclusive of one another and may be combined. For example, a local WDB may use an area-wide youth provider selection process that allows respondents to subcontract for a particular youth program element, thus encouraging local expertise.

Overall, a local WDB should carefully weigh all options and identify the methodology (or combination of methodologies) that best serves local area needs.

D. **Procurement Process**

The local WDB must support full and open competition in processes it utilizes to select the youth program provider, and the local WDB must comply with federal procurement principles prescribed in the Uniform Guidance (2 C.F.R. 200.318 to 200.326), with state procurement rules listed in rule 5101:9-4-07 of the Administrative Code, and with local procurement policies and procedures. The entire procurement process must be performed under a process that promotes transparency and accountability. The process must be documented, including a written explanation of the nature of the procurement process, and made available to the public on a
regular basis through electronic means and open meetings. The information that local WDBs are required to make available to the public includes, but is not limited to:

1. The local WDB's written conflict of interest policy;
2. The local WDB's written procurement policies;
3. The procurement solicitation itself;
4. A listing of entities that have submitted bids or proposals;
5. An abstract of those bids or proposals;
6. The identity of the selected youth program provider(s); and
7. Total award amount and duration of the contract with the youth program provider.

Several factors must be considered to plan a competition for youth program provider selection. The primary factors have been grouped into the categories listed below.

1. Conflicts of Interest

To ensure a fair and open competitive process, all potential conflicts of interest in the procurement, management, and oversight of the youth program provider must be identified and addressed before planning and implementation of the solicitation process. Local WDBs should issue an inquiry to the current youth program provider, local fiscal agent, local service providers, and local partners to determine if any of those parties will compete to serve as a youth program provider.

Until the solicitation document is released to the public, it must be kept confidential to ensure that no individual or entity that will compete to serve as youth program provider has an unfair advantage over other competing individuals or entities.

Further, no WDB board member, Youth Subcommittee member, or other individual involved in the planning and the development of the solicitation should respond to inquiries from any individual or entity that will compete. All such inquiries should be directed to a special email box or online address where all questions and responses can be seen by all competitors through a question and answer (Q&A) process.

Paragraph (B) of section 102.03 of the Revised Code prohibits current and former public officials and employees from disclosing or using confidential information acquired during official duties as public officials or employees when the confidential designation is set by statute or otherwise warranted because of the circumstances under which the information was received and preserving confidentiality is necessary to the proper conduct of government business. With respect to procurement, any individual with knowledge of the solicitation process or solicitation document must not disclose the information to ensure that the competitive process is fair and open to all.

Policies and procedures must be put in place to effectively address any real or apparent conflicts of interest. Policies and procedures must comply with state and local conflict of interest laws, including section 2921.42 and Chapter 102 of the Revised Code, and state and local ethics rules.

Organizational structures must be reviewed and reorganized if necessary to ensure that monitoring, oversight, and evaluation responsibilities are separated from responsibilities for the performance of daily activities and routine functions.

Each local area is required to maintain written standards of conduct for acquisition and procurement per Uniform Guidance (2 C.F.R. 200.318(c)(1)) and rule 5101: 9-4-04 of the Administrative Code. All existing standards should be reviewed in consideration of WIOA requirements and updated as necessary.
Policies and procedures must be established to ensure that the proper firewalls are in place to address any real and apparent conflicts of interest. Potential conflicts include, but are not limited to:

a. Local stakeholders competing to serve as youth program provider; and

b. Youth program provider procurement of subcontractors, if local WDB assigns such authority.

**Local Stakeholder to Compete**

Any local entity that will compete for the opportunity to serve as a youth program provider must not take part in the development of the solicitation or in the procurement process. This includes, but is not limited to: the local fiscal agent, the current youth program provider, the current American Job Center (in Ohio, called the OhioMeansJobs center) operator, or an entity that is a direct provider of services in the local area.

Section 102.03(A)(1) of the Revised Code prohibits former public officials or employees from representing a client or acting in a representative capacity for any person on any matter on which the former public official or employee participated through decision, approval, disapproval, recommendation, rendering of advice, or other substantial exercise of administrative discretion for a period of 12 months after exiting public employment.

As defined in the statute, “represent” includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person. “Matter” includes any case, proceeding, application, determination, issue, or question.

If a local fiscal agent, OhioMeansJobs center operator, or provider of career services is competitively selected to serve as the youth program provider, then that entity, along with the local WDB and the chief elected official (CEO) must execute a multi-function agreement, a written agreement per 20 C.F.R. 679.430. The Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-18.1, Local Workforce Development Area Governance, outlines the requirements of the multi-function agreement and clarifies the manner in which the selected entity will fulfill each role and separate responsibilities to remain in compliance with WIOA, the WIOA Final Rules, the Uniform Guidance, and with state and local conflict of interest policies. The agreement must include a table of organization to demonstrate a clear separation between those responsible for carrying out program activities from those responsible for oversight.

When there is uncertainty as to whether a conflict exists or whether policies and procedures will effectively address any conflicts, local WDBs may submit requests for opinions to the Ohio Ethics Commission and/or to the Ohio Attorney General. Ohio Ethics Commission Advisory Opinions, Ohio Attorney General Opinions, and instructions on how to request opinions can be found on their websites: [http://www.ethics.ohio.gov/advice/index.html](http://www.ethics.ohio.gov/advice/index.html) and [http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions](http://www.ohioattorneygeneral.gov/About-AG/Service-Divisions/Opinions).

**2. Procurement Planning**

Initial steps in the selection process are to choose the competitive procurement method and to establish a timeline for the completion of the selection process.

In addition to compliance with federal and state procurement requirements and restrictions, local WDBs must consult with the CEO and review local procurement policies and procedures or develop procurement policies and procedures specific to youth program provider selection.

Any entity that is fulfilling more than one role in a local workforce development system must execute a written agreement with the local WDB and the CEO in accordance with 20 C.F.R. 679.430 and WIOAPL 15-18.1.

**Procurement Method**
WIOA does not provide any restrictions on the frequency of conducting a competitive procurement for the youth program provider. However, contracts must be limited to two-year periods with the option to renew for an additional two years, due to the two-year limit on appropriations per Article II, Section 22 of the Ohio Constitution.

Contract cost and price are subject to the Uniform Guidance (2 C.F.R. 200.323) and paragraph (B)(1) of rule 5101:9-4-07 of the Administrative Code.

The Uniform Guidance (2 C.F.R. 200.320) and rule 5101: 9-4.07.1 of the Administrative Code identify and describe the types of procurement methods that may be used. For purposes of youth program provider selection, the three acceptable procurement methods are as follows:

a. **A competitive sealed bidding process** is appropriate when selection can be made primarily based on price and the contract can be a firm, fixed price contract. For this process, an Invitation to Bid document must be developed that includes a comprehensive, clear, and complete description of the services needed. All bids will be opened at the same time. The responsive and responsible bidder with the best price will be selected.

b. **Procurement by competitive proposals** is appropriate when selection is based on factors other than price (e.g., qualifications, experience, past performance, etc.). A request for proposals (RFP) document must be developed and must contain a comprehensive, clear and complete description of the services needed, as well as a description of the selection process and the evaluation factors to be used for scoring.

c. **Procurement by non-competition proposals** is procurement through solicitation of a proposal from only one source.

Section 123 of WIOA, 20 C.F.R. 681.400, the Uniform Guidance (2 C.F.R. 200.320(f)), and state procurement rules allow non-competitive proposals in certain circumstances. Paragraph (4) of 20 C.F.R. 681.400 states that the local WDB may award grants and contracts on a sole source basis where the local WDB determines that there are an insufficient number of eligible youth program providers in the local area, such as a rural area. No other non-competitive method is allowable. The state does not have the authority to approve waivers of competition for youth program provider selection.

A true sole-source situation is the only exception to the requirement for competitive selection of a youth program provider. The term "sole-source" means only one entity is qualified to fulfill the role of youth program provider in the local area. Written documentation of the entire selection process must be maintained and must demonstrate that sufficient market research and outreach was conducted to justify sole source selection. A cost and/or price analysis must be conducted and documented as well.

Any entity selected on a sole source basis must have the qualifications and capacity to effectively fulfill the role of youth program provider.

A request for review of the sole-source documentation may be submitted to the Ohio Department of Job and Family Services, Office of Contracts and Acquisitions, prior to the execution of the contract. The Deputy Director will assess whether the documentation demonstrates that sufficient efforts were taken by the local WDB to support a sole-source determination.

**Small purchase procedures** - Under Ohio procurement regulations (rule 5101:9-4-07.1 of the Administrative Code), if a procurement by competitive sealed bids or by proposals to an adequate number of qualified sources is deemed a failed procurement, local WDBs have the option to select a vendor using small purchase procedures.

### IV. Definitions
Chief elected official (CEO): The chief elected executive officers of the units of general local government in a local area.

Comprehensive Case Management and Employment Program (CCMEP): an integrated intervention program that combines the Temporary Assistance for Needy Families (TANF) program and the WIOA Youth program to provide employment and training services to individuals ages 14 through 24 years.

Contract: Defined in the Uniform Guidance (2 C.F.R. 200.22), and reiterated in 20 C.F.R. 675.300, a legal instrument by which a non-federal entity purchases property or services needed to carry out a project or program under a federal award. The term as used in 20 C.F.R. 675.300 does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or sub award as defined in this section.

Fiscal agent: An entity appointed by a local area’s CEO to be responsible for the administration and disbursement of funds allocated under WIOA for workforce development activities in the local area. Section 107(d)(12)(B)(i)(II) of WIOA maintains that designation of a fiscal agent does not relieve the chief elected officials from liability for misuse of funds.

Lead agency: The entity designated by the board of county commissioners to administer CCMEP.

Local area memorandum of understanding (MOU): Required under section 121(c) of WIOA, it is an agreement negotiated and entered by the local WDB and local partners with the agreement of the CEO in the local area. The MOU describes how the parties will provide services and share costs through the workforce development system.

Local workforce development area: In accordance with Section 106 of WIOA, a jurisdiction designated by the Governor for the administration of workforce development activities delivered through a local workforce development system.

Local workforce development system: The system established in accordance with section 121 of WIOA through which programs funded under WIOA and other workforce programs and services are delivered in the local area.

Local workforce development board: Per section 107 of WIOA, the entity established to set policy and be responsible for administration and oversight of the local workforce development system.

Solicitation: The written procurement document (e.g., Request for Proposals (RFP)) that provides potential bidders with details on the role, responsibilities, requirements, and restrictions of a potential grant or contract award.

Subrecipient: An entity that receives an award from a federal grant recipient to carry out an activity for a public purpose as part of the federal program.


V. Local Workforce Development Area Requirements

A. Written Policies and Procedures

The local WDB must have written procurement policies and procedures which are consistent with the Uniform Guidance and with state law and rules. Local WDBs must consult with CEOs and review local procurement policies and procedure to ensure compliance with local requirements.

B. Selection Planning and Process

Local WDB Decisions Regarding Procurement of Youth Program Services

The local WDB must conduct and document all the following steps:

1. Consult with the CEO and review procurement policies and procedures or develop procurement policies and procedures specific to youth program provider selection;
2. Decide whether to allow the CCMEP lead agency to conduct certain, allowable activities and services;

3. Coordinate with CCMEP lead agency, if the CCMEP lead agency is not planning to bid on the youth program provider proposal;

4. Choose the WIOA population to be served: only out-of-school youth or both in-school youth and out-of-school youth;

5. Decide the youth workforce investment activities to be procured: if the youth provider will conduct all activities or just certain activities;

6. Choose a service delivery methodology:
   a. Area-wide youth provider;
   b. Center-based youth provider; or
   c. Service-based service provider; and

7. Decide the procurement method: procurement by competitive sealed bids, procurement by competitive proposals; or procurement by non-competitive proposals.

If the local WDB decides to leverage partner resources to provide some readily available program elements, the local WDB must enter into an agreement with the partner organization to ensure that the program element will be offered and that the program element is closely connected and coordinated with the WIOA youth program.

If the local WDB allows the CCMEP lead agency to conduct certain WIOA youth-funded services, the local WDB must document all factors considered when making this decision, including justifications as to how the CCMEP lead agency can more efficiently provide such services, how these services provided by the CCMEP lead agency are the most cost-effective, and any other factors the local WDB took into consideration.

Additionally, by allowing the CCMEP lead agency to conduct certain WIOA youth-funded services, the local WDB must enter a subrecipient agreement with the CCMEP lead agency to conduct such services and activities. This agreement must include all the following:

1. Authority that will be assigned to the lead agency;
2. Clear description of each responsibility that will be assigned;
3. Precluded services and activities; and
4. Reporting requirements.

Documentation

Local WDBs must maintain documentation of the selection process from planning through selection and the execution of a contract. Documentation must include:

1. A written description of the procurement method chosen and the factors that were considered;
2. Copies of local procurement policies and procedures;
3. A copy of any conflict of interest policies and procedures;
5. A copy of the local area code of conduct;
6. Documentation of the roles and responsibilities to be assigned to the youth program provider, including a description of how the local WDB determined which roles to assign;
7. Documentation of a cost and/or price analysis;
8. A copy of the timeline;
9. A copy of the solicitation (or, if applicable, a copy of the documentation to support sole source selection);
10. A copy of all questions and responses from the Q&A process;
11. Copies of all proposals submitted;
12. Copies of the scoring or proposal review documents;
13. Copies of the award/denial letters; and

Timeline
Prior to planning the youth program provider selection process, local WDBs must develop a timeline of a duration sufficient for a fair and open competitive process as well as negotiation and execution of a contract with the selected youth program provider. It is recommended that local WDBs project a date for the selected youth program provider to begin work and to develop the timeline backwards from that date. A starting date of 30 to 60 days prior to that is recommended if it is anticipated that a new youth program provider will be selected. It is important to ensure that a transition from one youth program provider to another does not disrupt service delivery. Timelines should include:

1. Time for selection process planning;
2. Development and approval of the solicitation (check local policies to determine what local approvals are needed);
3. The date the solicitation will be released to the public;
4. A question and answer period for prospective vendors;
5. A final deadline for proposal submission;
6. A time for proposal review and scoring;
7. A date for notice of award/denial;
8. A protest period;
9. Initiation of the contract process (consider chief elected officials’ meeting schedules if the local board isn’t authorized to execute contracts/agreements);
10. Estimated date of contract execution; and
11. Date for performance to begin under the contract.

Funding
Identify all local resources available to fund the youth program provider. The WIOA Final Rules classify the cost of all functions and activities of subrecipients as program costs (other than subrecipients performing solely administrative functions), so no WIOA administrative funds should be issued to youth program providers unless the administrative funds are converted to program dollars before issuance.

C. Solicitation and Selection Processes

Solicitation
The solicitation must be developed in accordance with the Uniform Guidance (2 C.F.R. 200.319(c)) and paragraph (B)(3) of rule 5101:9-4-07 of the Administrative Code, as well as local procurement policies. A description of the local WIOA youth program and the role(s),
Responsibilities, and requirements for the youth program provider must be clearly articulated in the solicitation, some of which include, but are not limited to:

1. The role of the youth program provider as defined by the local WDB and as described in WIOA and the Final Rules;
2. A description of the management structure between the local WDB and the youth program provider;
3. A description of the authority that will be assigned to the youth program provider;
4. A clear description of each responsibility that will be assigned to the youth program provider;
5. Number of staff required to operate the youth program, identifying:
   a. The number of any partner staff fulfilling some responsibilities under the local MOU;
   b. Any classifications/positions considered "key personnel" that competing entities must identify in their proposals; and
   c. Qualifications (education and/or experience) that key personnel or other staff must have; and
6. Links to state and local WIOA plans;
7. Technological resources, such as the Ohio Workforce Case Management System (OWCMS), OhioMeansJobs.com, any local systems, business networking software, or online testing sites that the Operator will use;
8. Precluded activities for youth program provider;
9. Accessibility requirements—including those under Section 188 of WIOA, the state's Equal Employment Opportunity (EEO) provisions, and the Americans with Disabilities Act (ADA);
10. Procurement requirements and restrictions (if youth provider will be assigned to procure any goods or services). A youth program provider is subject to the same federal, state, and local procurement rules, regulations, and policies to which the local WDBs are subject under WIOA and the Uniform Guidance. Therefore, the youth program provider must enlist a competitive process to procure any subcontractors;
11. Pursuant to section 502 of WIOA, agreement that the youth program provider will comply with sections 8301 through 8303 of the Buy American Act;
12. Safety and security policies and procedures;
13. Federal and state conflict of interest laws, regulations, and policies, as well as the local code of conduct;
14. Local performance measures if any have been defined for the youth program provider;
15. Reporting requirements, including expectations of the local WDB to receive updates and information;
16. Federal and state confidentiality laws and regulations as well as local data security procedures; and
17. Requirement for affirmations that vendors are not debarred under federal law and are qualified to conduct business in the State of Ohio.

**Budget Guidelines**
Identify budget line items based on the roles and responsibilities that will be assigned to the youth program provider. Budget costs must be consistent with the Uniform Guidance, Section 184 of WIOA, and 20 C.F.R. 683.

**Cost and/or Price Analysis**

Under both federal and state procurement guidelines, a cost and/or price analysis must be conducted for every procurement that exceeds the federal small purchase acquisition threshold (currently $150,000) and for every selection made on a sole-source basis.

At a minimum, local WDBs must conduct market research and develop estimates of costs before issuing the solicitation. Research can include a review of current and previous actual costs for a youth program provider.

A template should be provided for competing entities to use for the submission of their cost proposals to ensure consistency with the MOU budget template.

Non-profit entities will be required to treat any income as program costs. For-profit entities must negotiate any profit as a separate cost item for transparency.

**VI. State Requirements**

The State has established WIOAPL No. 15-18.1 that includes provisions to address conflicts of interest and multi-function agreements.

The State will review procurement policies, codes of conduct, and related procedures on request to assess compliance and to make recommendations for revisions, as appropriate.

The State will conduct and provide technical assistance to local WDBs, as needed (e.g., training) for the procurement of youth program providers.

**VII. Monitoring**

Oversight and monitoring is an integral function of the local WDBs and must be conducted to ensure that the providers of CCMEP WIOA youth-funded services comply with the requirements of WIOA, the activities in the scope of work, performance reporting requirements, and the terms and conditions of the contract governing the youth program provider as well as the agreement with the CCMEP lead agency, if applicable. In addition to routine monitoring and oversight, local WDBs are encouraged to include a review of procurements and performance of youth program providers as part of contract extensions.

Through the state's monitoring system, monitors will review the local WDB's procurement process during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

**VIII. Technical Assistance**

Ongoing support, guidance, training and technical assistance on the development of the workforce system are available to all local areas.

Requests for technical assistance may be sent to the Grants Unit at ODJFS, Office of Workforce Development: OWDGRANTS@jfs.ohio.gov.

**IX. References**

Workforce Innovation and Opportunity Act, §§123 and 188, Public Law 113-128.


2 C.F.R. §§ 200.319(c), 200.318 to 326.

Ohio Constitution, Article II, Section 22.

O.R.C. §§ 102.03, 124.57, and 2921.42.
O.A.C. §§ 5101: 9-4-04, 5101:9-4-07, 5101: 9-4-07.1.


USDOL, Training and Employment Guidance Letter WIOA No. 23-14, Operating Guidance for Workforce Innovation and Opportunity Act (WIOA), Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition, (March 26, 2015).

To: Chief Elected Officials
   Local Workforce Development Board Chairpersons
   Local Workforce Development Board Directors
   OhioMeansJobs Center Operators
From: Cynthia C. Dungey, Director
Subject: WIOA Adult, Dislocated Worker, and Youth Programs Performance Accountability

I. Purpose

The purpose of this policy is to provide guidance on the Workforce Innovation and Opportunity Act (WIOA) requirements related to the implementation and operation of the performance accountability system.

II. Effective Date

Immediately

III. Background

Section 116 of WIOA and 20 C.F.R. 677.155 establish performance accountability indicators and performance reporting requirements to assess the effectiveness of States and local workforce development areas (local areas) in achieving positive outcomes for individuals served by the workforce development system’s six core programs. These six core programs are the WIOA Title I Adult, Dislocated Worker, and Youth programs; WIOA Title II Adult Education and Family Literacy Act program; WIOA Title III Wagner-Peyser Employment Service program; and WIOA Title IV Vocational Rehabilitation program. WIOA provides a holistic approach to aligning performance-related definitions, streamlining performance indicators, and ensuring both comparable and integrative data collection and reporting methodologies across all six core programs within the context of program-specific requirements.

Under section 116(b)(2)(A) of WIOA, the six primary indicators of performance are:

1. Employment Rate – 2nd quarter after exit;
2. Employment Rate – 4th quarter after exit;
3. Median Earnings;
4. Credential Attainment;
5. Measurable Skill Gains; and

This policy focuses on the performance accountability indicators as it pertains to the WIOA Title I Adult, Dislocated Worker, and Youth programs.

A. Employment Rate – 2nd Quarter After Exit

1. WIOA Adult and Dislocated Worker Programs

   The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the Adult or Dislocated Worker program. The calculation
for this indicator includes all adult or dislocated worker participants. The Adult and Dislocated Worker programs are calculated separately.

**Calculation Methodology**: The number of adult or dislocated worker participants who exited during the program year and are identified as employed (using, for instance, an Unemployment Insurance (UI) wage record match, Federal or military employment records, or supplemental wage information), in the second quarter after exit divided by the number of adult or dislocated worker participants who exited during the program year.

2. **WIOA Youth Program**

The percentage of youth program participants who are in education or training activities, or in unsubsidized employment, during the second quarter after exit from the program.

**Calculation Methodology**: The number of youth program participants who exited during the program year and are identified as employed, (using, for instance, a UI wage record match, Federal or military employment records, or supplemental wage information) or identified as enrolled in secondary education, postsecondary education, or occupational skills training (including advance training) in the second quarter after exit divided by the number of youth program participants who exited the program during the program year.

**B. Employment Rate – 4th Quarter After Exit**

1. **WIOA Adult and Dislocated Worker Programs**

The percentage of adult or dislocated worker program participants who are in unsubsidized employment during the fourth quarter after exit from the program. The calculation for this indicator includes all adult or dislocated worker participants. The Adult and Dislocated Worker programs are calculated separately.

**Calculation Methodology**: The number of adult or dislocated worker participants who exited during the program year and are identified as employed (using, for instance, a UI wage record match, Federal or military employment records, or supplemental wage information), in the fourth quarter after exit divided by the number of adult or dislocated worker participants who exited during the program year.

2. **WIOA Youth Program**

The percentage of youth program participants who are in education or training activities, or in unsubsidized employment, during the fourth quarter after exit from the program.

**Calculation Methodology**: The number of youth program participants who exited during the reporting period and are identified as employed (using, for instance, a UI wage record match, Federal or military employment records, or supplemental wage information) or identified as enrolled in secondary education, postsecondary education, or occupational skills training (including advance training) in the fourth quarter after exit divided by the number of youth program participants who exited the program during the program year.

**C. Median Earnings – 2nd Quarter After Exit**

The median earnings of adult, dislocated worker, or youth program participants who are in unsubsidized employment during the second quarter after exit from the program (unsubsidized employment may be shown by such things as a UI wage record match, Federal or military employment records, or supplemental wage information). The Adult, Dislocated Worker, and Youth programs are calculated separately.

**Calculation Methodology**: The total quarterly earnings, for all participants employed in the second quarter after exit, are collected by either direct wage record match or supplemental wage information. The collected quarterly wage information values are listed in order, from the lowest to the highest value. The value in the middle of this list is the median earnings value.
Note: if there is an equal number of values, the two middle values are added together and divided by two.

Training and Employment Guidance Letter (TEGL) No. 10-16.1 published by the United States Department of Labor (USDOL) provides a wage conversion chart to convert supplemental wage information values that do not represent the total amount a participant earned in the second quarter after exit (e.g., conversion of hourly, weekly, monthly rates to quarterly wages). This guidance may be found at: https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8226.

D. Credential Attainment

1. Adult and Dislocated Worker Programs

   The percentage of adult and dislocated worker participants enrolled in an education or training program (excluding those in on-the-job training (OJT) and customized training) who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program.

2. Youth Program

   The percentage of youth participants enrolled in an education or training program who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program.

   All in-school youth are included in the credential attainment indicator since they are attending secondary school or postsecondary school. Only out-of-school youth who participated in one of the following are included in the credential attainment indicator:

   a. Occupational skills training program element;
   b. Secondary education during participation in the Youth program;
   c. Postsecondary education during participation in the Youth program;
   d. Title II-funded adult education (in Ohio, called Aspire (formerly known as ABLE));
   e. YouthBuild; or
   f. Job Corps.


   Adult, dislocated worker, or youth program participants who obtain a secondary school diploma or its recognized equivalent must also meet an additional condition before they are counted as successful outcomes and included in the numerator of the credential attainment indicator. These participants must be employed or enrolled in an education or training program leading to a recognized postsecondary credential within one year after exit from the program.

4. Calculation Methodology

   Calculation of this indicator includes all participants who exited from a program and were in either a postsecondary education or training program or in a secondary education program at or above the 9th grade level without a secondary school diploma or its equivalent. The Adult, Dislocated Worker, and Youth programs are calculated separately.

   The calculation is as follows: The number of participants who exited during the reporting period who:

   a. Obtained a recognized postsecondary credential during program participation or within one year after exit; OR
b. Were in a secondary education program and obtained a secondary school diploma or its recognized equivalent during program participation or within one year after exit and were also employed, or in an education or training program leading to a recognized postsecondary credential within one year after exit; **DIVIDED BY**
c. The number of participants enrolled in an education or training program who exited during the reporting period.

5. **Definition of Credential**
This indicator measures the attainment of two types of credentials:

a. **Recognized postsecondary credential**: A credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by Ohio or Federal government, or an associate or baccalaureate degree.

A recognized postsecondary credential is awarded in recognition of an individual’s attainment of measurable technical or industry/occupational skills necessary to obtain employment or advance within an industry/occupation. Examples include Certified Nursing Assistant (CNA) License or Automotive Service Excellence (ASE) Certification.

Certificates awarded by local workforce development boards (WDB) or work readiness certificates are not included in this definition. Neither types of certificates document the measurable technical or industry/occupational skills necessary to gain employment or advance within an occupation. Such certificates must recognize technical or industry/occupational for the specific industry/occupation rather than general skills related to safety, or other such skills, even if these skills certificates are broadly required to qualify for entry-level employment or advancement in employment.

Other examples of certificates or credentials that do not count in this measure are the Occupational Safety and Health Administration (OSHA) 10-Hour Course (which provides awareness of job-related common safety and health hazards) or the completion of Orientation and Mobility Training.

A variety of different public and private entities issue recognized postsecondary credentials. The following is a list of types of organizations and institutions that award recognized postsecondary credentials:

i. A State educational agency or a State agency responsible for administering vocational and technical education;

ii. An institution of higher education that is qualified to participate in student financial assistance programs;

iii. An institution of higher education that is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes;

iv. A professional, industry, or employer organization or product manufacturer or developer using a valid and reliable assessment of an individual’s knowledge, skills, and abilities;

v. USDOL, Employment and Training Administration (ETA), Office of Apprenticeship or a State Apprenticeship Agency;

vi. Public regulatory agencies, which award a credential upon an individual’s fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to use an occupational or professional title or to practice an occupation or profession;
vii. A program that has been approved by the Department of Veterans Affairs (VA) to offer education benefits to veterans and other eligible persons; or

viii. Job Corps, which issues certificates for completing career training programs that are based on industry skills, standards and certificate requirements.


b. **Secondary school diploma** (commonly known as high school diploma): a secondary school diploma (or alternate diploma) is one that is recognized by the State and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA).

A secondary school equivalency certification signifies that a student has completed the requirements for a high school education. The types of recognized equivalents, for those not covered under ESEA, which would satisfy the credential attainment performance indicator are those recognized by a State.

Examples of secondary school diplomas, alternate diplomas, and recognized equivalents recognized by individual States include:

i. Obtaining a certificate by attaining passing scores on a State-recognized high school equivalency test;

ii. Earning a secondary school diploma or State-recognized equivalent through a credit bearing secondary education program sanctioned by State law, code, or regulation; or

iii. Completion of a specified number of college credits.

6. **Types of Acceptable Credentials**

The following are acceptable types of credentials that count toward the credential attainment indicator:

a. Secondary school diploma or recognized equivalent;

b. Associate’s degree;

c. Bachelor’s degree;

d. Occupational licensure;

e. Occupational certificate, including Registered Apprenticeship and Career and Technical Education educational certificates;

f. Occupational certification; or

g. Other recognized certificates in industry/occupational skill completion sufficient to qualify for entry-level or advancement in employment.

Graduate degrees are not included in the definition of a recognized postsecondary credential. Therefore, graduate degrees do not count towards credential attainment.

E. **Measurable Skill Gains**

The measurable skill gains indicator is used to measure interim progress of participants who are enrolled in education or training services for a specific reporting period. Therefore, it is not an exit-based measure. Instead, it is intended to capture important progressions through pathways that offer different services based on program purposes and participant needs and can help
fulfill the vision for a workforce system that serves a diverse set of individuals with a range of services tailored to individual needs and goals.

Calculation Methodology: The number of participants during the program year who are in an education or training program that leads to a recognized postsecondary credential or employment and are achieving measurable skills gains based on the attainment of at least one type of measurable skill gain divided by the number of program participants during the program year who are in an education or training program that leads to a recognized postsecondary credential or employment.

1. Adult and Dislocated Worker Programs

The Measurable Skill Gains indicator is the percentage of adult and dislocated worker participants who, during a program year, are in education or training programs that lead to a recognized postsecondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational, or other forms of progress, towards such a credential or employment.

All adult and dislocated worker participants in a training program are included in the measurable skill gains indicator, which includes a training program for a secondary school program equivalent, and all participants in work-based training.

2. Youth Program

The Measurable Skill Gains indicator is the percentage of youth participants who, during a program year, are in education or training programs that lead to a recognized postsecondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational, or other forms of progress, towards such a credential or employment.

All in-school youth attending secondary or postsecondary school are included in this indicator. Out-of-school youth who are in one of the following are also included in this indicator:

a. Tutoring, study skills training, instruction, and dropout prevention services program element;

b. Occupational skills training program element;

c. Secondary education during participation in the Youth program;

d. Postsecondary education during participation in the Youth program;

e. Title II-funded adult education (in Ohio, called Aspire);

f. YouthBuild; or

g. Job Corps.

3. Additional Parameters

a. Participants are included in the denominator one time per program year, regardless of how many skill gains they achieve during that program year unless the individual has more than one period of participation in a given program year.

b. Participants are only included in the numerator one time per program year, regardless of how many skill gains they achieve in a program year, unless the individual has more than one period of participation in a given program year.

c. A participant who exits the program and re-enrolls in the program during the same program year and is in an education or training program will be in the indicator two times for that particular program year.
d. The measurable skill gains indicator is different from the other indicators because it is not exit-based, meaning that a participant can achieve a measurable skill gain while still participating in the program.

e. Programs should not delay enrollment in services to participants until a new program year even if programs believe there is insufficient time for the participant to make a type of measurable skill gain by the end of that program year.

4. Definition and Documentation of Progress

Depending on the type of education or training program in which a participant is enrolled, documented progress is defined and noted as follows:

a. **Documented achievement of at least one educational functioning level of a participant who is receiving instruction below the postsecondary education level.** Programs may measure education functioning level gain in one of three ways:

i. Comparing the participant’s initial education functioning level, as measured by a pre-test, with the participant’s educational functioning level, as measured by a post-test. These pre- and post-tests must be based on the list of tests the Secretary of Education determines to be suitable for use in the National Reporting System for Adult Education.

ii. Measuring and reporting educational gain through the awarding of credits or Carnegie units (if adult high school education programs that lead to a secondary school diploma or its equivalent are offered).

iii. Reporting an educational functioning level gain for participants who exit a program below the postsecondary level and enroll in postsecondary education and training during the program year. A program below the postsecondary level applies to participants enrolled in a basic education program.

b. **Documented attainment of a secondary school diploma or its recognized equivalent.** Programs may document attainment of a secondary school diploma or its recognized equivalent if the participant obtains certification of attaining passing scores on all parts of a State-recognized high school equivalency test, or the participant obtains a diploma or State-recognized equivalent documenting satisfactory completion of secondary studies or an alternate diploma, including a high school or adult secondary school diploma.

c. **Secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the Ohio Department of Education or the Ohio Department of Higher Education academic standards.**

i. For secondary education, this gain may be documented through receipt of a secondary transcript or report card for one semester showing that the participant is achieving the State unit’s policies for academic standards. In Ohio, the minimum number of credits to graduate is 20 credit hours; some local school districts may require more. Therefore, the transcript or report card should indicate that the youth participant is earning enough credits (at least 5 credit hours per year) at a pace to satisfy the credit requirement to graduate from secondary school. Credits may also include those earned through co-enrollment in postsecondary education.

ii. For postsecondary education, this gain must demonstrate a sufficient number of credit hours (full time students- at least 12 hours per semester or...
part-time students - at least 12 hours over the course of two completed consecutive semesters during the program year) that shows a participant is achieving the Ohio Department of Higher Education academic standards.

d. **Satisfactory or improved progress report, toward established milestones, such as completion of OJT or completion of one year of an apprenticeship program or similar milestones, from an employer or training provider.** The gain may be documented by a satisfactory or improved progress report from an employer or training provider. Progress reports may include training reports on milestones completed as the individual masters the required job skills, or steps to complete an OJT or apprenticeship program. Increases in pay resulting from newly acquired skills or increased performance also can be used to document progress.

e. **Successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade-related benchmarks, such as knowledge-based exams.** Documentation for this gain may include passage of a component exam in a Registered Apprenticeship program, employer-required knowledge-based exam, and satisfactory attainment of an element in an industry or occupational competency-based assessment, or other completion test necessary to obtain a credential.

**F. Effectiveness in Serving Employers**

Section 116(b)(2)(A)(j)(VI) of WIOA requires that the Departments of Labor and Education establish a primary indicator of performance for effectiveness in serving employers. This indicator will be measured as a shared outcome across all six core programs within each State to ensure a holistic approach to serving employers. However, this policy will focus on how this performance indicator is measured in the Adult, Dislocated Worker, and Youth Programs.

Three approaches for measuring effectiveness in serving employers have been developed: Retention, Repeat Business Customers, and Employer Penetration Rate. USDOL allows States to pick two approaches to be measured. Ohio will use the following approaches to be used for measuring the effectiveness of serving employers:

1. **Retention** – This approach captures the percentage of participants who exit and are employed with the same employer in the second and fourth quarters after exit. This approach is useful in determining whether the Adult, Dislocated Worker, and Youth programs are serving employers effectively by improving the skills of their workforce and decreasing employee turnover.

   The measure is calculated as follows:

   The number of participants with wage records who exit during the reporting period and were employed by the same employer during the second quarter after exit divided by the number of participants with wage records who exit and were employed during the second quarter after exit.

   This approach is calculated based on information included in wage record matches for participants in their fourth quarter after exit. This means that only participants who are included in this approach are those for whom a wage record match is available.

2. **Repeat Business Customers** – This approach tracks the percentage of employers who receive services that use Adult, Dislocated Worker, and Youth program services more than once within the previous three program years. This approach is useful in determining whether employers who receive services from the Adult, Dislocated Worker, and Youth programs are satisfied with those services and become repeat customers. This approach also assesses the workforce system’s ability to develop and maintain strong relationships with employers over extended periods of time.
The measure is calculated as follows:

The total number of establishments served during the current program year that have used the Adult, Dislocated Worker, and Youth programs more than once during the prior three program years divided by the number of establishments served during the current program year. The number of establishments is defined by the Bureau of Labor Statistics (BLS) Quarterly Census of Employment and Wages (QCEW) program.

This measure is a unique count of employers who use Adult, Dislocated Worker, and Youth programs more than once. Regardless of repeat usage of Adult, Dislocated Worker, and Youth program services, an employer who uses these services more than once during the last three program years should be counted only once in this calculation.

It should be noted that the States are not required to use data for services delivered to employers prior to July 2016 to fulfill the prior three program year requirement.

G. Programmatic Criteria for Becoming a Participant in the Adult, Dislocated Worker, and Youth Programs

Due to the variability in programmatic criteria to receive services, the particular services that trigger inclusion as a participant vary across the Adult, Dislocated Worker, and Youth programs.

1. Adult and Dislocated Worker Program – Receipt of training services or individualized career services makes a reportable individual a participant. For basic career services, a reportable individual becomes a participant when he or she receives a service that is neither self-service nor information-only. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-08.1, Career Services for Adults and Dislocated Workers, provides guidance on which basic career services triggers participation in the Adult or Dislocated Worker programs.

2. Youth Program – When a reportable individual has satisfied all applicable program requirements for the provision of services, including an eligibility determination, completion of an objective assessment (as documented on the comprehensive assessment), development of an individual service strategy (as documented on the individualized opportunity plan), and receipt of one of the 14 WIOA Youth program elements, he or she is considered a participant.

H. Exit from the Program

1. Participant Exit

For the WIOA Adult, Dislocated Worker, and Youth programs, the date of exit from the program is the last date of service. Specifically:

a. The date of exit cannot be determined until 90 days have elapsed since the participant last received services. Furthermore, there must be no plans to provide the participant with future services. At that point, the date of exit is applied retroactively to the last date of service.

b. For determining whether 90 days have elapsed since the participant last received services, do not include receipt by the participant of any self-service, information-only services or activities, or follow-up services, as these services do not delay, postpone, or affect the date of exit. Because the date of exit is retroactive to the last date of service, follow-up services may begin immediately following the last date of service if it is expected that the participant will not receive any future services other than follow-up services. Provision of follow-up services does not extend the date of exit.

A participant may be exited from the Adult, Dislocated Worker, or Youth program and excluded from performance reporting for the following reason(s):
a. The participant has become incarcerated in a correctional institution or has become a resident of an institution or facility providing 24-hour support (i.e., a hospital or treatment center) during the course of receiving services;

b. The participant exits the program because of medical treatment. The treatment is expected to last longer than 90 days and precludes entry into unsubsidized employment or continued participation in the program;

c. The participant is deceased;

d. The participant is a member of the National Guard or other reserve military unit of armed forces and is called to active duty for at least 90 days; and

e. For the WIOA Youth program only, the participant is in the foster care system and exits the program because the participant has moved from the local area as part of such program or system.

2. Reportable Individual Exit

For tracking purposes, the date of “exit” for reportable individuals for the WIOA Adult, Dislocated Worker, and Youth Programs is determined as follows:

a. The individual does not become a participant; and

b. The individual is served under the Adult, Dislocated Worker, or Youth program through receipt of services that do not result in the individual becoming a participant; and

c. The individual has had 90 days elapse since being identified as a reportable individual and the individual has not received additional self-service or informational-only services or activities during that 90-day time period.

The date of exit for a reportable individual cannot be determined until 90 days have elapsed since the reportable individual last received any of the following services:

a. Self-service;

b. Information-only services and activities;

c. Services under the Adult, Dislocated Worker, or Youth program that do not result in the individual becoming a participant, with no future services scheduled.

At that point, the date of exit is applied retroactively to the last date of receipt of one of the services mentioned above.

IV. Definitions

Basic skills deficient: An individual who:

1. Is a youth that has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or

2. Is a youth or adult that is unable to compute or solve problems, read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Certificate: A certificate is awarded in recognition of an individual’s attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are based on standards developed and endorsed by employers, industries, or government oversight agencies. Certificates are awarded in recognition of an individual’s attainment of technical or occupational skills by:

1. A state educational agency or a state agency responsible for administering vocational and technical education within a state.
2. An institution of higher education.
3. A professional, industry, or employer organization using a valid and reliable assessment of an individual’s knowledge, skills, and abilities.
4. A registered apprenticeship program.
5. A public regulatory agency, upon an individual’s fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to have in order to work in a particular occupation or profession.
6. A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons.
7. Job Corps centers that issue certificates.
8. Institutions of higher education which are formally controlled, or have been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes.

**Chief elected official (CEO):** Per section 3(9) of WIOA, the chief elected executive officer(s) of a unit of general local government in a local area and, in the case of a local area that includes more than one unit of general local government, the individual(s) designated under an intergovernmental agreement.

**Core program:** A program which is authorized under one of the following program provisions:
1. Chapters 2 and 3 of subtitle B of Title I, relating to youth workforce investment activities and adult and dislocated worker employment and training activities;
2. Title II, relating to adult education and literacy activities;
3. Sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq), relating to employment services; and

**Credential:** A nationally recognized degree, license or certificate, or state/locally recognized degree, license or certificate.

**Employment:** When an individual is working in a paid, unsubsidized job or working 15 hours or more a week in a wageless job on a farm or business operated by a family member or the individual.

**Exit:** The last date of service. The last date of service cannot be determined until at least 90 days have elapsed since the participant last received services and there are no plans to provide the participant with future services.

**Follow-up services:** Activities to monitor an adult, dislocated worker, or youth’s success during their transition to employment or further education and to provide assistance as needed for a successful transition.

**Individual with a barrier to employment:** Per section 3(24) of WIOA, an individual who is a:
1. Displaced homemaker;
2. Low-income individual;
3. Indian, Alaskan native, and Native Hawaiian;
4. Individual with disabilities;
5. Older individual (age 55 and older);
6. Ex-offender;
7. Homeless individual or homeless child and youth;
8. Youth who is in or has aged out of the foster care system;
9. English language learner, individual with a low level of literacy, and individual facing substantial cultural barriers;
10. Eligible migrant and seasonal farmworker;
11. Individual within two years of exhausting lifetime temporary assistance for needy families (TANF) eligibility;
12. Single parent (including single pregnant woman);
13. Long-term unemployed individual (unemployed for 27 or more consecutive weeks); and
14. Other groups of individuals Ohio determines to have barriers to employment.

Information-only services: Activities that provide readily available information that does not require an assessment by a staff member of the individual's skills, education, or career objectives. These services do not constitute participation in a program.

Negotiated levels of performance: The levels of performance for each primary indicator in each core program, agreed to by the State, prior to the start of the program year.

Participant: A reportable individual who received services other than self-service, information-only services, and/or follow-up services, if that individual satisfied all applicable programmatic requirements for the receipt of services, such as an eligibility determination.

Participation: The point at which the individual has been determined eligible for program services and has received or is receiving a career or training service, or a youth program element, and is the point at which an individual is to be included in calculations for performance indicators.

Performed successfully: Pursuant to 20 C.F.R. 679.260(b), means that the local area met or exceeded the levels of performance the State negotiated with the local workforce development area and chief elected official for core indicators of performance, and that the local area has not failed any individual measure for the last two consecutive program years in accordance with a State-established definition provided in the Combined State Plan, of met or exceeded performance.

Period of participation: For all indicators, except measurable skill gains, the period of time beginning when an individual becomes a participant and ending on the participant’s date of exit from the program.

Planning region: A region comprised of two or more local workforce development areas that are collectively aligned with the region.

Program year (PY): The time period beginning July first and ending June thirtieth.

Public assistance: As defined in section (3)(50) of WIOA, federal, state, or local government cash payments for which eligibility is determined by a needs or income test. This includes Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and Supplemental Security Income (SSI).

Reportable individual: An individual who has taken action that demonstrates an intent to use the program services and who meets specific reporting criteria of the program, including:

1. Individuals who have provided identifying information; and
2. Who:
   a. only used the self-service system; or
   b. received information-only services or activities.

Secondary school diploma: A high school diploma recognized by Ohio that is included for accountability purposes under the ESEA, as amended by the Every Student Succeeds Act (ESSA).

Self-service: Services that occur when individuals independently access any workforce development system program’s information and activities in either a physical location, such as an OhioMeansJobs
center resource room or partner agency, or remotely via the use of electronic technologies. These services do not constitute participation in a program.

**Statistical Adjustment Model (SAM):** An objective statistical model to be used to make adjustments in the State and local area negotiated levels of performance at the end of the program year, to account for actual economic conditions and the characteristics of participants served. It is also a key factor to be used in arriving at mutual agreement on State and local area negotiated core program performance levels.

**Unsubsidized employment:** Employment in the private sector or public sector for which the employer does not receive a subsidy from public funds to offset all or a part of the wages and costs of employing an individual.

### V. State Requirements

#### A. Definition of Exceeds, Meets, and Fails Performance

Per 20 C.F.R. 677.220(a)(1), a State must establish the threshold for failure to meet adjusted levels of performance.

The State must meet the following standards in order to meet adjusted levels of performance:

1. 90 percent of the overall local area program score for the Adult, Dislocated Worker, and Youth programs;
2. 90 percent of the overall local area indicator for the same primary indicator; or
3. 50 percent of the same indicator score for the same program.

Additionally, per 20 C.F.R. 679.260(b), the State defines the criteria for “exceeds,” “meets,” and “fails” performance within the Combined State Plan. Definitions are contained in the current Combined State Plan approved by the U.S. Department of Labor.

#### B. Performance Negotiations

Section 116(b)(3)(A)(iv) of WIOA mandates that States negotiate two years of performance outcomes for the first two program years covered by the Combined State Plan. The State submits the expected levels of performance in its Combined State Plan based on the State’s analysis of factors that may affect performance. After Plan submission, USDOL and the State reach an agreement on negotiated levels of performance for the indicators for each of the first 2 years of the Plan. As part of the negotiation process, the State will be asked to provide the rationale for the methodology behind its expected levels of performance using the following:

1. **Statistical Adjustment Model**

   Under WIOA, the statistical adjustment model will be used to ensure that the negotiated performance levels are based on actual economic conditions and characteristics of the participants. Actual economic conditions include differences in unemployment rates and job losses or gains in particular industries. Characteristics of participants include indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency.

   The statistical adjustment model will provide 2 major functions in performance negotiations and assessment:

   a. It is one of the factors used when coming to mutual agreement on negotiated levels of performance. It is used to account for the expected economic conditions and expected characteristics of participants to be served in the State and/or local areas.
b. It will be applied at the close of a program year to the negotiated level, to adjust for actual economic conditions experienced and actual characteristics of participants.

2. **Negotiation Factors**

In reaching agreement on the negotiated levels of performance, USDOL and the State shall take into account the following factors:

a. How negotiated levels compare with State adjusted levels of performance established for other States.

b. How negotiated levels have been proposed using an objective statistical adjustment model.

c. The extent to which negotiated levels promote continuous improvement and ensure optimal return on investment. This includes setting performance targets to accommodate serving a significant number of individuals with barriers to employment.

d. The extent to which negotiated levels will assist States in meeting performance goals.

USDOL will review the analyses used by the State to develop the expected levels of performance. These are negotiated levels of performance. Once these negotiated levels of performance are agreed upon, the State must incorporate these modifications into the Combined State Plan.

Prior to the third program year covered by the Combined State Plan, USDOL and the State will negotiate the performance levels for the third and fourth program years.

**C. Completion of Performance Reports**

1. **State Annual Report**

Per section 116(d)(2) of WIOA and 20 C.F.R. 677, Ohio is required to submit an annual report to USDOL. At a minimum, this report must contain information on the actual performance levels achieved with respect to:

a. The total number of participants served, and the total number of participants exited from the Adult, Dislocated Worker, and Youth programs, including counts of individuals who participated in and exited a program, by:
   i. Individuals with barriers; and
   ii. Co-enrollment in any of the programs.

b. Information on the performance levels achieved for the indicators of performance, including levels for:
   i. Individuals with barriers;
   ii. Age;
   iii. Sex; and
   iv. Race and ethnicity.

c. For the most recent program year and the 3 preceding program years, the following information:
   i. The total number of participants who received career services and the total number of participants who exited from career services.
   ii. The total number of participants who received training services and the total number of participants who exited from training services.
2. Local Workforce Development Area Reports

Per 20 C.F.R. 677.205, Ohio must make local workforce development area (local area) performance reports available to the public annually. The State must provide the public with electronic access to local area performance reports in its annual State performance report. The local area performance report must include:

a. The actual results achieved on the primary indicator performance levels.

b. The total number of participants served, and the total number of participants exited from the Adult, Dislocated Worker, and Youth programs, including counts of individuals who participated in and exited a program, by:
   i. Individuals with barriers; and
   ii. Co-enrollment in any of the programs.

c. Information on the performance levels achieved for the indicators of performance, including levels for:
   i. Individuals with barriers;
   ii. Age;
   iii. Sex; and
   iv. Race and ethnicity.

d. For the most recent program year and the 3 preceding program years, the following information:
   i. The total number of participants who received career services and the total number of participants who exited from career services.
   ii. The total number of participants who received training services and the total number of participants who exited from training services.
   iii. Information on the performance levels achieved for the indicators of performance for career and training services.
   iv. The amount of funds spent on career and training services.
   v. The average cost per participant for those participants who received career and training services, respectively.

e. The percentage of participants in a program who attained unsubsidized employment related to the training received.

f. The percentage of a local area’s allotment that is spent on administrative costs.
Local area performance reports must be made available in the American Job Centers (which, in Ohio, are called OhioMeansJobs centers) per section 134(c)(2)(viii) of WIOA.

D. Implications of Performance

Per section 116(f) of WIOA and 20 C.F.R. 677.180, a State will be subject to financial sanctions if it fails to:

1. Submit the State annual performance report.
   If the State is not able to submit a complete and accurate performance report by the deadline due to the reasons outlined in 20 C.F.R. 677.185(b), the State must notify USDOL as soon as possible, but not later than 30 days prior to the established deadline, of a potential impact on the State’s ability to submit its annual performance report, in order to not be considered failing to report. USDOL will review requests for extending the reporting deadlines.

2. Meet adjusted levels of performance for the primary indicators of performance.
   Any State that fails to meet adjusted levels of performance for the indicators for any year will receive technical assistance, including assistance in the development of a performance improvement plan.

Sanctions based on performance failure will be applied to States if, for 2 consecutive years, the State fails to meet:

a. 90 percent of the overall State program score for the same core program;

b. 90 percent of the overall State indicator for the same primary indicator; or

c. 50 percent of the same indicator score for the same program.

VI. Local Workforce Development Area Requirements

Per 20 C.F.R. 677.205, each local area is subject to the same primary indicators of performance for the Adult, Dislocated Worker, and Youth programs.

A. Performance Negotiations

20 C.F.R. 677.210 requires the State, local workforce development board (WDB), and chief elected official (CEO) to reach agreement on local negotiated levels of performance based on a negotiation process. The negotiation process is developed by the State and is disseminated to all local WDBs and CEOs.

The negotiation must occur prior to the start of a program year with the use of the statistical adjustment model (as described in Section V. B. 1 of this policy). The negotiations will include a discussion of circumstances not accounted for in the model and will take into account the extent to which the levels promote continuous improvement.

If deemed necessary by the local WDB and CEO, the local area has the opportunity to re-negotiate with the State levels of performance for the following program year’s standard(s). In order to re-negotiate, the local WDB and CEO must request re-negotiation during the fourth quarter of the program year by contacting the Office of Workforce Development. The re-negotiation will be based upon three quarters of data and information on economic conditions of the local area and characteristics of the participants to be served.

The local WDBs may apply performance measures to service providers that differ from the performance indicators that apply to the local area. These performance measures must be established after considering:
1. The established local negotiated levels;
2. The services provided by each provider; and
3. The populations the service providers are intended to serve.

B. Implications of Performance

Per 20 C.F.R. 679.260(b), the State defines the criteria for “exceeds,” “meets,” and “fails” performance within the Combined State Plan. The current Combined State Plan approved by the U.S. Department of Labor contains these definitions.

Performance failure may lead to one or more of the following:

1. Technical Assistance
   If a local area fails to meet the negotiated levels of performance for the primary indicators of performance in the Adult, Dislocated Worker, or Youth programs in any program year, technical assistance must be provided by the State. Technical assistance may include:
   a. Assistance in the development of a performance improvement plan;
   b. The development of a modified local or regional plan; or
   c. Other actions designed to assist the local area in improving performance.

2. Reorganization Plan
   If the local area fails to meet the negotiated levels of performance for the same primary indicators of performance for the Adult, Dislocated Worker, and Youth programs for a third consecutive program year, the State must take corrective actions. The corrective actions must include the development of a reorganization plan under which the State:
   a. Requires the appointment and certification of a new local workforce development board;
   b. Prohibits the use of eligible providers and OhioMeansJobs center partners that have been identified as achieving poor levels of performance; or
   c. Takes such other significant actions as the State determines appropriate.

The local WDB and CEO for a local area that is subject to a reorganization plan may appeal to the State to rescind or revise the reorganization plan not later than 30 days after receiving notice of the reorganization plan. The State must make a final decision within 30 days after receipt of the appeal.

The local WDB and CEO may appeal the final decision of the State to the Secretary of Labor not later than 30 days after receiving the decision from the State. Any appeal of the State’s final decision must be submitted by certified mail, return receipt requested to:

Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington D.C. 20210

Upon receipt of the appeal from the local WDB and CEO, the Secretary of Labor must make a final decision within 30 days. In making this determination, the Secretary of Labor may consider any comments submitted by the State in response to the appeals.
The decision by the State on the appeal becomes effective at the time it is issued and remains in effect unless the Secretary of Labor rescinds or revises the reorganization plan.

3. **Local area designation**

   All local areas, which were initially designated by the State, must be subsequently designated as a prerequisite to receiving adult, dislocated worker, and youth funding. As part of the subsequent designation criteria, local areas must perform successfully. If a local area does not perform successfully, the local area will not be eligible for subsequent designation.

   WIOAPL No. 16-04, *Local Workforce Development Area Subsequent Designation*, provides the guidance for subsequent local area designation.

C. **Serving Participants for Outcomes**

   WIOA focuses on serving individuals with barriers to employment and seeks to ensure access to quality services for these populations. The Adult, Dislocated Worker, and Youth programs provide a pathway to self-sufficiency for its participants, including those who are low-income individuals, public assistance recipients, and those who are basic skills deficient. Section 134(c)(3)(E) of WIOA establishes a priority requirement with respect to funds allocated to the local area for adult program employment and training activities. Furthermore, youth program eligibility requires the youth to have a barrier to employment. The emphasis in WIOA is to prioritize services to those individuals who have the most barriers to employment and to provide those individuals with the opportunity to benefit from employment and training services.

   The performance accountability system takes into account this prioritization of services to those who have the most barriers. The Statistical Adjustment Model (SAM) is used to make adjustments in the State and local negotiated levels of performance at the end of the program year, to account for the actual characteristics of participants served. The Statistical Adjustment Model uses characteristics of participants to adjust the level of performance. These characteristics include indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency.

   Local areas should focus their attention of serving individuals with barriers to employment by providing:

   1. Individualized employment plans (or in the youth program, individual service strategies) to assist the individual with focusing on the pathway to training and employment opportunities.
   2. Supportive services to support individuals in overcoming barriers to participation in the WIOA Adult, Dislocated Worker, or Youth program.
   3. Appropriate services to overcome the individual’s barrier(s);
   4. Educational and training opportunities to increase the individuals skills and obtain a credential;
   5. Job readiness services to obtain unsubsidized employment;
   6. Job retention services, including the use of follow-up services, to assist the individual in maintaining employment.

D. **Documentation**

   Ohio’s Workforce Case Management System (OWCMS) is the system of record for all eligibility and service delivery to WIOA participants, including reporting outcome data. This system will report information that is necessary for program performance evaluation:
1. Employment;
2. Postsecondary school enrollment;
3. Earnings;
4. Skill gains;
5. Credential attainment; and

Rule 5101:9-30-04 of the Administrative Code mandates that OWCMS be used to report WIOA participants, case management, and performance information. Local areas are required to document all of the following in OWCMS within 30 days:

1. **Participant characteristics**: local areas must document all the characteristics of an individual as this information will be used in, and may influence, the Statistical Adjustment Model.

2. **Participant barrier data**: local areas must make certain that all participant barrier data is entered in OWCMS to demonstrate that the local area is providing services for the hardest to serve populations. This will influence the local area’s performance outcomes and performance targets.

3. **Adult, Dislocated Worker, and Youth Program services**: local areas must document all services and the outcomes of the services in OWCMS. In particular, employment, job placement, education, earnings, credential attainment, and measurable skill gain data must be documented.

VII. **Performance for PY 2016 and PY 2017**

The Department of Labor recognizes that States will need time to make modifications to their data systems to fully implement the data elements and definitions to comply with the new WIOA performance requirements. While States are required to collect data beginning July 1, 2016, the Department of Labor also acknowledges that Ohio may not be able to report data in the early quarters of PY 2016 because of system readiness and capability to submit data.

Additionally, certain indicators were designated as baseline indicators for PY 2016 and PY 2017, due to insufficient observations to construct a statistical model for those indicators at this time. Baseline indicators are indicators for which Ohio will not propose an expected level of performance in the State Plan submission for PY 2016 and PY 2017 and will not need to come to an agreement with the Department of Labor on negotiated levels of performance. The selection of primary indicators for the designation as a baseline indicator is determined based on the likelihood of Ohio having adequate data on which to make a reasonable determination of an expected level of performance.

Baseline indicators will not be used in the end of the year performance calculations and will not be used to determine failure to achieve adjusted levels of performance for purposes of sanctions. Baseline indicators for the WIOA Adult, Dislocated Worker, and Youth programs include:

1. Measurable Skill Gains;
2. Effectiveness in Serving Employers; and
3. For the Youth program only, Median Earnings.

For both PY 2016 and PY 2017, Ohio will negotiate goals for all non-baseline indicators. Indicators to be negotiated are:

1. Employment in the second quarter after exit;
2. Employment in the fourth quarter after exit;
3. For the Adult and Dislocated Worker programs only, median earnings in the second quarter after exit; and

4. Credential attainment rate.

Performance outcome data for PY 2016 will not be available for any primary indicator except measurable skill gains. However, measurable skill gains is considered a baseline indicator and there is no expected level of performance. Therefore, the State and local areas will not be held to negotiated levels of performance in PY 2016.

In PY 2017, the State and local areas will be held to the negotiated performance level for all primary indicators, except those that have been determined baseline indicators.

The State and local areas will be held to negotiated levels of performance for all primary indicators beginning in PY 2018.

VIII. **Technical Assistance**

Ongoing support, guidance, training and technical assistance on the WIOA performance accountability system are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. **References**

OAC 5101:9-30-04.
USDOL, Training and Employment Guidance Letter No. 26-15 Operating Guidance for the Workforce Innovation and Opportunity Act, Negotiating Performance Goals for the Workforce Innovation and Opportunity Act (WIOA) Title I Programs and the Wagner-Peyser Employment Service as amended by Title III, for Program Year (PY) 2016 and 2017 (June 29, 2016).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers, (June 6, 2017).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-04, Local Workforce Development Area Subsequent Designation, (October 26, 2016).

**Rescissions**


ODJFS, [Workforce Investment Act Guidance Letter No. 9](#), WIA Credentials, (December 5, 2003).

ODJFS, [Workforce Investment Act Transmittal Letter No. 9](#), WIA Credential Guidance, (December 5, 2003).
WIOAPL 17-01 (Mandate Use of OhioMeansJobs.com for Labor Exchange Activities)

Workforce Innovation and Opportunity Act Policy Letter No. 17-01

September 15, 2017

To: Workforce Innovation and Opportunity Act Local Workforce Development Board Directors, Fiscal Agents, OhioMeansJobs Center Operators, ODJFS Program Delivery Managers, and ODJFS Employment Services Staff

From: Cynthia C. Dungey, Director

Subject: Mandate Use of OhioMeansJobs.com for Labor Exchange Activities

I. Purpose

The purpose of this policy is to outline the requirements for using OhioMeansJobs.com to deliver labor exchange services in the workforce delivery system.

II. Effective Date

Immediately

III. Background

OhioMeansJobs.com is Ohio’s labor exchange system aiding employers in finding qualified talent and helping job seekers in Ohio locate employment throughout the state. The labor exchange system is defined as job search, placement assistance, career counseling, and resume posting activities for job seekers and appropriate recruitment, job posting, resume searching, and other business services for employers seeking assistance with their talent acquisition needs. The system also supports job seekers with job matching capability as well as information including, but not limited to, career choices, job fairs, and training opportunities.

Under section 6301.03 of the Revised Code, OhioMeansJobs.com must be utilized for labor exchange activities. The Ohio Department of Job and Family Services (ODJFS) and local workforce development areas (local areas) provide labor exchange activities and services for job seekers and employers. Staff from ODJFS and local programs and partners under contract or agreement with ODJFS that receive federal or state funding from ODJFS are required to solely utilize OhioMeansJobs.com for labor exchange activities for the state of Ohio.

Labor exchange activities for the purposes of this policy are job search, placement assistance, career counseling, resume posting, job posting, and resume searching. Any placement activity must continue to be recorded in Ohio’s Workforce Case Management System (OWCMS).

This policy impacts staff who deliver Workforce Innovation and Opportunity Act (WIOA) services, Wagner-Peyser Employment Services, Veteran Services, and other partner programs in the American Job Centers (which in Ohio are called OhioMeansJobs centers). This policy may also impact the county departments of job and family services, county children services agencies, and county child support enforcement agencies.

IV. Definitions

Business services: Services made available through the OhioMeansJobs centers to local employers, specifically labor exchange activities and labor market information. These services are requested by the employer and include the following:

1. Appropriate recruitment and other business services on behalf of employers; and

2. Provision of workforce and labor market employment statistical information, including the provision of accurate information relating to local, regional, and national labor market areas, including job vacancy listings, job skills that employers desire, and in-demand occupations.
**Job lead:** Providing information to an individual of companies that typically have positions available for a type of job.

**Job seeker:** Any customer seeking labor exchange services who comes into the OhioMeansJobs center or registers on OhioMeansJobs.com.

**Labor exchange services:** Services provided to job seekers and businesses which include job search, placement assistance, and career counseling for job seekers, and appropriate recruitment, job posting, resume searches, and other business services conducted on behalf of businesses in the local area.

**Employment Services staff:** ODJFS state merit staff who provide Wagner-Peyser, migrant and seasonal farm worker (MSFW), and Veteran Services.

**Referral:** A job seeker who is directed by the OhioMeansJobs center to employment opportunities with a particular business.

**Social media:** Websites and other online means of communication that are used by large groups of people to share information and to develop social and professional contacts. Examples of social media include, but are not limited to, OhioMeansJobs center websites, Facebook, Twitter, Instagram, Linked-In, and Snap Chat.

### V. Requirements

#### A. Responsibilities of the OhioMeansJobs Center Operators, WIOA Staff, and Employment Services Staff

WIOA and Employment Services staff who provide services for job seekers and employers must have access to the labor exchange functions in OhioMeansJobs.com and be knowledgeable in the use of the OhioMeansJobs.com system.

1. **Labor Exchange Activities with the Job Seekers**

   WIOA and Employment Services staff will ensure that all job seekers seeking services through the WIOA, Wagner-Peyser, Veteran Services, and MSFW programs will be registered in OhioMeansJobs.com and use this website for posting resumes and obtaining information on job openings.

   Staff from these programs must ensure all job seekers will be able to obtain meaningful and equivalent access to job matching services (including individuals with disabilities or individuals who have limited English proficiency or are computer-illiterate), in posting a resume, obtaining information on job openings posted in the job matching system, obtaining labor market information, and accessing employment and training opportunities, by one or more of the following methods:

   a. Registering directly over the Internet using the Internet-based job matching system at [www.ohiomeansjobs.com](http://www.ohiomeansjobs.com); or

   b. Calling or visiting any OhioMeansJobs Center in Ohio.

   In support of existing federal and state policy, the Jobs for Veterans Act requires that, with all things being equal, veterans receive priority over non-veterans to any and all program services, including resume searches and job referrals. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-20.1, Priority of Service for Veterans and Eligible Spouses, provides additional information regarding prioritizing services for veterans and eligible spouses.

2. **Labor Exchange Activities with Employers**

   WIOA and Employment Services staff providing labor exchange and business services will advise employers on the use of OhioMeansJobs.com to maximize their efforts in
hiring qualified applicants. Employers may either post job opportunities on OhioMeansJobs.com themselves or seek the assistance of WIOA or ES staff.

WIOA and Employment Services staff and/or any OhioMeansJobs center operator staff performing the job order functions must be trained and knowledgeable in the use of the OhioMeansJobs.com system. No referrals may be made to employers of potential job seekers unless WIOA, Wagner-Peyser, veteran, or MSFW program staff has verified that the resumes of the potential job seekers are on OhioMeansJobs.com. Furthermore, it is critical that staff ensure job orders meet federal and state laws and requirements since this is a publicly funded labor exchange system.

B. Use of Social Media

Many local areas utilize social media to advertise events, such as job fairs; to search job openings; or to post job openings.

1. Labor Exchange Activities

There must be a hyperlink on the social media to direct job seekers and businesses back to OhioMeansJobs.com to view the job opportunity (i.e., specific job order on OhioMeansJobs.com), to conduct job searches, or to post job openings.

Social media cannot include a feature to post jobs only locally, and must instead include a feature to capture information from an employer to assist staff with posting a job on OhioMeansJobs.com.

If social media contains a section about “employer services,” it must include a section dedicated to promoting the job posting feature available on OhioMeansJobs.com as a self-service option.

2. Career Fairs

Career fairs and other events must be placed on OhioMeansJobs.com prior to advertisement on social media. Information regarding the event may be accessed by the job seeker or business through a hyperlink to OhioMeansJobs.com.

3. Social Media Naming

A consistent naming mechanism must be used on all social media. Except for Twitter, this naming mechanism is Ohiomeansjobs (County Name). For Twitter, the naming mechanism is OMJ (County Name). Handle names on social media must also use this naming mechanism; there shall be no abbreviations.

The OhioMeansJobs center may continue to use an existing naming mechanism or handle name on social media as long as the naming mechanism/handle name meets the requirements stated above (with the exception of capitalization requirements).

Additionally, if a social media’s requirements change involving the naming mechanism/handle name, ODJFS may, at its sole discretion, amend the requirements for naming mechanism/handle name to reflect these changes.

4. Social Media Profiles

ODJFS will provide profile pictures to all OhioMeansJobs centers; these provided profile pictures must be used on all social media, except for websites.

VI. Technical Assistance

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIOAQNA@JFS.OHIO.GOV.

VII. References
Workforce Innovation and Opportunity Act, §§ 134 and 303, Public Law 113-128.
20 CFR Parts 653 and 678.
29 U.S.C. 3101 et seq.
R.C. 6301.03

Rescission
To: Chief Elected Officials, Local Workforce Development Board Chairpersons, Local Workforce Development Board Directors, and OhioMeansJobs Center Operators

From: Kimberly Hall, Director

Subject: Development of the Memorandum of Understanding for the Workforce Delivery System

I. Purpose

The purpose of this policy is to define the requirements for the development and negotiation of the local workforce development area’s (local area’s) memorandum of understanding (MOU) for the delivery of workforce and other related services.

II. Effective Date

Immediately

III. Rescission

Workforce Innovation and Opportunity Act (WIOA) Policy Letter No. 16-11, Development of the Memorandum of Understanding for the Workforce Delivery System (July 19, 2017).

IV. Background

Integrated service delivery is the cornerstone of the public workforce delivery system, through which workforce development, educational, and other human resource services are made available to individuals and employers at the American Job Centers (in Ohio, called OhioMeansJobs centers) in each local workforce development area. Management of the local service delivery system is to be shared among states, local workforce development boards (WDB), core Workforce Innovation and Opportunity Act (WIOA) programs, required partners, additional partners, and OhioMeansJobs center operators.

WIOA sets forth the requirements for local workforce development systems. Section 121 of WIOA identifies the required partner programs and defines the responsibilities of local WDBs, chief elected officials (CEOs), and partners in the operation of the local workforce development system. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-09.1, Establishment of the Workforce Delivery System, provides the guidance for determining required and non-required OhioMeansJobs center partners.

Required partner programs must make services available through local workforce development systems and local OhioMeansJobs centers. Required partners must also use a portion of their program funds to maintain local workforce development systems in proportion to the use of and relative benefit received. This includes costs of infrastructure and other costs associated with the operation of the local workforce development system.

Local WDBs, CEOs, and local required and additional partners in each local area must enter into good-faith negotiations to determine:

1. How services and activities will be coordinated;
2. Which services will be shared;
3. How proportionate shares of costs will be determined, allocated, and funded;
4. How referrals will be made; and
5. How all parties will ensure that programs, services, and activities are accessible to all individuals, including those with barriers to employment and individuals with a disability. Once consensus is reached among the parties, the result of negotiations will be written into a local WIOA memorandum of understanding (MOU).

A. Content of Memorandum of Understanding

The MOU is a product of local discussion and negotiations and should serve as a blueprint that clearly outlines the roles and responsibilities of the local WDB, local partners, and partners’ staff in the local workforce development system. Each provision of the MOU should be written in a manner that provides any new local WDB member, CEO, local partner, or other stakeholder a clear understanding of how services are coordinated through the local workforce development system and how infrastructure and additional costs are funded. Each local area MOU must comply with section 121(c) of WIOA and Part C of 20 C.F.R. 678.

The Ohio Department of Job and Family Services (ODJFS) has developed an MOU template which each local area shall use that includes the WIOA-required and other provisions listed below. The template may be modified as needed so long as each modification is clearly identified and provided to ODJFS at least ten business days prior to submission of the MOU. The local WDB or its designee has the responsibility of completing each provision to clearly and accurately reflect the terms and costs agreed-upon during the negotiation process.

The MOU template is available on the Office of Workforce Development’s website at http://jfs.ohio.gov/owd/OneStops/owd-one-stops-mou-home.stm. Any required modifications to the template must be completed by February 1 for the subsequent fiscal year.

The contents of each provision should include the details described below:

1. Services – A description of all services provided through the local workforce development system and a description of how the local WDBs and partners will coordinate delivery of those services, which should also include:
   a. Identification of each comprehensive, affiliate, and specialized OhioMeansJobs center where local partners will make services and activities available;
   b. A description of how each partner program will make services and activities available, including:
      i. The number of partner staff members who will maintain a physical presence at each OhioMeansJobs center;
      ii. The number of hours per week the staff members will deliver services at each OhioMeansJobs center; and
      iii. How partners that do not maintain a physical presence will provide a direct linkage to services through technology and/or training of a different program partner who is physically present at the OhioMeansJobs center.
   c. Identification of the services that will be shared by local partner’s staff members;
   d. Contribution of the partner staff time;
   e. The number of staff and staffing hours per week required for delivery of each shared service;
   f. The method to determine each local partner’s proportionate share of staff time to contribute;
   g. Each local partner’s proportionate share of staff time; and
   h. How coverage will be ensured in the event of absences.
2. **Operating Costs** – A description of how the local WDB and local partners will fund infrastructure and additional costs associated with the operation of the local workforce development system. The MOU should include:
   a. A budget that identifies all infrastructure and additional costs;
   b. A description of the method used to determine each partner’s proportionate share of costs;
   c. A description of the method used to allocate costs to each partner;
   d. A description of the resources each partner will use to fund its proportionate share of costs, which may be cash, noncash, or third party in-kind contributions;
   e. A description of a method to reconcile budgeted costs to actuals on at least a quarterly basis and to distribute updated budgets to the local partners;
   f. A description of the state infrastructure funding mechanism that will be implemented should the parties fail to reach consensus on local infrastructure costs through the local infrastructure funding mechanism (local negotiation of infrastructure costs); and
   g. The local infrastructure funding agreement (IFA), which will be incorporated by reference to the MOU.

The MOU template includes the necessary components of the IFA (e.g., effective time period of agreement, identification of partners, modification process). The MOU budget attached to the MOU includes both the infrastructure costs and additional costs necessary to operate the OhioMeansJobs center. The infrastructure costs are the costs listed in the Facility, Resource Room, Equipment and Supplies, Outreach and Marketing, and Miscellaneous Costs Pools of the budget attachment. The additional costs are the costs listed in the Center Personnel Cost Pool of the operating budget. By signing the MOU, the parties (i.e., local WDB, CEO(s), and partners) also agree to the terms of the IFA, including the modification and review process to ensure equitable benefit among partners, process to resolve issues when consensus cannot be reached, operating budget, and projected partner contributions.

The IFAs must be executed and incorporated into the MOUs in accordance with the United States Department of Labor (USDOL) Training & Employment Guidance Letter (TEGL) 17-16 and WIOAPL No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs.

3. **Accessibility** - The days and hours of operation for each center, with access to programs, services, and activities in the comprehensive center(s) to be made available during regular business days. A description of the methods that will be used to ensure that both general access to services and programmatic accessibility to services, including via technology and materials available through the workforce delivery system, will address the needs of job seekers, youth, Limited English proficient (LEP) individuals, and individuals with barriers to employment, such as individuals with disabilities. A description of any service hours available beyond regular business hours or the plan in place to accommodate schedules of individuals who cannot visit a center during regular business hours.

4. **Methods of Referral** - A clear description of the methods and processes for referral of customers to appropriate services and activities between the OhioMeansJobs center operator(s) and partner programs.

5. **Agreement Period** - The effective beginning and ending dates for the MOU and for the MOU renewal period. The MOU period may cover an annual or biennial period that is consistent with the state fiscal year and state fiscal biennium. The MOU must include an
assurance that the MOU will be reviewed by local WDBs and partners no less than every two years.

6. **Amendment Process**- A detailed description of a process to amend the MOU, including the events or circumstances that will necessitate an amendment to the MOU.

7. **Termination/Separation**- A description of the conditions that will prompt termination of the MOU as well as the process and potential consequences for separation by a partner.

8. **Confidentiality**- A description of how the parties will ensure confidential information will be safeguarded in accordance with the applicable federal and state laws and regulations applicable to each partner program.

9. **Dispute Resolution**- The process the parties will follow to resolve disputes in the event of an impasse during the negotiation process or implementation of MOU provisions.

10. **Safety & Security** – Identification of each partner staff member at the management level who will serve as the point of contact for each respective partner program in regard to safety and personnel issues.

11. **Signatories**- Signatures of the CEO(s), local WDB director, and authorized representatives of all required and additional partner programs that are making services available through the local workforce development system. Each signature line must identify the partner entity and the partner program. The name of each authorized representative must be printed below the signature line.

12. **Negotiation**- Documentation of the negotiation process and efforts to reach consensus.

   The MOU may contain any other provisions agreed to by the parties that are consistent with WIOA title I, the authorizing statutes and regulations of the OhioMeansJobs center partner programs, and the WIOA regulations.

**B. Memorandum of Understanding Negotiations**

WIOA emphasizes full and effective partnerships between local WDBs, chief elected officials, and OhioMeansJobs center partners. Local WDBs, CEOs, and all required and additional partners must enter into good-faith negotiations. Local WDBs, CEOs, and partners may also request assistance from the State agency responsible for administering the partner program, or other appropriate parties on other aspects of the MOU.

Should the parties reach an impasse, the local WDB or partners must report it to the State and provide the documentation of the negotiation efforts, including the MOU and/or budget if either have been developed and signed by one or more parties.

If the impasse is not resolved by May 31 of the state fiscal year immediately preceding the state fiscal year in which the renewal will take effect, including failure to agree upon infrastructure funding costs, the State will be required to implement the state infrastructure funding mechanism and determine each local required partner’s proportionate share of infrastructure costs in accordance with WIOAPL 16-06.

Should a required partner file an appeal to dispute the amount determined by the State per WIOAPL 16-06, and the appeal results in an adjustment of that partner’s share of infrastructure costs, the MOU, budget, and IFA, if developed, must be amended to reflect that adjustment. Copies of the updated MOU, budget, and IFA must be sent to all parties to the MOU in a timely manner.

The IFA must be executed by May 31 of the state fiscal year immediately preceding the state fiscal year in which it will take effect, consistent with the MOU execution deadline.

**C. Amendment and Renewal**
WIOA requires that all MOUs contain provisions that specify when amendment of the MOU is required during the agreed upon MOU period, and the process and time-frame for renewal of the MOU at the conclusion of each MOU period.

1. **Amendment** - The circumstances listed below will require an amendment to the MOU. The local WDB and partners may agree to additional circumstances that will prompt the amendment process.
   a. The addition or removal of a partner entity;
   b. A change of OhioMeansJobs center operator, the physical location of an OhioMeansJobs center, or the administrative structure of a local workforce development system; and/or
   c. A change that significantly alters negotiated terms of the MOU, such as changes in shared services, service delivery, referral methods, or cost sharing.

   Amendments that do not impact negotiated terms (e.g., the addition of another partner entity that decreases partner costs and does not impact shared services or the separation of a partner that has no impact on shared costs or services) need only be signed by authorized representatives of the local WDB, the CEOs, and the affected partner(s).

   Any changes to the negotiated terms that affect all parties must be signed by all parties and may require re-negotiation.

   Quarterly reconciliation of the budget and IFA will not require a formal amendment to the MOU.

   Regardless of whether all parties have to sign, the MOU should include a process to ensure that all parties receive advance notice of the amendment and are provided the opportunity to comment. The MOU should also include a provision to ensure that each party receive a copy of each executed MOU amendment and updated budget and/or IFA, as applicable, within a timely manner.

   An amendment to the IFA will not require an amendment to the MOU. However, an IFA amendment will require signatures of the local WDB, CEO(s), and all local required partners.

2. **Renewal** – All local WDBs and partners are required to renew the local MOU no less than every two years, with an MOU period that is concurrent with the state fiscal biennium (beginning July 1 of even-numbered years and ending June 30 of the subsequent odd-numbered year). Annual MOUs must be renewed concurrent with the state fiscal year (beginning July 1 of the current fiscal year and ending June 30 of the subsequent state fiscal year).

   Regardless of whether the MOU period is annual or biennial, all parties must meet at least once annually, preferably during the third quarter of each state fiscal year to review the current MOU, budget, and IFA to determine if re-negotiation of terms and/or costs is necessary.

   If the parties agree that changes are necessary to an MOU executed for a biennial period, the MOU may be amended instead of renewed—unless the changes are so substantial that re-negotiation of the MOU is necessary, in which case the existing MOU must be terminated upon the execution of a new MOU.

   For the renewal MOU period, the IFA must be negotiated and executed concurrently with the MOU.

   All renewal MOUs must be executed by May 31 of the state fiscal year immediately preceding the state fiscal year in which it will take effect. If an MOU is in process, but all signatures will not be acquired by the May 31 deadline, local WDBs must provide written notice to ODJFS that signatures are forthcoming and provide an estimated date of submission. In order to avoid delay in payment of partner contributions, MOUs should be executed prior to the end of the current MOU period.
V. Definitions

Access: To each partner program and its services means:
1. Having a program staff member physically present at the OhioMeansJobs center;
2. Having a staff member from a different partner program physically present at the OhioMeansJobs center appropriately trained to provide information to customers about the programs, services, and activities available through partner programs; or
3. Making available a direct linkage through technology to program staff who can provide meaningful information or services.

Additional costs: Non-infrastructure expenditures related to the operation of the OhioMeansJobs center delivery system which must include the costs incurred by each required partner to provide its career services through the delivery system and may include shared operating costs and shared service costs.

Affiliate OhioMeansJobs center: A site that makes available to job seeker and employer customers one or more of the programs, services, and activities of the OhioMeansJobs Center’s partners.

Comprehensive OhioMeansJobs center: A physical location where job seeker and employer customers can access the programs, services, and activities of all required OhioMeansJobs center partners.

Core program: A program which is authorized under one of the following program provisions:
1. Chapters 2 and 3 of subtitle B of WIOA Title I, relating to youth workforce investment activities and adult and dislocated worker employment and training activities;
2. Title II, relating to adult education and literacy activities;
3. Sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq), relating to employment services; and

Direct linkage: Providing customers in an OhioMeansJobs center with direct connection by phone or through real-time Web-based communication to a program staff member who can provide meaningful program information or services to the customer.

Disability: Per section 29 C.F.R. 38.4(q) means, with respect to an individual:
1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

Good faith: Negotiations that include fully and repeatedly engaging partners, transparently sharing information, and maintaining a shared focus on the needs of the customer.

Infrastructure costs: Non-personnel costs that are necessary for the general operation of an OhioMeansJobs center, including rental costs of the facility, utilities, maintenance, supplies, equipment, technology to facilitate access, and outreach activities.

Infrastructure Funding Agreement (IFA): An agreement between local WDBs, CEOs, and local required partners that identifies local infrastructure costs and includes provisions for determination of partner shares and resolution of infrastructure funding-related issues that may arise, which, in Ohio, is incorporated in the MOU and any budget-related attachments to it that are generated from the state’s designated financial reporting system.
Limited English proficient (LEP) individual: Per section 29 C.F.R. 38.4(hh) means an individual whose primary language for communication is not English and who has a limited ability to read, speak, write and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

Local WIOA Memorandum of understanding (MOU): An agreement developed and executed between the local WDB, with the agreement of the CEO(s) and the OhioMeansJobs center partners, relating to the operation of the OhioMeansJobs delivery system in the local area.

Local workforce development system: A system under which entities responsible for administering separate workforce development, education, and human services programs collaborate to create a seamless system of service delivery that will enhance access to the programs' services and improve long term employment outcomes for individuals and businesses.

OhioMeansJobs center partner: An entity described in section 121(b)(1) or (b)(2) of WIOA that participates in the operation of the local workforce development system.

Partner Entity: The grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area.

Programmatic accessibility: Per section 29 C.F.R. 38.4(tt) means policies, practices, and procedures providing effective and meaningful opportunity for persons with disabilities to participate in or benefit from aid, benefits, services, and training.

Specialized centers: Centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters.

VI. State Requirements

A. Negotiation Assistance

Upon request by local WDBs and/or local partners, ODJFS will provide assistance to support negotiation efforts and/or to help resolve disputes that may arise. ODJFS will also coordinate with state-level WIOA partners as appropriate to mediate with local parties in an effort to resolve the impasse.

The State Board, called the Governor’s Executive Workforce Development Board (GEWDB), and the State agencies overseeing the partner programs may consult with the appropriate Federal agencies regarding impasse situations related to issues other than infrastructure funding, if ODJFS and state partner intervention fails to resolve local disputes.

The Governor or the GEWDB must report the failure to resolve an impasse to the Secretary of Labor and to the head of any other Federal agency with responsibility for oversight of a partner’s program.

B. Good Partnership

ODJFS, in its role as the WIOA State Agency, collaborates with other state-level partner agencies to demonstrate the State’s commitment to good partnership by ensuring that staff members participating in negotiations have the knowledge and information needed to be well prepared for the negotiation process.

The state-level partners also agree to make the best efforts to delay any staffing or other significant changes to the beginning of the next state fiscal year and to work with local WDBs to minimize the impact of any such changes on the other local partners. The state partner agencies in addition to ODJFS include:

1. Ohio Department of Higher Education (Adult Education and Family Literacy Act and Carl D. Perkins Career and Technical Education Act);
2. Opportunities for Ohioans with Disabilities (Vocational Rehabilitation),
3. Ohio Development Services Agency (Community Services Block Grant), and
4. Ohio Department of Aging (Senior Community Service Employment Program).

VII. **Local Workforce Development Area Requirements**

A. **Convening Negotiation Meeting**

Prior to the beginning of the program year starting the biennial budget, the local WDB must provide all partners at the OhioMeansJobs center(s) the opportunity to participate in a negotiation process to determine how to fund the costs of the local area’s OhioMeansJobs center(s) in the upcoming two program years. On an annual basis, the local WDB must also provide partners the opportunity to review the current MOU, budget, and IFA to determine if renegotiation of terms and/or costs is necessary and if the MOU needs amendment or renewal. Local WDBs and partners must enter into good faith negotiations.

The negotiation process must include at least one annual meeting, preferably during the third quarter of the current state fiscal year, to discuss the MOU. The local WDB and/or its director must schedule this meeting and any additional meetings that are necessary. The purpose of the meeting is to assess the partner’s roles, responsibilities, benefits, and ability to assist in funding the OhioMeansJobs center(s).

The following topics should be covered during the negotiation meeting:

1. Partner’s presence or access to partner services in the OhioMeansJobs center.
2. Partner’s role(s) and responsibility(ies) in the OhioMeansJobs center.
3. Coordination of partner services offered through the local workforce development system.
4. Partner benefit to having a presence in the OhioMeansJobs center (e.g., effortless referral to partner program(s), cost savings, etc.).
5. Identification of infrastructure and additional costs.
6. Methods to determine each partner’s portion of infrastructure and additional costs and to allocate costs to partners.
7. Resources each partner will use to fund its proportionate share of costs, which may be cash, noncash, or third-party in-kind contributions.

It may take more than one negotiation meeting to reach agreement, prepare the partner’s portion of the MOU based upon these negotiations, and obtain the partner’s signature.

It is strongly encouraged that the parties reconvene once the MOU, budget, and IFA are developed to review and sign the documents. If this isn’t feasible, the local WDB must develop a process for local partner review and signature of the MOU, budget, and IFA that ensures each partner has the opportunity to review each document and return the documents with signatures and allows sufficient time for local WDBs to gather all signatures and submit the documents to ODJFS.

B. **MOU Submission**

1. **Local WDB Review**- Prior to submission to partners for signature, the local MOU and budget should be reviewed thoroughly to ensure:
   a. All parties to the MOU are identified in the introduction and are included on the signature pages of the MOU;
   b. All negotiated terms have been included in the MOU in the proper location and are clearly and accurately stated;
c. Any revisions to the MOU template have been identified and communicated to ODJFS and approved by authorized ODJFS officials;
d. The signature lines for each partner, identify:
i. The partner entity;
ii. The partner program; and
iii. The individual authorized to sign the MOU on behalf of the partner entity, by name and by title;
e. The budget accurately lists the agreed upon costs and cost methodologies; and
f. All other attachments are accurate and up to date.

2. Partner review- Once the local WDB review is complete, the MOU, budget generated as a report from the State’s designated financial reporting system, and all attachments should then be distributed to all local required and additional partners for review and signature, excluding the ODJFS signature which is obtained later. If the parties cannot reconvene to sign the MOU in person, the local WDB shall ensure the parties are given instructions to return the complete MOU (MOU, signature pages and attachments) by a specified date that allows the local WDB sufficient time to collect all signatures and complete a final review prior to submission to ODJFS.

3. Submission- Once all local signatures have been collected, each MOU should be reviewed to ensure that no further changes or redactions have been made. Once the final review is complete, the MOU, the signature pages, and all attachments should be combined into a single pdf document and submitted to ODJFS, Office of Workforce Development (OWD) at WIOAMOU@jfs.ohio.gov. Any additional attachments may be sent separately from the MOU.

If the pdf is too large to be emailed or if mailing the MOU is preferred by the local WDB, a hard copy of the MOU, the signature pages, and all attachments may be sent to: ODJFS, Office of Workforce Development, Grants Administration, 4020 East 5th Avenue, Columbus, Ohio 43219.

4. ODJFS Review and Signature- Upon receipt of each MOU, the OWD Grants Administration Unit will conduct a review to ensure all of the following:

a. All parties are identified;
b. All known required partners in the local area have signed the MOU and negotiated their share of infrastructure and additional costs;
c. All local signatures are included (ODJFS will not process any MOU that does not have the signatures of all parties);
d. All required provisions are clearly written, and
e. The cost-sharing provisions are consistent with the budget attachment and correctly entered in the financial reporting system.

Upon completion of its review, Grants Administration will obtain the signature of an ODJFS official, who will sign for ODJFS in its role as the required partner, and the signature of the ODJFS Assistant Director, who will sign for ODJFS in its role as the administrative and oversight agency for WIOA programs and the statewide workforce development system and as the required partner.

Grants Administration will send a pdf copy of each fully signed and executed MOU with all attachments to each local WDB. Local WDBs or their designees have the responsibility to
ensure that the CEOs and each local partner receive a copy of the fully executed MOU and attachments.

VIII. **Technical Assistance**
ODJFS, OWD Grants Administration will provide guidance and technical assistance to local WDBs and partners on matters relevant to the MOU, including, but not limited to:

- Negotiation preparation;
- MOU and/or IFA development;
- Compliance with WIOA and all applicable federal and state laws, regulations, and policies; and
- Any other matters that may arise.

Requests for technical assistance may be sent to OWD, Grants Administration at WIOAMOU@jfs.ohio.gov.

IX. **References**
Workforce Innovation and Opportunity Act, §§ 121 and 188, Public Law 113-128.
29 C.F.R. § 38.4.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-09.1, Establishment of the Workforce Delivery System.
I. Purpose

The purpose of this policy is to outline the requirements for certifying the workforce delivery system in the local workforce development area.

II. Effective Date

Immediately

III. Background

The workforce delivery system is the cornerstone of the public workforce development system. It is designed to increase access to, and opportunities for the employment, education, training, and support services that individuals need to succeed in the labor market, particularly those with barriers to employment. The workforce delivery system brings together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to the programs' services and improves long-term employment outcomes for individuals receiving services.

The Workforce Innovation and Opportunity Act (WIOA) requires the State and local workforce development areas (local areas) to create and maintain a workforce delivery system that enhances the range and quality of education and workforce development services that employers and individuals can access. The system must include at least one comprehensive physical American Job Center (in Ohio, called OhioMeansJobs center) in each local area. The system may also have additional arrangements to supplement the comprehensive center. These arrangements include an affiliate center, a network of affiliate centers and/or specialized centers.

Section 121(g) of WIOA and 20 C.F.R. 678.800 requires the local workforce development board (WDB) to certify the OhioMeansJobs centers every three years. Per section 121(g) of WIOA, the State, in conjunction with chief elected officials and local WDBs, must establish objective criteria and procedures for local WDBs to use when certifying the OhioMeansJobs centers. 20 C.F.R. 678.800 allows the local WDB to establish additional criteria, or set higher standards for service coordination, than those established by this policy. If the local WDB elects to do so, the local WDB must review and update the criteria every two years as part of the local plan update process established in WIOAPL No. 16-03, Regional and Local Planning.

The certification criteria sets standard expectations for the provision of seamless customer-focused employment, training, and related services that help individuals overcome barriers to employment and job retention. The certification process is important in establishing a minimum level of quality and consistency of services in OhioMeansJobs centers across Ohio.

As it is the responsibility of the local WDB to certify the OhioMeansJobs centers within the local area, the local WDB must evaluate the centers to ensure the local area's workforce system is quality-focused, employer-driven, customer-centered, and tailored to meet the needs of the local area's and planning region's economies. A high-quality workforce system is only accomplished by providing all customers access to OhioMeansJobs centers that connect them with the full range of services available in their communities, whether they are looking for jobs, building basic educational or occupational skills, earning a postsecondary certificate or degree, or obtaining guidance on how to
make career choices, or if they are businesses and employers seeking skilled workers. It is the local WDB's responsibility to ensure their workforce system is of high quality. Furthermore, local WDBs must certify OhioMeansJobs centers in order to be eligible to use infrastructure funds in the state funding mechanism as outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs.

IV. Definitions

Affiliate OhioMeansJobs center: A site that makes available to job seeker and employer customers one or more of the programs, services, and activities of the OhioMeansJobs center's partners.

Comprehensive OhioMeansJobs center: A physical location where job seeker and employer customers can access the programs, services, and activities of all required OhioMeansJobs center partners.

OhioMeansJobs center operator: One or more entities designated or certified under section 121(d) of WIOA.

OhioMeansJobs center partner: An entity described in section 121(b)(1) or (b)(2) of WIOA that participates in the operation of the workforce delivery system.

Specialized centers: Centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters.

Workforce delivery system: A system under which entities responsible for administering separate workforce development, education, and other human services programs collaborate to create a seamless system of service delivery that will enhance access to the programs' services and improve long term employment outcomes for individuals and businesses.

V. State Requirements

A. Establishment of Certification Criteria

Per section 121(g) of WIOA, the State, in conjunction with chief elected officials and local WDBs, shall establish objective criteria and procedures for local WDBs to use when certifying the OhioMeansJobs centers. Local WDBs shall use this criteria to evaluate the OhioMeansJobs centers and workforce delivery system for effectiveness, including customer satisfaction, physical and programmatic accessibility, and continuous improvement.

The established criteria used to conduct certification reviews is based on:

1. Standards relating to service coordination among partners within the OhioMeansJobs centers and the workforce delivery system;
2. Factors relating to effectiveness, accessibility, and improvement of the workforce delivery system;
3. Achievement of negotiated federal performance measures;
4. Integration of available services; and
5. Meeting the needs of local employers and participants.

All OhioMeansJobs centers must comply with applicable physical and programmatic accessibility requirement, as set forth in 29 C.F.R. Part 38, the implementing regulations of section 188 of WIOA.

B. Phases of Certification

The workforce delivery system and the OhioMeansJobs center certification will be conducted in 3 phases:

1. "Must Meet" Standards;
2. Quality Assurance Review; and
3. Ongoing Continuous Improvement Review.

1. Phase 1 - "Must Meet" Standards:

   The certification review of the 9 categories of standards will be conducted using the JFS 08044, OhioMeansJobs One-Stop System Certification Phase 1 Measures Checklist (renamed to OhioMeansJobs System Certification Standards Checklist). The standards are applied to one comprehensive center in each local workforce development area. These standards include:

   - American with Disabilities Act (ADA) requirements, including completion of the ADA checklist and the OhioMeansJobs center operator's participation in training specific to serving individuals with disabilities, such as "Windmills" training or "At Your Service" web-based training at http://jfs.ohio.gov/owd/WorforceProf/Serving-with-Disabilities.stm;
   - Postings and plans, including Civil Rights postings, Emergency Action plan, and Limited English Proficiency (LEP) plan;
   - The physical site of the OhioMeansJobs center and its staff;
   - The functionality of the resource room;
   - OhioMeansJobs and American Job Network branding;
   - Operations of the center, including registration and referral process, accessibility, and employer services team;
   - Coordination with partner programs;
   - Customer services, including center hours of operation, customer feedback process, and website; and
   - Notification, identification, and accessibility of Veteran programs.

   For the comprehensive center to be certified, all standards must have been met.

2. Phase 2 - Quality Assurance Review:

   **Comprehensive OhioMeansJobs Center(s)**

   Benchmarks for critical success factors are used to review the quality of the OhioMeansJobs system for each comprehensive OhioMeansJobs center in the local area. These benchmarks support the certification criteria. The comprehensive center(s) within the local area must meet a certain level of excellence to attain phase two certification. The benchmarks include:

   - OhioMeansJobs Center Provides Excellent Customer Service to Job Seekers, Workers, and Businesses.
     1. Reflects a welcoming environment to all customer groups who are serviced by the OhioMeansJobs centers;
     2. Develops, offers, and delivers quality business services;
     3. Improves the skills of the job seeker and worker customers;
     4. Creates opportunities for individuals at all skill levels and levels of experience;
     5. Provides career services that motivate, support, and empower customers; and
     6. Values skill development.

   - OhioMeansJobs Center Reflects Innovative and Effective Service Design.
     1. Utilizes an integrated and expert intake process for all customers entering the OhioMeansJobs centers;
     2. Designs and implements practices that actively engage industry sectors;
3. Combines traditional labor exchange services with strategic talent development to employers;

4. Ensures meaningful access to all customers;

5. Includes both virtual and center-based service delivery for job seekers, workers, and employers; and

6. Incorporates innovative and evidence-based delivery models.

  1. Reflects the establishment of robust partnerships among partners;
  2. Organizes and integrates services by function;
  3. Develops and maintains integrated case management systems;
  4. Develops and implements operational policies;
  5. Uses common performance indicators; and
  6. Trains and equips OhioMeansJobs center staff.

Within each of the 18 benchmarks are a total of 33 critical success factors. The JFS 08029, OhioMeansJobs System Certification Benchmarks Metrics, will be used to score the center against the 18 benchmarks and 33 critical success factors.

In order for the local WDB to certify the comprehensive OhioMeansJobs center, the center must have attained a score of 64 on the JFS 08029, meaning the center meets at least 80% of the critical success factors. If the minimum score is not obtained, the comprehensive center is not certified, and the OhioMeansJobs center operator, in collaboration with the local WDB, must develop a corrective action plan to identify issues and timelines for meeting requirements.

**Affiliate OhioMeansJobs Center(s)**

Also part of this certification phase, a review of all affiliate OhioMeansJobs centers in the local area will be conducted using the JFS 08044. The center(s) must meet all the standards.

3. Phase 3 – Ongoing Continuous Improvement:

**Comprehensive OhioMeansJobs Center(s)**

Progress for obtaining quality assurance and continuous improvement is reviewed in Phase 3. Additionally, the 18 benchmarks and 33 critical success factors, using the JFS 08029, will be assessed.

In order to be certified, the comprehensive center must have attained a score of 64 on the JFS 08029. If the minimum score is not obtained, the comprehensive center is not certified, and OhioMeansJobs center operator, in collaboration with the local WDB, must develop a corrective action plan to identify issues and timelines for meeting requirements.

**Affiliate OhioMeansJobs Center(s)**

All affiliate OhioMeansJobs centers in the local area are reviewed by using the JFS 08044. The center(s) must meet all the standards. Any center not meeting these standards will not be recognized as an OhioMeansJobs center within the Ohio workforce delivery system.

A quality workforce delivery system means that all OhioMeansJobs centers in the local area are committed to the provision of quality service delivery. Therefore, in addition to
the review of the JFS 08044, the local WDB may choose to assess the affiliate OhioMeansJobs centers within the local area by completing the JFS 08029.

C. Tools and Resources Provided for Assistance in the Certification Process

Due to the comprehensive nature of phases 2 and 3, and in the interest of ensuring all OhioMeansJobs center partners have input, the following tools will be made available to the local WDBs for use in gathering and receiving data pertinent to the JFS 08029.

- **Mystery Shopping**: ODJFS will coordinate random mystery shopping training and activities around the state. The shoppers will come from partner agencies, third party entities, and available staff. For reference the Mystery Shopping standard feedback form can be found at: [http://jfs.ohio.gov/owd/WIOA/implementation.stm](http://jfs.ohio.gov/owd/WIOA/implementation.stm). This activity will be an ongoing effort and results will be distributed quarterly to those local areas affected.

- **Partner Assessment**: A partner assessment feedback document is available for use by state and local partner agencies to solicit anonymous feedback from staff to share with local areas throughout phase 2 and 3 certification periods. The partner assessment will be available at [http://jfs.ohio.gov/owd/WIOA/implementation.stm](http://jfs.ohio.gov/owd/WIOA/implementation.stm). The certification review team may use this qualitative information when rating the JFS 08029.

- **Website Review**: A review of each OhioMeansJobs center website(s) in the local area should be conducted. Items to be reviewed include, but are not limited to, whether the website:
  1. Contains updated information;
  2. Is easy to navigate;
  3. Has proper branding per WIOAPL No. 16-07, OhioMeansJobs and American Job Center Branding;
  4. Adheres to WIAPL No. 13-04, Mandated Use of OhioMeansJobs.com for Job Placement and Referral Activities in Ohio or any future version of this policy;
  5. Includes all required information pertaining to the provision of services to veterans per WIOAPL No. 15-20, Priority of Service for Veterans and Eligible Spouses; and
  6. Contains information on all programs.

A standard website review tool will be available at: [http://jfs.ohio.gov/owd/WIOA/implementation.stm](http://jfs.ohio.gov/owd/WIOA/implementation.stm) for use by review teams. This tool is also being planned to be used by state partners to provide feedback to the local areas.

VI. Local Workforce Development Area Requirements

A. Certification Review Team

Each local WDBs will establish a certification review team that is comprised of members from the local workforce development community.

This certification review team is responsible for managing the certification process through desk and on-site reviews of the local system and making a recommendation to the local board regarding certification. The local WDB has the discretion in forming the review team as far as size and membership. Suggestions for a review team composition are:

1. Selecting individuals with the following backgrounds:
   a. A representative from the local WDB;
2. Contracting with an independent third party with workforce development knowledge and experience.

The OhioMeansJobs center operator shall not be a member of the certification review team. As the contracted overseeing entity of the OhioMeansJobs center, it will be a conflict of interest to serve on the review team or participate in any part of the certification review process.

A representative from the local WDB should be identified as the primary contact person for the OhioMeansJobs center operator to coordinate certification activities and lead the review team.

OhioMeansJobs center partner programs may participate in the certification process by providing relevant data and activities to be used by the local certification review teams.

B. Phases of Certification

The workforce delivery system and the OhioMeansJobs center certification will be conducted in 3 phases.

1. Phase 1 – “Must Meet” Standards:

   Each local WDB and the certification review team must conduct a review of 9 categories of standards using the JFS 08044. All standards must be met to pass certification. This review will be conducted for at least one comprehensive OhioMeansJobs center in the local area. The phase 1 review was due by June 30, 2016 and has been completed by all local WDBs.

2. Phase 2 – Quality Assurance Review:

   Comprehensive Center(s)

   The local WDB and the certification review team conducts a review of each comprehensive OhioMeansJobs center in the local area using benchmarks for critical success factors established by the State, in conjunction with the local WDBs.

   Prior to the on-site review of the comprehensive OhioMeansJobs center(s), the certification review team may conduct the following activities as part of the quality assurance review:

   - A desk review of initial materials prior to the on-site visit; and
   - Review of information from any additional tools that are provided by the State.

   During the on-site visits, the certification review team will review benchmarks and critical success factors used to review the quality of the OhioMeansJobs center. The JFS 08029 will be used to score the center against these benchmarks and critical success factors.

   The certification review team will also complete the JFS 08028, OhioMeansJobs System Balanced Scorecard. This balanced scorecard summarizes the ratings of the benchmarks and critical success factors that were analyzed during the on-site visit.

   In order for the local WDB to certify the comprehensive OhioMeansJobs center, the center must have attained a score of 64 on the JFS 08029, meaning the center meets at least 80% of the critical success factors.

   If the minimum score is not obtained, the comprehensive center is not certified, and the local WDB must develop a corrective action plan to identify issues and timelines for meeting requirements.

   Affiliate Center(s)
The certification review team will also review of all affiliate OhioMeansJobs centers in the local area by using the JFS 08044. The center(s) must meet all the standards. Any center not meeting these standards will not be recognized as an OhioMeansJobs center within the Ohio workforce delivery system.

The local WDB and the certification review team must take into consideration the number of OhioMeansJobs center in the local area. For those local areas with a large number of centers, the quality assurance review will take more time to complete. Local WDBs may resolve this issue with the establishment of multiple certification review teams or staggering the on-site reviews over a period of time.

Phase 2 certification must be completed by June 30, 2019.

3. Phase 3 – Ongoing Continuous Improvement:

Comprehensive Center(s)

The JFS 08028, the JFS 08029, and corrective action plan, if previously completed, are used to monitor progress on addressing any deficiencies identified in the previous certification. They are also used to assess progress on quality assurance and continuous improvement for each comprehensive OhioMeansJobs center in the local area.

The JFS 08029 and JFS 08028 should be completed by summarizing the ratings of the benchmarks and critical success factors for the certification period. In order to be certified, the comprehensive center must have attained a score of 64 on the JFS 08029.

If the minimum score is not obtained, the comprehensive center is not certified, and the local WDB must develop a corrective action plan to identify issues and timelines for meeting requirements.

Affiliate Center(s)

The certification review team will also review of all affiliate OhioMeansJobs centers in the local area by using the JFS 08044. The center(s) must meet all the standards.

If the local WDB choses to do so, the certification review team may assess the affiliate OhioMeansJobs centers within the local area by also completing the JFS 08029.

Phase 3 certification must be completed by June 30, 2022 and every three years thereafter.

C. Certification by the Local Workforce Development Board

The local WDB will review and the recommendation from the certification review team regarding certification of the comprehensive center(s) and affiliate center(s).

Once the comprehensive and/or affiliate center is certified, the local WDB will issue a written notice to the OhioMeansJobs center operator(s) indicating that the certification requirements have been met.

If either a comprehensive or an affiliate OhioMeansJobs center is not certified by the local WDB, the local WDB will issue a written reason for non-certification and the actions expected from the OhioMeansJobs center operator(s) to become certified. The certification review team will follow up with the OhioMeansJobs center operator(s) to ensure activities are completed to become certified and report results back to the local WDB.

D. Submission of Certification to the State

The local WDB notifies the Ohio Department of Job and Family Services upon completion of each certification phase by sending the completed JFS 08028 for the comprehensive center(s), the JFS 08044 for the affiliate center(s), and documentation of the local WDB’s approval of the review to OWDPOLICY@jfs.ohio.gov.
The JFS 08028 for each comprehensive center in each local area will be posted on the Office of Workforce Development (OWD) website to provide customers with information and to track certification progress.

If an affiliate center is not certified, OWD will indicate such and will not recognize the center on the OWD website.

E. Changes in the location of the OhioMeansJobs center

The local WDB and the certification review team must conduct a review of the OhioMeansJobs center using the JFS 08044 if there is any change in the location of the OhioMeansJobs center regardless of the certification phase and the type of center.

The local WDB will submit the JFS 08044 and documentation of local WDB approval to OWD at OWDPOLICY@jfs.ohio.gov.

VII. Technical Assistance

Ongoing support, guidance, training and technical assistance on the development of the workforce system as well as the maintenance of the system and the certification of the system are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, §§ 106, 121, and 188, Public Law 113-128.

ADA Amendments Act of 2008 (ADAAA), Public Law 110-325.

20 C.F.R. §§ 678.300-440, 678.600-635, 678.800, and 683.295.

2 C.F.R. Parts 200 and 2900.

USDOL, Training and Employment Guidance Letter No. 4-15, Vision for the One-Stop Delivery System under the Workforce Innovation and Opportunity Act (WIOA), (August 13, 2015).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-03, Regional and Local Planning, (October 21, 2016).


Attachment A: Phase One Instructions and JFS 08044, OhioMeansJobs System Certification Standards Checklist

Attachment B: Phase Two Instructions and JFS 08029, OhioMeansJobs System Certification Benchmark Metrics

Attachment C: JFS 08028, OhioMeansJobs System Balanced Scorecard
WIOAPL 16-09.1 (Establishment of the Workforce Delivery System)

Workforce Innovation and Opportunity Act Policy Letter No. 16-09.1

April 1, 2019

To: Chief Elected Officials, Local Workforce Development Board Chairpersons, Local Workforce Development Board Directors, and OhioMeansJobs Center Operators

From: Kimberly Hall, Director

Subject: Establishment of the Workforce Delivery System

I. **Purpose**

The purpose of this policy is to outline the requirements for establishing a workforce delivery system in the local workforce development area.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

The workforce delivery system is the cornerstone of the public workforce development system. It is designed to increase access to, and opportunities for the employment, education, training, and support services that individuals need to succeed in the labor market, particularly those with barriers to employment. The workforce delivery system brings together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to the programs' services and improves long-term employment outcomes for individuals receiving services. This is accomplished by providing all customers access to high-quality American Job Centers (in Ohio, called OhioMeansJobs centers) that connect them with the full range of services available in their communities, whether they are looking to find jobs, build basic educational or occupational skills, earn a postsecondary certificate or degree, or obtain guidance on how to make career choices, or are businesses and employers seeking skilled workers.

The Workforce Innovation and Opportunity Act (WIOA) requires the State and local workforce development areas (local areas) to create and maintain a workforce delivery system that enhances the range and quality of education and workforce development services that employers and individuals can access. The system must include at least one comprehensive physical OhioMeansJobs center in each local area. The system may also have additional arrangements to supplement the comprehensive center. These arrangements may include an affiliated site or a network of affiliated sites and specialized centers.

Under WIOA, OhioMeansJobs centers and partner staff strive to:

- Provide job seekers with the skills and credentials necessary to secure and advance in employment with wages that sustain themselves and their families;
- Provide access and opportunities to job seekers, including individuals with barriers to employment to prepare for, obtain, retain, and advance in high-quality jobs and high-demand careers;
- Enable businesses and employers to easily identify and hire skilled workers and access other human resource assistance;
- Participate in rigorous evaluation that support continuous improvement of the OhioMeansJobs centers by identifying which strategies work better for different populations; and
• Ensure that high-quality integrated data inform decisions made by policy makers, employers, and job seekers.

A. **OhioMeansJobs Centers**

   **Comprehensive OhioMeansJobs Centers**

   A comprehensive OhioMeansJobs center is a physical location where job seeker and employer customers can access the programs, services, and activities of all OhioMeansJobs partners. Wagner-Peyser Act employment services must be co-located in the comprehensive center. The workforce delivery system must include at least one comprehensive physical center in each local area.

   A comprehensive OhioMeansJobs center must provide all of the following:

   1. At least one WIOA Title I staff person physically present during operating hours, in a center that provides career services;
   2. Access to training services;
   3. Access to any employment and training activities carried out under section 134(d) of WIOA;
   4. Access to programs and activities carried out by OhioMeansJobs center partners; and
   5. Workforce and labor market information.

   Customers must have access to these programs, services, and activities during regular business days at a comprehensive OhioMeansJobs center. The local workforce development board (WDB) may establish other service hours at other times to accommodate the schedules of individuals who work on regular business days. Centers not open outside of the regular business hours should have a plan for how they will provide services to individuals who cannot visit a center during regular business hours.

   All comprehensive OhioMeansJobs centers must be physically and programmatically accessible to individuals with disabilities.

   **Affiliate OhioMeansJobs Centers**

   Local WDBs may also choose to operate access points to services in addition to the comprehensive OhioMeansJobs centers. If used by the local area as part of the service delivery strategy, affiliate OhioMeansJobs centers must be implemented in a manner that supplements and enhances customer access to services.

   An affiliate OhioMeansJobs center is an access point in addition to the comprehensive center in each local area. These centers are created to supplement and enhance customer access to services. This type of center makes available to job seeker and employer customers one or more of the OhioMeansJobs partners’ programs, services, and activities. It does not need to provide access to every required OhioMeansJobs center partner program.

   Public libraries may provide an additional access point that local WDBs can use as an affiliate OhioMeansJobs center. In addition to offering public computers and internet access for job seekers and individuals, many libraries also provide space for businesses to host career fairs and networking events. As trusted institutions within their communities, libraries are often at the frontline of employment and training related inquiries. Additionally, libraries also serve school-aged youth who can use public resources for career and education planning, along with the traditional adult job seeker.

   Affiliate OhioMeansJobs centers allow for more flexibility in terms of the services partner programs provide. These centers do not need to provide access to every required OhioMeansJobs center partner program.
If Wagner-Peyser Act Employment Services are part of an affiliate OhioMeansJobs center, the center must include at least one or more other partners with a physical presence of combined staff more than 50 percent of the time the center is open. In other words, if Wagner Peyser Act Employment Services are located in an affiliate center, there must be staff of at least one other partner in that center who are physically present more than 50 percent of the time the center is open.

All affiliate OhioMeansJobs centers must be physically and programmatically accessible to individuals with disabilities.

Specialized Centers

Based on local workforce needs, the local WDB, in conjunction with the partners and OhioMeansJobs center operator(s), may determine that a specialized center is more appropriate to serve a particular population and may choose to operate a specialized center.

Specialized centers are centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters. These centers may be time-limited transition centers for rapid response activities or centers located within the prison system. The specialized center must be connected to the comprehensive OhioMeansJobs center or any appropriate affiliate OhioMeansJobs center. Wagner-Peyser Act employment services cannot stand alone in a specialized center; a specialized center must include other programs besides Wagner-Peyser Act employment services.

B OhioMeansJobs Center Partners

Required Partners

Section 121(b)(1)(B) of WIOA identifies 13 programs which are required partners in the local workforce delivery system unless that program is not available or provided in the local area.

The required partners are as follows:

1. Programs authorized under Title I of WIOA including:
   a. Adults;
   b. Dislocated Workers;
   c. Youth;
   d. Job Corps;
   e. YouthBuild;
   f. Native American programs; and
   g. Migrant and Seasonal Farmworker (MSFW) programs;

2. Wagner-Peyser Act Employment Service;

3. Adult Education and Family Literacy Act (AEFLA), (in Ohio, called Aspire);

4. Vocational Rehabilitation;

5. Senior Community Service Employment Program (SCSEP);

6. Career technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act;

7. Trade Adjustment Assistance (TAA) activities;

8. Jobs for Veterans State Grants (JVSG);

9. Employment and training activities carried out under the Community Services Block Grant (CSBG);
Employment and training activities carried out by the Department of Housing and Urban Development (HUD);

Programs authorized under State unemployment compensation laws;

Programs authorized under the Second Chance Act; and

Temporary Assistance for Needy Families (TANF).

If approved by the local WDB and the chief elected official(s), other workforce development programs, including Federal, State, or local programs and programs in the private sector, may serve as additional partners in the workforce delivery system. Additional partners may include, but are not limited to:

1. Employment and training programs administered by the Social Security Administration (SSA), including Ticket to Work and Self-Sufficiency Program;

2. Employment and training programs carried out by the Small Business Administration (SBA);

3. Supplemental Nutrition Assistance Program (SNAP) employment and training programs;

4. Client Assistance Program authorized under the Rehabilitation Act of 1973;

5. Programs authorized under the National and Community Service Act of 1990; and

6. Other appropriate Federal, State, and local programs, including, but not limited to, employment, education, and training programs provided by public libraries or in the private sector.

Program Entity Serving as the OhioMeansJobs Center Partner

The program entity carrying out the activities as the OhioMeansJobs center partner is the grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area. The term, "entity," does not include the service providers that contract with, or are subrecipients of, the local entity. For programs that do not include local entities, the responsible State agency must be the partner.

If more than one entity carries out the same required program in the local area, each such entity is considered a separate and distinct required partner that must carry out the roles and responsibilities of a required partner as defined below.

For the Aspire program, the Ohio Department of Higher Education (ODHE), as the State entity responsible for administering or supervising Aspire policy, has delegated its responsibilities to one or more eligible providers in each local area.

For the Vocational Rehabilitation program, the entity that carries out the program is the designated State agency (known as Opportunities for Ohioans with Disabilities) that is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, for individuals with disabilities.

The national programs under WIOA Title I include Job Corps, the Native American program, YouthBuild, and MSFW programs. The entity that carries out the Native American program, YouthBuild, and MSFW program is the grantee of those respective programs. The entity for Job Corps is the Job Corps center. Also, for programs authorized under the Second Chance Act, the grantee is the entity carrying out the program in the local area.

For the Carl D. Perkins Career and Technical Education Act, the entity that carries out the program is the eligible recipient or recipients at the postsecondary level, or a consortium of eligible recipients at the postsecondary level in the local area.

For the Wagner-Peyser Act Employment Service, TAA, JVSG, and unemployment compensation, ODJFS is the entity carrying out the program in each local area.
Collaboration with the Public Libraries

Community partnerships are critical to supporting the local area’s workforce development system. WIOA explicitly identifies public libraries as potential partners by acknowledging a library’s ability to provide an expansive array of services, including boosting skills through online learning, improving individuals’ English literacy and digital literacy, and helping individuals find work. Libraries are also recognized as important providers of Federally-supported training and employment for adult education and literacy. Public libraries provide and/or support employment, education, and training programs. Each OhioMeansJobs center must collaborate with at least one public library to facilitate coordination of workforce programs and education and job training resources.

Roles and Responsibilities of the Required Partners

Jointly funding services is a necessary foundation for an integrated service delivery system. All partner contributions to the costs of operating and providing services within the workforce delivery system must be proportionate to the benefits received and also must adhere to the partner program’s Federal authorizing statute and to the Federal cost principles requirement that costs be reasonable, necessary, and allocable.

The required partner’s initial priority in the OhioMeansJobs center is their responsibility to implement their program. Once this priority has been established, the partner may participate in shared services, such as overseeing the resource room, assisting with greeting customers, etc., unless prohibited from performing such roles by authorizing statute, order of selection, or other mandates specific to the partner program. These shared services must be adequately distributed amongst all partners able to participate in each activity.

Each required partner must:

1. Provide access to its programs or activities through the workforce delivery system, in addition to any other appropriate locations;

2. Use a portion of funds made available to the partner’s programs, to the extent consistent with Federal law authorizing the partner’s program and with Federal cost principles and audit requirements in 2 C.F.R. Parts 200 and 2900 (requiring, among other things, that costs are allowable, reasonable, necessary, and allocable), to:
   a. Provide applicable career services; and
   b. Work collaboratively with the State and local WDBs to establish and maintain the workforce delivery system. This includes jointly funding the OhioMeansJobs center infrastructure through partner contributions that are based upon:
      i. A reasonable cost allocation methodology as outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs;
      ii. Federal cost principles and audit requirements; and
      iii. Any local administrative cost requirements in the Federal law authorizing the partner’s program;

3. Enter into a Memorandum of Understanding (MOU) with the local WDB relating to the operation of the workforce delivery system;

4. Participate in the operation of the workforce delivery system consistent with the terms of the MOU, requirements of authorizing laws, Federal cost principles, and all other applicable legal requirements; and

5. Provide representation on the State and local WDBs as required and participate in Board committees as needed.
The infrastructure costs of a comprehensive OhioMeansJobs center are the responsibility of all partners, irrespective of whether a partner is physically located in the center. The purpose for requiring all partner programs to contribute to the costs of the delivery system is to assist in maintaining a system that meets the needs of the local area, reduces duplication of services, and minimizes overhead. Each partner program’s contribution is to be calculated based upon that partner’s proportionate use of the OMJ Center and relative benefits received by that partner and its program participants that result from participation in the integrated service delivery system.

C Services Provided in the OhioMeansJobs Centers

Career Services

The OhioMeansJobs centers provide services to individual customers based on the individual’s needs, including the seamless delivery of multiple services to individual customers. Career services provide local areas with the flexibility to target services to the needs of the job seeker. There is no required sequence of services.

It is important to note that “providing” career services in the OhioMeansJobs centers does not mean that each required partner must provide these services directly on-site. However, it does mean that some career services must be provided directly on-site at the OhioMeansJobs center. Career services may be provided through access to OhioMeansJobs partner programs and activities may be delivered in one of three ways:

1. Having a program staff member physically present at the OhioMeansJobs center;
2. Having a staff member from a different partner program physically present at the OhioMeansJobs center and appropriately trained to provide information to job seekers about programs, services, and activities available through all partner programs; or
3. Making available a direct linkage, as defined in this policy, through technology to a program staff member who can provide meaningful information or services.

Simply scheduling the customer for a future appointment, referring the customer to another physical location to access services, or providing a phone number, brochure, or link to a static web page does not meet the standard of high-quality meaningful information and services being provided in a timely manner as envisioned by WIOA.

The OhioMeansJobs center must ensure that the center is both physically and programmatically accessible to individuals with disabilities. Physical accessibility requires the OhioMeansJobs centers to be accessible and usable by individuals with disabilities, including compliance with all applicable federal accessible design standards. All partners must be able to operate ADA adaptive equipment and know how to access language interpretive services, including sign language. The OhioMeansJobs center must use a language interpretive service and may not use partner program staff or the customer’s family members who happen to be bi-lingual for language translation.

There are three types of career services: basic career services; individualized career services, and follow-up career services. While basic career services are to all participants, individualized career services are available to participants after the OhioMeansJobs center staff have determined that such services are required to retain and obtain employment.

The applicable career services to be delivered by required OhioMeansJobs Center partners are as follows and are authorized to be provided under each partner’s programs:

1. **Basic career services** must be made available and must include the following services, as consistent with allowable program activities and Federal cost principles:
   a. Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
b. Outreach, intake, orientation, and provision of information and other services available through the OhioMeansJobs center. For the TANF program, individuals must be provided with the opportunity to initiate an application for TANF assistance and non-assistance benefits and services, which may be implemented through the provision of paper application forms or links to the application web site;

c. Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skill gaps), and supportive service needs;

d. Labor exchange services, including:
   i. Job search and placement assistance, and, when needed by an individual, career counseling including provision of information on in-demand industry sectors and occupations and provision of information on nontraditional employment; and
   ii. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the workforce delivery system;

e. Provisions of referrals to and coordination of activities with other programs and services, including programs and services within the workforce delivery system and, when appropriate, other workforce development programs;

f. Provision of workforce and labor market information, including the provision of statistical information relating to local, regional, and national labor market areas, including:
   i. Job vacancy listings in labor market areas;
   ii. Information on job skills necessary to obtain the vacant jobs listed; and
   iii. Information relating to local in-demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs;

g. Provision of performance information and program cost information on eligible providers of education, training, and workforce services by program and types of providers;

h. Provision of information, in usable and understandable formats and languages, about how the local area is performing on local performance accountability measures;

i. Provision of information, in usable and understandable formats and languages, relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance;

j. Assistance in establishing eligibility for financial aid assistance for training and education programs not provided under WIOA; and

k. Provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation.

2 Individualized career services must be made available if determined appropriate in order for an individual to obtain or retain employment and must be available at all the comprehensive OhioMeansJobs centers. These services include the following:

a. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include:
Diagnostic testing and use of other assessment tools; and
ii. In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

b. Development of an individual employment plan;
c. Group counseling;
d. Individual counseling;
e. Career planning;
f. Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct services to prepare individuals for unsubsidized employment or training;
g. Internships and work experiences linked to careers;
h. Workforce preparation activities;
i. Financial literacy;
j. Out-of-area job search assistance and relocation assistance; and
k. English language acquisition and integrated education and training programs.

3 Follow-up services must be provided, as appropriate, including counseling regarding the workplace, for participants in adult or dislocated worker workforce investment activities who are placed in unsubsidized employment, for up to 12 months after the first day of employment.

TANF agencies must identify employment services and related support being provided by the TANF program, within the local area, that qualify as career services and ensure access to them via the local OhioMeansJobs center.

Business Services

Local areas must establish and develop relationships and networks with large and small employers and their intermediaries. The provision of business services supports the local workforce system to meet the needs of businesses in the local area. To assist in this, applicable OhioMeansJobs center partners develop, offer, and deliver quality business services that assist businesses in overcoming the challenges of recruiting, retaining, and developing talent for the regional economy. To support area employers most effectively, OhioMeansJobs center staff, including designated partner staff, must:

1. Have a clear understanding of industry skill needs;
2. Identify appropriate strategies for assisting employers, and coordinate business service activities across the OhioMeansJobs center partner programs, as appropriate; and
3. Incorporate an integrated and aligned business services strategy among OhioMeansJobs center partners to present a unified voice for the OhioMeansJobs center in its communications with employers.

Certain services must be made available to local employers, specifically labor exchange activities and labor market information. These services include:

1. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the workforce delivery system; and
2. Provision of workforce and labor market employment statistical information, including the provision of accurate information relating to local, regional, and national labor market areas, including:
   a. Job vacancy listings in labor market areas;
   b. Information on job skills necessary to obtain the vacant jobs listed; and
   c. Information relating to local in demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs.

Customized business services may be provided to employers, employer associations, or other such organizations. These services are tailored for specific employers and may include:

1. Customized screening and referral of qualified participants in training services to employers;
2. Customized services to employers, employer associations, or other such organizations, on employment-related issues;
3. Customized recruitment events and related services for employers including targeted job fairs;
4. Human resource consultation services, including but not limited to assistance with:
   a. Writing/reviewing job descriptions and employee handbooks;
   b. Developing performance evaluation and personnel policies;
   c. Creating orientation sessions for new workers;
   d. Honing job interview techniques for efficiency and compliance;
   e. Analyzing employee turnover;
   f. Creating job accommodations and using assistive technologies; and/or
   g. Explaining labor and employment laws to help employers comply with discrimination, wage/hour, and safety/health regulations;
5. Customized labor market information for specific employers, sectors, industries, or clusters; and
6. Other similar customized services.

Local areas may also provide other business services and strategies that meet the workforce investment needs of area employers, in accordance with partner programs' statutory requirements and consistent with Federal cost principles. These business services may be provided through effective business intermediaries working in conjunction with the local WDB, or through the use of economic development, philanthropic, and other public or private resources in a manner determined appropriate by the local WDB. All business services and strategies must be reflected in the regional and/or local plan. Allowable activities, consistent with each partner's authorized activities, include, but are not limited to:

1. Developing and implementing industry sector strategies;
2. Customized assistance or referral for assistance in the development of a registered apprenticeship program;
3. Developing and delivering innovative workforce investment services and strategies for area employers, which may include career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or other employer use, and other effective initiatives for meeting the workforce investment needs of area employers and workers;
4. Assistance to area employers for managing reductions in force in coordination with rapid response activities and with strategies for the aversion of layoffs;

5. The marketing of business services to appropriate area employers, including small and mid-sized employers; and

6. Assisting employers with accessing local, State, and Federal tax credits.

Fee-for-services are not required to be charged to employers. Additionally, fees may not be charged for the following services:

1. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the workforce delivery system; and

2. Provision of workforce and labor market information, including the provision of statistical information relating to local, regional, and national labor market areas, including:
   a. Job vacancy listings in labor market areas;
   b. Information on job skills necessary to obtain the vacant jobs listed; and
   c. Information relating to local in demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs.

A fee may be charged for customized business services. Additionally, business services and strategies that meet the workforce investment needs of area employers may be provided on a fee-for-services basis or through the leveraging of economic development, philanthropic, and other public and private resources in a manner determined appropriate by the local WDB.

The local WDB may examine the services provided compared with the assets and resources available within the workforce delivery system and through its partners to determine the appropriate cost structure for services, if any.

Any fees earned are recognized as program income and must be expended by the partner in accordance with the partner program’s authorizing statute, implementing regulations, and Federal cost principles identified in Uniform Guidance.

Role of Unemployment Insurance Program in the OhioMeansJobs Center

Many areas of opportunity exist for improved integration of the Unemployment Insurance (UI) program into the workforce delivery system, including, but not limited to:

1. Helping UI claimants access the full range of services, including basic career and labor exchange services, both on-line and in-person through the OhioMeansJobs centers.

2. Ensuring claimants meet eligibility requirements, including searching and registering for work, participating in reemployment services, and ensuring that a feedback loop exists to provide UI program staff with information about any potential eligibility issue.


4. Connecting UI claimants to reemployment services.

5. Providing effective services to veterans who file for benefits under the Unemployment Compensation for Ex-Service members (UCX) program.

6. Undertaking strategies to promote entrepreneurship.

7. Ensuring claimants are fully notified of deadlines and eligibility requirements associated with Trade Adjustment Allowances (TRA), Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) programs.
WIOA requires, as a career service, the provision of both information and assistance to
individuals regarding the filing of an UI claim. In the context of providing assistance with UI
claims, “meaningful assistance” means, per 20 C.F.R. 678.430:

1. Providing assistance on-site using staff who are well trained in unemployment
   compensation claims filing and the rights and responsibilities of claimants; or
2. Providing assistance by phone or via other technology, as long as the assistance is
   provided by trained and available staff and within a reasonable time.

“Meaningful assistance” means having staff well-trained in UI claims filing and claimant rights
and responsibilities. This assistance requirement only encompasses helping individuals
navigate Ohio's claims filing process and providing the individual with general information on
their responsibilities as a claimant. These functions are informational in nature and not directly
related to determining the claimant's eligibility for benefits. Staff providing this assistance may
be Wagner-Peyser or other OhioMeansJobs center partner staff who have been properly trained
to provide this type of assistance and service.

Only UI state merit staff may, in person at the OhioMeansJobs center or remotely, answer
questions, provide advice, or make decisions that could affect a claimant’s UI eligibility.

In the OhioMeansJobs centers, meaningful assistance to individuals seeking assistance in filing
a UI claim includes the following activities:

1. Computers must be made available for individuals to file a claim for unemployment
   insurance or to file an appeal of their claim.
2. Telephones must be made available with access to the toll-free phone numbers
   established by the Office of Unemployment Insurance Operations for individuals to use
   when seeking assistance from UI merit staff in filing claims or appeals. Individuals must
   not simply be referred to a general information phone number.
3. Posters providing claimants information on how to file unemployment insurance claims
   must be visible in the resource room.
4. Additional documents that provide assistance to claimants must be available in the
   resource room.
5. Resource room staff must be trained and have the knowledge to navigate Ohio's claims
   filing processes and to provide general information to the claimant on their responsibilities
   as a claimant.

Meaningful assistance may be provided by other technology. It must be a technology approved
by the State that enables trained staff to provide the assistance. Examples of technology that
enables remote assistance include live web chat applications or other similar technology.

D. OhioMeansJobs Center Operators

The OhioMeansJobs center operator is the entity or consortium of entities that coordinates the
service delivery of required OhioMeansJobs center partners and service providers. The local
WDB must select the OhioMeansJobs center operator through a competitive process at least
every 4 years. WIOAPL No. 16-08, Procurement of the OhioMeansJobs Center Operator,
provides guidance to the local WDBs for the procurement of the OhioMeansJobs center
operator.

Role of the OhioMeansJobs Center Operator

At a minimum, the OhioMeansJobs center operator must coordinate the service delivery of the
required partners and service providers. These roles may include, but are not limited to the
following:
1. Conduct partner meetings;
2. Implement local WDB policies;
3. Coordinate partner services;
4. Ensure shared services within the OhioMeansJobs center are adequately distributed amongst all partners;
5. Oversee employer services;
6. Manage technological resources (e.g., local system website);
7. Require effective internal tracking requirements and referral processes;
8. Coordinate the resource room and computer labs;
9. Report performance and budget information to the local WDB on a regular basis; and
10. Ensure all partners are able to operate ADA adaptive equipment and know how to access language interpretive services, including sign language.

In defining the roles of its OhioMeansJobs center operator, the local WDB must consider how it will empower the operator to maintain an orderly, professional, and compliant work environment in the OhioMeansJobs center(s), such as by granting the Operator:

1. Functional supervision over partner staff with the partner’s voluntary agreement, including staff whose supervisor may be located elsewhere;
2. Authority to monitor and report to the WDB each partner’s level of participation in the operation of the workforce delivery system consistent with the terms of the MOU and each partner’s adherence to OhioMeansJob center operating protocols; or
3. Autonomy to launch initiatives, plan events, and establish operating protocols with the local WDB’s expectation of, and support for, partner cooperation.

Local WDBs may establish additional roles of the OhioMeansJobs center operator, including, but not limited to:

1. Coordinating service providers across the workforce delivery system;
2. Being the primary provider of services within the center;
3. Providing some of the services within the center; or
4. Coordinating service delivery in a multi-center, which may include affiliated sites.

The OhioMeansJobs center operator may not perform the following functions:

1. Convene system stakeholders to assist in the development of the local plan;
2. Prepare and submit local plans;
3. Be responsible for oversight of itself;
4. Manage or significantly participate in the competitive selection process for OhioMeansJobs center operators;
5. Select or terminate OhioMeansJobs center operators, career services, and youth providers;
6. Negotiate local performance accountability measures; or
7. Develop and submit a budget for activities of the local WDB in the local area.

An entity serving as an OhioMeansJobs center operator, that also serves a different role with the workforce delivery system (including provider of career and youth program services or local
area fiscal agent), may perform some or all of these functions when it is acting in its other role, if it has established sufficient firewalls and conflict of interest policies and procedures.

WIOAPL No. 15-18.1 outlines the roles and responsibilities of the OhioMeansJobs center operator as well as the requirements for the development of the multi-function agreement when the OhioMeansJobs center operator performs more than one function.

V. Definitions

Access: To each partner program and its services means:

1. Having a program staff member physically present at the OhioMeansJobs center;
2. Having a staff member from a different partner program physically present at the OhioMeansJobs center appropriately trained to provide information to customers about the programs, services, and activities available through partner programs; or
3. Making available a direct linkage through technology to program staff who can provide meaningful information or services.

Affiliate OhioMeansJobs center: A site that makes available to job seekers and employer customers one or more of the OhioMeansJobs center's partners' programs, services, and activities.

Career services: Services identified in section 134(c)(2) of WIOA and consist of three types:

1. Basic career services;
2. Individualized career services; and
3. Follow-up services.

Comprehensive OhioMeansJobs center: A physical location where job seekers and employer customers can access the programs, services, and activities of all required OhioMeansJobs center partners.

Direct linkage: Providing direct connection at the OhioMeansJobs center, within a reasonable time, by phone or through a real-time Web-based communication to a program staff member who can provide program information or services to the customer. Solely providing a phone number, web site, information, pamphlets, or materials does not constitute a “direct linkage.”

Entity: The grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area.

Memorandum of understanding (MOU): An agreement developed and executed between the OhioMeansJobs center partners and the local WDB, with the agreement of the chief elected official, relating to the operation of the OhioMeansJobs delivery system in the local area.

OhioMeansJobs center operator: One or more entities designated or certified under section 121(d) of WIOA.

OhioMeansJobs center partner: An entity described in section 121(b)(1) and (2) of WIOA who participates in the operation of the workforce delivery system.

Public library: A library that is open to the public and that is one of the following:

1. A library that is maintained and regulated under section 715.13 of the Revised Code;
2. A library that is created, maintained, and regulated under Chapter 3375 of the Revised Code;
3. A library that is created and maintained by a public or private school, college, university, or other educational institution; or
4. A library that is created and maintained by a historical or charitable organization, institution, association, or society.
Specialized centers: Centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters.

Workforce delivery system: A system under which entities responsible for administering separate workforce development, education, and other human resource programs collaborate to create a seamless system of service delivery that will enhance access to the programs’ services and improve long term employment outcomes for individuals and businesses.

VI. State Requirements

WIOA requires the State to create and maintain a workforce delivery system that enhances the range and quality of education and workforce development services that employers and individuals can access. Programs and providers must collaborate, coordinate, and integrate activities and information so that the system as a whole is cohesive and accessible for individuals and employers alike.

When designing the system, States must ensure that information on the availability of career services is available at all OhioMeansJobs center physical locations and access points, including electronic access points, regardless of where the individuals initially enter the local workforce system. Therefore, the workforce system must include at least one comprehensive physical OhioMeansJobs center in each local area. The system may also have additional arrangements to supplement the comprehensive center. These arrangements include an affiliate center or a network of affiliate centers and specialized centers.

A state infrastructure funding methodology must be implemented to ensure required partner funding is available to support infrastructure costs of any OhioMeansJobs centers in the local areas where partners and the local WDB are unable to reach agreement on memorandum of understanding terms and partner funding to support the OhioMeansJobs centers. The details and restrictions of Ohio’s state infrastructure funding methodology is in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs.

VII. Local Workforce Development Area Requirements

A. Identification of the OhioMeansJobs Center(s)

The local WDB must establish at least one comprehensive OhioMeansJobs center in the local area. The location of this center is at the discretion of the local WDB and the chief elected official (CEO).

Additional comprehensive, affiliate, or specialized OhioMeansJobs centers may also be established in the local area at the discretion of the local WDB and chief elected official(s) based upon the need for additional centers in the local area. Such considerations may include:

1 Customer use (the number of customers who enter the center during hours of operation) of the comprehensive, affiliate and/or specialized OhioMeansJobs centers;
2 Funding available for the comprehensive, affiliate, and/or specialized centers, including program funds and lease agreements;
3 Partner availability in the centers; and
4 The potential enhancement of customer access to services.

The local WDB must notify the Ohio Department of Job and Family Services, Office of Workforce Development of the identification of the comprehensive center(s) and any affiliate and/or specialized center(s) in the local area. This is done by identifying such centers in the local and/or regional plans or e-mailing OWDPOLICY@jfs.ohio.gov.

B. Access to Required Partners

The local WDB must ensure that all required partners identified in section 121(b)(1) of WIOA have a physical presence or provide access to their programs in the comprehensive
OhioMeansJobs center. Customers must have access to these programs, services, and activities during regular business days at a comprehensive OhioMeansJobs center. A comprehensive OhioMeansJobs center must have at least one WIOA Title I staff person physically present.

An affiliate center does not need to provide access to every required OhioMeansJobs center partner program. The frequency of program staff's physical presence in the affiliate center will be determined at the local level. If Wagner-Peyser employment services are provided at an affiliate center, there must be at least one or more other partners in the center with a physical presence of combined staff more than 50 percent of the time the center is open. Additionally, the other partner must not be the local Disabled Veterans' Outreach Program Specialists (DVOPS), or unemployment compensation programs. If Wagner-Peyser Act employment services and any of these 3 programs are provided at an affiliate OhioMeansJobs center, an additional partner or partners must have a presence of combined staff in the center more than 50 percent of the time the center is open.

C. Availability of Services

The local WDB must ensure that the OhioMeansJobs centers provide services to individual customers based on the individual's needs, including the seamless delivery of multiple services to individual customers. There is no required sequence of services.

The local WDB must coordinate with all required OhioMeansJobs Center partners, including those with no staff physically present in an OhioMeansJobs center, to provide basic career services, individualized career services, and business services to customers and employers at the comprehensive and affiliate centers. Furthermore, access to training services must be provided for those customers who have been deemed in need of these services.

OhioMeansJobs center staff are trained and equipped in an ongoing learning environment with the skills and knowledge needed to provide effective services to job seekers, including those with disabilities, and businesses in an integrated, regionally focused framework of service delivery.

D. Selection of the OhioMeansJobs Center Operator

The local WDB must select the OhioMeansJobs center operator through a competitive process at least every 4 years. WIOAPL No. 16-08, Procurement of the OhioMeansJobs Center Operator, provides guidance to the local WDBs for the procurement of the OhioMeansJobs center operator.

Some of the factors which should be considered and prioritized by the local WDB include:

1. Understanding the local WDB's responsibilities under WIOA as it pertains to the OhioMeansJobs center operator and the local workforce system.

2. The local WDB's vision and goals for the local system and how the local system will be structured with respect to the number of OhioMeansJobs centers, the types of centers, the types of services to be provided, and the focus of the local area.

3. The relationship between the local WDB and the operator and the expectations of the local WDB for the operator's role.

4. The procurement process, management of the process, potential conflicts of interest, and management of the contract.

VIII. Technical Assistance

Ongoing support, guidance, training and technical assistance on the development of the workforce system are available to all local areas.
Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, §§106 and 121, Public Law 113-128.
20 C.F.R. §§ 678.300-440, 678.600-635, 678.800, and 683.295.
2 C.F.R. Parts 200 and 2900.
Ohio Revised Code § 6301.06.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-08, Procurement of the OhioMeansJobs Center Operator and Provider of Career Services (February 24, 2017).
I. **Purpose**

The purpose of this policy is to provide guidance and requirements for the competitive selection of OhioMeansJobs center operators and providers of career services under the Workforce Innovation and Opportunity Act (WIOA).

II. **Effective Date**

Immediately

III. **Background**

A. **OhioMeansJobs Center Operator**

OhioMeansJobs center operators (Operator) are the entities that will be selected by local workforce development boards (WDB) to operate OhioMeansJobs Centers and to coordinate the activities of the local partners and service providers.

Under the Workforce Investment Act (WIA), local WDBs were authorized to designate Operators without competition. However, this changes with the implementation of section 121(d) of WIOA and 20 C.F.R. 678.605 which require local WDBs to select operators through a competitive process that complies with: requirements and restrictions for Operators and Operator selection in WIOA and the WIOA Final Rules; federal, state and local procurement rules, policies and procedures; and state ethics laws and the local area code of conduct. WIOA does not allow for the “designation” or “certification” of any entity as an Operator without a competitive process. WIOA provides no explicit authority to “grandfather” in existing Operators.

Competition is intended to promote efficiency and effectiveness of the Operator by regularly examining performance and costs. It provides the best method of ensuring that local WDBs examine the Operator’s effectiveness on a periodic basis.

**Operator Role**

Under 20 C.F.R. 678.620, at a minimum, Operators must coordinate the service delivery of local partners and service providers. WIOA provides local WDBs the discretion to define the Operator role and to assign additional responsibilities as appropriate. There are a number of factors to consider when defining the Operator role. This section lists and describes many such factors, but should not be viewed as an exhaustive list.

1. **Eligible Entities**

- The Operator may be a public, private or non-profit entity or a consortium of entities (located in the local workforce area).
- An entity that is a local partner may serve as the Operator, however, if a partner is serving as part of a consortium, the consortium must include at least three local partner entities.
Elementary and secondary schools are not eligible to be certified as Operators, with the exception of nontraditional public secondary schools and area career and technical education schools.

Per Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-18.1, Local Workforce Development Area Governance, a local WDB may not fulfill the Operator role.

The types of entities that may be eligible to serve as Operators include:

a. Institution of higher education;
b. State Wagner-Peyser employment agency;
c. Community-based organization, non-profit organization, or intermediary;
d. Private, for-profit entity;
e. Government agency; or
f. Other interested organization or entity capable of fulfilling the role of the Operator, which may include a local chamber of commerce, business, or labor organization.

2. Operator Restrictions

In defining the role and responsibility of Operators, local WDBs must keep in mind the restrictions on Operator functions under 20 C.F.R. 678.620, which specify that an Operator may not:

• Convene system stakeholders to assist in the development of the local WIOA plan.
• Prepare and submit local WIOA plans.
• Be responsible for oversight of itself.
• Manage or significantly participate in the competitive selection process for an Operator.
• Select or terminate Operators, or providers of career or Youth services.
• Negotiate local performance accountability measures.
• Develop or submit a budget for activities of the local board.

3. Strategic Vision

Each local area or planning region has specific industry sectors and clusters that drive economic growth. The workforce needs of employers in these industries and the training needs of job seekers in a local area are the focal points of the local strategic vision of each local workforce development system or planning region that will be described in the regional and local plan.

Operators, by the nature of their position, are at the center of local workforce system activities and will have a key role in supporting the regional and local strategic vision. In defining the Operator role, local WDBs will need to decide how the Operator role can most effectively serve the needs of the local area.

4. Level of Local WDB Oversight

WIOA assigns local WDBs responsibility for oversight and management of Operators and the local workforce development systems in their respective local areas. Each local WDB will decide how much involvement to have in the activities and daily decisions of local OhioMeansJobs center(s) and how much responsibility to assign to the Operator.

Local WDBs will need to decide how much authority and discretion to give Operators with respect to administrative and operational functions, such as:
• The procurement of goods and services for the OhioMeansJobs Centers and/or the local workforce development system.
• Negotiation and execution of contracts, subcontracts, and other legally binding agreements.
• Monitoring of local service providers.
• Data collection and/or data security.

The level of local WDB involvement and the amount of authority that will be delegated to the Operator will affect the relationship and protocols for communication and interaction between the local WDB and the Operator. Each local WDB should choose a management structure that most accurately reflects the relationship it will have with the Operator. There are various options, for management structure, including:

• A top down management structure reflective of an employer/employee relationship.
• A partnership type structure with the Operator actively involved in decision-making processes and representing the local area with organizations in the region.
• An advisory role, providing direction to the Operator with the expectation that the Operator will fulfill assigned responsibilities and make decisions on day-to-day activities.
• Commitment of local board staff to maintain an active role in managing the Operator and being involved in daily and/or major decisions for which a management structure will need to be clearly defined.
• A combination of both advisory and active roles determined by activity or function.

The local WDB will also need to decide if the Operator role will be primarily around management of OhioMeansJobs center(s) and coordination of partner activities or if the Operator will be involved in systemic activities. Examples of systemic activities include:

• Planning activities relevant to local outreach or service delivery.
• Delivery of basic career services (intake, assessment, and referral) for the Adult and Dislocated Worker programs.
• Business engagement, recruitment, management, and services, including fee for service activities.
• Training local partner staff.
• Monitoring service providers.
• Tracking performance.
• Maintaining a referral system.
• Solicitation of customer/participant feedback.
• Policy recommendations.

It is important to note that if an Operator will be assigned to provide career services, WIOA Final Rules have clarified that Operator and service provider are two separate roles and should be treated as such. Local WDBs must take measures to prevent any conflicts of interest in accordance with 20 C.F.R. 679.430, WIOAPL 15-18.1, and the conflict of interest provisions outlined in this section. If an Operator will also be a service provider, the solicitation and the resulting contract should specify how the Operator will fulfill dual roles with each role clearly defined and a clear description of how monitoring and oversight will be conducted for both roles.

5. Local Area WIOA Memorandum of Understanding

Under WIOA and the WIOA Final Rules, Operators are not identified as a party to the local Memorandum of Understanding (MOU) nor do Operators have a defined role with respect to MOU negotiations. However, the negotiated terms of the MOU significantly
impact the role and responsibilities of Operators. In addition to the negotiation of shared costs, which is discussed later in this policy, the MOU describes how the partners will make services available at the OhioMeansJobs centers and identifies any shared services the partners will provide in the OhioMeansJobs centers. Therefore, a review of the current MOU is needed to identify:

- Any responsibilities assigned to the Operator (reminder: any career services must be distinguished from the Operator role as those of a service provider).
- Any responsibilities being performed by one or more partners that would otherwise be assigned to the Operator—including the number of staff and hours.
- Agreed upon hours of operation.
- Any agreed upon call-off procedures.
- Any local policies, operating procedures, or safety standards included as an addendum.

In addition, each local WDB should consider what role, if any, the Operator will have with respect to negotiations of the new MOU. Although WIOA and the WIOA Final Rules do not assign Operators any role with respect to MOU negotiations, there is no prohibition on Operators taking part. However, because most Operator costs and costs for operating OhioMeansJobs centers are paid by local partners as a result of negotiations, local WDBs should ensure that the potential conflict of interest is addressed prior to assigning an Operator to participate in MOU negotiations.

In addition, local WDBs should consider whether to negotiate an amended MOU budget with local partners that includes Operator procurement costs. In such instances, local partners should be given the opportunity to participate in the Operator selection process, including planning.

6. **Fiscal Responsibilities**

Local WDBs will need to decide whether to assign any fiscal or budget-related responsibilities to the Operator or whether all such responsibilities will be solely those of the local fiscal agent. Examples of fiscal responsibilities that could be assigned to the Operator include:

- Tracking and managing the costs of the OhioMeansJobs center(s), including: personnel costs; infrastructure and other shared costs under the local MOU; and administrative and other costs that are not common costs to be shared by partners.
- Quarterly budget reconciliations of costs under the MOU.
- Making routine purchases of supplies and services for the OhioMeansJobs centers, such as printer paper and ink or equipment maintenance.
- Approving invoices for OhioMeansJobs center costs.
- Identification of new partners that may contribute to shared costs and/or funding resources.
- Revising the OhioMeansJobs center budget, such as increasing the spending line item or purchasing new items not identified in the budget.

7. **OhioMeansJobs Centers**

To define the role and responsibilities of the Operator with respect to the OhioMeansJobs center facilities, each local WDB should decide if the Operator will have the responsibility to:

- Execute or assume a lease agreement for the facilities (whether new or existing sites).
• Purchase/rent furniture or equipment and manage the inventory records for equipment as required in 2 C.F.R. 200.313(d).
• Secure insurance for the facilities or assume an existing policy.
• Coordinate activities to ensure accessibility for all local OhioMeansJobs center customers—including partner program participants and individuals with disabilities.
• Maintain technological resources such as the local system website, case management software, business networking software, or online testing sites.
• Establish safety and security protocol.
• Maintain safety and security standards—including reporting any hazardous conditions in accordance with the MOU.

Each local WDB will need to specify in the solicitation whether the OhioMeansJobs center(s) will remain at the existing site(s) or if the Operator will be tasked with choosing a new physical site. If the Operator chooses a new site, the local WDB must decide if competing entities should identify a site in their proposals or if site selection will take place after the selected entity assumes the role of Operator.

It is important to note that employment service offices under the Wagner-Peyser Act are required to be co-located with OhioMeansJobs centers per section 121(e)(3) of WIOA.

8. Funding Options for Operator Costs

The solicitation for Operator services should explain the funding method and approximate dollar amount for each center, and/or for all the centers in aggregate, so potential bidders will understand their budget constraints. Further negotiation of these terms that would not have affected the bidding or selection decisions are permissible after the winning bidder is selected. Local WDBs have several options for structuring the Operator contract and managing the reimbursement process, including:

• Operator personnel costs only: Under this model, it is made known in the solicitation that funding for staff necessary to manage and operate each center and coordinate with the partners will be made available to the Operator. Another entity, such as the local WDB, fiscal agent, or partner, will need to pay for the infrastructure costs, collect contributions from the partners, and reimburse the Operator's actual personnel expenses through a contract with the Operator.
• Operator full reimbursement: This model requires the Operator to manage the center(s), coordinate with the partners, pay each center's infrastructure costs, and seek reimbursement of actual costs from the partners. The dollar amount in the solicitation should equal the budget in the OhioMeansJobs center MOU. The solicitation should explain that the receipt of the full funding will depend on actual costs and the Operator's successful collection of contributions from the partners. A quarterly advance of funding from the local WDB may be necessary to enable operation of the center(s) until the partners' reimbursements can be collected and a reconciliation of actual costs to the advanced funds can be completed.
• Local WDB award coupled with partner reimbursement: Under this blended approach, the local WDB will award to the Operator the portion of partner funding for the OhioMeansJobs centers the WDB manages--specifically the WIOA and Wagner-Peyser programs' share, as identified in the MOU. The Operator will be responsible for collecting the remaining funds from the other partners. The solicitation should list both the amount of funding to be awarded directly by the WDB and the approximate remainder that the Operator will need to collect from the other partners. The Operator will then be responsible for managing the center(s), coordinating with the partners, and paying for infrastructure costs.

B. Provider of Career Services
Per section 107(d)(10)(C) of WIOA, local WDBs have the responsibility to identify eligible providers of career services for the WIOA Title I Adult and Dislocated Worker programs. Local WDBs may assign Operators responsibility for career services or may execute agreements with service providers.

Providers of career services meet the definition of subrecipients in that the services benefit a public purpose, the providers determine participant eligibility, and directly serve those who are eligible. Competitive procurement requirements under the Uniform Guidance and under state procurement regulations are applicable to selection of entities to serve in a contractual role. Since adult and dislocated worker career services provider is as a subrecipient role, local WDBs do not have to conduct a competitive process to select career services providers.

However, the local WDB may still make the decision to competitively procure a provider for WIOA Title I Adult and Dislocated Worker career services. This procurement may be completed in conjunction with the procurement for the Operator or through a separate procurement process. The career services provider is considered a subrecipient and the Operator is generally defined as a contractor, so two separate agreements with the entity selected to perform both roles may be necessary given that the requirements for a subaward (defined in 2 C.F.R. 200.331) differ from the provision in a contract (defined in 2 C.F.R. 200.326). When making the decision whether to procure career services, the local board should review the advantages and disadvantages of selection through a competitive procurement.

Advantages for competitive procurement include:

1. Competitive procurement may allow the local WDB to select a provider at a lower cost, especially in local areas where there are a number of local organizations qualified to deliver the services.
2. Competitive procurement provides more incentive to meet performance measures so the provider is likely to be selected again in the future.
3. There is the potential to broaden the number of qualified organizations by issuing solicitation on a statewide or regional basis and to bring new organizations that have not been able to participate in the workforce system.
4. Competitive procurement filters underqualified organizations or underperforming providers.
5. Competitive procurement provides more transparency to bolster public confidence.

Disadvantages to competitive procurement include:

1. Conducting a competitive procurement is a time consuming process.
2. There is a cost to undergoing competitive procurement process, including but not limited to, the costs of staff, staff's time, advertisement, etc.
3. In an established local area where local WDBs interact with current Operators, local partners, and other stakeholders that may compete to serve as the Operator, it could be challenging to ensure that details of the solicitation and selection process are kept confidential for a fair and open competition.
4. Changing providers too frequently may create challenges in operations and cause confusion among customers over the consistency of service delivery.

C. Competitive Procurement

The selection process must be planned to maximize competition. The selection process must be conducted on an area-wide basis, i.e., there must not be a separate selection process conducted by each county in a local area as such a practice would be contrary to the WIOA vision for an integrated service delivery system. Further, such a practice is a hindrance to a fair
and open competition in that entities interested in competing would be required to prepare and submit multiple proposals.

D. Procurement Considerations

A local WDB may choose from a variety of delivery methodologies. The primary examples include the following:

1. **Area-wide**: One organization is selected to be the Operator and/or provide career services across the local area.

   Benefits of area-wide selection:
   - **Fosters consistency of services**: The same staff training, processes, procedures, and menu of services are provided across the local area, promoting uniformity.
   - **Streamlines management**: Area-wide management rather than center-based hierarchies are utilized, providing cost savings that can be reinvested into client services.
   - **Reduces administrative burden**: A single selection of one resulting contract is employed, reducing the local WDB’s administrative burden of overseeing multiple Operators and/or service providers.
   - **Encourages more robust competition**: Funding is consolidated into a single, larger procurement, potentially attracting a wider field of respondents to choose from, including those with best practices and experiences from outside of the local area that are interested in establishing a presence in or relocating to serve the local area.

2. **Center-based**: Different organizations are selected to be the Operator and/or provide career services on a center-by-center basis. If this methodology is chosen, the local WDB must still competitively select the Operator for each center and may opt to procure the career services provider. The selection process must not be delegated to an individual county. When considering this methodology, a local WDB must consider whether there have been challenges in the past in the selection of an Operator and/or career services provider for a specific OhioMeansJobs center or county, in which case, this methodology may not be appropriate.

   Benefits of center-based methodology with respect to service providers:
   - **Encourages local expertise**: Center-based selections typically attract county-based entities, resulting in responses from organizations with specific knowledge and expertise of the local area.
   - **Hedges performance outcomes**: In a local area with multiple service providers, if one service provider is doing poorly, another may be doing well, resulting in a potential safety net for performance outcomes.

3. **Service-Based (appropriate for service providers only)**: Multiple organizations are selected to provide career services based on a particular expertise. These service providers may be selected to serve an entire local area, or on a center-by-center basis.

   A benefit of the service-based methodology is that each service provider is selected to provide a specific service based on skills and expertise that could substantially improve outcomes for the participants served by such providers.

The three models are examples of primary methods that local WDBs may consider for the Operator and/or career services providers. However, it should be noted that these methods are not mutually exclusive of one another and may be combined. For example, a local WDB may use an area-wide provider selection process that allows respondents to subcontract for a particular service, thus encouraging local expertise.
Overall, a local WDB should carefully weigh all options and identify the methodology (or combination of methodologies) that best serves local area needs.

E. Procurement Process

The local WDB must support full and open competition in the process it utilizes to select the Operator and/or career services provider, and the local WDB must comply with federal procurement principles prescribed in the Uniform Guidance (2 C.F.R. 200.318 to 200.326), with state procurement rules listed in rule 5101:9-4-07 of the Administrative Code, and with local procurement policies and procedures. The entire procurement process must be performed under a process that promotes transparency and responsibility. The process must be documented, include a written explanation of the nature of the procurement process, and be made available to the public on a regular basis through electronic means and open meetings. The information that local WDBs are required to make available to the public includes, but is not limited to:

1. The local WDBs written conflict of interest policy;
2. The local WDBs written procurement policies;
3. The procurement solicitation itself;
4. A listing of the entities that have submitted bids or proposals;
5. An abstract of those bids or proposals;
6. The identity of the selected Operator and/or career services provider; and
7. Total award amount and duration of the contract with the Operator and/or career services provider.

A number of factors must be considered to plan a competition for Operator selection, or Operator/career services provider selection (as applicable). Careful thought and planning are required to ensure that any potential conflicts of interest are addressed, that the selection process follows federal, state, and local procurement guidelines, and that the Operator’s role and responsibilities align with state, local and regional plans, and the local WIOA Memorandum of Understanding.

1. Conflicts of Interest

To ensure a fair and open competitive process, all potential conflicts of interest in the procurement, management, and oversight of the Operator and/or provider of career services must be identified and addressed before planning and implementation of the selection process. Local WDBs should issue an inquiry to the current Operator, local fiscal agent, local service providers, and local partners to determine if any of those parties will compete to serve as Operator and/or provider of career services.

Until the solicitation is released to the public, it must be kept confidential to ensure that no individual or entity that will compete to serve as Operator and/or provider of career services has an unfair advantage over other competing individuals or entities.

Further, no local WDB board member or other individual involved in the planning and the development of the solicitation should respond to inquiries from any individual or entity that will compete. All such inquiries should be directed to a special email box or online address where all questions and responses can be seen by all competitors through a question and answer (Q&A) process.

Paragraph (B) of section 102.03 of the Revised Code prohibits current and former public officials and employees from disclosing or using confidential information acquired in the course of official duties as public officials or employees when the confidential designation is set by statute or otherwise warranted because of the circumstances under which the
information was received and preserving confidentiality is necessary to the proper conduct of government business. With respect to procurement, any individual with knowledge of the selection process or solicitation must not disclose the information to ensure that the competitive process is fair and open to all.

Policies and procedures must be put in place to effectively address any real or apparent conflicts of interest. Policies and procedures must comply with state and local conflict of interest rules, including section 2921.42 of the Revised Code, and state and local ethics rules, including Chapter 102 of the Revised Code.

Organizational structures must be reviewed and reorganized if necessary to ensure that monitoring, oversight, and evaluation responsibilities are separated from responsibility for the performance of daily activities and routine functions.

Each local area is required to maintain written standards of conduct for acquisition and procurement per Uniform Guidance (2 C.F.R. 200.318(c)(1)) and rule 5101:9-4-04 of the Administrative Code. All existing standards should be reviewed in consideration of WIOA requirements and updated as necessary.

Policies and procedures must be established to ensure that proper firewalls are in place to address any real and apparent conflicts of interest. Potential conflicts include, but are not limited to:

- Local stakeholders competing to serve as Operator.
- Assignment of additional roles to Operator, such as provider of career services.
- Operator procurement of subcontractors, if local WDB assigns such authority.
- Operator participation in local WIOA Memorandum of Understanding negotiations with local partners.

**Local Stakeholder to Compete**

Any local entity that will compete for the opportunity to serve as an Operator must not take part in the development of the solicitation or in the procurement process. This includes, but is not limited to: the local fiscal agent, the current Operator, a local partner, a consortium that includes three or more local partners, or an entity that is a direct provider of career services in the local area.

Section 102.03(A)(1) of the Revised Code prohibits former public officials or employees from representing a client or acting in a representative capacity for any person on any matter on which the former public official or employee participated through decision, approval, disapproval, recommendation, rendering of advice, or other substantial exercise of administrative discretion for a period of 12 months after exiting public employment.

As defined in the statute, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person. “Matter” includes any case, proceeding, application, determination, issue, or question.

Therefore, any individual who currently, or has within the last 12 months, served on a local WDB or served as local WDB staff and is employed by or is a representative of an entity that will bid to serve as Operator and/or career services must not have any involvement in the development or submission of a proposal in response to the solicitation for Operator and/or provider of career services. Any proposals developed with input or information from current or former local WDB members or local WDB staff members must be disqualified and not considered for award.

If a local fiscal agent, local partner, consortium that includes three or more local partners, or direct provider of services are competitively selected to serve as the Operator, or if the
Operator will serve a dual role as a provider of WIOA Title I Adult and Dislocated Worker career services, the selected entity must execute a written agreement with the local WDB and CEO, per 20 C.F.R. 679.430 and WIOAPL 15-18.1, that clarifies the manner in which the selected entity will fulfill each role and separate responsibilities to remain in compliance with WIOA, the WIOA Final Rules, the Uniform Guidance, and with state and local conflict of interest policies. The agreement must include a table of organization to demonstrate a clear separation between those responsible for carrying out program activities from those responsible for oversight.

When there is uncertainty as to whether a conflict exists or whether policies and procedures will effectively address any conflicts, Local WDBs may submit requests for opinions to the Ohio Ethics Commission and/or to the Ohio Attorney General. Ohio Ethics Commission Advisory Opinions, Ohio Attorney General Opinions, and instructions on how to request opinions can be found on their websites: [http://www.ethics.ohio.gov/advice/](http://www.ethics.ohio.gov/advice/) and [http://www.ohioattorneygeneral.gov/About-AG/Organizational-Structure/Opinions.aspx](http://www.ohioattorneygeneral.gov/About-AG/Organizational-Structure/Opinions.aspx).

2. **Procurement Planning**

Initial steps are to choose the competitive procurement method and to plan the selection process in accordance with federal, state, and local procurement rules, regulations, policies and procedures.

Although local WDBs are required to ensure that Operators are competitively selected, local WDBs may delegate responsibility for selection to another entity, such as a local fiscal agent or a third party contractor as long as the delegation does not present a conflict of interest.

**Procurement Method**

A competitive process must be conducted at least once every four years per 20 C.F.R. 678.605. The Operator selection process must support full and open competition and comply with federal procurement principles prescribed in the Uniform Guidance (2 C.F.R. 200.318 to 200.326), with state procurement requirements listed in rule 5101:9-4-07 of the Administrative Code, and with local procurement policies and procedures.

The Uniform Guidance (2 C.F.R. 200.320) and rule 5101: 9-4-07.1 of the Administrative Code identify and describe the types of procurement methods that may be used. For purposes of Operator selection and/or career services provider, the three acceptable methods are procurement by competitive sealed bids, procurement by competitive proposals, and procurement by non-competitive proposals.

- **A competitive sealed bidding process** is appropriate when selection can be made primarily on the basis of price and the contract can be a firm, fixed price contract. For this process, an Invitation to Bid document must be developed and include a comprehensive, clear, and complete description of needed services. All bids will be opened at the same time. The responsive and responsible bidder with the best price will be selected.

- **Procurement by competitive proposals** is appropriate when selection is based on factors other than price (e.g., qualifications, experience, past performance, etc.). A request for proposals (RFP) document must be developed and must contain a comprehensive, clear and complete description of the services needed, as well as a description of the selection process and evaluation factors to be used for scoring.

- **Procurement by non-competitive proposals** is procurement through solicitation of a proposal from only one source.
Although the Uniform Guidance (2 C.F.R. 200.320(f)) and state procurement rules allow non-competitive proposals in certain circumstances, WIOA Final Rules clarify that all references to “non-competitive proposals” should be read as “sole-source procurement” for Operator selection. No other non-competitive method is allowable. WIOA does not give the State authority to approve waivers of competition for Operator selection.

A true sole-source situation is the only exception to the requirement for competitive selection of an Operator, meaning there is only one entity qualified to fulfill the role of Operator in the local area. Written documentation of the entire selection process must be maintained and must demonstrate that sufficient market research and outreach was conducted to justify sole source selection. A cost and/or cost price analysis must be conducted and documented as well.

A request for review of the sole source documentation may be submitted to the Ohio Department of Job and Family Services, Office of Contracts and Acquisitions, prior to the execution of the contract. The Deputy Director will assess whether the documentation demonstrates that sufficient efforts were taken by the local WDB to support a sole-source determination.

Small purchase procedures - Under Ohio procurement regulations (rule 5101:9-4-07.1 of the Administrative Code), if a procurement by competitive sealed bids or by proposals to an adequate number of qualified sources is deemed a failed procurement, local WDBs have the option to select a vendor using small purchase procedures.

Any entity selected on a sole source basis must have the qualifications and capacity to effectively fulfill the role of Operator.

As mentioned, per WIOAPL 15-18.1, local WDBs are prohibited from fulfilling the role of Operator—including under a sole source.

As noted in the second to last paragraph of section III.E.1, Conflicts of Interest, any entity that will fulfill more than one role in a local workforce development system must execute a written agreement with the local WDB and CEOs per 20 C.F.R. 679.430 and WIOAPL No.15-18.1.

IV. Definitions

Career services: Services that must be provided through the local workforce development system to adults or dislocated workers as authorized under each local partner’s program.

Chief elected officials (CEO): The chief elected executive officers of the units of general local government in a local area.

Contract: Defined in the Uniform Guidance (2 C.F.R. 200.22), and reiterated in 20 C.F.R. 675.300, a legal instrument by which a non-federal entity purchases property or services needed to carry out a project or program under a federal award. The term as used in 20 C.F.R. 675.300 does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward as defined in this section.

Fiscal agent: An entity appointed by a local area’s CEO to be responsible for the administration and disbursement of funds allocated under WIOA for workforce development activities in the local area. Section 107(d)(12)(B)(i)(II) of WIOA maintains that designation of a fiscal agent does not relieve the chief elected officials from liability for misuse of funds.

Infrastructure costs: Nonpersonnel costs necessary to operate an OhioMeansJobs center, including rent, utilities, maintenance, supplies, equipment, technology to facilitate access, and outreach activities.

Local area memorandum of understanding (MOU): Required under section 121(c) of WIOA, it is an agreement negotiated and entered into by the local WDB and local partners in agreement with the
CEO in a local area. The MOU describes how the parties will provide services and share costs through the local workforce development system.

**Local partners:** The entities referred to in section 121(b) of WIOA as “Required” and “Additional” partners that carry out workforce programs and activities through a local area workforce development system.

**Local plan:** The local workforce development plan developed by the local WDB in cooperation with the CEO pursuant to section 108 of WIOA that describes the local workforce development system, the programs and services delivered through the system, an analysis of the local area workforce, workforce needs, and the strategies to align service delivery among core programs in a manner consistent with the state plan that will achieve performance goals.

**Local workforce development area (local area):** The geographic area of the state designated by the Governor in accordance with section 106 of WIOA that serves as a jurisdiction for the administration of workforce development activities delivered through a local workforce development system.

**Local workforce development board:** Per section 107 of WIOA, the entity established to set policy and be responsible for the administration and oversight of the local workforce development system.

**Local workforce development system:** The system established in accordance with section 121 of WIOA through which programs funded under WIOA and other workforce programs and services are delivered in a local area.

**OhioMeansJobs center:** Referred to as “one-stop center” in WIOA and the WIOA Final Rules, it is a physical site in which the programs, services, and activities of the local workforce development system are made available to individuals and to employers in accordance with section 121(e) of WIOA.

**OhioMeansJobs center operator:** One or more entities competitively procured and certified in accordance with section 121(d) of WIOA to operate an OhioMeansJobs center and to coordinate the service delivery activities in the local workforce development system.

**Regional plan:** A four-year action plan, developed by the local WDBs and CEOs in a planning region, that will serve to develop, align, and integrate the region and local area’s job driven workforce development systems, and provides the platform to achieve the local area’s visions and strategic and operational goals.

**Solicitation:** The written procurement document (e.g., Request for Proposals, aka “RFP”) that provides potential bidders with details on the role, responsibilities, requirements, and restrictions of a potential grant or contract award.

**Subrecipient:** An entity that receives an award from a federal grant recipient to carry out an activity for a public purpose as part of a federal program.

**Uniform guidance:** The commonly used abbreviation for the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified in 2 C.F.R. Part 200, et seq.

### V. Local Workforce Development Area Requirements

#### A. Written Policies and Procedures

The local WDB must have written general and one-stop operator specific procurement policies and procedures which are consistent with the Uniform Guidance. Local WDBs must consult with CEOs and review local procurement policies and procedures to ensure compliance with local requirements.

#### B. Selection Planning and Process

**Local WDB Decisions Regarding Procurement of Career Services**
The local WDB must decide if career services for the WIOA Title I Adult and Dislocated Worker program will be identified by an agreement with a local service provider, assigned via the Operator’s contract, or awarded through a competitive process.

Local WDBs that choose not to select a provider through a competitive process must document all factors considered for choosing not to compete such as, availability of career services providers, any pertinent local WIOA MOU terms, etc. An analysis must be conducted regardless of whether the provider was competitively selected.

**Documentation**

Local WDBs must maintain documentation of the selection process from planning through selection and the execution of a contract. Documentation must include:

1. A written description of the procurement method chosen and the factors that were considered.
2. Copies of local procurement policies and procedures.
3. A copy of any conflict of interest policies and procedures.
5. A copy of the local area code of conduct.
6. Documentation of the roles and responsibilities to be assigned to the Operator and/or provider of career services, including a description of how the local WDB determined which roles to assign.
7. Documentation of a cost and/or price analysis.
8. A copy of the timeline.
9. A copy of the solicitation (or, if applicable, a copy of the documentation to support sole source selection).
10. A copy of all questions and responses from the Q&A process.
11. Copies of all proposals submitted.
12. Copies of the scoring or proposal review documents.

**Timeline**

Prior to planning the Operator and/or provider of career services selection process, local WDBs must develop a timeline of a duration sufficient for a fair and open competitive process as well as negotiation and execution of a contract with the selected Operator and/or career services provider. It is recommended that local WDBs project a date for the selected Operator to begin work and develop the timeline backwards from that date. Although Operators must begin work no later than July 1, 2017, a starting date of 30 to 60 days prior to that is recommended if it is anticipated that a new Operator will be selected. It is important to ensure that a transition from one Operator to another does not disrupt service delivery. Timelines should include:

1. Time for selection process planning.
2. Development and approval of the solicitation (check local policies to determine what local approvals are needed).
3. The date the solicitation will be released to the public.
4. A question and answer period for prospective vendors.
5. A final deadline for proposal submission.
6. A time period for proposal review and scoring.
7. A date for notice of award/denial.
8. A protest period.
9. Initiation of the contract process (consider chief elected officials’ meeting schedules if the local board isn’t authorized to execute contracts/agreements).
10. Estimated date of contract execution.
11. Date for performance to begin under the contract.

**Funding**

Identify all local resources available to fund Operator costs and, if applicable, to fund WIOA Title I Adult and Dislocated Worker career services, in addition to the resources available to fund the costs to operate the local workforce development system, including, but not limited to: the WIOA Adult And Dislocated Worker funds allocated to the local area, the funds provided by local partners under the local MOU, and any other local resources, whether leveraged or in-kind.

**MOU Budget**

The MOU not only identifies the infrastructure and other costs to operate local OhioMeansJobs centers, it identifies other costs common among the partners in the operation of the local workforce development system. Local WDBs must identify any costs of the Operator or the operation of local OhioMeansJobs centers that are not covered under the MOU as a shared cost or that have arisen since the last MOU was negotiated.

**C. Selection Process**

**Solicitation**

The solicitation must be developed in accordance with the Uniform Guidance (2 C.F.R. 200.319(c)) and paragraph (B)(3) of rule 5101:9-4-07 of the Administrative Code, as well as local procurement policies. A description of the local workforce development system and the role(s), responsibilities, and requirements for the Operator must be clearly articulated in the solicitation. If the Operator will serve a dual role as a provider of WIOA Title I Adult and Dislocated Worker career services, the solicitation must define and distinguish the role and responsibilities of the Operator from the role and responsibilities of the career services provider.

Roles, responsibilities, and requirements may include, but are not limited to:

1. The role of the Operator as defined by the local WDB and described in WIOA and the Final Rules.
2. The number of physical comprehensive and affiliate OhioMeansJobs Centers the Operator will manage, including the hours of operation and locations, and whether new facilities must be secured or if operation can continue at the existing site(s).
3. OhioMeansJobs center certification criteria, including any additional organizational experience or criteria the local WDB may want to include.
4. A description of the management structure between the local WDB and Operator.
5. A description of the authority that will be assigned to the Operator.
6. A clear description of each responsibility that will be assigned to the Operator. If the Operator will provide career services for the WIOA Title I Adult and Dislocated Worker programs, responsibilities must be listed separately and distinguished from those for the Operator role. A description of the Operator’s role, if any, in preparing
the budget for the center(s), paying for infrastructure costs, collecting contributions from partners, and/or reconciling actual costs to the budget.

7. Number of staff required to operate the local system, identifying:
   - The number of any partner staff fulfilling some responsibilities under the local MOU.
   - Any classifications/positions considered "key personnel" that competing entities must identify in their proposals.
   - Qualifications (education and/or experience) that key personnel or other staff must have.

8. The requirements under WIOA for co-location of Wagner-Peyser employment service offices and for state merit staff to provide services in local OhioMeansJobs Centers.

9. Clarification that the Operator does not have authority over partner staff.

10. A copy of the local MOU as an addendum.

11. The number of local partner staff and service providers that deliver services in the OhioMeansJobs center(s)—including the state merit staff requirements.

12. A description of the local workforce development system structure.

13. Links to state, regional, and local WIOA plans.

14. Technological resources, such as the Ohio Workforce Case Management System (OWCMS), OhioMeansJobs.com, any local systems, business networking software, or online testing sites that the Operator will use.

15. Description of how the Operator will be responsible for coordination of local partner activities under the MOU and the role the Operator will have in the MOU negotiation process.

16. Precluded activities for the Operator and/or provider of career services.

17. Accessibility requirements—including those under WIOA Section 188 and state EEO and ADA requirements.

18. Procurement requirements and restrictions (if the Operator will be assigned to procure any goods or services). An Operator is subject to the same federal, state, and local procurement rules, regulations, and policies that the local WDB is subject to under WIOA and the Uniform Guidance. Therefore, the Operator must enlist a competitive process to procure any subcontractors.

19. Pursuant to section 502 of WIOA, agreement that the Operator and/or provider of career services will comply with sections 8301 through 8303 of Title 41 of the United States Code, which is commonly known as the Buy American Act.

20. Safety and security policies and procedures.

21. Federal and state conflict of interest laws, regulations, and policies, as well as the local code of conduct.

22. Local performance measures if any have been defined for the Operator and its centers.

23. Reporting requirements, including expectations of the local WDB to receive updates and information.

24. Federal and state confidentiality laws and regulations as well as local data security procedures.
25. Requirement for affirmations that vendors are not debarred under federal law and are qualified to conduct business in the State of Ohio.

26. Any caveats, including the prohibitions in section 121(d) of WIOA:
   - The Operator must disclose any potential conflicts of interest that arise from the relationships of the Operator with particular training service providers or other service providers.
   - The Operator must not establish practices that create disincentives to provide services to individuals with barriers to employment who may require longer-term services; and
   - The Operator shall comply with federal regulations and procurement policies relating to the calculation and use of profits.

Budget Guidelines

Identify budget line items based on the roles and responsibilities that will be assigned to the Operator and/or provider of career services. Budget costs must be consistent with Uniform Guidance, with section 184 of WIOA, and 20 C.F.R. Part 683.

Cost and/or Price Analysis

Under both federal and state procurement guidelines, a cost and/or price analysis must be conducted for every procurement that exceeds the federal small purchase acquisition threshold (currently $150,000) and for every selection made on a sole-source basis.

At a minimum, local WDBs must conduct market research and develop estimates of costs before issuing the solicitation. Research can include a review of current and previous actual costs for an Operator and, if applicable, a provider of career services.

A template should be provided for competing entities to use for the submission of their cost proposals to ensure consistency with the MOU budget template.

Non-profit entities will be required to treat any income in accordance with 20 C.F.R. 683.295(c), as well as any other applicable laws, regulations and policies, and the terms of any negotiated agreement. For-profit entities must negotiate any profit as a separate cost item for transparency.

Essential Contract Elements

All contracts between the Operator and the local WDB must include the essential elements of a legally binding written agreement, and contain at a minimum the following:

1. Statement of Work (SOW): The SOW specifies the period of performance or the start and end date of the contract. It also specifies the services to be performed.

2. Authorized Officials and Purpose: Authorized officials are persons authorized to enter into and legally sign binding agreements and must be on record as the signatory official.

3. Additional contractual terms and conditions: Contracts, agreements, and MOUs must include such standard terms and conditions as are required by federal, state, or local law, regulation or policy. The contract must identify that the Operators are subrecipients of Federal funds.

VI. State Requirements

A. The State, in consultation with CEOs and local WDBs will establish objective criteria and procedures that local WDBs will use to assess the effectiveness and continuous improvement of OhioMeansJobs centers per section 121(g) of WIOA.

B. The State has established WIOAPL No. 15-18.1 that includes provisions to address conflicts of interest and multi-function agreements.
C. The State will review procurement policies, codes of conduct, and related procedures upon request, to assess compliance and to make recommendations for revisions, as appropriate.

D. The State will conduct and provide technical assistance to local WDBs, as needed (e.g., training) for the procurement of Operators and/or career services providers.

VII. Monitoring

Oversight and monitoring is an integral function of the local WDBs to ensure that the Operator complies with the requirements of WIOA, the activities in the SOW, performance reporting requirements, and the terms and conditions of the contract governing the Operator. At the local level, the policies and procedures developed to address conflicts of interest should include mechanisms for monitoring and oversight of the procurement process and of the conduct of the Operator and/or provider of career services when fulfilling more than one role in a local workforce development system.

In addition to routine monitoring and oversight, local WDBs are encouraged to include a review of procurements and performance of Operators fulfilling additional roles as part of the recertification assessment for OhioMeansJobs centers.

VIII. Technical Assistance

Ongoing support, guidance, training and technical assistance on the development of the workforce system are available to all local areas.

Requests for technical assistance may be sent to the Grants Unit at ODJFS, Office of Workforce Development: OWDGRANTS@jfs.ohio.gov.

IX. References


O.R.C. §§ 102.03, 124.57.


I. Purpose
The purpose of this policy is to mandate the use of the OhioMeansJobs and American Job Center brands by local workforce development areas on all outreach opportunities.

II. Effective Date
Immediately

III. Background
OhioMeansJobs (OMJ) is recognized as the integrated point of entry to Ohio's workforce system. The state's OMJ centers provide job training, skill upgrades, and other employment services to Ohioans looking for work and to employers seeking workers. Section 6301.08 of the Revised Code mandates that each OMJ center be named "OhioMeansJobs (name of county) County."

Consistent with section 121 (e)(4) of the Workforce Innovation and Opportunity Act (WIOA), 20 C.F.R. 678.900 designates the name, "American Job Center" or "a proud partner of the American Job Center network," as the common identifier for workforce systems across the nation. The U.S. Department of Labor (USDOL) requires that this identifier be used alongside Ohio's existing branding.

Having a common name not only provides continuity across the nation and Ohio's workforce systems, but also enables businesses and individuals to easily identify and connect with workforce resources and professionals. The outcome of the national and statewide workforce branding efforts will position Ohio's system to become more effective in advancing job placement and talent development. Branding will also make it easier for individuals and businesses to find employment services. A single common name will reassure individuals and businesses that they will receive the same high-quality services from any OMJ location.

OhioMeansJobs (OMJ) Branding
OMJ will serve as the official brand for Ohio's workforce system. To fulfill the mandated requirements, local workforce development areas must name their workforce systems and individual centers as "OhioMeansJobs (name of county) County." The three municipal corporations that originally were automatic designations under the Workforce Investment Act of 1998, (Cincinnati, Cleveland, and Columbus) may include the name of the city as part of their workforce system names. Those names would be "OhioMeansJobs (name of city)(name of county) County."

All OMJ centers were renamed with this branding by March 2014 and are required to maintain the OMJ brand.

American Job Center (AJC) Branding
20 C.F.R. 678.900 mandates the use of the brand, "American Job Center," as the nation's common identifier of the workforce delivery system. Workforce delivery systems must include the brand, "American Job Center," or the tagline, "a proud partner of the American Job Center network," on all products, programs, activities, services, electronic resources, facilities, and related property and materials used in the local workforce delivery system.
The U.S. Department of Labor is not requiring that any State discontinue use of its existing brand. Therefore, Ohio, for both state and local workforce systems, will be utilizing the co-brand option of "a proud partner of the American Job Center network" as a tagline to the OMJ branding.

By November 17, 2016, each OMJ center must include "a proud partner of the American Job Center network" on all primary electronic resources used by the delivery system and on any newly printed, purchased, or created materials.

By July 1, 2017, each OMJ center must include this branding on all products, programs, activities, services, electronic resources, facilities, and related property and new materials used in the workforce delivery system.

OMJ centers may continue to use materials not using the AJC co-branding which were created before November 17, 2016 until those supplies are exhausted.

IV. State Requirements

The Ohio Department of Job and Family Services (ODJFS) will develop and distribute the OhioMeansJobs Brand Guidelines. These guidelines provide direction on the design of outreach materials. Outreach materials include, but are not limited to, websites, social media, screen savers, signage (permanent and temporary signs used to show information regarding the OMJ center), stationary, business cards, brochures, and posters. All printed materials, forms, and reports that will be distributed to the public must be branded according to the brand guidelines.

The OMJ and AJC brands are copyrighted and trademarked to protect them from abuse. The wrongful use of any aspects of the OMJ or AJC co-brand as specified in this policy and the OhioMeansJobs Brand Guidelines may constitute infringement of proprietary rights. Any inappropriate or incorrect usage or printings will be corrected at the expense of the local approving authority without the use of any WIOA or Wagner-Peyser funds.

Local workforce development boards (WDB) and OMJ centers are not permitted to authorize other entities to use the OMJ brand or AJC co-brand. Approval of plans for the use of the OMJ brand/AJC co-brand and logo by other entities must be obtained from the ODJFS Office of Workforce Development (OWD) by sending a written request to omj-help-desk@jfs.ohio.gov.

Although the cost of updating outreach materials to include the AJC branding is a joint responsibility of all OMJ center partner programs, ODJFS will issue funds statewide to help local WDBs comply with the OMJ/AJC co-branding requirement.

V. Local Area Requirements

Local WDBs are required to utilize the OMJ brand with the tagline "a proud partner of the American Job Center network" on all outreach opportunities including, but not limited to, phone systems, websites, social media, screen savers, signage (permanent and temporary signs used to show information regarding the OMJ center), stationary, business cards, brochures, and posters. All printed materials, forms, and reports that will be distributed to the public must be branded according to the OhioMeansJobs Brand Guidelines. Each page on the center's websites that have a unique center name/logo must reflect the branded name and adhere to the brand guidelines.

The OMJ/AJC co-brand must be prominently displayed on all outreach materials, banners, and signage. Local WDBs are required to adhere to all aspects of the OhioMeansJobs Brand Guidelines. Any deviations or substitutions from the instructions mentioned in the guide will be considered as unacceptable usage of the OMJ or AJC brand.

Before signage is finalized and produced, local WDBs are required to notify OWD and forward the final proof to omj-help-desk@jfs.ohio.gov to receive approval on final design. E-mails submitted for final approval should state, "Requesting OMJ/AJC Signage Approval" in the subject line.

Web Address
All OMJ centers will have a branded web address. The web address will be consistent for all OMJ centers and will redirect existing websites to the appropriate website by the forward slash and the county name at the end of the address (i.e., OhioMeansJobs.com/Countyname). Any and all changes to the existing web addresses and websites redirects must be sent to omj-help-desk@jfs.ohio.gov.

VI. **Technical Assistance**

For additional information on this policy, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VII. **Reference**

Workforce Innovation and Opportunity Act, §§ 106 – 107, Public Law 113-128.

20 C.F.R. § 678.900.


Ohio Revised Code section 6301.08.


Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 16-06

November 10, 2016

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs

I. Purpose

The purpose of this policy is to communicate guidance and parameters for implementation of the state infrastructure funding mechanism when required partners and the local workforce development boards (WDB) cannot reach consensus on funding OhioMeansJobs Center infrastructure costs through the local infrastructure funding mechanism.

II. Effective Date

Immediately

III. Background

Per section 121 (h) of the Workforce Innovation and Opportunity Act (WIOA), states are required to develop an infrastructure funding mechanism that will be implemented by the state to determine and collect each partner's proportionate share of funds for OhioMeansJobs center infrastructure costs when a WDB and local partners in a local workforce development area cannot reach a consensus on infrastructure funding through the local infrastructure funding mechanism.

The state infrastructure funding mechanism must take into consideration the number of centers in the area, the population served, and services provided. It must take into account each local partner's costs for administration of the local workforce development system that are not for purposes related to OhioMeansJobs centers, as well as the statutory requirements for each partner program, all other legal requirements, and the ability of each partner program to fulfill those requirements.

The Ohio Department of Job and Family Services (ODJFS), as the state workforce agency responsible for administration and oversight of WIOA, will provide guidance, technical assistance, and facilitation as needed to local WDBs, chief elected officials, and partners in determining equitable and stable methods of funding the infrastructure costs.

IV. Definitions

Cap on required contributions: The maximum dollar amount a local partner is mandated to contribute under the state infrastructure funding mechanism. Each partner's maximum cap is defined in section 121(h)(2)(D)(ii) of WIOA as a specific percentage of the partner's annual federal funding for workforce programs (i.e., education, employment, and training activities delivered using that funding.)

Infrastructure funding: Contributions to pay for nonpersonnel costs necessary to operate an OhioMeansJobs Center, including rent, utilities, maintenance, supplies, equipment, technology to facilitate access, and outreach activities.

Local Memorandum of Understanding (MOU): The agreement resulting from negotiations at the local level that describes the roles and responsibilities of the local WDB and local partners in the operation of the OhioMeansJobs Centers and participation in the local workforce development system. The MOU lists each local partner’s proportionate share of infrastructure costs and the costs for shared services as well as other locally negotiated terms.
Non-required partner: An entity voluntarily participating in the local OhioMeansJobs Center system that is not carrying out any of the programs or activities that would mandate such participation under WIOA.

Participating area: A local workforce development area subject to the state infrastructure funding mechanism during a given program year; or an area in which the partners failed to complete the local MOU negotiation process for one or more OhioMeansJobs Centers in the area.

Partner: The collective term to reference both required and non-required partners.

Requested contribution: The aggregate annual state infrastructure costs allocable to a required partner based on the MOU budgets from all participating areas where the partner has a presence; or a partner’s actual cost and benefit received from OhioMeansJobs Center participation within the areas participating in the state infrastructure funding methodology.

Required partner: An entity carrying out programs or activities listed in WIOA section 121(b)(1)(B) which mandates participation in the local OhioMeansJobs Center delivery system.

V. Requirements

A. Methods for Determining Infrastructure Costs

Section 121 (h) of WIOA provides two options for determining the partners’ proportionate share of infrastructure costs for certified OhioMeansJobs centers located in the workforce development area:

Method 1: Local Funding Mechanism - A local funding methodology is agreed upon by the local board, chief elected official(s), and partners as defined in the local MOU.

Prior to the beginning of each program year, the partners in each local workforce development area will participate in a negotiation process to determine how to fund the costs of the area’s certified OhioMeansJobs Center(s) in the upcoming program year. ODJFS will provide guidance and technical assistance to the partners to facilitate the MOU negotiation process. The MOU describing the locally-defined funding method and total costs signed by the partners, WDB, and chief elected official(s), must be submitted to the state workforce agency by May 31st for the subsequent program year beginning on July 1st.

Method 2: State Infrastructure Funding Mechanism - If no consensus agreement is reached using the local infrastructure funding method, the state infrastructure funding mechanism will be implemented.

When ODJFS receives notice from WDB that it, the chief elected official(s), and area partners are unable to reach consensus on the funding of infrastructure costs, ODJFS, in consultation with state-level partner agencies, will provide local mediation and negotiation assistance to help the area reach consensus under the local infrastructure mechanism. If consensus still cannot be reached, the state infrastructure funding mechanism will be implemented.

Areas that have not submitted a signed MOU for the upcoming state fiscal year (beginning July 1st) by May 31st, or have not notified ODJFS that consensus has been reached on funding the OhioMeansJobs Center costs by May 31st, will be considered to have failed the local infrastructure mechanism. These areas will be subject to the state infrastructure funding mechanism.

B. State Infrastructure Funding Formula

For each local workforce development area subject to the state infrastructure funding mechanism, ODJFS will calculate the total amount payable by each required partner in a participating area, using the following methodology:

1. **Identification of negotiated infrastructure costs:** ODJFS will identify the infrastructure costs and each partner's share of those costs from the most recent MOU successfully negotiated by the partners in the participating area.
2. **Infrastructure cost adjustments:** The budget associated with the most recent MOU will be adjusted as described below:

   A. Personnel costs within the MOU budget will be subtracted from the total cost to be requested from the partners.
   
   B. Costs charged to non-required partners and Native American programs will be subtracted from the total amount to be requested from the remaining partners.
   
   C. Alternative funding that would defray the costs to partners will be subtracted from the total to be requested from the partners.
   
   D. Infrastructure costs may be increased by up to three percent over the most recent MOU budget for each consecutive year the area participates in state infrastructure funding if such cost increases are supported by documentation.

3. **Partner funding requests:** Each required partner will be notified of its aggregate costs in all participating areas in which the partner has a presence. Each partner must notify ODJFS if the requested amount exceeds the cap on required contributions listed in section 121 (h)(2)(D)(ii) of WIOA.

4. **Calculation of allocations:** If any required partner's cap is exceeded and the partner will not voluntarily contribute the requested contribution, the state infrastructure allocations for all participating areas in which that partner has a presence will be reduced proportionately until the total allocations to the participating areas do not exceed the contributions from the required partners. ODJFS will notify each participating area of its final calculated annual state infrastructure funding allocation.

   Attachment 1 to this policy – State Infrastructure Funding Methodology – contains more details about the above steps.

   **C. Allocation Process**

   Each participating area will receive quarterly allocations for OhioMeansJobs center infrastructure costs. To fund these awards, ODJFS will collect required contributions from each partner with a presence in participating areas at the beginning of each calendar quarter by invoicing the required partners for one-fourth of the partner's annual contribution. Once the funds are collected from the partners, the contribution from each partner will be divided among the participating areas according to the formula for state infrastructure funding, aggregated with the other required partner contributions to that participating area, and issued as a single allocation to the area's WIOA fiscal agent.

   Participating areas may draw the allocated state infrastructure funds to pay for actual costs of OhioMeansJobs center operations for line items of expense identified by ODJFS as infrastructure costs in the most recently negotiated MOU. Actual costs must be reported against the allocations using financial system codes established by ODJFS. Participating areas must maintain records documenting their actual costs paid with state infrastructure funding dollars in accordance with the records retention schedule identified in the WIOA subgrant agreement. ODJFS will conduct monitoring to ensure costs are allowable and properly documented.

   **D. Completion of MOU Negotiation**

   Implementation of the state infrastructure funding mechanism does not relieve the WDB or partners from the responsibility to negotiate for other required aspects of the local MOU including provision of shared career services, common costs such as costs of intake, assessment, and appraisal of basic service needs, and methods of referral. Personnel costs are excluded from the state infrastructure funding calculation and will need to be negotiated separately among the partners and included along with the state infrastructure funding in the MOU budget.
If the state infrastructure funding allocation amount from a required partner will be less than the infrastructure costs originally budgeted in the MOU for a participating area, partners will be directed to reenter negotiations to resolve the shortage in a manner that is consistent with the laws and regulations that authorize each partner's program. Participating areas must submit a completed MOU signed by all parties and containing all required elements including the resource sharing budget reflecting each partner's contribution under state infrastructure funding and any additional contributions by June 30th. Delaying the submission of the MOU may delay the issuance of the state infrastructure funding allocation.

E. Coordination of State Agency Required Partners

At the beginning of each biennium, the state agencies responsible for administration and oversight of required partner programs listed in section 121 (b)(1)(B) of WIOA (state partners) will execute an interagency agreement in which the state partners will ensure that program funds in an amount not to exceed the cap listed in section 121 (h)(2)(D)(ii) of WIOA will be available to pay required contributions in the event that the state infrastructure mechanism has to be implemented for one or more local workforce development areas. If the infrastructure funding mechanism is implemented in any local area, ODJFS will enter into a similar agreement at that time with any required partner receiving its funds directly from a federal agency rather than through a state agency pass-through.

If the infrastructure funding mechanism is implemented in any area, ODJFS will provide state partners with a list of all areas that successfully negotiated MOUs and those that will be subject to the state infrastructure funding mechanism along with the amounts of required contributions needed from each partner for each participating area.

F. Partner Appeals

Partners may appeal the determination of state infrastructure funding contributions on the basis that such determination is inconsistent with this policy or with any part of section 121(h) of WIOA. The appeals process is as follows:

- Within 21 calendar days from the date of receipt of the notice of state infrastructure funding determination, the partner(s) may file an appeal to the State in writing that clearly describes the reason(s) the partner is disputing the required contribution amount calculated under the state infrastructure funding mechanism.
- The State will review the request for appeal.
- The State will notify the partner of its actions in writing within 30 calendar days upon receipt of the appeal.

The flowchart in Attachment 2 illustrates the state infrastructure funding process graphically.

VI. Monitoring

Through the state's monitoring system, program monitors and auditors will review the area's MOU negotiation process during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

VII. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: OWDGRANTS@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, § 121, Public Law 113-128.
20 C.F.R. §§ 678.700 thru 678.760.
2 C.F.R. Parts 200 and 2900.
Attachments

Attachment 1: State Infrastructure Funding Methodology
Attachment 2: State Infrastructure Funding Process Flow
I. Purpose
The purpose of this policy is to establish the requirements for re-designation when the chief elected official(s) requests a change to the current composition of a local workforce development area (local area).

II. Effective Date
Immediately

III. Background
The Workforce Innovation and Opportunity Act (WIOA) envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. Local areas are designated for the purpose of implementing WIOA, establishing the OhioMeansJobs service delivery system, and to serve as jurisdiction for administering workforce development programs. Local areas must be designated by the State as a prerequisite to receiving adult, dislocated worker, and youth funding under Title I, Subtitle B of WIOA.

Re-designation occurs at any time the local area wishes to change the composition of the local area. Per section 106 (b)(1)(B) of WIOA and 20 C.F.R. 679.240 (a), re-designation of local areas are based upon the following criteria:

1. Consistent with local labor market areas
This criterion includes an analysis of labor market data for the county and a comparison with surrounding counties and regions. Labor market area is an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence.

Information such as metropolitan statistical areas (MSA), combined statistical areas (CSA), and workforce commuting patterns provide a snapshot of the labor market. Counties that are within the same MSA and CSA or whose residents‘ commuting patterns are similar should be reviewed for possible inclusion as a local workforce development area.

Data to be used to assess the labor market can be found at the following websites:
   a. MSA – [http://ohiolmi.com](http://ohiolmi.com) under "Maps"
   c. Workforce Commuting Patterns – [http://ohiolmi.com/census/commuting.htm](http://ohiolmi.com/census/commuting.htm)
   d. Census Information - [https://development.ohio.gov/reports/reports_am_com_survey.htm](https://development.ohio.gov/reports/reports_am_com_survey.htm)

2. A common economic development area
Various aspects of regional economic development areas are considered for this criterion. A review of the JobsOhio regions as well as the unemployment rate, the number of businesses, the types of businesses, and the number of job openings in the county and surrounding counties
should be completed. Counties with similar economies and economic development should be considered for possible inclusion as a local workforce development area.

Data to be used to assess regional economic development can be found at the following websites:

a. Unemployment Rate – [http://ohiolmi.com](http://ohiolmi.com) under "Data"


c. Number and type of Businesses in the Area – [http://ohiolmi.com](http://ohiolmi.com) under "Data" (see Employment and Wages tab)


3. **Federal and non-Federal resources, including appropriate education and training institutions, to administer activities under WIOA, Subtitle B**

This criterion not only includes available financial funding but also resources that will assist in the delivery of services. A review of this criterion should include where training providers, including 2-year and 4-year schools, Adult Basic and Literacy Education (ABLE) providers, and Ohio technical centers are located. A review of resources should also include how much WIOA funding is available currently and how this amount affects the delivery of services to adults, dislocated workers, and youth. The local area should have available services and funding to support the workforce development system and services.

Data to be used to assess resources can be found at the following websites:


b. Higher Education Centers in the Area – [https://www.ohiohighered.org/campuses](https://www.ohiohighered.org/campuses)

c. ABLE Providers in the Area – [https://www.ohiohighered.org/able/locations](https://www.ohiohighered.org/able/locations)

d. Ohio Vocational Technical Centers in the Area – [https://www.ohiohighered.org/students/find-a-career/career-technical-professional-and-vocational-schools](https://www.ohiohighered.org/students/find-a-career/career-technical-professional-and-vocational-schools)

Other considerations to determine local area composition include (1) the existing partnerships, either between neighboring local areas or between counties belonging to separate areas, and whether or not these partnerships could prosper and become stronger by having the partners work together as a single area; (2) the effect that re-designation might have on a planning region; and, (3) whether re-designation would better integrate workforce and/or economic development systems to help connect workers with employers.

### IV. Definitions

**Chief elected official(s):** per section 3(9) of WIOA, the chief elected executive officer(s) of a unit of general local government in a local area and, in the case of a local area that includes more than one unit of general local government, the individual(s) designated under an inter-governmental agreement.

**Consultation:** a robust conversation in which all parties are given the opportunity to share their thoughts and opinions.

### V. Local Workforce Development Area Requirements
If the local area and the chief elected official(s) wish to change the composition of the local area, then a request for re-designation must be submitted by the chief elected officials and the local workforce development boards (WDB) of all local areas affected by the change. These requests must be submitted within the same general time frame of one another.

To make a request for re-designation, chief elected official(s) must complete and submit the JFS 00512, Workforce Development Area Designation Application, and include all of the following information:

1. The counties that will form the proposed local area;
2. Evidence supporting how the local area meets designation criteria as outlined in Section III of this policy;
3. Signatures of representatives from each county in the proposed local area; and
4. Board or council resolution approving the proposed local area.

An application must be submitted individually by each of the affected local areas.

Re-designation applications and supporting documents shall be submitted to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov. The subject of the email should read, "WDA Re-Designation."

VI. State Requirements

A. Consultation and Comment

When making the decision to re-designate local areas, the State must consult and consider comments received through a public comment process which included the following stakeholders:

1. Local WDBs:
2. Local elected officials;
3. Businesses;
4. Institutions of higher education;
5. Labor organizations;
6. Other primary stakeholders; and
7. The general public.

In Ohio, consultation will entail one or more of the following activities:

1. E-mail notification of requested local area re-designation to the CEOs and local WDB directors with the opportunity to provide comment;
2. Dialogue with one or more of the following associations which provide support and guidance to the CEOs and local WDBs:
   a. County Commissioner Association of Ohio; and
   b. Ohio Workforce Association;
3. In-person meetings and/or teleconferences with individual CEOs and local WDB directors;
4. Collaboration with the Governor's Executive Workforce Board and the Office of Workforce Transformation;
5. Presentations at training events and/or at local WDB meetings; and
6. The Ohio Department of Job and Family Services (ODJFS) legal public comment process for workforce policies.

B. Review and Approval of Re-Designation Packets

The State will review the re-designation packets from each affected local workforce development area, and the State will submit all requests to the Governor's Executive Workforce Board (GEWB) per section 106 (b)(4) of WIOA and 20 CFR 679.240 (b). The GEWB will review the local workforce development areas' requests based upon the criteria outlined in Section III of this policy and will make recommendations to the Governor or his/her designee whether or not the local areas will be re-designated.

The Governor or his/her designee will make the designation decision. The State will notify the chief elected official of the re-designation or the denial of proposed local areas.

Approved re-designations of local areas will become effective on July 1 of the following program year unless circumstances do not allow a transition period.

VII. Resources to Local Workforce Development Areas within a Planning Region that wish to Re-designate into a Single Local Area

If the chief elected officials and the local WDBs of each local area within a planning region as identified in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-03, Regional and Local Planning, make a request to the State to re-designate into a single local area, the State may provide funds, to the extent statewide funds are available, to facilitate such re-designation as outlined in 20 C.F.R. 679.280. Re-designation activities that may be carried out by the local areas include:

1. Convening sessions and conferences;
2. Re-negotiation of contracts and agreements; and
3. Other activities directly associated with the re-designation as deemed appropriate by the State.

VIII. Technical Assistance

Ongoing support, guidance, training and technical assistance on workforce development area designation requirements, including stakeholder consultation, are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, §106, Public Law 113-128.


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-03, Regional and Local Planning, (October 21, 2016).
I. **Purpose**

The purpose of this policy is to establish the procedure for the subsequent designation of local workforce development areas.

II. **Effective Date**

Immediately

III. **Background**

The Workforce Innovation and Opportunity Act (WIOA) envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. Local workforce development areas (local areas) are designated for the purpose of implementing WIOA, establishing the OhioMeansJobs service delivery system, and administering workforce development programs. The local area serves as a jurisdiction for the administration of workforce development activities.

Per section 106 (b)(3) of WIOA, all local areas, which were initially designated by the State, must be subsequently designated as a prerequisite to receiving adult, dislocated worker, and youth funding under Title I, Subtitle B of WIOA. Ohio initially designated all 20 local areas. The period of initial designation applies to program years (PY) 2016 and 2017. Therefore, local workforce development areas may not be subsequently designated prior to July 1, 2018.

To be subsequently designated, the local workforce development area must meet all of the following criteria for the 2 program years of initial designation (PYs 2016 and 2017):

1. Performed successfully;
2. Sustained fiscal integrity; and
3. In the case of a local area in a planning region, met the regional planning requirements per section 106 (c)(1) of WIOA and Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-03, *Regional and Local Planning*.

For subsequent designation determinations made at the conclusion of PY 2017, a finding of whether a local area performed successfully must be limited to having met or exceeded the negotiated levels for "Employment Rate 2nd Quarter after Exit" and the "Median Earnings" indicators of performance for PY 2016 and PY 2017.

For subsequent designation determinations made at the conclusion of PY 2018, or at any point thereafter, a finding of whether a local area performed successfully must be based on all six of the WIOA indicators of performance for the two most recently completed program years.

IV. **Definitions**

*Chief elected official(s):* per section 3(9) of WIOA, the chief elected executive officer(s) of a unit of general local government in a local area and, in the case of a local area that includes more than one unit of general local government, the individual(s) designated under an inter-governmental agreement.
Consultation: a robust conversation in which all parties are given the opportunity to share their thoughts and opinions.

Performed successfully: pursuant to 20 C.F.R 679.260 (b), the local area met or exceeded the levels of performance the State negotiated with the local workforce development board and chief elected official for core indicators of performance and that the local area has not failed any individual measure for the last two consecutive program years in accordance with a State-established definition, provided in the State Plan, of met or exceeded performance.

Planning region: a region comprised of two or more local areas that are collectively aligned with the region.

Sustained fiscal integrity: the Secretary has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two year period preceding the determination.

Uniform administrative requirements: the requirements promulgated in circulars or rules of the Office of Management and Budget for each State, local workforce development area (including the chief elected official for the local area), and provider who has received WIOA funds.

V. Local Workforce Development Area Requirements

Per section 106 (b)(3) of WIOA and 20 CFR 679.250, the chief elected official and local workforce development board must be considered to have requested continued or subsequent designation unless the local area and chief elected official notifies the State indicating that they no longer seek designation. Subsequent designation will be reviewed August 1, 2018.

If a local area no longer seeks subsequent designation, the chief elected official(s) shall e-mail the State at OWDPOLICY@jfs.ohio.gov by July 15, 2018 indicating their intent to no longer be designated as currently geographically structured. The chief elected official(s) and the local workforce development boards will follow WIOAPL No. 16-05, Local Workforce Development Area Re-Designation, for local workforce development area re-designation procedures.

VI. State Requirements

A. Consultation and Comment

When making the decision for subsequent designation, the State must consult and consider comments received through a public comment process which included the following stakeholders:

1. Local workforce development boards;
2. Local elected officials;
3. Businesses;
4. Institutions of higher education;
5. Labor organizations;
6. Other primary stakeholders; and
7. The general public.

In Ohio, consultation will entail one or more of the following activities:

1. E-mail notification of requested local workforce development area re-designation to the CEOs and local WDB directors with the opportunity to provide comment;
2. Dialogue with one or more of the following associations which provide support and guidance to the CEOs and local WDBs:
a. County Commissioner Association of Ohio; and
b. Ohio Workforce Association;

3. Collaboration with the Governor's Executive Workforce Board and the Office of Transformation;

4. In-person meetings and/or teleconferences with individual CEOs and local WDB directors;

5. Presentations at training events and/or at local WDB meetings; and

6. The Ohio Department of Job and Family Services (ODJFS) legal public comment process for workforce policies.

B. **Review and Approval of Subsequent Designation**

The State will review the criteria for subsequent designation for local workforce development areas seeking such designation. Under section 106 (b)(3) of WIOA, the State shall approve subsequent designation of a local workforce development area which met the criteria for subsequent designation.

The State will notify the chief elected official(s) within 30 calendar days after the review indicating approval or denial of subsequent designation of the local workforce development area.

VII. **Maintaining Subsequent Designation**

The State may evaluate the local workforce development area at any time to ensure the local area continues to meet the requirements of subsequent designation. However, as part of the State planning process, the State shall review all of the requirements of subsequent designation eligibility for each local workforce development area which has been subsequently designated.

If the local workforce development area fails to meet its negotiated levels of performance or does not comply with uniform administrative requirements, the State retains the authority to take corrective action pursuant to section 5101.241 of the Ohio Revised Code, section 184 of WIOA, and 20 CFR 683.410.

In light of attempts to implement corrective action, the State does not have to approve ongoing subsequent designation for a local area that has failed to maintain the requirements of subsequent designation.

VIII. **Appeal**

Pursuant to section 106 (b)(5) of WIOA and 20 CFR 683.630, if the State denies subsequent designation of a local area, the chief elected official(s) may appeal the decision through the following appeals process:

- Within 14 days from the date of receipt of the notice of denial, the chief elected official(s) may file an appeal to the State Board by submitting in writing all of the following information: a statement that the chief elected official(s) is appealing the denial of subsequent designation; the reason(s) why the local area should be designated; and signature of the chief elected official(s).
- The written appeal shall be submitted by e-mail to: OWDPOLICY@jfs.ohio.gov.
- Pursuant to 20 CFR 679.290 (b) and 20 CFR 683.630 (a), the State Board will provide the parties with the opportunity for a hearing, review the appeal, and make a ruling on the appeal within 60 days after the submission of the appeal.

The State Board shall notify the chief elected official(s) in writing, of its decision on whether or not to approve subsequent designation of an area as a local area under section 106(b)(3) of WIOA and 20 C.F.R. 679.250.
In the event the State Board denies the appeal or fails to issue a decision within 60 days of the date the appeal is submitted, the chief elected official(s) may further appeal the State Board's decision or lack thereof to the U.S. Department of Labor (USDOL). Pursuant to 20 CFR 683.640, appeals made to USDOL, must be filed no later than 30 days after receipt of written notification of the denial from the State. The appeal must be submitted by certified mail, with return receipt requested, to the following address:

Secretary, U.S. Department of Labor
200 Constitution Ave. N.W.
Washington, D.C. 20210
Attention: ASET

The appellant must establish in its appeal to USDOL that the appellant was not accorded procedural rights under Ohio's appeal process, or that it meets the requirements for designation in section 106(b)(3) of WIOA and 20 CFR 679.250.

The appellant must provide a copy of the appeal to the State Board at the same time that the appellant sends the appeal to USDOL.

IX. Technical Assistance

Ongoing support, guidance, training and technical assistance on workforce development area designation, subsequent designation, or redesignation requirements, including stakeholder consultation, are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

X. References

Workforce Innovation and Opportunity Act, §106, Public Law 113-128.
Ohio Revised Code Section 5101.241.

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-03, Regional and Local Planning, (October 21, 2016).

I. **Purpose**

The purpose of this policy is to identify regions as required by the Workforce Innovation and Opportunity Act (WIOA) and to outline the requirements for regional and local planning.

II. **Effective Date**

Immediately

III. **Background**

WIOA envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. It requires local workforce development boards (WDB) and chief elected officials (CEO) to design and govern the system regionally, to align workforce policies and services with regional economies, and to support service delivery strategies tailored to these needs. To support this regional approach, WIOA requires States to identify regions.

Per section 106 (a)(2) of WIOA, the State shall identify:

a. Which regions are comprised of one local workforce development area (local area) that is aligned with the region;

b. Which regions are comprised of two or more local areas that are collectively aligned with the region (referred to as planning regions); and

c. Which, of the planning regions, are interstate areas contained within two or more states, and consist of labor market areas, economic development areas, or other appropriate contiguous sub-areas of those States.

As part of the identification of regions, the State will use the following criteria:

a. A single labor market;

b. A common economic development area;

c. Possessing of the Federal and non-Federal resources to administer workforce development activities;

d. Commuting patterns, which shows movement of workers from their residence to their workplace;

e. Population centers;

f. Similar economic bases, including percentage of employment in a particular industry;

g. Labor force conditions, including labor force data and unemployment data; and

h. Industrial composition, including industry employment patterns (jobs by industry and share of total employment by industry).

**Purpose of Planning Regions**
Planning regions are two or more local areas identified by the State which are collectively aligned with the region. The purpose of planning regions is to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both individuals and employers. The development of comprehensive regional partnerships facilitates this alignment and provides support for the execution and implementation of sector strategies and career pathways.

Identification of planning regions is important, because regional economic development areas do not necessarily correspond to State, county, or local workforce development areas, or municipal boundaries. Planning regions are established in order to ensure that training and employment services:

1. Support economic growth and related employment opportunities;
2. Meet the needs of individuals, including those with barriers to employment;
3. Meet the skill competency requirements of the region; and
4. Meet the specific needs of regional employers and the skills they require.

Regional and Local Plans

Regional and local plans provide the framework for local areas to define how their workforce development systems will achieve the purposes of WIOA. They serve as a 4-year action plan to develop, align, and integrate the region’s or local area’s job-driven workforce development systems, and provides the platform to achieve the planning region’s or local area's vision and strategic and operational goals. The regional or local plan must support the strategy described in Ohio’s Combined State Plan and represents a comprehensive, customer-focused, and actionable service delivery strategy.

Since the regional or local plan is only as effective as the partnerships that operationalize it, it must represent a collaborative process among local elected officials, local WDBs, and required and other partners (including economic development, education, and private sector partners).

IV. Definitions

Chief elected official(s): per section 3(9) of WIOA, the chief elected executive officer(s) of a unit of general local government in a local area and, in the case of a local area that includes more than one unit of general local government, the individual(s) designated under an inter-governmental agreement.

Consultation: a robust conversation in which all parties are given the opportunity to share their thoughts and opinions.

Core program: a program which is authorized under one of the following program provisions:

(a) Chapters 2 and 3 of subtitle B of Title I, relating to youth workforce investment activities and adult and dislocated worker employment and training activities;
(b) Title II, relating to adult education and literacy activities;
(c) Sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq), relating to employment services; and
(d) Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq), relating to vocational rehabilitation services.

Planning region: a region comprised of two or more local areas that are collectively aligned with the region.

V. State Requirements

A. Consultation

The State is required to identify regions in consultation with local CEOs and local WDBs. In Ohio, consultation will entail one or more of the following activities:
1. E-mail notification of proposed planning regions to the CEOs and local WDB directors with the opportunity to provide comment;
2. Dialogue with one or more of the following associations which provide support and guidance to the CEOs and local WDBs:
   a. County Commissioner Association of Ohio; and
   b. Ohio Workforce Association;
3. In-person meetings and/or teleconferences with individual CEOs and local WDB directors;
4. Collaboration with the Governor's Executive Workforce Board and the Office of Workforce Transformation;
5. Presentations at training events and/or at local WDB meetings; and
6. The Ohio Department of Job and Family Services (ODJFS) legal public comment process for workforce policies.

B. Identification of Regions

In addition to WIOA law and the State's criteria for the identification of regions, the following guidelines must be followed when identifying planning regions:

1. A single local area may not be split across two planning regions;
2. Local areas must be contiguous in order to be a planning region; and
3. A local area may only be part of one planning region.

While it is the desire of the State to have all local areas assigned to planning regions and engaged in regional planning, the geographic configuration of Ohio's local areas, as currently designated, does not allow for this in a manner which meets the established criteria and guidelines. Therefore, Ohio will be identifying both single local area regions and planning regions.

Using the State criteria and associated guidelines, Ohio has identified the following regions (Attachment A).

1. **Northeast Region**, consisting of Areas 2, 3, 4, 5, and 19;
2. **East Region**, consisting of Areas 6, 17 and 18;
3. **Southeast Region**, consisting of Areas 14, 15, and 16;
4. **Southcentral Region**, consisting of Areas 11, and 20;
5. **South Region**, consisting of Area 1;
6. **Southwest Region**, consisting of Areas 12 and 13;
7. **West Region**, consisting of Area 8;
8. **Northwest Region**, consisting of Area 9;
9. **Northcentral Region**, consisting of Area 10; and
10. **Central Region**, consisting of Area 7.

Ohio is not identifying interstate planning regions at this time. This does not prohibit planning regions or local areas in Ohio from regionally planning with other states' local areas for the purposes of that state's regional planning requirements.
Local areas identified as single area regions will work and coordinate with other local areas or planning regions who share a common labor market as identified in Attachment B. Activities will include, but are not limited to, the following:

1. Identification of sector strategies;
2. Development of strategies to serve common employers; and
3. Coordination of rapid response and/or layoff aversion activities.

The State will review and/or modify the identification of single local area regions and planning regions when local area designation is reviewed and/or modified, including local area subsequent designation, ongoing review of local area subsequent designation, and local area re-designation.

C. Provision of Data

The State will assist the planning regions and single area regions in obtaining the necessary labor market data, operational data elements, and any other data that will support the process of regional or local planning. The State will also provide ongoing support to meet the purpose of the regional and local planning.

D. Approval of Regional and Local Plans

The State must review completed regional and local plans. Such plans will be considered approved 90 days after receipt of the local or regional plan unless the State determines in writing that:

1. The plan(s) does not comply with applicable provisions of WIOA and the WIOA regulations, including the required consultations and public comment provisions, and the nondiscrimination requirements; or
2. The plan(s) does not align with the Combined State Plan, including the alignment of the core programs and the support of the Combined State Plan's goals and reform principles.

VI. Local Workforce Development Area Requirements

A. Development of Local and Regional Plans

Per section 108 of WIOA, the local WDB, in partnership with the CEO, shall develop and submit a local plan to the State. If the local area is assigned to a planning region, the local WDB will submit its local plan as part of the regional plan, as required in section 106 of WIOA, and will not submit a separate local plan.

Local Plan

For single local area regions, the local WDB, in partnership with the CEO, shall prepare, submit, and obtain approval of a local plan that includes a description of the policies, procedures, and local activities that are carried out in the local area and that contains all the requirements outlined in §679.560 of Title 20 the Federal Regulations.

The required contents of the local plan are contained in Attachment C of this policy.

The local area shall collaborate with the WIOA core programs and other programs included in Ohio’s Combined State Plan in the development of the local plan. The local area must also coordinate with other partners, including OhioMeansJobs center partners, and economic development, education, and private sector partners, to create a shared understanding of the local area's workforce development needs, a shared vision of how the local area can be designed to meet those needs, and agreement on the key strategies to realize this vision.

The local plan must support the strategic framework for the workforce development activities and the goals and the reform principles outlined in Ohio's Combined State Plan. The goals and

Local plans must be submitted between January 31, 2017 and March 1, 2017 and by January 31st every four years thereafter.

Regional Plan

Each planning region, including the individual local WDB and CEO of the local areas assigned to the planning region, shall prepare, submit, and obtain approval of a single regional plan that:

1. Includes a description of the activities described in 20 CFR 679.510 (a); and
2. Incorporates local plans for each of the local areas in the planning region as an addendum to the regional plan.

The required contents of the regional plan and local plan are contained in Attachment D of this policy.

Regional plans must be submitted between January 31, 2017 and March 1, 2017 and by January 31st every four years thereafter.

The local workforce development areas within the planning region must coordinate available resources to decide how the regional planning process will occur and who will lead or be responsible for the writing of the plan. Some options available may include rotating these responsibilities amongst the local area's WDB directors or hiring a consultant.

The planning region shall collaborate with the WIOA core programs and other programs included in Ohio’s Combined State Plan in the development of the regional plan. The planning region must also coordinate with other partners, including OhioMeansJobs center partners, and economic development, education, and private sector partners, to create a shared understanding of the planning region’s workforce development needs, a shared vision of how the planning region can be designed to meet those needs, and agreement on the key strategies to realize this vision.

The regional plan must support the strategic framework for the workforce development activities and the goals and the reform principles outlined in the Combined State Plan. The Combined State Plan’s goals and reform principles are found at http://workforce.ohio.gov/Initiatives/CombinedStatePlan.aspx.

B. Submission of Regional and Local Plans

The local WDBs and the CEOs within the planning region or single local area region must ensure that there has been an opportunity for public comment on the development of the regional and/or local plans. Additionally, copies of the proposed regional and local plans must be made available to the public through electronic and other means, such as public hearings and local news media. Members of the public must be given at least 30 days to provide their comments on these plans, before the plans are submitted to the State.

The local WDB or the entity responsible for the development of the regional plan shall submit the regional or local plan electronically to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

C. Modification of Regional and Local Plans

Ensuring that regional and local plans remain up-to-date and relevant, and ensuring consistency between regional and local plan requirements, will improve the effectiveness of the public workforce system.

At the end of the first 2-year period of the 4-year regional and local plans, the local WDBs, in partnership with the appropriate CEOs and planning regions, as applicable, must review the
regional and local plans and prepare and submit modifications to the regional and local plans to reflect any of the following changes:

1. Labor market and economic conditions; and
2. Other factors affecting the implementation of the regional or local plan, including but not limited to:
   a. Significant changes in local and/or regional economic conditions;
   b. Changes in the financing available to support WIOA Title I and partner-provided WIOA services;
   c. Changes to the local WDB structure of the local areas, including any local area's WDB structure within a planning region; and
   d. The need to revise strategies to meet performance goals.

If the CEOs and the local WDBs decide, after the review of the regional and/or local plans, that a modification of neither plan is necessary, the local WDB or the entity responsible for the regional plan shall e-mail OWD at OWDPOLICY@jfs.ohio.gov, indicating that the reviews of the plans were completed and modifications to the regional or local plans were not necessary.

VII. **Technical Assistance**

Ongoing support, guidance, training and technical assistance on development of local and regional planning is available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VIII. **References**

Workforce Innovation and Opportunity Act, §§ 106, 107, and 108 Public Law 113-128.


I. **Purpose**

The purpose of this policy is to establish the criteria for eligible training providers (ETPs) who may receive WIOA funding to provide training services and the procedures for approving them on the State ETP list.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

The workforce development system established under the Workforce Innovation and Opportunity Act (WIOA) emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principles. The Ohio Department of Job and Family Services (ODJFS) plays a leadership role in ensuring the success of the ETP system in partnership with the local workforce development boards (WDBs), the OhioMeansJobs system, and its partners.

As required by section 122 of WIOA and 20 C.F.R. 680.400, the State, in partnership with the local WDBs, must identify providers of training services that are qualified to provide WIOA-funded training to adults, dislocated workers, and youth. Therefore, WIOA requires that each state maintain a list of ETPs and their programs of training services along with relevant performance and cost information. The State must establish eligibility criteria and procedures for initial determination and renewals of eligibility for training providers and training programs to receive funds under WIOA title I-B. The State ETP list and the related eligibility procedures must ensure the accountability, quality, and labor-market relevance of programs of training services. In administering this process, the State and local workforce development areas must work to ensure that qualified providers offering a wide variety of job-driven training programs are available.

An individual training account (ITA) is one of the primary methods through which training is financed and provided for adults, dislocated workers, and youth, including youth who are in school and permitted to receive ITAs through waiver authority granted by the United States Department of Labor (USDOL). ITAs are established on behalf of a WIOA participant to purchase a program of training services from ETPs. Further guidance may be found in the policy letter on the use of ITAs.

Providers of on-the-job training (OJT), customized training, incumbent worker training, internships, paid or unpaid work experience, or transitional jobs are not funded through ITAs, are not included on the State ETP list, and are not subject to the eligibility criteria pertaining to ETPs.

Pursuant to the State policy letters on training services for adults and dislocated workers and youth program services, and paragraph (E)(4) of rule 5101:14-1-02 of the Administrative Code, training services and occupational skills training for which ITAs are used shall only be delivered by providers who have met the eligibility criteria and are included on the State ETP list.
V. Definitions

Accreditation: Recognition by an accrediting agency that an institution or specific training program offered by the institution maintains standards for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice.

Community-based organization: A private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

Eligible training provider (ETP): An entity that meets the criteria and procedures established by the State to be eligible to receive WIOA title I-B funds to provide occupational skills training and to be included on the State ETP list.

Occupational skills training: An organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at the entry, intermediate, or advanced level, and results in attainment of a recognized post-secondary credential.

Program of training services: One or more courses or classes, or a structured regimen, that leads to:

1. A recognized post-secondary credential;
2. A secondary school diploma or its equivalent;
3. Measurable skill gains toward the above credentials; or
4. Employment.

Recognized post-secondary credential (RPC): A degree, license, or certification consisting of an industry recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree awarded by an accredited college or university.

State ETP list: An online database of the ODJFS-approved training providers who may receive WIOA title I funds to provide training services to eligible WIOA title I-B participants, including relevant performance and cost information on each training program.

VI. State Requirements

A. Eligible Training Providers (ETPs)

ETPs may include:

1. Accredited institutions of higher education that provide programs which lead to recognized post-secondary credentials;
2. Entities carrying out programs registered under the National Apprenticeship Act (29 U.S.C. 50); or
3. Public or private providers of training services, which may include:
   a. Community-based organizations;
   b. Joint labor-management organizations; and
   c. Eligible providers of adult education and literacy activities under title II of WIOA (in Ohio, known as Aspire) if such activities are provided in combination with occupational skills training.

In determining which entities may qualify as ETPs, priority is granted to those offering training programs that lead to recognized postsecondary credentials (RPCs) that are aligned with in-demand industry sectors or occupations in the State and or a local workforce development area (local area). An RPC is awarded in recognition of an individual’s attainment of measurable skills.
technical or industry/occupational skills necessary to obtain employment or advance in a career field.

B. **Certifications of Basic Skills or Work Readiness**

Minor certifications of basic skill attainment or work readiness, although frequently provided to WIOA participants to help them enter employment, do not meet the definition of an RPC. Therefore, providers of such credentials are not included on the State ETP list. Any coursework or instruction provided by such providers to help individuals attain a minor certification is not considered occupational skills training under WIOA and is not funded through an ITA. Local WDBs may use procurement methods other than the State ETP list to make available minor credentials that verify basic skills and work readiness where necessary and appropriate.

However, some minor certifications are embedded within a regimen of training leading to an RPC and are used to document interim progress and measurable skill gains toward completion of the RPC. Thus, notwithstanding the previous paragraph, providers that offer training leading to an embedded minor certification are considered ETPs and may be included on the State ETP list; and participants who will continue their training to complete an RPC may receive the training needed to earn an embedded certification through an ITA.

Attachment A to this policy provides additional guidance on the defining characteristics of RPCs and other types of workforce credentials along with a checklist template that local areas may use or adapt to determine whether a credential meets the RPC criteria.

C. **Management of the State ETP List**

ODJFS establishes the criteria, information requirements and procedures for the State ETP list, including procedures identifying the respective roles of the State and the local areas governing the eligibility of ETPs. The State is responsible for the following activities:

1. Ensuring the development and maintenance of the State ETP list;
2. Ensuring programs meet the eligibility criteria and performance levels established by the State;
3. Removing programs that do not meet State-established program criteria or performance levels;
4. Taking appropriate enforcement actions against providers that intentionally provide inaccurate information or that substantially violate the requirements of WIOA; and
5. Disseminating the State ETP list to the public and the local WDBs.

D. **Initial Eligibility Procedures for ETPs**

Any provider offering a program of training services to be funded through WIOA using ITAs must be included in the State ETP list. Except for registered apprenticeship programs, any provider that has not previously served as an ETP under section 122 of WIOA or section 122 of the Workforce Investment Act of 1998 (WIA) must apply for consideration by submitting the following information in the State’s designated online system for managing the State ETP list:

1. **Provider Information**
   a. Name, address, e-mail address, and contact person;
   b. Entity type (e.g., higher education, apprenticeship, etc.);
   c. Number of years the provider has been in business;
   d. Ability to provide training services to individuals with barriers to employment (e.g., availability of financial aid, grants, and scholarships);
   e. Information on Americans with Disabilities Act (ADA) compliance; and
2. Program Information
For each program of training services to be offered by the provider, the following information must also be submitted:

a. Program name, description, and website;
b. Location(s) that offer the program;
c. Type of degree, certificate, or other attainment earned;
d. Name of associated credential;
e. Classification of instructional programs (CIP) code and title for the program;
f. Occupational Information Network (O*NET) code for the program;
g. Program length (credit or clock hours);
h. Program prerequisite (e.g., experience, course-work, diploma or degree);
i. Program format (in-person, online, etc.);
j. Indication of whether the credits transfer to another institution;
k. Program duration and term; and
l. Cost of tuition and related fees.

3. Indicators of program performance and waiver authority
To assist participants in selecting training activities and providers of training services, ETPs are also required to provide outcome data for the following indicators of program performance for individuals who attended each training program:

a. Number of individuals who attended the training program;
b. Number of individuals who exited (including attendees who completed, withdrew, or transferred out of the program);
c. Number of individuals who completed the program;
d. Number of program exiters who are employed in the second quarter after exiting;
e. Number of program exiters who are employed in the fourth quarter after exiting;
f. Median earnings of program exiters in the second quarter after exiting;
g. Number of program exiters who attained a credential during participation in the training program or within one year after exiting;
h. Average (mean) earnings of program exiters in the second quarter after exiting; and
i. Average (mean) earnings of program exiters in the fourth quarter after exiting.

However, under a temporary waiver granted by the USDOL, training providers who do not have systems or processes in place to gather one or more of the indicators of program performance may indicate in their application that the data is not available, in which case:

- The training provider may be added to, and remain on, the State ETP list if all other ETP criteria are met and may provide WIOA-funded training services to participants while the waiver authority remains in effect;
The ETP must begin working to implement the necessary systems or processes to be able to submit data on some or all of the indicators of program performance on its subsequent State ETP list renewal request; and

The performance outcomes for WIOA participants who attended the ETP’s program, exclusive of attendees who were not funded by WIOA, will be reported by ODJFS.

4. Additional ETP requirements

To qualify as an ETP, a provider of training services must also meet the following criteria:

a. Remained in business for two years or longer;

b. Registered with the Ohio Secretary of State to do business in Ohio, is exempted from such registration, or registered to do business in another state if the provider does not have a significant presence in Ohio;

c. Is not debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the State of Ohio;

d. Does not owe any outstanding tax liability to the State or Federal government more than six months past due; and

e. Does not owe any outstanding civil, criminal, or administrative fines or penalties at the State or Federal level.

The State will review all applications for inclusion on the State ETP list and will notify each training provider via e-mail of the approval or denial decision for the provider and for each training program proposed by the provider.

ETPs may apply for approval of additional programs of training services at any time after initial eligibility by following the same procedure.

E. Continued Eligibility Procedures for ETPs

To remain active on the State ETP list and continue to receive WIOA funding, an ETP must renew its status in the State’s designated system for managing the State ETP list at least once every 12 months following the date of the previous approval. The renewal process requires an update of basic provider information, the information pertaining to each program offered by the ETP, and the indicators of program performance to reflect outcomes using the most recently available data that pertain to each performance measure (if such data are available) as required for performance reporting.

The State will review all submitted renewal requests and will terminate and remove providers that fail to meet criteria necessary to remain eligible. The training provider will be notified via e-mail when its status has either been renewed or terminated.

If an ETP does not renew its status within 90 days following the 12-month renewal date, the provider will be terminated and removed from the State ETP list. The training provider will no longer be permitted to provide ITA services funded by WIOA until completing the initial eligibility process described above and obtaining ODJFS approval.

If an ETP does not renew the status of one or more of its training programs within 90 days following the 12-month renewal date for that program, the program(s) will be removed. The provider may remain on the State ETP list if it maintains at least one active program. Providers with no available programs will be removed from the State ETP list as described in the previous paragraph.

F. Registered Apprenticeship Programs
Registered apprenticeship programs, upon approval by ODJFS, are automatically included on the State ETP list unless the sponsor requests to be excluded. When applying to become a registered apprenticeship program, the sponsor will be informed of this eligibility and the benefits of inclusion on the State ETP list.

Once included on the State ETP list, registered apprenticeship programs will remain on the list until they are deregistered or until the registered apprenticeship program notifies ODJFS that it no longer wishes to be included on the list.

Inclusion of a registered apprenticeship program on the State ETP list allows eligible adults, dislocated workers, and youth who are authorized to receive ITAs to use WIOA funds to cover the costs of classroom training provided as part of the apprenticeship program, subject to policy limitations by ODJFS or the local WDB.

G. Dissemination of State ETP List

To assist participants in choosing employment and training activities, the State ETP list will be disseminated to local WDBs in the state, members of the public, the OhioMeansJobs delivery system, and program partners, including the State’s secondary and post-secondary education systems.

To ensure informed consumer choice, the State ETP list is widely available to the public through electronic means and includes searchable databases. The State ETP list is accessible to individuals seeking information on training outcomes and participants in employment and training activities funded under WIOA, including individuals with disabilities.

The State ETP list contains appropriate information to assist participants in choosing employment and training activities, including:

1. Recognized post-secondary credential(s) offered;
2. Provider-supplied information as part of eligibility; and
3. Training program performance and cost information.

H. Loss of ETP Eligibility

A training provider must deliver results and provide accurate information to retain its status as an ETP. Providers determined to have intentionally supplied inaccurate information or to have substantially violated any provision of title I of WIOA or the WIOA regulations, including 29 CFR part 38, must be removed from the State ETP list.

Upon determination that a provider of training services intentionally supplied inaccurate information or substantially violated any requirement of WIOA, the eligibility of such provider to receive funds under WIOA shall be terminated for at least two years.

A provider of training services whose eligibility is terminated for either intentionally supplying inaccurate information or substantially violating WIOA requirements shall be liable for the repayment of funds improperly secured or received during the period the violation(s) occurred.

I. Appeal Process for ETPs

If an institution or training provider was denied ETP eligibility, has lost eligibility, or has been terminated from the State ETP list, the institution or training provider may appeal the denial or termination by requesting an appeal within 14 days from the date of receipt of notice of termination. The appeal may be submitted by:

- Using the automated appeal module available within the State’s designated information system for managing the ETP list;
- Sending an e-mail, with relevant information and exhibits attached, to WIOAQNA@jfs.ohio.gov; or
Mailing a written request to ODJFS, Office of Workforce Development, P.O. Box 1618, Columbus, OH 43216-1618.

The State will review the appeal, gather any necessary information from the individual who submitted the appeal, provide an opportunity for a hearing, and issue a written decision within 60 days of the receipt of the appeal.

VII. Local WDB Requirements

The local WDB is responsible for the following activities pertaining to ETPs:

1. Carrying out procedures assigned to the local WDB by the State, such as informing the State of concerns related to the quality of providers or inaccurate performance data;

2. Working with the State to ensure there are sufficient numbers and types of providers of training services, including ETPs with expertise in assisting individuals with disabilities or in need of adult education and literacy activities; and

3. Ensuring the wide dissemination and appropriate use of the information available in the State ETP list.

Additionally, the local WDB may:

1. Make recommendations to the State on the best procedure for identifying qualified ETPs;

2. Request additional information from ETPs to assist adults, dislocated workers, and youth in making an informed choice; and

3. Conduct site visits to assess the quality of the providers, and report on the findings.

Local WDBs may supplement information requirements defined in this policy to support informed customer choice and the achievement of local performance measures. This additional information may include:

1. Information on programs of training services that are linked to local in-demand occupations;

2. Information that shows how programs are responsive to local workforce development area needs; and

3. Other appropriate information related to the objectives of WIOA.

Local WDBs are not required to provide WIOA funding to a training provider listed on the State ETP list and may establish local policy regarding how ETPs will be utilized locally. However, this policy must not inhibit consumer choice. For example, a local WDB may decide against using ETPs that did not provide data on the indicators of program performance if a sufficient number of ETPs remain available within a reasonable commuting distance for participants to receive the training services they need to enter in-demand occupations.

VIII. Technical Assistance

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, §§ 122, 123, 129, 134, and 188, Public Law 113-128.


O.A.C. 5101:14-1-02(E)(4).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-09.1, Training Services for Adults and Dislocated Workers (January 8, 2018).


Attachment A: Credential Classification Checklist Template
Workforce Innovation and Opportunity Act Policy Letter No. 15-26

March 3, 2016

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: ITA Financial Definitions

I. Purpose

The purpose of this policy is to clarify the financial reporting requirements for individual training account (ITA) obligations.

II. Effective Date

Immediately

III. Background

An ITA is one of the primary methods through which training is financed and provided for unemployed or underemployed participants. ITAs are established on behalf of a participant to purchase a program of training services. As such, it is important that local workforce development areas have an understanding of how to track ITA commitments, obligations, and accrued expenditures, and report these accurately. Additional information on ITAs is located in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts.

IV. Definitions

Accrued expense: Under accrual-base financial reporting, a cost is incurred for goods and services received regardless of whether the payment has been made.

Commitment: An anticipated expenditure in a current or future period regardless of whether the non-federal entity has a current legal obligation to pay the anticipated expense. A plan to provide services in a future period that may or may not be legally binding.

Contract: a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a Federal award.

Individual training account (ITA): a payment agreement established on behalf of a participant with a training provider.

Obligations: Pursuant to NPRM § 675.300, when used in connection with a non-federal entity's utilization of funds under a federal award, means orders placed for property or services, contracts and subawards made, and similar transactions, during a given period that require payment by the non-federal entity during the same or a future period.

Program of training services: one or more courses or classes or a structured regimen that leads to:

1. A recognized post-secondary credential, secondary school diploma or its equivalent;
2. Employment; or
3. Measurable skill gains towards a credential or employment.

Special grants: grants or awards, including National Dislocated Worker Grants, which are distributed in addition to Workforce Innovation and Opportunity Act (WIOA) formula allocations.

V. Requirements

Commitments
When an ITA is approved for a participant, the amount of the commitment is the total anticipated cost to complete the training program regardless of the time periods in which the training costs are to be incurred. Although commitments are not reported at the federal level, local areas may track ITA commitments against available funds to avoid potential over-obligation or the need to terminate pre-existing approvals for training in order to serve a newer participant. Reporting commitments to the state may also help the area justify a need for additional discretionary funding.

Obligations

The following are the guidelines to be used to track ITA obligations and report these obligations:

1. ITAs must be obligated at the time a participant is enrolled in a training program, not when an ITA is established or approved. The planning and/or approval of training activities alone do not constitute an obligation; the participant must be enrolled in a training program for an obligation to be reported. As an example, enrollment can occur when a participant agrees to attend a specific program of training services, and the school has accepted the enrollment application and signed off on the ITA. Pursuant to WIOAPL No. 15-11, eighty-five percent of new ITA enrollments for the local area must be in an "in-demand" occupation as defined by the state of Ohio.

2. For training programs with a single payment point, the amount of the ITA obligation equals the planned cost of the approved training. For training spanning multiple quarters, semesters, or years, ITAs may be obligated for the costs that will be incurred during the current semester or quarter at the time of enrollment. Obligations are defined as definite and certain legal liabilities, so ITAs that will span multiple quarters or semesters may not be reported as obligations based on estimated potential future costs, such as by averaging monthly shares of the commitment multiplied by some arbitrary number of months into the future.

3. If the local area enters into agreement with one or more sub-recipients for provision of ITA-funded training services, the amount of the agreement is counted as an obligation at the area level regardless of when ITAs become obligated by the sub-recipient. In this situation, the sub-recipient selected to approve and reimburse the ITAs must report its ITA obligations to the area as described in the previous paragraphs.

4. Local workforce development areas may impose additional requirements for reporting of ITA obligations, and must also comply with all local regulations and practices.

5. Local workforce development areas are advised to enter into a contract with training providers in order to set the terms, conditions, duration, and payment responsibility for the ITA.

6. The oldest funds should be obligated and expended first.

Accrued Expenditures

Non-Federal entities operating WIOA programs are required to report expenditures on an accrual basis. For an ITA, the cost of tuition is often billed months after the participant has entered and received training. Therefore, the cost of tuition must be accrued incrementally as the participant receives the training even if the tuition cost has not yet been invoiced. However, if the full cost of tuition for the current semester/quarter is paid up front, the entire cost is expensed and no additional accrued costs would be reported. Similarly, some training providers require payment for the entire quarter/semester if a student remains in training beyond a pre-determined add/drop date. When the final date to be eligible for a tuition refund has passed and the non-Federal entity becomes responsible for the entire tuition for the class, the entire obligated cost must be reported as an accrued expense.

Additional Considerations

Appropriate fiscal management practices will be especially important for local workforce development areas that will report ITA obligations in 12 month increments for a full two-year training period. In order to ensure the most effective use of training funds, local workforce development areas are advised to
analyze past training completion and drop-out rates to determine the acceptable level of over obligation, and to regularly deobligate funds when individuals drop out or do not complete the training program. Deobligation of funds will allow training to be available to other WIOA participants. With proper deobligation practices, local workforce development areas can avoid situations where the funds are under-spent due to individuals leaving the training prior to completion.

Special Grants

When obligating funds that are awarded through special grants, fiscal management practices may vary depending on the stipulations of the award and the period of the grant. The State will issue further guidance or instructions when such variances to this policy occur.

VI. Technical Assistance

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIAQNA@JFS.OHIO.GOV.

VII. References


Rescission

WIOAPL 15-25 (Transfer of Funds between the Adult and Dislocated Worker Local Formula Funds)

Workforce Innovation and Opportunity Act Policy Letter No. 15-25

March 3, 2016

To: Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Transfer of Funds between the Adult and Dislocated Worker Local Formula Funds

I. Purpose

The purpose of this policy is to provide the guidance and parameters for transferring up to 100 percent of a program year allocation for adult employment and training activities, and up to 100 percent of a program allocation for dislocated worker employment and training services between the two programs.

II. Effective Date

July 1, 2015

III. Background

Section 133 (b)(4) of the Workforce Innovation and Opportunity Act (WIOA) allows the local workforce development board (WDB) to transfer, if such a transfer is approved by the state, up to and including 100 percent of a program year allocation between the local adult and local dislocated worker programs. This transfer provides flexibility to the local workforce development area to provide services in the areas of greatest need.

IV. Requirements

Effective with the issuance of PY 2015 WIOA funds, a local WDB may transfer up to 50 percent of the local allocation between the adult and dislocated worker programs without approval from the state. Any transfers above 50 percent require a request to be made and the state to grant approval of such transfers.

Funds should not be transferred from the dislocated worker program to the adult program without regard to demands for dislocated worker services. The state may question and, if sufficient justification is not provided by the area, may deny any application for rapid response funds to address a need if a transfer has occurred from the dislocated worker program to the adult program.

A local WDB cannot transfer youth funds under WIOA.

Request for Transfer

For transfers of funds over 50 percent, the local WDB must make a request to the state for approval of such transfer for a specific appropriation of adult or dislocated worker funding (i.e., program year or fiscal year of appropriation). The request must specify the type of funding (whether adult or dislocated worker) to be transferred to the other program and must be for one of the following two increments:

1. Increase the transfer up to 75 percent; or
2. Increase the transfer up to 100 percent.

There are short-term and long-term effects on program operations that could result from transfers of funds. The local WDB and the fiscal agent should examine the following considerations when deciding to transfer:

1. Are there adequate funds to maintain services to currently enrolled participants?
2. What is prompting the request?
a. Customer demand  
b. Business demand  
c. Expenditures  
d. Enrollments

3. How will you respond to unforeseen events, such as:
   a. Company closings  
   b. Mass layoffs  
   c. Increased training costs?

4. What are short-term and long-term impacts of the transfer?
   a. Will there be significant change in local plan goals to warrant a local plan modification?
   b. Will service level and service groups be affected (e.g., priority to serve low-income 
      individuals under WIOA adult formula funding)?

All requests for transfer must include a written justification addressing each of the above-mentioned 
considerations and the reasons such transfer is necessary to provide adult or dislocated worker 
employment and training activities.

Requests are to be e-mailed to WIAQNA@jfs.ohio.gov with "Fund Transfer Request" in the subject 
line. The Office of Workforce Development will respond to all requests within 30 days of receipt of the 
transfer request. Approval of a higher transfer limit pertains only to a program (adult or dislocated worker) 
and program year or fiscal year of appropriation and will continue to apply for the life of the funds. For each new allocation of adult and dislocated worker funds, the 50 percent transfer limit will 
automatically apply until the local workforce development area requests and is approved for a higher 
transfer limit.

Transfer of Funds

A WDB should instruct the fiscal agent of the amount to transfer, up to 100 percent of local workforce 
development area formula allocations, based upon the state's approval, if the percentage being 
transferred required approval.

Funds will retain the year of appropriation identity (e.g., program year allocation) and must be reported 
and accounted for accordingly using County Finance Information System (CFIS) codes established by 
the Bureau of County Finance and Technical Assistance (BCFTA).

To transfer funds, the local workforce development area will use the transfer-related expenditure codes 
of the program from which funds are being transferred, in the state's financial system to report costs 
incurred by the program receiving funding. Local workforce development areas shall not report 
expenses using the transfer-related codes in excess of 50 percent of the relevant grant unless the 
state has approved a higher transfer limit.

The higher transfer limit of up to 100 percent, with approval from the state, shall apply to new 
allocations of adult and dislocated worker funding issued in the fiscal year beginning on or after July 1, 
2015. This higher transfer limit does not apply to funds received in a prior fiscal year that may be 
carried into the new fiscal year. The level of transfer authority that existed at the time the funding was 
awarded shall continue to apply to those funds for their period of availability at the local level.

V. Monitoring

At the local level, the WDB and/or the fiscal agent must conduct oversight of the transfer of WIOA adult 
and dislocated worker funds to ensure the transfer is being completed per this policy.

Quarterly reporting of the local workforce development area's fund transfers will be completed by the 
Office of Workforce Development and provided to the local workforce development board director.
Through the state’s monitoring system, fiscal monitors will review the area’s transfer of adult and dislocated worker funds during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VI. **Technical Assistance**

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIAQNA@JFS.OHIO.GOV.

VII. **References**

Workforce Innovation and Opportunity Act, § 133(b)(4), Public Law 113-128.


**Rescission**

ODJFS, [Workforce Investment Act Policy Letter No. 09-01.5](mailto:Workforce%20Investment%20Act%20Policy%20Letter%20No.%2009-01.5), Waiver to Increase the Transfer of Funds between the Adult and Dislocated Worker Local Formula Funds, (September 9, 2014).
Workforce Innovation and Opportunity Act Policy Letter No. 15-24

March 23, 2016

To: Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Customized Training Guidelines

I. Purpose

This policy provides guidance on the requirements for customized training.

II. Effective Date

Immediately

III. Background

Work-based training is employer-driven with the goal of unsubsidized employment after participation. Generally, work-based training involves a commitment by an employer or employers to fully employ successful participants after they have completed the program. It can be an effective training strategy that provides additional opportunities for participants and employers in both finding quality work and in developing a quality workforce. Work-based models can be effectively used to target specific job seekers and employer needs.

Customized training is one type of work-based training model and is designed to meet the specific requirements of an employer or group of employers. Section 3 (14) of WIOA and the accompanying regulations in 20 CFR 680.760 and 680.770 establish that local workforce development boards (WDB) and the state may offer customized training through an agreement with either a vendor or employer.

IV. Definitions

Customized training: training that is designed to meet the specific requirements of an employer (including a group of employers); is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and for which the employer pays:

1) A significant portion of the cost of training as determined by the local board involved, taking into account the size of the employer and such other factors, as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to the competitiveness of a participant, and other employer-provided training and advancement opportunities; and

2) In the case of customized training involving an employer located in multiple local areas in the state, a significant portion of the cost of the training, as determined by the Governor of the State, taking into account the size of the employer and such other factors as the Governor of the State determines to be appropriate.

Planning region: two or more local workforce development areas assigned by the state to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

V. Requirements

Customized training is one of several types of allowable training identified in Section 134 (c)(3)(D) of WIOA. This training may be offered to individuals under local area formula-funded programs or as a type of incumbent worker training. As a type of training offered in local formula-funded programs,
participants must meet all adult or dislocated worker eligibility requirements prior to the start of customized training.

Overall, customized training is training designed to meet the needs of a specific employer, or group of employers (employer consortiums). It may be provided for the introduction of new technologies, new production or service procedures, upgrading existing skills, or other appropriate purposes identified by the local WDB. The employer must commit to employ, or continue to employ, the worker(s) upon successful completion of any form of customized training. As with all training services, the customized training must enable individuals to obtain industry or employer-recognized skills.

Customized training may be provided through individual training accounts (ITAs) or through contracts for services. If the training is provided through an ITA, all requirements of such ITA must be followed, including the use of approved eligible training providers. If a contract is used to provide customized training, this contract must have been established through proper procurement procedures.

**Business Considerations**

A local WDB must not enter into a customized training agreement with an employer who has exhibited a pattern of failing to retain individuals after successful completion of the customized training.

Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for customized training:

1) Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the state of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

   Federal Debarment Site: [http://www.sam.gov](http://www.sam.gov)

   Ohio Department of Taxation: [http://www.tax.ohio.gov](http://www-tax.ohio.gov)

   Business Filing Search: [http://www.sos.state.oh.us](http://www.sos.state.oh.us)

2) Businesses must not have any outstanding tax liability for over six months to the state of Ohio. WDBs will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. The local WDB may consider existing out-of-state violations when determining eligibility to receive customized training funds. The local WDB must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.

3) Businesses must ensure that they do not have more than one unfair labor practice contempt of court finding, and that they are not identified as such on the most recent list established by the Secretary of State.

4) Ohio businesses must have all of the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the course of the local customized training program activities and the business be disqualified from conducting business in Ohio, all training under the customized training program must cease.

5) Governmental entities, including the city, county and state, may not participate in the local customized training program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.

6) Businesses that have employees in a lay-off status should not be considered for customized training unless the training would avert additional layoffs.

7) Businesses that have relocated to Ohio and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days.
To verify that a business is not relocating employment from another area, a pre-award review
must be undertaken and documented by the local WDB. The review must include the names
under which the establishment conducts business, including predecessors and successors in
interest; the name, title, and address of the company official certifying the information, and
whether WIOA assistance is being sought in connection with past or impending job losses at
other facilities of their company. The pre-award review should also include a review of whether
appropriate notices have been filed, as required by the Worker Adjustment Retraining
Notification (WARN) Act. The review may also include consultations with labor organizations
and others in the affected local area(s).

8) Businesses must not have any outstanding civil, criminal or administrative fines or penalties
owed to or pending in the state of Ohio.

Training Considerations for Customized Training

Training for customized training will address:

1) Occupations in industries that have documented skill shortages. Careers on the State's in-
demand list, high wages, high costs for recruitment, and/or positions that remain unfilled for long
periods of time may indicate a shortage of skills within the workforce; and

2) Developing the skills of the workforce so as to lead to enhanced career pathways for individual
employees.

Training providers should have satisfactory past performance, accreditation, curricula that lead to
credentials, relevant training experience and programs, accredited instructors, high job placement
rates, and/or high training completion rates. Training providers should also meet acceptable minimum
retention rates for trainees in their field or occupation of training.

The training facility should provide an environment that supports learning and be within reasonable
proximity to the participant. The training may take place in the business owned facility, a training
provider's facility, or combination of sites.

Training Agreements

Customized training agreements may be written for unemployed as well as employed workers. This
type of training may be provided to an eligible employed individual when the employee is not earning a
sufficient wage as determined by the local workforce development area's policy, the requirements of a
customized training are met, and the training relates to the introduction of new technologies,
introduction to new production or service procedures, upgrading to new jobs that require additional
skills, or other locally defined purposes. Employed workers may include full-time, part-time, and/or
workers placed through private placement agencies.

The private placement agency and the placement employer should be included in the contract when
offering customized training to employers that want to include workers placed through private
placement agencies. This is to ensure that all parties agree that successful completion of the
customized training will include the placement of the trainees into permanent employment.

Unless the trainee is unemployed, in order to participate in customized training, an "employer-
employee" relationship must exist between the trainee and the business that is seeking local WDB
approval to perform customized training. Individual workers who are independent contractors are not
eligible to participate in customized training. Independent contractors fall under the category of self-
employment. Trainees must meet the definition of employment found in rule 4141-3-05 of the Ohio
Administrative Code (OAC). Provisions to be included in the customized training agreement include all
of the following:

1) Good and effective agreements should include:
   a) The occupation for which training will be provided; the skills and competencies to be
      achieved and the length of time for the training;
b) The industry- or employer-recognized credential that will be attained upon completion of the training;
c) The number of employees to be trained;
d) The employer's assurance that customized training is needed, based upon the individual skill sets of trainees;
e) The method and maximum amount of reimbursement (employer match);
f) Job description(s) of the trainees and a training outline;
g) The cost and documented description of any ancillary items or supportive services that may be needed; and
h) Other appropriate training outcomes related to the training (i.e. increases in earnings).

2) Customized training agreements are to contain appropriate assurances and certifications as specified in this issuance.

3) Written endorsement from a union official is required when the workplace is covered by a collective bargaining agreement.

When working with a group of employers (employer consortiums), the local WDB may decide with whom to contract and the details set forth therein. If the consortium is a legal entity and the participating employers are in agreement on their match requirements, the local WDB may contract with the consortium directly and accordingly, the match requirement would be paid by the consortium. It is also allowable to enter into individual contracts with each participating employer. Regardless of what entity the contract is with, all requirements, expected outcomes, and assurances described in this issuance must be met.

Prior to the execution of a training agreement, the local workforce development area must obtain a commitment from the participating employer(s) of the following, at a minimum:

1) That successful completion of the customized training will result in portable skills, and retention and placement of the trainee into permanent employment that offers good pay and benefits, with opportunities for career advancement;

2) That continued training will be provided for trainees who need help with remedial skills or other skills in order to retain their jobs; after completion of customized training; and

3) That training will be aligned with industry or employer recognized skill standards, as defined by the WIB and/or the employer.

Allowable and Unallowable Costs for Customized Training

Allowable costs may include only costs directly related to training. Examples of allowable costs include, but are not limited to the following:

1) Instructor's / trainer's training-related wages;

2) Curriculum development; and

3) Textbooks, instructional equipment, manuals, materials and supplies.

Unallowable costs for customized training include, but are not limited to:

1) Trainees' benefits/fringes;

2) Wages of trainees while attending customized training;

3) Costs that are not directly related to customized training for eligible individuals under Title I;

4) Foreign travel; and/or

5) Purchase of capital equipment.
Local Workforce Development Area Policy

Pursuant to 20 CFR 680.760, the local WDB, in coordination with the planning region, determines the significant cost of the customized training for which the employer must pay, as well as the amount for which the employer will be reimbursed (employer match). The local WDB and planning region must use the following factors when establishing employer reimbursement (employer match):

1) The size of the employer;
2) Number of employees participating in training;
3) Wage and benefit levels of those employees (at present and anticipated upon completion of the training);
4) Relation of the training to the competitiveness of a participant;
5) Other employer-provided training and advancement opportunities; and
6) Other factors the local WDB and planning region determine to be appropriate.

The local workforce development area, through the planning region, must also include in their policy any selection criteria for awarding customized training contracts, such as industry type, cost, demand occupation, increase in earnings, career advancement, portable skills, retention, etc.

Further, the local WDB and planning region are required to develop customized training program policies and procedures in a manner that coordinates with the array of business services available through JobsOhio, the Ohio Development Services Agency (DSA), and other state and local stakeholders.

Employer Match Requirements

The local WDB and the planning region determine the significant cost of the customized training for which the employer must pay, as well as the amount for which the employer will be reimbursed (or matched). Also, local WDBs and the planning region decide if the employer match is cash or in-kind. In-kind match must benefit the training and must be documented. Also, the employer match cannot include federal, state, or other grant funds.

Step 1 is to identify the individual training items and establish the total training budget. This budget may include trainee wages while attending training and the wages can count for the employer match. But, the WIOA costs cannot include trainee wages.

Step 2 is to calculate the employer match and the WIOA cost. This calculation varies based upon allowable and unallowable WIOA costs. Typically, the variable is the trainee wages.

If trainee wages are less than or equal to the employer match, an adjustment is not necessary. Just multiply the total budget by the selected percentage to establish the employer and WIOA expense.

If trainee wages are greater than the employer match, an adjustment is necessary to prevent unallowable WIOA costs. When calculating the employer match and the WIOA costs, subtract the excess wages over selected percentage.

VI. Monitoring

Local workforce development areas are encouraged to develop their own monitoring policies to outline the procedures, frequency and manner in which customized trainings will be monitored and how staff persons/monitors will resolve any findings of non-compliance.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA customized training program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VII. Technical Assistance
VIII. References

Workforce Innovation and Opportunity Act, §§ 3(14), 106, 134(c)(3)(D), Public Law 113-128.
2 CFR Part 200, Appendix II.
O.A.C. 4141-3-05, Definition of employment, January 1, 2001.

Rescission

I. **Purpose**

The purpose of this policy is to provide guidance on the requirements for incumbent worker training.

II. **Effective Date**

Immediately

III. **Background**

Work-based training is employer-driven with the goal of unsubsidized employment after participation. Generally, work-based training involves a commitment by an employer or employers to fully employ successful participants after they have completed the program. It can be an effective training strategy that can provide additional opportunities for participants and employers in both finding high quality work and in developing a high quality workforce. Work-based models can be effectively used to target different job seekers and employer needs.

Incumbent worker training (IWT) is one type of work-based training model and is designed to either assist workers in obtaining the skills necessary to retain employment or to avert layoffs and must increase both a participant's and a company's competitiveness. Local workforce development areas may use up to 20 percent of their local adult and dislocated worker formula funds for incumbent worker training. The training should, wherever possible, allow the participant to gain industry-recognized training experience.

IV. **Definitions**

**Incumbent worker**: a worker employed with the company for at least six months when the incumbent worker training starts.

**Incumbent worker training**: training designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to maintain or retain employment or have the opportunity for increased earnings potential through promotion.

**Layoff aversion**: a continuum of strategies targeted to specific employers or industries that are experiencing a decline and have the potential to undergo layoffs, or are experiencing a serious skills gap that impacts their ability to compete and retain workers. A layoff is considered to be averted when:

1. A worker's job is saved at an existing employer facing a risk of downsizing or closing; or
2. A worker at risk of dislocation faces a brief gap of unemployment when transitioning to a different job with the same employer or is hired at a new job with a different employer.

**Planning region**: two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

V. **Requirements**

IWT is a business service designed to develop a highly skilled workforce which will result in increased business financial viability, stability, competitiveness, and productivity. To avert the risk of closing, IWT
may be developed with a business or business association to maintain their competitive status, incorporate new technology, or prevent downsizing.

Workers participating in IWT will benefit by enhancing existing skills, learning new skills, and earning employer or industry recognized credentials, in addition to retaining employment, maintaining their careers, and/or increasing their earnings potential. IWT will also allow the opportunity for backfilling vacated positions resulting from the promotion of newly trained workers.

Local workforce development boards (WDB) have several options when determining how best to serve eligible employers. A WDB can arrange training using the traditional array of individualized career services and training services. Local WDBs and planning regions may also implement innovative training strategies that best meet the needs of the business community.

Types of Incumbent Worker Training

IWT is restricted to skill attainment activities. The training should benefit workers by making them more qualified in their line of business and/or by providing them with skills for new products or processes. It is desired that the training results in credentials or industry recognizable skills that promote the worker's career and increases the overall employability.

Allowable types of training for incumbent workers:

1) Skills upgrading and retraining: Short-term training that enhances occupation-specific skills or basic skills that lead to a credential/certificate.
2) Customized training: Customized training is conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of training. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-24, Customized Training Guidelines, contains further details on customized training.
3) Occupational skill training (individual training accounts): Training that leads to an industry recognized credential or a certificate. WIOAPL No. 15-11, Use of Individual Training Accounts, provides additional requirements for ITAs.

Eligibility for Participating Businesses

IWT is one of many business services offered through local workforce development boards (WDB). The criteria which the WDB must take into account for an employer to be eligible to receive local incumbent worker funds include:

1) The characteristics of the participants in the program;
2) The relationship of the training to the competitiveness of a participant and the employer; and
3) Other factors the WDB determines appropriate, including number of employees trained, wages and benefits including post training increases, and the existence of other training opportunities provided by the employer.

There are also businesses that should not participate in this activity due to past or current violations of local, state, or federal law; unfair labor practices; and other conditions identified during the course of conducting initial employer assessments and reviewing contract requirements, assurances, and certifications with the local WDB director or staff. Businesses that fail to meet any of the following qualifying criteria are not eligible to receive funds for incumbent worker training:

1) Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the state of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

Federal Exclusion and Debarment Site: http://www.sam.gov
Ohio Department of Taxation: [http://www.tax.ohio.gov](http://www.tax.ohio.gov)

Business Filing Search: [http://www.sos.state.oh.us](http://www.sos.state.oh.us)

2) Businesses shall not have any outstanding tax liability to the state of Ohio for over six months. WDBs will require the businesses to disclose any known outstanding tax liabilities with other states prior to entering into contract. The local WDB may consider existing out-of-state violations when determining eligibility to receive incumbent worker training funds. The local WDB must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.

3) Businesses must ensure that they are not on the most recent list established by the Ohio Secretary of State that would identify them as having more than one unfair labor practice contempt of court finding.

4) Ohio businesses must have all of the approvals, licenses, or other qualifications needed to conduct business in the state and all must be current. Should this status change during the course of the local IWT program activities and the business is disqualified from conducting business in Ohio, all training under the IWT program must cease.

5) Governmental entities, including the city, county and state, may not participate in the local IWT program. Health care providers that are operating as not-for-profit entities are the only allowable exceptions to this prohibition.

6) Businesses that have relocated to Ohio and have laid-off workers at their former location in the United States may not be considered for this program until they have been in operation at the new location for 120 days.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local WDB. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

7) Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.

**Eligibility of Incumbent Workers**

Local workforce development areas must establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker services. To qualify as an incumbent worker, the incumbent worker needs to be employed, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have established employment history with the employer for six months or more. An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA.

**Training Provider Considerations**

Incumbent worker training may be provided through ITAs or through contracts for services. If the training is provided through an ITA, all requirements of such ITA must be followed, including the use of approved eligible training providers. If a contract is used to provide the IWT, this contract must have been established through proper procurement procedures.
Training providers without satisfactory past performance, accreditation, curricula that lead to credentials, relevant training experience, accredited instructors, high job placement rates, and/or high training completion rates, should be avoided.

The training facility should provide an environment that supports learning and be within reasonable proximity to the trainees so the cost and time required for travel is minimized.

Procurement of Training

WDBs have several options to determine how best to provide the training needed by a business as described below:

1) Local WDBs may enter into contracts with eligible training providers (ETP) without any additional procurement requirements. Utilization of the state of Ohio's ETP list is for universally applicable off-the-shelf employer training and is not intended to include unique, specialized, or employer-specific training.

2) A business may be considered a "beneficiary" of this federal program and receive incumbent worker training assistance on a reimbursement basis. WIOA subrecipients and vendors are not considered to be beneficiaries. In order for a business to utilize the beneficiary option, the following guidelines must be followed:
   a) Business beneficiaries may receive reimbursement for their actual training costs incurred under this program, on a reimbursement basis, as outlined in this policy.
   b) Local WDB approval of a training plan is required before reimbursement may be provided to a beneficiary. The development of training plans is the joint responsibility of the local WDB director and the business.
   c) The training plan must identify all of the following:
      i) The provider(s) of training;
      ii) Type of training;
      iii) Planned start and end dates;
      iv) Number of individuals to be trained;
      v) The projected cost of training; and
      vi) Any other information required by the WDB.

   All training costs must be allowable as defined in this policy. Training plans must be approved by the local WDB or WDB director prior to the start date of training. Beneficiaries must agree to provide all documentation required by the WDB in order to be reimbursed for the training.

   d) Training providers are not required to be listed on the state's eligible training provider list for the purpose of providing training under paragraph 2 of this section. WDBs may assist business beneficiaries in identifying potential providers of training; however, the selection of a training provider is not subject to state or federal procurement requirements.

3) For businesses not following the guidelines in paragraph 2 of this section and have training needs that cannot be provided by Ohio's eligible training providers, local WDBs will need to follow proper procurement procedures as identified in rules 5101:9-4-07 and 5101:9-4-07.1 of the Ohio Administrative Code, or local procurement policies if more restrictive.

Allowable and Unallowable Costs for Incumbent Worker Training Program

Allowable costs may include only costs directly related to training. Allowable costs may include:
1) Instructor/trainer salaries;
2) Curriculum development, textbooks, manuals, training software, materials and non-
consumables; and
3) Other necessary and reasonable costs directly related to training.

Unallowable costs include but are not limited to:
1) Foreign travel;
2) Purchase or lease of capital equipment;
3) Encouragement or inducement of a business or part of a business to relocate from any
location in the United States;
4) Use of IWT funds to pay for a worker's training wages;
5) Use of IWT funds to train management employees in management skills such as Six
Sigma and LEAN.

Cost Sharing Requirements for Incumbent Worker Training

Employers participating in the IWT shall be required to pay for the non-Federal share of the cost of
providing the training to incumbent workers of the employers. The WDB and the planning region shall
establish the non-Federal share of such cost taking into consideration such other factors as the
number of employees participating in the training, wage and benefit levels of the employees, the
relationship of the training to the competitiveness of the employer and employees, and the availability
of other employer-provided training and advancement opportunities.

The non-federal share shall not be less than:
1) 10 percent of the cost, for employers with not more than 50 employees;
2) 25 percent of the cost, for employers with more than 50 employees but not more than
100 employees; and
3) 50 percent of the cost, for employers with more than 100 employees.

Local Workforce Development Area Policy

The local WDB and planning region shall establish criteria for identifying employers and any targeted
industries and economic sectors, using resources such as business services representatives (BSR),
Chambers of Commerce or the local media. Further, the local WDB and planning region are required to
develop IWT program policies and procedures in a manner that coordinates with the array of business
services available through JobsOhio, the Ohio Development Services Agency (DSA), and other state
and local stakeholders.

The local WDB and planning region are encouraged to develop innovative program design strategies
to meet the needs of its regional workforce. If the local WDB and planning region choose to offer
incumbent worker services, the WDB and planning region must set criteria to select employers and/or
incumbent workers and define its regional program requirements and application process.

Pursuant to NPRM 680.780, the local WDB, in coordination with the planning region, must establish
policies and definitions to determine which workers or groups of workers, are eligible for incumbent
worker services. The local policy must also include the criteria to be taken into account for an employer
to be eligible for IWT as well as the amount of the non-federal share for the employer.

VI. Fiscal Reporting

Funds contracted to a subrecipient or vendor for an IWT program are reported as program costs.

The fiscal agent must track funds used for incumbent worker training by funding stream and by the
year of appropriation.
The administrative cost limit remains in effect. No separate amount may be set aside for administration of the IWT program.

Fiscal agents will report incumbent worker expenditures using the incumbent worker code established by the Office of Fiscal and Monitoring Services. Coding exists for both the adult and dislocated worker programs. The accrued expenditures charged to the incumbent worker code for the adult and dislocated worker programs must not exceed 20 percent. ODJFS will monitor costs reported against the incumbent worker training program.

Funds that are not used for the IWT program may be expended respectively on the Adult and Dislocated Worker programs for program activities authorized by WIOA.

VII. Program Reporting

The local WDB is required to report IWT activities via the Mini Incumbent Worker registration in the Ohio Workforce Case Management System (OWCMS).

The state has streamlined the reporting requirements to a minimal level that should not overburden employers but still allow for an assessment of the effectiveness of Ohio's IWT programs. Local WDBs and planning regions may choose to collect more information if necessary to conduct successful IWT programs. Local WDBs and planning regions choosing to collect and document data elements above and beyond the requirements must ensure that every IWT program is compliant with reporting requirements. Local policies should include local requirements in regards to data elements, documentation and reporting.

IWT programs will be reported in OWCMS with a minimal amount of data required. If local WDBs wish to co-enroll an IWT participant in the local adult or dislocated worker program, a full registration is required in OWCMS which includes all of the data elements needed for WIOA participants, including performance data. Co-enrolled participants must meet all eligibility requirements for adult, dislocated worker, and youth programs.

VIII. Monitoring

Local workforce development areas are encouraged to develop their own monitoring policies to outline the procedures, frequency and manner in which IWTs will be monitored and how staff persons/monitors will resolve any findings of non-compliance.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA IWTs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

IX. Technical Assistance

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIAQNA@JFS.OHIO.GOV.

X. References

Workforce Innovation and Opportunity Act, § 134(d)(4), Public Law 113-128.
2 CFR Part 200, Appendix II
O.A.C. 5101:9-4-07, Procurement and contract requirements. (July 6, 2015).
O.A.C. 5101:9-4-07.1, Procurement methods. (July 6, 2015).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-11, Use of ITAs (July 1, 2015).

**Rescission**

[Workforce Investment Act Policy Letter No. 09-09.5](https://example.com), Layoff Aversion Incumbent Worker Training (IWT) with Local Formula Funds under Waiver Authority (May 14, 2014).
I. **Purpose**

The purpose of this policy is to provide guidance to the local workforce development areas when providing on-the-job training (OJT) to adult, dislocated worker, and youth participants with formula funds.

II. **Effective Date**

Immediately

III. **Background**

Under the Workforce Innovation and Opportunity Act (WIOA), there are additional work-based training options and flexibilities for adults, dislocated workers, and youth. Work-based training presents a great opportunity for fostering increased employer engagement, implementing sector strategies, and encouraging industry partnerships, as these types of training allow employers to train their employees while their employees continue to be productive members of the workforce. OJT is one such work-based training for the Adult and Dislocated Worker programs. OJT is considered a work experience under the WIOA Youth program.

OJT continues to be a key method of delivering training services to adults, dislocated workers, and youth. Through OJT activities provided under WIOA, adult, dislocated worker, and youth participants can obtain the skill sets necessary to fill the jobs that are available and that are being created in this economy. OJT is a type of training or work experience that is provided by an employer to a participant. During the training or work experience, the participant is engaged in productive work in a job for which he or she is paid, and the training provides knowledge or skills necessary to the full and adequate performance of the job. Employers must commit to hire and retain the participant at the end of a successful training period. OJT activities support the development of a workforce with skills that meet the needs of employers and provide additional training options for workers and employers. OJT provides an incentive to employers to hire individuals and invest in their skill development, and trainees can earn a wage as they learn. It is a critical tool that helps job seekers enter successful employment.

A. **Participant Eligibility for an OJT**

WIOA-funded OJT is available for eligible WIOA youth and unemployed or under-employed adult and dislocated workers. Employed workers may be eligible for WIOA-funded OJTs when the employee is not earning a self-sufficient wage as determined by the local workforce development area (local area). Participants who have completed occupational skills training via an individual training account (ITA) may be considered for OJT if it creates an opportunity for the participant to become employed.

As outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-09.1, Training Services for Adults and Dislocated Workers, WIOAPL No. 15-10, Youth Program Services, and rule 5101:14-1-02 of the Administrative Code, training services may be provided to adults and dislocated workers or work experiences to youth participants if, after an interview, evaluation, or assessment and career planning, the participant has been determined to have the skills and qualifications to successfully participate in an OJT. WIOA/ Comprehensive Case Management and Employment Program (CCMEP) in-school youth aged 14-21 years may
qualify for OJT, although such work experience may not be an appropriate activity for in-school youth whose individual service strategy (in CCMEP, called the individual opportunity plan) may be geared toward completion of secondary or postsecondary education instead of employment. OJT participants must receive wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work. Appropriate workers' compensation insurance protection must also be provided to all OJT participants by the employer.

OJT participants are not eligible to receive needs related payments (NRPs) and cannot be immediate family members of the business owner or direct supervisor. Refer to the On-The-Job Training Guidance Manual for the different situations in which OJT-related conflicts of interest may arise.

B. Employer Eligibility for an OJT

OJT is provided under an agreement with an employer in the public, private non-profit, or private for-profit sector to WIOA eligible participants. Careful consideration should be given when selecting a participating employer. Potential business functions to research before selecting an employer include but are not limited to:

1. Working conditions (safety and health);
2. Availability of employer-provided health benefits;
3. Wage structure;
4. Turnover rates;
5. Adequateness of staff and equipment to carry out the training; and
6. Compliance with federal, state and local laws.

Private Placement Agencies

A private placement agency may, if all required OJT criteria are met, be an eligible employer for WIOA-funded OJTs. Local workforce development areas must develop policy on OJTs with private placement agencies (e.g. OJTs in scenarios of "temp," "temp to hire" or continued long-term employment).

Refer to the On-The-Job Training Guidance Manual for factors to be considered before writing OJT agreements with a private placement agency.

Disqualifying Factors

Employers will be disqualified from participating in the OJT program in the following situations:

1. Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the State of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

   Federal Debarment Site: https://www.sam.gov

   Ohio Department of Taxation: http://www.tax.ohio.gov

   Business Filing Search: http://www.sos.state.oh.us

2. Businesses must not have any outstanding tax liability for over six months to the state of Ohio. Local workforce development boards (WDB) or CCMEP lead agencies must require the businesses to disclose any known outstanding tax liabilities with Ohio and other states prior to entering into the contract. The local WDB or CCMEP lead agencies may consider existing out-of-state violations when determining eligibility to receive OJT funds. The local WDB or CCMEP lead agency must document any resolution of
outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.

3. Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.

4. The WDB or CCMEP lead agency must not enter an agreement with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment.

5. The employer must comply with all applicable federal, state, and local laws and regulations related to providing reasonable working conditions. OJT participants are not permitted to train or work in buildings or surroundings under working conditions that are unsanitary, hazardous, or dangerous to the trainee's health or safety.

6. If during completion of the employer information form, it is determined that a business has relocated from one U.S. labor market to another and caused dislocation at the original location, OJTs may be available at the new location only after the business has conducted work at the new location for more than 120 days. Refer to the On-The-Job Training Guidance Manual for factors to be considered in determining whether business relocation has occurred.

To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local WDB or CCMEP lead agency. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought about past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

7. Absent a clear and applicable layoff definition within a collective bargaining agreement or personnel policy governing a local operation, a layoff is defined as termination with the intent to recall. A laid off employee who refuses a recall request is no longer considered to be in layoff status. Layoff recall rights will last six months from the last day of work prior to the layoff.

If the employer has laid off someone from similar or "substantially equivalent" work at the same local operation, no OJT or other subsidized employment is permitted. The work is considered substantially equivalent if the overlap between the work (duties and job titles) is 80% or greater. If more than one person is laid off from a substantially equivalent job, and all these persons worked their last day more than six months before the training plan begins, the OJT may proceed and the employer may be reimbursed regardless of the previous layoffs.

8. Training positions covered may not have been created by the displacement of an unsubsidized employee by a WIOA subsidized employee. This includes partial displacement such as reduction in the hours of non-overtime work, wages, or employment benefits. There is no requirement for the job to be similar or substantially equivalent. The key is employer intent: if an unsubsidized employee's earnings are reduced by hiring a WIOA subsidized participant to offset the lost productivity, it is considered displacement.

**Prohibited OJT Activities**

The following types of activities are prohibited from OJTs:
1. **Sectarian activities**: Funds provided to employers for OJT may not be used to employ the participant/trainee in a position involving political or sectarian activities. Furthermore, OJT participants may not assist, promote or deter union organizing, or engage in political activities during work hours.

2. **Religious activities**: OJT participants are prohibited from being employed in the construction, operation, or maintenance of any facility which is used for religious instruction or worship.

C. **Registered Apprenticeship**

Registered apprenticeship is an important component of potential training and employment services that the workforce system can provide to its customers. Local WDBs or CCMEP lead agencies are encouraged to partner with the registered apprenticeship system and use registered apprenticeship opportunities as a career pathway for adult, dislocated worker, and youth participants.

OJT contracts may be developed for an employer or a registered apprenticeship sponsor for training participants. The OJT contract may be made to support some or all of the OJT portion of the registered apprenticeship program.

D. **Maximum Duration of OJTs**

The duration of the OJT shall not exceed a maximum of 1,040 hours unless extenuating circumstances exist, in which case appropriate documentation is required. The length of the training considers several factors such as the participant’s skills gap including prior work experience, the occupation for which the participant is receiving training, the content of the training, and the service strategy of the participant.

Exceptions for individuals with disabilities or other significant barriers: OJT participants facing a significant barrier to employment, such as a disability covered under the Americans with Disabilities Act (ADA), may be considered for a longer training duration of up to 50% more hours than the typical length of a similar OJT, not to exceed a maximum of 1,560 hours.

Every registered apprenticeship program includes a structured OJT. Companies hire apprentices and provide hands-on training from an experienced mentor. This training is developed by mapping the skills and knowledge the apprentice must learn over the course of the program to be fully proficient at the job. Therefore, registered apprenticeships are time-based and require a specific number of hours of OJT. Consequently, OJTs with longer duration, not to exceed 2,080 hours, may be used when the OJT is completed as part of the registered apprenticeship program.

E. **Coordination with Trade**

If an individual is eligible for training dollars under Trade Adjustment Assistance (TAA), TAA should be used to fund the OJT. An exception would be situations where the cost exceeds the TAA program's ability to fund the training; WIOA funds can pay the portion of the cost that exceeds the TAA maximum.

If a participant is already enrolled in a WIOA-funded OJT and subsequently becomes eligible for funding through TAA, the local area must determine whether to continue funding the OJT with formula dollars or to fund the remainder of the training with TAA funds based on the following criteria:

1. If the WIOA-funded OJT uses a different wage reimbursement rate than the Trade program's OJT policy allows, the participant's OJT may continue to be funded by formula dollars until completion;
2. If the WIOA-funded OJT uses a different payment point than the Trade program’s required OJT payment point, the participant’s OJT may continue to be funded by formula dollars until completion;

3. If the WIOA-funded OJT uses the same wage reimbursement rate and payment point as the Trade program OJT, the local area must plan for the remainder of the OJT to be funded by TAA beginning at the next payment point. Local areas must coordinate with Trade staff to develop a plan for transitioning participants from one funding stream to another without negatively affecting the employer or the participant.

Regardless of whether participants remain in the WIOA-funded OJT or transition to TAA funding, it is required that the participant be co-enrolled in both the WIOA-funded OJT and Trade programs and that the OJT be approved under both programs (even if it is being fully funded by formula dollars) to ensure the participant may qualify for other associated Trade benefits and services.


IV. Definitions

Comprehensive Case Management and Employment Program (CCMEP): An integrated intervention program that combines the Temporary Assistance for Needy Families (TANF) program and the WIOA Youth program to provide employment and training services to individuals ages 14 through 24.

Displaced homemaker: An individual who has been providing unpaid services to family members in the home and who:

1. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; **AND**
2. Has been dependent on the income of another family member, but is no longer supported by that income; **OR**
3. Is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of Title 10, United States Code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of Title 10, United States Code, or pursuant to paragraph (4) of such section); a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code; a permanent change of station; or a service-connected (as defined in section 101(16) of Title 38, United States Code) death or disability.

Individuals with barriers to employment: A member of one or more of the following populations:

1. Displaced homemakers;
2. Low-income individuals;
3. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in section 166 of WIOA;
4. Individuals with disabilities, including youth who are individuals with disabilities;
5. Older individuals;
6. Ex-offenders;
7. Homeless individuals or homeless children and youth;
8. Youth who are in or have aged out of foster care;
9. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;

10. Eligible migrant and seasonal farmworkers;

11. Individuals within 2 years of exhausting lifetime TANF eligibility;

12. Single parents (including single pregnant women);

13. Long-term unemployed individuals; and

14. Such other groups the State determines to have barriers to employment.

**Individual with a disability:** An individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990, (42 U.S.C. 12102).

**Homeless children and youth (section 725(2) of the McKinney-Vento Homeless Assistance Act):** An individual who lacks a fixed, regular, and adequate nighttime residence and includes the following:

1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

4. Migratory children who qualify as homeless because the children are living in one of the previously mentioned circumstances.

**Homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994, 42 U.S.C. 14043e-2(6)):** An individual who lacks a fixed, regular, and adequate nighttime residence and includes:

1. An individual who:
   a. Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
   b. Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
   c. Is living in an emergency or transitional shelter;
   d. Is abandoned in a hospital; or
   e. Is awaiting foster care placement.

2. An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

3. Migratory children who qualify as homeless because the children are living in circumstances listed above.

**Lead agency:** The entity designated by the board of commissioners to administer CCMEP.

**Low-income individual:** As defined in section 3(36)(a) of WIOA, an individual who:
1. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or the supplemental security income (SSI) or local income-based public assistance;

2. Is in a family with total family income that does not exceed the higher of:
   a. The poverty line; or
   b. 70% of the lower living standard income level.

3. Is a homeless individual;

4. Receives or is eligible to receive a free or reduced price lunch;

5. Is a foster child on behalf of whom State or local government payments are made; or

6. Is an individual with a disability whose own income meets the eligibility income requirement of paragraph (2)(b) above but who is a member of a family whose income does not meet this requirement.

On-the-job training: Training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;

2. Is made available through a program that provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided in section 134(c)(3)(H) of WIOA, for extraordinary costs of providing the training and additional supervision related to training; and

3. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

Planning region: Two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

Registered apprenticeship program: A program meeting Federal and State standards of job preparation that combines paid on-the-job training and related instruction to progressively increase workers’ skill levels and wages.

V. Local Workforce Development Area Requirements

A. Employer Reimbursement

OJT training payments to employers are deemed to be compensation for the extraordinary costs associated with training a participant and his/her potentially lower productivity. Employers are to be reimbursed up to 50% of the wage rate of an OJT participant.

Pursuant to 20 C.F.R. 680.730, the local workforce development board (WDB), through policy established by the planning region, may increase the reimbursement rate for OJT contracts up to 75%, when considering the following factors:

1. The characteristics of the participants, including whether they are individuals with barriers to employment;

2. The size of the employer with emphasis on small business;

3. The quality of the employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and
4. Other factors the planning region and/or the local WDB may determine appropriate, which may include number of employees participating, wages and benefit levels of the employees (both at present and after completion), and relation of the training to the competitiveness of the participant.

Local WDBs, through the planning region's policy, must document the factors used when deciding to increase the wage reimbursement levels above 50% up to 75%.

CCMEP lead agencies will follow the policies and procedures established by the local WDB for implementation of WIOA funded OJTs.

B. Use of OJT Forms

The local area or CCMEP lead agency must complete the following types of forms for the purposes of conducting OJTs. Forms that have an ODJFS form number contain all required information. However, these forms may be modified by the local workforce development WDB or planning region to meet the specific needs of that local workforce development area (local area) or planning region. Any form modified by the local area or planning region must still include all the components of the corresponding ODJFS form. If a local area or a planning region adds more information to a form, it should be done in a manner that the form is not overly burdensome to the employer. CCMEP lead agencies must use the OJT forms adopted by the local area. All OJT forms must be retained for monitoring purposes. For more information, refer to the On-the-Job Training Guidance Manual.

1. Employer Information Form (Pre-Award Review)

Prior to the placement of an OJT participant, an employer pre-screening must be conducted and the JFS 80646, On-the-Job Training Employer Information form, or its locally or regionally modified equivalent, must be completed to ensure that the employer meets the minimum standards and can provide both training and long-term employment to the OJT participant. The On-the-Job Training Employer Information form may be completed once rather than each time an OJT is approved.

In case of a collective bargaining agreement, the On-the-Job Training Employer Information form must indicate this and the employer must provide a letter from the union indicating union concurrence before the OJT begins. The WIOA staff at the local area or CCMEP lead agency staff is expected to contact the employer's union representative if the job is under bargaining unit authority.

The On-the-Job Training Employer Information form must be updated:

a. If the business is sold or transferred;

b. If other significant changes affecting training, hiring, or job retention occur; and

c. At least once a year from the date of issuance.

2. OJT Agreement

One JFS 80649, On-the-Job Training Agreement, or its locally or regionally modified equivalent, is required per employer regardless of the number of participants trained or hired. The agreement may be effective for a maximum period of one year and cover all training plans approved with the employer prior to the On-the-Job Training Agreement's expiration date.

The OJT agreement, while establishing the reimbursement procedures, remains non-financial in nature, and no money is obligated until the training plan is approved for an eligible participant. Moreover, in case a collective bargaining agreement exists, the employer shall obtain a letter of concurrence to the OJT agreement from the union, and provide it to the local area.
The OJT agreement should be modified before expiration only if there are significant changes, such as layoffs or changes in federal, state, and local rules and policies pertaining to the implementation of OJTs.

3. **On-The-Job Training Plan**

The JFS 80642, *On-the-Job Training Plan*, or its locally or regionally modified equivalent, obligates training or work experience funds for a participant and outlines the planned training activities to be accomplished during the training period. Unlike the OJT agreement, the training plan is required for each participant. The *On-the-Job Training Plan* constitutes the financial obligation between the agency or service provider and the employer, and is the document which authorizes reimbursement of the agreed upon amount after successful completion of the training plan period (or the retention period, if applicable).

The On-the-Job Training Plan also identifies the skills to be learned during the OJT. OJT providers may base the identification of skills needed, as well as the justification of training duration, upon the Occupational Information Network (O*NET) and specific vocational preparation (SVP), company job description, input from the employer/supervisor, and/or other appropriate data sources.

4. **Invoice**

Payments to employers should be managed by an invoice system that documents the number of hours worked by the OJT participant and the hourly rate of pay.

Payment point procedures can be developed by the local areas so long as the reimbursement does not exceed 50% of wages. Local areas also have discretion in determining if they wish to withhold reimbursement for 30, 60 or 90 days to ensure retention after the end of training. The State does not mandate or prohibit OJT holdback tied to employment or retention. However, local areas must ensure that this information is reflected in the local policy, the OJT agreement, and the OJT training plan. CCMEP lead agencies will follow the local area's policies and procedures pertaining to payment points.

During the WIOA-funded OJT, participants might also become eligible for other funding streams, such as Trade Adjustment Assistance (TAA), that would preclude their receiving continued funding under the OJT. In such an instance, local areas must develop a plan regarding payment points and transitioning participants from one program to another without negatively affecting the employer or the participant.

The reimbursement base is regular "straight time" hours and does not include commissions, overtime pay, holidays, vacation, sick pay or pay for other hours not worked. Further, payments to employers must be based on scheduled raises and regular pay increases if they occur.

It is expected that OJT participants will be retained at the completion of training.

5. **Exception Request Form (if applicable)**

There are times when an OJT participant or work conditions may justify an exception to the original training plan. Local areas should outline how exceptions or modifications will be addressed in their local policies. Possible exceptions or modifications to an OJT may include:

a. Extending the agreed upon length of OJT duration if the mandated maximum number of hours are not exceeded;

b. Adjusting the maximum or minimum number of hours/week to accommodate a participant's learning or other disability if mandated maximum number of hours are not exceeded;
c. Allowing employer reimbursement for training, even when the participant fails to complete the training, if the participant quit or was fired for just cause; and
d. Consideration for OJT participants who are performing satisfactorily, have completed substantial training and will be retained by an employer at the end of the training period, but have not learned all the requisite OJT-related skills.

All exceptions must be documented on the JFS 80650, On-the-Job Training Exception Request, or its locally or regionally modified equivalent, before the end date of the training plan. Also, exceptions must be documented in the participant’s case notes.

VI. Monitoring

Local WDBs must develop their own monitoring policies to outline the procedures, frequency, and way WIOA-funded OJTs will be monitored and how staff persons/monitors will resolve any findings of non-compliance.

At a minimum, monitors should:

1. Document information received directly from the OJT participants;
2. Obtain the trainee supervisor's perspective about the training progress; and
3. Review the employer payroll records.

The key monitoring issues include verifying and documenting that:

1. There was a need for training;
2. Training was provided to the participant;
3. The length of OJT training was reasonable;
4. The employer reimbursement rate complied with policy; and
5. Other applicable OJT rules and requirements were followed.

Additionally, through the state’s monitoring system, program monitors and auditors will review the local area’s implementation of WIOA OJTs, including participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VII. Reporting

All participants must be eligible, enrolled in WIOA, and entered in Ohio’s Workforce Case Management System (OWCMS) pursuant to rule 5101:9-30-04 of the Administrative Code within 30 days. Participants may also be co-enrolled in other state-funded WIOA programs.

VIII. Technical Assistance

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIOAQNA@JFS.OHIO.GOV.

IX. References

Workforce Innovation and Opportunity Act, § 134, Public Law 113-128.
2 C.F.R. Part 200, Appendix II.
O.A.C. 5101:9-30-04 and 5101:14-1-02.

USDOL, Training and Employment Guidance Letter No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Services (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).


Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-21

November 30, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Reporting Requirements for OhioMeansJobs Center Universal Customers

I. Purpose

The purpose of this policy is to outline the reporting requirements for OhioMeansJobs center universal customers.

II. Effective Date

Immediately

III. Background

The United States Department of Labor (DOL) Training and Employment Guidance Letter 17-05 and federal reporting instructions include the requirements for all states to report universal workforce One-Stop customers receiving self-directed services and workforce information services (basic career services). Ohio’s One-Stop system has been renamed "OhioMeansJobs".

The reporting of universal customers is essential for three reasons:

1. The number of universal customers served in the OhioMeansJobs centers are a direct reflection of the value of Ohio's workforce investment system;
2. Reporting has been a federal requirement since February 2006; and
3. The data is submitted to DOL on a quarterly basis by the state.

Failure to report OhioMeansJobs center customers on a timely basis results in an under-representation of the number of individuals served when reports are generated from the Ohio Workforce Case Management System (OWCMS).

IV. Requirements

Local workforce development areas must report data elements of OhioMeansJobs center universal customers who are ages 18 and over. OhioMeansJobs center customers are included in this requirement if the services, staff, facility, or activity was funded in whole or in part by Workforce Innovation and Opportunity Act (WIOA) and/or Wagner-Peyser funds.

The Mini-registration records the new data elements to satisfy federal requirements. Both self-directed and workforce information services are recorded in mini-registration. All local workforce development areas currently utilizing mini-registration for tracking universal customers meet the reporting requirements. However, the state recognizes that some local workforce development areas have incorporated other reporting systems for this target group, and that these systems meet local workforce development area needs for generating OhioMeansJobs center related reports.

For those local workforce development areas not utilizing the mini-registration, a reporting process has been developed to enable local workforce development areas to report the data collected from their local workforce development area non-state reporting systems. With the mini-registration and the reporting program in place, the state will report OhioMeansJobs center universal customer data from all local workforce development areas through quarterly and annual federal reports to DOL. The upload submission will contain data from the current time period and data from previous time period(s) that
have not been previously submitted, not to exceed 12 months from the basic initial intake date of any jobseeker.

Local workforce development areas must ensure that uploads are:

1. In an XML format.
2. Completed at least on a weekly basis, and preferably more frequently.

V. Technical Assistance
The state will work with areas utilizing alternate methods to track universal customers, to assist them in preparing for the upload process.

Local workforce development areas may only upload data to OWCMS. The state will not download data from OWCMS to any local area system.

For additional information or technical assistance, you may send your questions to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VI. Reference
Workforce Innovation and Opportunity Act, § 116, Public Law 113-128.


Rescission
ODJFS, Workforce Investment Act Policy Letter No. 10-09, Reporting Requirements for One-Stop Universal Customers, (June 17, 2011).
I. **Purpose**

The purpose of this policy is to outline requirements of the local workforce development board (WDB) and American Jobs Centers (in Ohio, called the OhioMeansJobs centers) for implementation of priority of service to veterans and eligible spouses for all U.S. Department of Labor (DOL) funded training programs.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

On November 7, 2002, the Jobs for Veterans Act (JVA), Public Law (P.L.) 107-288 was signed into law. One provision of the JVA, codified at 38 U.S.C. 4215, establishes a priority of service requirement for covered persons in qualified job training programs. While recipients of DOL funds for qualified job training programs have been required to provide priority of service since 2002, the publication of 20 C.F.R. Part 1010, Priority of Service for Covered Persons; Final Rule, which took effect on January 19, 2009, signaled that recipients of DOL funds for these job training programs should review and, if necessary, enhance their current policies and procedures to ensure that adequate protocols are in place.

V. **Definitions**

**Caregiver:** With respect to an eligible veteran, an individual who provides personal care services to the veteran.

**Covered person:** A veteran or his/her eligible spouse.

**Disabled veteran:** A veteran who is entitled to compensation (or who, except for the receipt of military retired pay, would be entitled to compensation) under the Department of Veteran Affairs, or a veteran who was discharged or released from active duty, because of a service-connected disability.

**Disabled Veterans' Outreach Program (DVOP) Specialist:** The individual who provides basic and individualized career services and facilitates placements to meet the employment needs of veterans.

**Eligible spouse:** An individual who is one of the following:

1. The spouse of any person who died of a service-connected disability.
2. The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
   a. Missing in action;
   b. Captured in the line of duty by a hostile force;
   c. Forcibly detained or interned in the line of duty by a foreign government or power for a total of more than 90 days; or
   d. The spouse of any person who has a total (100%) disability permanent in nature resulting from a service connected disability or the spouse of a veteran who died while a disability was so evaluated was in existence.

Eligible veteran (for Jobs for Veterans State Grant (JVSG) Program): A person who:
1. Served on active duty for a period of more than 180 days and was discharged (or) released with other than a dishonorable discharge;
2. Was discharged or released from active duty because of a service-connected disability;
3. Is a member of a reserve component under an order to active duty pursuant to 10 U.S.C. 12301(a), (d) or (g), 12302 or 12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge was authorized, and was discharged or released from such duty with other than dishonorable discharge.

Family caregiver: With respect to an eligible veteran, a family member who is a caregiver of the veteran.

Family member: With respect to an eligible veteran, an individual who:
1. Is a member of the family of the veteran, including:
   a. Missing in action;
   b. Captured in the line of duty by a hostile force;
   c. Forcibly detained or interned in the line of duty by a foreign government or power for a total of more than 90 days; or
   d. The spouse of any person who has a total (100%) disability permanent in nature resulting from a service connected disability or the spouse of a veteran who died while a disability was so evaluated was in existence.
2. Lives with, but is not a member of the family of the veteran.

Homeless individual (Sections 103 (a) and (b) of the McKinney – Vento Homeless Assistance Act (42 U.S.C. 11302 (a) and (b), as amended)) means:
1. An individual or family
   a. Who lacks a fixed, regular, adequate nighttime residence;
   b. With a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
   c. Living in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing); or
2. An individual or family:
   a. Who will imminently lose their housing, including housing they own, rent, or live in
      without paying rent, are sharing with others, and rooms in hotels or motels not paid
      for by Federal, State, or local government programs for low-income individuals or
      by charitable organizations, as evidenced by:
      i. A court order resulting from an eviction action that notifies the individual or
         family that they must leave within 14 days;
      ii. The individual or family having a primary nighttime residence that is a room
          in a hotel or motel and where they lack the resources necessary to reside
          there for more than 14 days; or
      iii. Credible evidence indicating that the owner or renter of the housing will not
           allow the individual or family to stay for more than 14 days, and any oral
           statement from the individual seeking homeless assistance that is found to
           be credible evidence for the purposes of this clause; and
   b. Has no subsequent residence identified; and
   c. Lacks the resources or support networks needed to obtain other permanent
      housing; or

3. Unaccompanied youth and homeless families with children and youth defined as
   homeless under other Federal statutes who:
   a. Have experienced a long term period without living independently in permanent
      housing;
   b. Have experienced persistent instability as measured by frequent moves over such
      period; and
   c. Can be expected to continue in such status for an extended period of time
      because of chronic disabilities, chronic physical health or mental health conditions,
      substance addiction, histories of domestic violence or childhood abuse, the
      presence of a child or youth with a disability, or multiple barriers to employment.

4. Notwithstanding any of the provisions above, the definition of “homeless” shall include
   any individual or family who is fleeing, or is attempting to flee, domestic violence, dating
   violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the
   individual's or family's current housing situation, including where the health and safety of
   the children are jeopardized, and who have no other residence or lack the resources or
   support networks to obtain other permanent housing.

Low-income individual (Section 3(36)(A)(i) and (ii) of the Workforce Innovation and Opportunity Act
(WIOA)): For the purposes of this policy, the term "low income individual" means an individual who
receives or in the past 6 months has received, assistance through the supplemental nutrition
assistance program (SNAP) established under the Food and Nutrition Act of 2008; the program of
block grants to States for temporary assistance for needy families (TANF) program under part A of title
VI of the Social Security Act, or the supplemental security income (SSI) program established under title
XVI of the Social Security Act, or other income-based public assistance, or is in a family with total
family income that does not exceed the higher of:
   i. The poverty line; or
   ii. 70 percent of the lower living standard income level.
Non-covered person: Any individual who meets neither the definition of "veteran," nor the definition of "eligible spouse."

Offender (Section 3(38) of WIOA): An adult or juvenile who:

1. Is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or
2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Priority of service: With respect to any qualified job training program, a covered person shall be given priority over a non-covered person in obtaining all employment, training, and placement services provided under the program.

Recently-separated service member: Any veteran during the three year period beginning on the date of such veteran's discharge or release from active duty.

Service-connected disability: A disability resulting from disease or injury incurred or aggravated during active military service.

Special disabled veteran: A veteran who is entitled to compensation under laws administered by the U.S. Department of Veterans Affairs for:

1. Disabilities rated at 30 percent or higher; or
2. Disabilities rated at 10 to 20 percent, if the individual has a serious employment disability; or
3. A veteran who was discharged or released from active duty because of a service-connected disability.

Spouse: Someone who is married.

Transitioning service member: An individual in active duty status (including separation leave) who registers for employment services and is within 24 months of retirement or 12 months of separation.

Veteran (for priority of service): Any person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than "dishonorable." Active service includes full-time Federal service in the National Guard or a Reserve component, other than full-time duty for training purposes.

Veteran of the Vietnam Era: Any person who fulfills the previous definition of "Veteran" and served between February 28, 1961 and May 7, 1975.

VI. Requirements

Priority of service means that covered persons are given priority over non-covered persons for the receipt of employment, training, and placement services funded in whole or in part by DOL, including Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Innovation and Opportunity Act, Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farmworkers, Workforce Innovation in Regional Economic Development Competitive Grants, and National Dislocated Worker Grants. All DOL funded grant recipients must implement and comply with locally developed priority of service policies. All program operators are required to ensure that priority of service is applied to all subrecipients of DOL funds.

A. Development of a Local Priority of Service Policy

Each local WDB is required to develop a priority of service policy that includes, but is not limited to, the following criteria:

1. How the local workforce development area (local area) will ensure veterans and eligible spouses are notified of their entitlement to priority of service, the full array of employment,
training, and placement services available, and applicable eligibility requirements for programs and services.

2. How the local area will assist individuals in identifying themselves as veterans or eligible spouses at the point of entry to the system or priority.

3. How the local area will monitor the area's implementation of priority of service, including how monitoring is a shared responsibility between the Ohio Department of Job and Family Services (ODJFS) program delivery managers, local area, and OhioMeansJobs center's operator.

Physical copies of the local priority of service policy shall be maintained at all service delivery points, including the OhioMeansJobs center, and to the extent practicable, must be posted in a way that makes it possible for members of the general public easy access to them. An electronic version of the local policy must also be available on the local area’s and/or center’s website. Furthermore, OhioMeansJobs center staff must be trained on the implementation of priority of service for veterans and eligible spouses.

B. Notification of Priority of Service

Within the local priority of service policy, local workforce development areas must develop and implement processes to notify covered persons who physically access the OhioMeansJobs centers or who access the program through the internet with timely and useful information on priority of service. This is accomplished in a number of ways:

1. Awareness through posters and handouts strategically placed at the OhioMeansJobs centers to alert covered persons of their priority of service rights.

2. Notification and description of priority of service rights as well as access to the state policy should be addressed or provided on the local area’s and/or the OhioMeansJobs center’s website(s). The following veteran resources and information must also be contained on these websites:
   a. Links to the following websites:
      i. ODJFS Veterans Workforce Services: http://jfs.ohio.gov/veterans/index.stm;
      iii. Ohio Department of Veteran Services: http://dvs.ohio.gov/;
      iv. Department of Higher Education, Ohio GI Promise: https://www.ohiohighered.org/node/258;
      v. Department of Veteran Affairs: https://www.va.gov/; and
   b. Narrative describing the State Veterans Program and all resources available at the OhioMeansJobs center and the local area. There should not be any reference to the name and contact information for the DVOP;
   c. Any upcoming events, job fairs, and hiring events, including those specific to the veteran population; and
   d. Any veteran success stories or testimonies.

3. Orientations, both in-person or electronically (including local websites) must include a reference to priority of service rights.

4. Assurances that labor exchange activities and services, including posting of and searching for resumes and jobs and job matching are completed in OhioMeansJobs.com
per Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-12, Mandate Use of OhioMeansJobs.com, and are given priority of service.

5. Descriptions of how partner program staff within the OhioMeansJobs centers and at other service delivery points are made aware of priority of service requirements. This must be accomplished at both the state and local levels through partner meetings, trainings, and other types of communication such as information sheet or desk aid, self-service kiosks, and information bulletin boards.

It should be noted that a clause pertaining to priority of service is included in the OhioMeansJobs center's Memorandum of Understanding template and must be utilized by all local workforce development areas. Priority of service is also and will continue to be addressed in all DOL funded employment and training program grant agreements.

C. Identifying Veterans and Eligible Spouses

The local area must enable veterans and eligible spouses to identify themselves at the point of entry to the system or program. Point of entry may include reception through an OhioMeansJobs center, as part of an application process for a specific program, or through any other method by which veterans and eligible spouses express an interest in receiving services, either in-person or virtually. The local area's policy must include processes to ensure that covered persons are identified at the point of entry for services, the full array of programs and services available to them, any applicable eligibility requirements for those programs and/or services, and given an opportunity to take full advantage of priority of service.

D. Monitoring Implementation of Priority of Service

The implementation of priority of service impacts most services at the OhioMeansJobs centers. As such, it is the responsibility of multiple programs to ensure that veterans and eligible spouses are aware of the benefits of priority of service; that veterans and eligible spouses are identified at the point of program entry; and that priority of service is applied throughout their respective service delivery systems. At the local level, the ODJFS program delivery managers, local areas, and OhioMeansJobs centers' operators will coordinate and share monitoring responsibilities. These monitoring responsibilities include a review of the implementation of internal policies and procedures and how these procedures result in compliance with the priority of service requirements. As such, the local priority of service policy must outline how this shared responsibility will be coordinated and administered.

E. Applying Priority of Service

The OhioMeansJobs centers are to apply the priority of service definition to all covered persons who access the workforce system through the OhioMeansJobs centers. A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program. Priority of service gives veterans and eligible spouses the right to take precedence over non-covered persons in obtaining services. Depending on the type of service or resource being provided, taking precedence may mean:

1. A veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person; or

2. If the service or resource is limited, the veteran or eligible spouse receives access to the service instead of or before the non-covered person.

F. Determination of Veteran Status

The local area must have a policy outlining the procedure whereby veterans and eligible spouses are identified at the point of entry.

1. Covered person with significant barrier to employment
During the initial intake processes with a customer, staff shall further explore the covered person's veteran status (e.g., number of days served and discharge status) and assess whether or not the covered person has a significant barrier to employment using the JFS 01863, Veteran Questionnaire. A covered person is determined to have a significant barrier to employment if he or she attests to meeting one or more of the following criteria:

1. A special disabled or disabled veteran (or an individual who has a disability claim pending with the Department of Veterans Affairs (VA));
2. A homeless individual;
3. A recently-separated service member who has been unemployed for 27 or more weeks in the previous 12 months;
4. An offender who is currently incarcerated or has been released from incarceration;
5. An individual who lacks a high school diploma or equivalent certificate;
6. A low income individual; or

If the covered person has at least one significant barrier to employment and meets the definition of eligible veteran or eligible spouse for the Jobs for Veterans State Grant (JVSG) program, the OhioMeansJobs center staff shall refer this individual to the JVSG program.

OhioMeansJobs center staff shall also refer an eligible veteran age 18 to 24 years to the JVSG program as this population of veterans has experienced a higher rate of unemployment than other veterans as well as nonveterans of the same age. These eligible veterans may need and benefit from the intensive services provided by a DVOP specialist.

2. Transitioning Service Member

The Veterans' Employment and Training Service has also identified the following three categories of transitioning service members as eligible to receive JVSG services and a referral shall be made:

1. Transitioning service members who are age 18 to 24 years old.
2. Transitioning service members who have been identified as in need of intensive services because they were assessed as not meeting career readiness standards as documented on the DD-2958, Service Member Career Readiness Standards/Individual Transition Plan.
3. Active duty service members being involuntarily separated through a service reduction-in-force.

3. Wounded, Ill, or Injured Service Member

Additionally, members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members are to be referred to the JVSG program.

If the covered person, transitioning service member, or wounded, ill, or injured member of the Armed Forces (or spouse or family caregiver of such) does not meet the criteria for the JVSG program as outlined above, then the individual may still be provided career and/or training services through Wagner-Peyser or WIOA funded programs, based upon eligibility and suitability.

G. Referral to the Jobs for Veterans State Grant (JVSG) Program
If the individual meets the definition of eligible veteran for the JVSG program or is an eligible spouse, has at least one significant barrier to employment, or is aged 18 to 24 years, the OhioMeansJobs center staff shall refer this covered person to the JVSG program. A covered person should also be referred to the JVSG program if the covered person is later, after further assessment, determined by OhioMeansJobs center staff to have a significant barrier to employment.

Furthermore, transitioning service members who are 18 to 24 years old or who have been identified as needing intensive services on the DD-2958, or active duty service members being involuntarily separated through a service reduction-in-force will be referred to the JVSG program. Referrals to the JVSG program will also be made for those members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members.

Within the JVSG program, the DVOP specialist will provide basic and individualized career services to mitigate significant barriers to employment and transition these individuals into the civilian workforce. The DVOP specialist also coordinates with the ODJFS workforce specialists to match covered persons with job opportunities.

JVSG participants later found to be dishonorably discharged from the military must be referred back to the OhioMeansJobs center for further Wagner-Peyser Employment Services and/or WIOA basic career, individualized career, and/or training services. These individuals do not qualify for priority of service.

Local areas must establish effective linkages with the State JVSG program staff, for two-way referrals of individuals for services.

H. Documenting Veteran Status

It is not necessary for OhioMeansJobs center staff to require verification of the status of a covered person at the point of entry, unless the individual who self-identifies as a veteran or eligible spouse:

1. Is to immediately undergo eligibility determination and be registered or enrolled in a program; and
2. Is registering or enrolling in a program for which the applicable federal program rules require verification of veteran or eligible spouse status at that time.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a covered person must be enrolled, be provided immediate priority, and be permitted to follow-up subsequently with any required verification of his or her status as a covered person.

For programs or services that cannot rely on self-attestation, verification of veteran status (e.g., DD-214, cross match with veterans’ data, or letter from Veteran Administration) must be provided prior to the provision of intensive services or the commitment to training services.

For a referral to the JVSG program, documentation of the significant barrier to service is preferred. However, customers may qualify through self-attestation. A self-attestation checklist identifying the significant barriers may be added as part of the intake or assessment process. Any written questionnaire used for identifying a significant barrier must make clear that the information requested is intended for use solely in connection with efforts to give priority to persons with disabilities. If written questionnaires are not used, this information must be made clear orally. The OhioMeansJobs center staff seeking the information must state clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide the information will not subject the applicant or participant to any adverse treatment, and that it will be used only in accordance with law.
I. **Priority of Service for Programs**

The application of priority of service varies by program depending on the eligibility requirements of the particular program. Qualified job training programs fall into two basic categories:

1. **Universal access programs**: For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, veterans and eligible spouses must receive priority of service over all other program participants (e.g., basic career services delivered through the OhioMeansJobs centers under Wagner-Peyser and WIOA programs).

2. **Programs with Eligibility Criteria**: Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered eligible for:
   a. Enrollment in the program;
   b. Receipt of priority for enrollment in the program; and
   c. Priority of receipt of services.

When a program has statutory eligibility requirements, priority means that covered persons take precedence, with all other qualifying eligibility requirements being equal, over non-covered persons in obtaining services and program enrollment.

J. **Programs with Statutory Priorities**

In addition to eligibility criteria that all participants are required to meet, some programs also have priorities that establish a rank order to be observed in enrolling or serving participants.

Priority for WIOA adult-funded individualized career and training services is given to low-income individuals, recipients of public assistance, and individuals who are basic skills deficient. When determining if a veteran or eligible spouse is a "low income individual" for eligibility purposes, amounts paid while on active duty or paid by the Department of Veteran Affairs (VA) for vocational rehabilitation, disability, or related VA-funded programs are not to be considered as income. A low income veteran or eligible spouse takes precedence, with all other qualifying requirements being equal, over a low income non-covered person in obtaining individualized career services and training services.

This does not allow for "bumping" of non-covered persons who had previously been accepted into a program prior to the covered person applying within the same program. However, if there is a waiting list, the veterans or eligible spouses receive access to the service instead of or before the non-covered person on the waiting list.

K. **Programs with Discretionary Priorities**

The local area may not apply additional arbitrary or discretionary conditions or requirements above the program's statutory mandated eligibility requirements to priority of service rights. Therefore, for covered persons, priority of service applies to discretionary targeting programs and services the same way that it applies to universal access programs (i.e., veterans and eligible spouses are served first).

L. **Priority of Service for Programs Administered by State Merit Staff**

For DOL funded employment and training programs administered by state merit staff (i.e., TAA, REA, UCRS), eligibility for priority of service should be determined at the initiation of services or upon referral of services, whichever occurs first.

VII. **Data Collection**
Training and Employment Guidance Letter (TEGL) No. 10-09 provides direction regarding the collection of data for serving veterans and eligible spouses and the implementation of priority of service. The local areas must ensure that all appropriate information regarding identified veterans or eligible spouses has been entered in Ohio Workforce Case Management System (OWCMS).

VIII. Monitoring

At the local level, the area's priority of service policy must contain criteria for local monitoring of the implementation of priority of service to ensure that covered persons are made aware of and afforded priority of service.

Through the state's monitoring system, program monitors will review the area's implementation of priority of service during the annual onsite monitoring review for compliance with the local policy as well as federal laws and regulations. Any compliance issues will be handled through the state's findings resolution process.

IX. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

X. References

Workforce Innovation and Opportunity Act, §§ 3(36)(A)(i)(ii) and 3(38), Pub. L. 113-128.
Priority of Service for Covered Persons; Final Rules, 73 FR 78142 - 78144 (December 19, 2008).
USDOL, Training and Employment Guidance Letter No. 19-13, Change 2, Expansion and Clarification of Homeless Definition as a Significant Barrier to Employment (SBE), (October 30, 2015).
USDOL, Training and Employment Guidance Letter No. 19-13, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).
USDOL, Veterans' Program Letter No. 03-14, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).
USDOL, Training and Employment Notice No. 10-14, American Job Center (AJC) Participation in Capstone Activities and Other Outreach to Transitioning Service Members, (September 29, 2014).
USDOL Veterans' Program Letter No. 08-14, Designation for Additional Populations Eligible for Services from Disabled Veterans' Outreach Program (DVOP) Specialists: Transitioning Service Members in need of Intensive Services; and Wounded, Ill, or Injured Service Members Receiving Treatment at Military Treatment Facilities or Warrior Transition Units (MTFs - WTUs); and the Spouses and Family Caregivers of such Wounded, Ill or Injured Service Members, (September 26, 2014).

USDOL Veterans' Program Letter No. 03-19, Designation of Additional Populations Eligible for Services from Disabled Veteran’s Outreach Program Specialists, (February 7, 2019).

USDOL Veterans' Program Letter No. 03-14, Jobs for Veterans' State Grants (JVSG) Program Reforms and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans, (April 10, 2014).

USDOL, Training and Employment Notice No. 15-10, Protocol for Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2010).

USDOL, Training and Employment Guidance Letter No. 10-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2009).

USDOL Veterans' Program Letter No. 07-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in Whole or in Part by the U.S. Department of Labor, (November 10, 2009).

I. Purpose

The purpose of this policy is to notify the local workforce development areas of the annually updated poverty line and the lower living standard income level tables.

II. Effective Date

Immediately

III. Rescission


IV. Background

The poverty line and lower living standard income level (LLSIL) may be used, in addition to several other measures, to determine if a WIOA applicant or participant meets the definition of a low-income individual. In-school youth -- and out-of-school youth with certain barriers defined in WIOA -- must be low-income individuals (except for up to five percent of the youth otherwise required to be low-income individuals who may be served by the local area even though they are not low-income.)

For the adult program, low-income individuals must receive priority status (along with recipients of public assistance and individuals who are basic skills deficient) for individualized career services and for training services.

For purposes of youth program eligibility and adult service priority, individuals meet the definition of low-income if their family income does not exceed the poverty line, or 70 percent of the LLSIL, whichever is greater for that family size.

V. Definitions

Low income individual: As defined in section 3(36)(A) of WIOA, an individual who:

a. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or the supplemental security income (SSI) or local income-based public assistance;

b. Is in a family with total family income that does not exceed the higher of:
   • The poverty line; or
   • 70 percent of the lower living standard income level.

c. Is a homeless individual;

d. Receives or is eligible to receive a free or reduced price lunch (which does not include youth attending school in districts subsidizing all student meals who would not otherwise be eligible as individuals for free or reduced price lunch);

e. Is a foster child on behalf of whom the State or local government payments are made; or
f. Is an individual with a disability whose own income meets the eligibility income requirement of clause (b) but who is a member of a family whose income does not meet this requirement.

Lower living standard income level: As defined in section 3(36)(B) of WIOA, income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the United States Department of Labor (DOL) based on the most recent lower living family budget issued by the Secretary of the Department.

Ohio Workforce Case Management System (OWCMS): A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

Poverty line: The income level defined by the federal Office of Management and Budget and revised annually by the United States Department of Health and Human Services (HHS) in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

VI. State Requirements

The poverty line and LLSIL are issued at separate times by different federal agencies. The United States Department of Health and Human Services (HHS) is responsible for the poverty line and historically revises the standards during the first quarter of the calendar year. The United States Department of Labor (DOL) determines and releases the LLSIL for Title I of WIOA during the second quarter of the calendar year. The revised poverty line and LLSIL are communicated annually by the Office of Workforce Development, Ohio Department of Job and Family Services, to the local workforce development boards.

When both income tables have been revised at the federal level, the table listing the poverty line and 70 percent of the LLSIL for each family size will be updated in the Ohio Workforce Case Management System (OWCMS) for income-based eligibility determinations. When the income tables in OWCMS have been updated, notification will be sent via e-mail to the local workforce development boards and OhioMeansJobs center operators.

An updated chart will also be posted on the OWD State Policy and Guidance Information web page.

VII. Local Workforce Development Area Requirements

Upon receiving notice that the income tables in OWCMS have been updated, the local workforce development board must ensure that the revised standards are used for determining WIOA youth eligibility and for determining priority status for certain adult services.

VIII. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, § 3(36), Public Law 113-128.
O.A.C. rule 5101:10-3-01.

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers, (June 6, 2017).
To: Chief Elected Officials, Workforce Innovation and Opportunity Act Local Workforce Development Board Chairmen, Fiscal Agent, and Workforce Innovation and Opportunity Act Local Workforce Development Board Director

From: Cynthia C. Dungey, Director

Subject: Local Workforce Development Area Governance

I. Purpose

The purpose of this policy is to outline the roles of the entities responsible for establishing the workforce development system within a local workforce development area. This policy will also identify and describe the required agreements to ensure that the local area serves as a jurisdiction for the administration of workforce development activities and expenditure of adult, dislocated worker, and youth funds allocated by the State.

II. Effective Date

Immediately

III. Background

The Workforce Innovation and Opportunity Act (WIOA) envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. It requires local workforce development boards (WDBs) and chief elected officials (CEOs) to design and govern the system regionally, aligning workforce policies and services with regional economies and supporting service delivery strategies tailored to those needs.

Local workforce development areas (local areas) serve as a jurisdiction for the administration of workforce development activities and require the CEO to play an active role in both the strategic planning and ongoing operation of the local system. Agreements between the CEO and the entities responsible for the workforce development system will address the logistics of how the local area will function and how administrative tasks will be carried out within the local area.

IV. Requirements

A. Roles and Responsibilities

Chief Elected Official

Per section 3(9) of WIOA, the CEO is the chief elected executive officer of a unit of general local government in a local area and, in a case in which a local area includes more than one unit of general local government, the individual designated under the agreement that specifies the respective roles of the individual CEOs.

Responsibilities of the CEO include, but are not limited to:

- Requesting local area designation;
- Appointing members of the local WDB;
- Requesting local WDB certification;
- Providing input to establish the by-laws of the local WDB;
- Designating a fiscal agent (if not serving as grant recipient);
- Remaining liable for any misuse of WIOA grant funds by the local workforce development area;
- Negotiating and reaching agreement on local performance measures with the local WDB and the State;
• Negotiating with the local WDB and required partners to maintain the workforce delivery system through the Memorandum of Understanding; and
• Partnering with the local WDB and planning region, if appropriate, to develop and submit the local plan and regional plan.

Fiscal Agent
The fiscal agent is the entity designated by the CEO to serve as the grant recipient for WIOA funds and perform accounting and funds management on behalf of the CEO. The fiscal agent is responsible for the following functions:

• Receiving funds;
• Ensuring sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget (OMB) circulars, WIOA and corresponding federal regulations and State policies;
• Responding to financial audit findings;
• Maintaining proper accounting records and adequate documentation;
• Preparing financial reports; and
• Providing technical assistance to sub-recipients regarding fiscal issues.

Although the appropriate role of the fiscal agent is limited to accounting and funds management functions rather than policy or service delivery, there may be situations in which the fiscal agent may be the procured OhioMeansJobs center operator or the career service provider and/or youth service provider.

When the fiscal agent is not the OhioMeansJobs center operator and/or provider of career and/or youth services, then at the direction of the local WDB, the fiscal agent may have the following additional functions:

• Procuring contracts or obtaining written agreements;
• Conducting financial monitoring of service providers; and
• Ensuring an independent audit is conducted of all employment and training programs.

Local Workforce Development Board
The local WDB provides strategic and operational oversight, assists in achievement of the State's strategic and operational vision and goals, and maximizes and continues to improve quality of services, customer satisfaction, and effectiveness of services provided.

Some of the roles of the local WDB are to:

• Develop and submit local and regional plans;
• Conduct workforce research and regional labor market analysis;
• Convene local workforce development system stakeholders to assist in the development of the local plan and identify non-Federal expertise and resources to leverage support for workforce development activities;
• Lead efforts to engage a diverse range of employers and other entities in the region;
• Lead efforts to develop and implement career pathways;
• Lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and job seekers;
• Conduct oversight of the adult, dislocated worker, and youth programs and the entire workforce delivery system, ensure the appropriate use and management of WIOA funds, and ensure the appropriate use, management, and investment of funds to maximize performance outcomes;
• Negotiate and reach agreement on local performance measures with the CEO and the State;
• Negotiate with the CEO and required partners to maintain the workforce delivery system through the Memorandum of Understanding;
• Select providers of youth program services through competitive grants or contracts or designation of the fiscal agent/grant recipient to perform youth activities; select providers of career services through award of contracts if the OhioMeansJobs center operator does not provide such services; and select the OhioMeansJobs center operator through competitive contracts;
• Ensure there are sufficient numbers and types of providers of career services and training services serving the local area;
• Coordinate activities with education and training providers in the local area, and review applications to provide adult and basic literacy activities under title II (which in Ohio, is adult basic and literacy education (ABLE)) to determine whether such applications are consistent with the local plan;
• Develop a budget for the activities of the WDB;
• Assess, on an annual basis, the physical and programmatic accessibility of all OhioMeansJobs centers in the local area, in accordance with section 188 of WIOA (pertaining to nondiscrimination), if applicable, and applicable provisions of the Americans with Disabilities Act of 1990;
• Certify the OhioMeansJobs centers in the local area;
• In partnership with the CEO, establish by-laws and codes of conduct, which, at minimum, must address all of the following:
  • The nomination process used by the CEO to elect the local WDB chair and members;
  • The term limitations and how the term appointments will be staggered to ensure only a portion of membership expire in a given year;
  • The process to notify the CEO of a WDB member vacancy to ensure a prompt nominee;
  • The proxy and alternative designee process that will be used when a WDB member is unable to attend a meeting and assigns a designee as per the requirements of 20 C.F.R. 679.110(d)(4);
  • The use of technology, as allowable under Ohio’s Sunshine Laws and Ohio’s Open Meetings Act, that will be used to promote WDB member participation;
  • The process to ensure WDB members actively participate in convening the workforce development system's stakeholders, brokering relationships with a diverse range of employers, and leveraging support for workforce development activities;
  • The process to ensure that board members' participation on the board is done in a manner that does not pose a conflict of interest; and
  • A description of other conditions under which a local WDB member may continue to serve on the local WDB if such member has also been appointed to serve on the State Board, as deemed appropriate by the CEO;
• Establish additional monitoring and reporting requirements if one entity is fulfilling multiple functions to ensure the entity is compliant with WIOA, final rules and regulations, OMB circulars, and the State's conflict of interest policy.

Local Workforce Development Board Director and Staff

The local WDB may hire a qualified director, and as appropriate and feasible, staff to assist in ensuring the functions of the local board are achieved. If the local WDB does not elect to hire a
director, the local WDB or the CEO may designate an individual or entity to fulfill the role of workforce development director. The individual or entity who is designated to fulfill the role of director must not be the OhioMeansJobs center operator or the provider of career and/or youth services. If the local WDB does not hire or designate a director, all the functions of the local WDB outlined in section 107(d) of WIOA and 20 C.F.R. 679.370 shall be carried out by the local WDB itself.

The local WDB must establish and apply a set of objective qualifications for the position of director that ensure the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in effectively carrying out the functions of the local WDB which includes, but is not limited to:

- Coordinating with the CEOs regarding the identification and nomination of members to the local WDB and ensuring membership is compliant with WIOA;
- Organizing local WDB meetings and ensuring that the meetings are held according to the WDB's by-laws and the sunshine laws;
- Developing and submitting the local and regional plan;
- Conducting oversight of the adult, dislocated worker, and youth programs, including development of policies and monitoring the administration of the programs;
- Negotiating and reaching agreement on local performance measures;
- Negotiating with CEO and required partners for the Memorandum of Understanding;
- Competitively procuring or awarding contracts for providers of youth program services, providers of adult and dislocated worker career services, and the OhioMeansJobs center operator as required in paragraph (I) of 20 C.F.R. 679.370;
- Developing budget for activities of the local WDB; and
- Certifying the OhioMeansJobs centers.

The director and other staff hired by the local WDB may be employed directly by the local WDB or by another entity or organization not directly involved in the delivery of career services and/or youth program services, and/or who is not the OhioMeansJobs center operator. If an individual or entity is designated to fulfill the role of director, this individual or entity also must not be directly involved in the delivery of services or the operation of the OhioMeansJobs center. Per 20 C.F.R. 679.410(d), the general prohibitions that apply to local boards directly providing career services also apply to local WDB staff.

OhioMeansJobs Center Operator

The OhioMeansJobs center operator must be competitively procured by the local WDB. Minimally, the OhioMeansJobs center operator is the coordinator of the OhioMeansJobs partners. Therefore, the OhioMeansJobs center operator must perform the following:

- Coordinate service delivery among partners as defined in the memorandum of understanding;
- Coordinate service delivery among physical OhioMeansJobs centers and electronic sites;
- Coordinate services across the local area workforce development system;
- Implement local WDB policies; and
- Report to the local WDB on operations, performance accountability, and continuous improvements.

The entity selected to be the operator may also be procured to provide career services to adult and dislocated workers and/or youth program services.
The OhioMeansJobs center operator cannot assume functions that are inherently the responsibility of the local WDB and its staff.

B. One Entity Performing Multiple Functions

WIOA establishes clear roles and responsibilities for each entity or organization involved in the workforce delivery system. There may be situations in which one entity can perform multiple functions. Local entities or organizations often function simultaneously in a variety of roles, including fiscal agent, local WDB staff, OhioMeansJobs center operator, provider of career services, and provider of youth services as follows:

- The local WDB, director, and/or staff may also be designated as the fiscal agent.
- The fiscal agent may also be the local WDB, WDB director or WDB staff. The fiscal agent may also be the OhioMeansJobs center operator, the provider of career services, or the provider of youth program services. Please note that the fiscal agent cannot simultaneously perform all the roles and responsibilities of the local WDB, WDB director, WDB staff, OhioMeansJobs center operator, provider of career services, and provider of youth program services.
- The OhioMeansJobs center operator may also be the fiscal agent, the provider of career services, or the provider of youth program services.

The local WDB and its staff shall not have the role and perform the responsibilities of the OhioMeansJobs center operator, the provider of career services, and/or the provider of the youth program. The local WDB is designed to oversee the workforce delivery system and its services, not provide them. The entities performing these functions are procured through the local WDB, which also has the responsibility of monitoring and overseeing the contracts, as well as the services performed through the contract.

However, in certain critical circumstances (e.g., sudden termination of contract or failed procurement), the local WDB may become an OhioMeansJobs center operator or a provider of career and/or youth services on a time-limited (six months or less) basis if the provision is approved by the chief elected official and the State.

Local Workforce Development Area Multi-Function Agreement

For situations in which an entity or organization has been selected or otherwise designated to perform more than one function, the required contract or written agreement shall include a clause to clarify how the entity will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant OMB circulars, and the State's conflict of interest policy. The written clause in the contract or agreement shall include, at a minimum, the following requirements:

- Definition of roles and duties per function (e.g., fiscal agent, OhioMeansJobs center operator, and/or procured provider of services);
- Description of the separation of staff duties under each role, including deliverables for each separate function;
- Description of how budget authority is separated, including separate line item budgets for each function; and
- Description of how staff duties will be completed while demonstrating compliance with WIOA and regulations, OMB circulars, and the State's conflict of interest policy, including how conflict of interest will be minimized;
- Description of the roles and responsibilities within the organization, including an organizational chart, and sustainability if a function is removed; and
- Description of how fiscal monitoring will occur if the fiscal agent is performing multiple functions.
The written clauses in the agreement are intended to limit conflicts of interest or the appearance of conflicts of interest, minimize fiscal risk, and develop appropriate firewalls within a single entity performing multiple functions.

C. Governance Agreements

Implementation of a local workforce development system pursuant to WIOA requires that the local elected officials play an active role in both strategic planning and ongoing operation of the local system.

Intergovernmental Agreement

The purpose of having an intergovernmental agreement is to identify how the decisions that are delegated to the local elected officials and/or designated CEO will reflect the agreement of all the local elected officials in all jurisdictions of a local area. This agreement is between the local elected officials of each jurisdiction within the local area and should contain signatures of all county commissioners and/or mayor(s).

This agreement should clearly state the accord to be reached amongst the governmental entities involved and identify the roles and responsibilities of all local elected officials within the local area. At a minimum, the agreement should contain the following sections:

- **Identification of local workforce development area**
  The agreement needs to clearly identify the units of local government which are covered by this agreement and which make up the local area.

- **Designation of chief elected official(s)**
  The parties to the Intergovernmental Agreement should identify the county commissioner(s) and/or mayor(s) to serve as the CEO(s) of the local area for the purposes of approving local and regional plans, establishing policy, authorizing WIOA expenditures, establishing contracts, paying for services outside of the local area or paying costs associated with monitoring or audit findings or sanctions.

- **Designation of the fiscal agent**
  The fiscal agent is the entity designated to perform accounting and funds management on behalf of the chief elected official(s). The agreement should identify the entity performing these duties.

- **Process for local elected officials to provide input**
  The agreement should include a process for local elected officials to provide input to the CEO(s) for the purposes of reaching a consensus on critical decisions that may impact the local workforce development system.

- **Liability**
  Under WIOA, CEOs are liable for misspent funds, disallowed costs, funds spent fraudulently, and potential sanctions for non-performance. Therefore, local elected officials within a local area must agree on how liability for these funds will be shared among the counties should this situation arise. Some issues that should be addressed include:
  - If a local area receives a monetary sanction for non-performance, who will be responsible for paying the sanction?
  - If there are disallowed costs or misspent funds that cannot be covered by grant funds, how will funds be identified to pay the money back to the State?
• If a local area receives monetary incentives for good performance, how will decisions on how to spend the money be made?

• **Performance accountability**
  Generally, performance accountability issues are addressed in the local area's local plan. However, local elected officials should agree on an approach to performance accountability. Issues to be addressed in this section of the inter-governmental agreement include, but are not limited to:
  - Who will be responsible for negotiating local performance measures with the State (this should include the local elected officials and the local WDB)?
  - Will the local area have any additional performance criteria in addition to federal and state criteria?
  - How will performance be administratively tracked locally?
  - How will incentives and sanctions related to performance be shared among the jurisdictions within the local area?

• **OhioMeansJobs service delivery**
  The development of the workforce delivery system within a local area, is a critical requirement under WIOA. There are several issues associated with workforce delivery system design and implementation that local elected officials should address in their inter-governmental agreement, such as the following:
  - How will the key partners and stakeholders be brought to the table to design and implement the workforce delivery system for the local area?
  - What specific roles will local elected officials play in the design and implementation and how will they be shared area wide?
  - How will the location of the physical OhioMeansJobs centers be identified?

• **Dispute resolution process**
  Because of the different interests of the local elected officials within a local area, it is possible that disputes will occur. The agreement must include provisions for resolving disputes, should they arise. Below are possible issues to address in the agreement relative to dispute resolution:
  - What types of disputes do local elected officials agree arise to the level of needing a dispute resolution process?
  - What type of dispute resolution process should be used (mediation, arbitration, consultation with State, etc.)?

• **Miscellaneous provisions**
  - Duration of the agreement;
  - Process for modification or termination of agreement.

**Local Governance Agreement**

The purpose of the local governance agreement is to delineate the roles and responsibilities between the CEO(s), local WDB (or its director and/or staff), and the fiscal agent. This agreement is between the CEO(s), the local WDB, and the fiscal agent and should be signed by all three entities. At a minimum, the agreement should contain the following sections:

• **Establishment, appointment, and operation of the local WDB**
  The agreement should include an agreed process for establishing and appointing the local WDB. Issues to consider include, but are not limited to:
• The size and membership of the local WDB;
• Bylaws and procedures for local WDB actions as described in Section IV. A. of this policy under "Local Workforce Development Board;
• How board members will be geographically representative of all jurisdictions within the local workforce development area; and
• How appointed board members can/will be removed or replaced.

• **Hiring or designating the local WDB director and/or staff**

The local WDB may hire a qualified director and as appropriate and feasible, staff to assist in ensuring the functions of the local WDB are achieved. If a director is not hired, the local WDB or the CEO(s) may designate an individual or entity to fulfill the role of WDB director. At a minimum, the agreement should contain the following information:

- The established set of objective qualifications for the position of director;
- The duties of the director and, as appropriate and feasible, the staff;
- The process of evaluating the director and, as appropriate and feasible, the staff; and
- The process of terminating the director and, as appropriate and feasible, the staff.

• **Role of the fiscal agent**

Because fiscal decisions frequently impact the overall success of a program or initiative and because there is clear liability associated with the management of public funds, the parties to the agreement must have a clear understanding of the fiscal issues, which must be addressed in the agreement, including how WIOA funds will be divided to ensure each jurisdiction receives its fair share.

Other fiscal issues that should be identified, mentioned, and/or addressed within the local governance agreement include, but are not limited to:

- How the local workforce development area will comply with state and federal fiscal reporting requirements;
- Establishment of fiscal policies relative to procurement, auditing, fiscal monitoring, and overall fiscal administration;
- What flexibility there will be to utilize WIOA program funds for fiscal agent operational costs and for benefit of the overall local workforce development area as opposed to each individual jurisdiction within the local area;
- The federal and state requirements applicable to all fiscal agreements, including, but not limited to, limitations on use of program funds, cost allocation requirements, procurement requirements, reporting requirements, and audit requirements; and
- Other policy issues associated with the administration of WIOA program funds and other program funds, as identified in the local or regional plans.

• **Multi-function agreement**

For situations in which the fiscal agent and the local WDB director are the same individual or from the same entity or organization, the local governance agreement shall include a clause to clarify how the entity will carry out each of its responsibilities, both as a fiscal agent and a local board director, while demonstrating compliance with WIOA and corresponding regulations, relevant OMB circulars, and the State's conflict of interest policy. Requirements of this clause are outlined in section IV. B. of this policy.

• **Dispute resolution process**
Because of the different interests of the local elected officials within a local area, it is possible that disputes will occur. The agreement must include provisions for resolving disputes, should they arise.

- **Miscellaneous provisions**
  - Duration of the agreement;
  - Process for modification or termination of agreement.

V. **Monitoring**
At the local level, the local WDB and its director or staff must conduct oversight of the procurement process and resulting contracts and agreements to ensure all aspects of written agreements and contracts are compliant with federal and state laws and regulations. Additionally, the local WDB and its director or staff must also ensure that governing agreements are upheld.

Through the state's monitoring system, program and fiscal monitors will review the local area's agreements and contracts during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

VI. **Technical Assistance**
Ongoing support, guidance, training and technical assistance on development of intergovernmental agreement and local governance agreement as well as procurement processes are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VII. **References**
Workforce Innovation and Opportunity Act, §§ 106 – 107, Public Law 113-128.


Rule 5101:9-4-07 of the Administrative Code.
Rule 5101:9-4-07.1 of the Administrative Code.

The Ohio Ethics Commission, Ohio Ethics Law and Related Statutes (October 2014).


Rescissions
ODJFS, [Workforce Innovation and Opportunity Act Policy Letter No. 15-18](link) Local Workforce Development Area Governance, (September 8, 2015).
Workforce Innovation and Opportunity Act Policy Letter No. 15-17

September 8, 2015

To: Chief Elected Officials, Workforce Innovation and Opportunity Act (WIOA) Workforce Development Boards, WIOA Workforce Development Board Director, and WIOA Board Chairmen

From: Cynthia C. Dungey, Director

Subject: Local Workforce Development Board Certification Process

I. Purpose
The purpose of this policy is to provide guidance to the establishment of a local workforce development board and to outline the procedures for certifying, recertifying, and decertifying local workforce development boards (WDBs).

II. Effective Date
July 1, 2015

III. Background
The vision of the local workforce development board is to serve as a strategic leader and convener of local workforce development system stakeholders. The WDB develops policies and approves investments that support workforce system strategies that support the Governor's and State Board's vision with regard to workforce development, regional economies, the development of effective approaches, including local and regional sector partnerships and career pathways, and high quality, customer-centered service delivery and service delivery approaches.

The purpose of the WDB is to do all of the following:

- Provide strategic and operational oversight in collaborations with the required and additional partners and workforce stakeholders to help develop a comprehensive and high-quality workforce development system in the local area and larger planning region;
- Assist in the achievement of the Governor's and State's strategic and operational vision and goals as outlined in the Combined State Plan and other state initiatives; and
- Maximize and continue to improve the quality of services, customer satisfaction, and effectiveness of the services provided.

Section 107 of the Workforce Innovation and Opportunity Act (WIOA) requires each local workforce development area of the State to establish a WDB to administer the functions outlined in section 107 (d) of WIOA for its local workforce development system. Furthermore, it requires that the Governor of the State certify each local board every two years.

The certification is a process that will assist in creating effective WDBs by ensuring proper membership, by maintaining sound program and fiscal policies, and by providing a system of quality services and enhancing regional economic development.

IV. Definitions
Chief elected official(s): per section 3(9) of WIOA, the chief elected executive officer(s) of a unit of general local government in a local area and, in the case of a local area that includes more than one unit of general local government, the individual(s) designated under an inter-governmental agreement.

Community-based organization: per section 3(10) of WIOA, a private, nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.
Economic development agency: per section 3(17) of WIOA, a local planning or zoning commission or board, a community development agency, or another local agency or institution responsible for regulating, promoting, or assisting in local economic development.

In-demand industry sector or occupation: per section 3(23) of WIOA, an industry sector that has a substantial current or potential impact on the State, regional, or local economy, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or an occupation that currently has or is projected to have a number of positions in an industry sector so as to have a significant impact on the State, regional, or local economy.

- Ohio has established a state in-demand occupations list using various industry- and occupation- focused measures. These measures include projected openings, projected growth, select JobsOhio industry cluster occupations, and historic job postings data. The list will be validated or further enhanced using business data from the online Workforce Information Exchange job forecasts on a monthly basis. In-demand occupation data is found at [http://jfs.ohio.gov/owd/OMJResources/In-DemandOccupations.stm](http://jfs.ohio.gov/owd/OMJResources/In-DemandOccupations.stm).
- Local WDBs may also identify additional local in-demand occupations using the criteria established in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts.

Individual with a barrier to employment: per section 3 (24) of WIOA, a member of 1 or more of the following populations:

- A displaced homemaker (defined in section 3 (16) of WIOA);
- Low-income individuals (defined in section 3 (36) of WIOA);
- Indians, Alaska Natives, and Native Hawaiians (section 166 of WIOA);
- Individuals with disabilities, including youth who are individuals with disabilities (defined in section 3 (25) of WIOA);
- Older individuals;
- Ex-offenders;
- Homeless individuals (as defined in section 41403 (6) of the Violence Against Women Act of 1994) or homeless children and youths (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act);
- Youth who are in or have aged out of the foster care system;
- Individuals who are English language learners, individuals who have low levels of literacy, and individuals who are facing substantial cultural barriers;
- Eligible migrant and seasonal farmworkers (defined in section 167 (i) of WIOA);
- Individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act;
- Single parents (including single pregnant women);
- Long-term unemployed individuals; and
- Such other groups as the Governor involved determines to have barriers to employment.

Public assistance: per section 3(50) of WIOA, Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

Sustained fiscal integrity: the United States Secretary of Labor has not made a formal determination, during either of the last 2 consecutive years preceding the determination regarding such integrity, that either the grant recipient or the fiscal agent of the area misexpended funds provided under WIOA due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

Workplace learning advisor: per section 3(70) of WIOA, an individual employed by an organization who has the knowledge and skills necessary to advise other employees of that organization about the education, skill development, job training, career counseling services, and credentials, including
services provided through the workforce development system, required to progress toward career
goals of such employees in order to meet employer requirements related to job openings and career
advancements that support economic self-sufficiency.

V. Requirements
A. Establishment of the Local Workforce Development Board
The members of the local WDB must be selected by the chief elected official(s) in each local
area pursuant to section 107 (b)(1) of WIOA and must meet the composition requirements of
section 107 (b)(2) of WIOA.
1. Required Membership
The local WDB must include representatives from 4 categories:

• Business
A majority of the local WDB members must be business representatives who are
owners, chief executive or operating officers, or other business executives or
employers with optimum policymaking or hiring authority.
Pursuant to 20 CFR 679.320 (b), members are to be representatives of
businesses or organizations representing businesses, including a minimum of 2
members representing small businesses as defined by the U.S. Small Business
Administration.
Members should represent businesses that provide employment opportunities in
local area in-demand industry sectors or occupations. These representatives are
uniquely suited to communicate the emerging workforce needs of employers in
high-growth, in-demand sectors to the local WDB.

• Workforce
Not less than 20 percent of the members of the local WDB must be workforce
representatives. Such representatives must include:

• Two or more representatives of labor organizations (or other employee representatives if there are no labor organizations in the
local area); and

• One or more representatives of a joint-labor management registered
apprenticeship program (or other registered apprenticeship program if there is no joint labor-management program in the local area). In
areas with joint apprenticeship programs, the apprenticeship
representative must be a member of a labor organization or a
training director.

To fulfill the requirement that 20 percent of local WDB members be workforce
representatives, the local WDB may include:

• One or more representatives from community-based organizations
with demonstrated experience and expertise in addressing the
employment needs of individuals with barriers to employment,
including veterans or that provide or support competitive integrated
employment for individuals with disabilities; and/or

• One or more representatives of organizations with demonstrated
experience and expertise in addressing the employment, training, or
education needs of eligible youth, including representatives of
organizations that serve out of school youth.
• **Education and Training**

Members of the WDB must include representatives of entities administering education and training activities in the local area.

At least one of these members must be a representative from each of the following:

- Provider of the Adult Basic and Literacy Education (ABLE) program;
- Representative of higher education institutions that provide workforce training (including community colleges).

Additional members may include representatives of local education agencies and community based organizations with demonstrated expertise and experience in addressing the education and training needs of individuals with barriers to employment.

• **Government and Economic Development**

WDB members must also include representatives from governmental and economic and community development entities in the local area. This includes at least one representative from each of the following:

- Economic and community development entity;
- State Employment Service Office under Wagner-Peyser serving the local area; and
- Vocational Rehabilitation programs.

In addition to these 4 categories, the chief elected official(s) may appoint other individuals to the local WDB, such as local agencies or entities administering transportation, housing, public assistance, and philanthropic organizations.

The members who are representatives of organizations with "demonstrated experience and expertise" include the following:

- Individuals who are workplace learning advisors;
- Members who contribute to the field of workforce development, human resources, training and development, or a core program function; or
- Members the local WDB recognized for valuable contributions in education or workforce development related fields.

These provisions allow the chief elected official(s) the flexibility to assemble a local WDB that connects all key resources and stakeholders.

2. **Nomination Process**

WIOA requires that business representatives be appointed from among individuals nominated by local business organizations and business trade associations. The representatives from labor organizations must be appointed from among individuals who have been nominated from local labor federations.

When there is more than one local area provider of ABLE activities, or multiple institutions of higher education providing workforce investment activities, the chief elected official must solicit nominations from those providers and institutions, respectively, in appointing the required representatives. This requirement provides for a representative selection process for these membership categories.
3. **Authority of Board Members**

Members of the WDB that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. This means that the individual may reasonably be expected to speak affirmatively on behalf of the entity that he or she represents and to commit that entity to a chosen course of action.

4. **Multiple Entity Representation**

Members of the local WDB may be appointed as a representative of more than one entity if the individual meets all the criteria for representation for each entity represented.

5. **Sunshine Law Provisions**

The WDB must conduct its business in an open manner as required by section 107 (e) of WIOA, by making available to the public, on a regular basis through electronic means and open meetings, information about the activities of the local WDB. This includes:

- Information about the local plan, or modification to the local plan, before submission of the plan;
- List and affiliation of local WDB members;
- Selection of the OhioMeansJobs center operator(s);
- Award of grants or contracts to providers of adult and dislocated worker career services and youth program services.
- Minutes of formal meetings of the local WDB; and
- Local WDB by-laws, consistent with section 679.310 (g) of the regulations.


6. **WDB By-Laws**

In partnership with the chief elected official(s), the local WDB must establish by-laws and codes of conduct, which at a minimum, must address all of the following:

- The nomination process used by the chief elected official(s) to elect the local WDB chair and members;
- The term limitations and how the term appointments will be staggered to ensure only a portion of membership expires in a given year;
- The process to notify the chief elected official(s) of a board member vacancy to ensure prompt nomination;
- The proxy and alternative designee process that will be used when a board member is unable to attend a meeting and assigns a designee as per the requirements at section 679.110 (d)(4) of the Notice of Proposed Rule Making (NPRM);
- The process to ensure board members actively participate, including the member's attendance, in WDB meetings; and
- A description of any other conditions governing appointment or membership on the State Board as deemed appropriate by the chief elected official(s).

7. **Standing Committees**
Standing committees may be established by the local WDB to provide information and assist the WDB in carrying out its responsibilities under WIOA, including identification of strategies for better meeting the needs of individuals with barriers to employment. Standing committees must be chaired by a member of the local WDB, may include other members of the local WDB, and must include other individuals appointed by the WDB who are not members of the board.

Standing committees may include each of the following:

- A standing committee to provide information and assist with operational and other issues relating to the OhioMeansJobs delivery system, which may include representatives of OhioMeansJobs center partners.
- A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which must include CBOs with a demonstrated record of success in serving eligible youth.
- A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including providing programmatic and physical access to the services, programs, and activities of the OhioMeansJobs delivery system.
- The local WDB may designate other standing committees (e.g., serving priority populations such as low income individuals), as determined needed and appropriate.

8. Transition from a Workforce Investment Board (WIB) to a Workforce Development Board

For each local area in the State, the members of the local WDB must meet the composition requirements of WIOA. To assist in the transition, the chief elected official(s) may shift the appointment of the current WIB members who are in good standing and have remaining time on the terms to which they were appointed to the newly established WDB. A formal reappointment is not required for members who will continue their service. The chief elected official(s) should be cognizant of the representation these members have on the board as it relates to WIOA required membership and federally mandated WIOA priorities. Shifting too many members whose representation are no longer WIOA required will significantly impact the WDB’s composition and number of members.

Additionally, the board chair who was appointed under WIA can remain the board chair under WIOA as long as the board chair is in good standing and has remaining time on his or her term.

As the local WIB transitions into the local WDB, the local board is to continue to meet and conduct its roles and responsibilities, especially as it pertains to WIOA implementation and the delivery of services to adults, dislocated workers, and youth.

B. Workforce Development Board Certification

1. Preliminary Workforce Development Board Certification

As the local workforce development area designation process is ongoing, local workforce development boards should be established within current local workforce investment areas in order to proceed with necessary local WIOA implementation activities.

Being cognizant of the local workforce development area designation process and the impact of this process on local areas as well as the transition from WIA to WIOA, the State will preliminarily certify local WDBs. Preliminary certification will be effective from January 1, 2016 until 6 months after local workforce development area designation has
been approved. Certified WDBs will be in place for full implementation of WIOA, including the procurement of the OhioMeansJobs center operator and adult and dislocated worker career services and the development of the local workforce development area's memorandum of understanding.

The State's preliminary certification process shall include a review of the composition of the local WDB, including the appointment process, for compliance with the criteria established in section 107 of WIOA. The composition of each WDB will be evaluated on the following criteria:

- Membership composition as required in section 107 (b)(2);
- Optimum policy making authority of the members or hiring authority for business members as required in section 107(b)(2)(i) and (b)(5); and
- Chairperson for the WDB is a representative of business as required in section 107 (b)(3).

The chief elected official(s) shall request local WDB preliminary certification from all current local workforce investment areas by November 31, 2015, by completing and submitting the application entitled, "Local Workforce Development Board Certification," and including all of the following:

- The WDB membership roster, including each member's job title and the business or organization he or she represents;
- Documentation of the appointment for each board member, including nomination process and/or completed resolutions (even if nominations and appointments were completed under WIA or a current resolution noting the names of the board members carried in from the Workforce Investment Board under WIA); and
- Conflict of interest forms signed by each board member.

Certification applications and supporting documents shall be submitted to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov and the subject of the email should read, “WDB Preliminary Certification.”

The State will review the packet and notify the chief elected official(s) within 30 calendar days after the submission of the certification or denial of the proposed board.

Failure of the local WDB to achieve preliminary certification shall result in local workforce development areas receiving notice to revise the board roster to correct the identified deficiencies and re-submit the application within 90 days of receiving the denial. The local workforce development area may request technical assistance from the Office of Workforce Development to assist in the development of a compliant WDB.

2. Initial Workforce Development Board Certification

Within 6 months of the local workforce development area designation approval, the chief elected official(s) shall request local WDB initial certification from all newly designated workforce development areas.

Initial WDB certification may also be completed outside the transition from WIA to WIOA time period, whenever a new local workforce development area is designated pursuant to the WIOAPL No. 15-01, Local Workforce Development Area Designation. The chief elected official(s) shall request local WDB initial certification within 6 months of designation as a local workforce development area.

The State's initial certification process shall include a review of the composition of the local WDB, including the appointment process, for compliance with the criteria
established in section 107 of WIOA. The composition of each WDB will be evaluated on the following criteria:

- Membership composition as required in section 107 (b)(2);
- Optimum policy making authority of the members or hiring authority for business members as required in section 107(b)(2)(i) and (b)(5); and
- Chairperson for the WDB is a representative of business as required in section 107 (b)(3).

The chief elected official(s) shall request local WDB initial certification by completing and submitting the application entitled, "Local Workforce Development Board Certification," and including all of the following:

- The WDB membership roster, including each member’s job title and business or organization he or she represents;
- Documentation of the appointment for each board member, including nomination process and/or completed resolutions (even if nominations and appointments were completed under WIA or a current resolution noting the names of the board members carried in from the Workforce Investment Board under WIA);
- Conflict of interest forms signed by each board member; and
- The current copies of the Intergovernmental Agreement, Local Governance Agreement, and the WDB by-laws.

Certification applications and supporting documents shall be submitted to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov and the subject of the email should read, "WDB Initial Certification."

The State will review the packet and notify the chief elected official(s) within 30 calendar days after the submission of the certification or denial of the proposed board.

The failure of the local WDB to achieve initial certification shall result in reappointment and certification of another WDB for the local area pursuant to Section 107 (c)(2)(C). Local workforce development areas receiving a denial must revise the board roster to correct the identified deficiencies and re-submit the application within 90 days of receiving the denial. The local workforce development area may request technical assistance from the Office of Workforce Development to assist in the development of a compliant WDB.

3. Subsequent Workforce Development Board Certification

Section 107 (c)(2)(A) and (B) of WIOA requires the local WDB to be certified every two years, to ensure the following:

- Membership composition requirements outlined in section 107 (b)(2),(3), and (5) have been maintained;
- The extent to which the local board ensures that workforce investment activities are carried out in the local area;
- Local area meets their performance accountability measures per section 107 (c)(2)(B); and
- Local area achieves sustained fiscal integrity per section 107 (c)(2)(B).

The chief elected official(s) shall complete and submit the application entitled, "Local Workforce Development Board Subsequent Certification." The application and the
supporting documentation are due by November 1 two years after initial certification was
approved if initial WDB certification was completed as part of the WIA to WIOA transition.
If a local workforce development area is designated outside the transition period and
results in an initial certification of the local WDB, the application and the supporting
documentation are due by November 1 of the certification year.

In either situation, the application and supporting documentation shall contain all of the
following information:

- The current WDB membership roster, including each member’s job title and
  business or organization he or she represents;

- Documentation of the appointment for each board member, including
  nomination process and/or completed resolutions; and

- Conflict of interest forms signed by each board member.

Subsequent certification applications and supporting documents shall be submitted to the
Office of Workforce Development: OWDPOLICY@jfs.ohio.gov. The subject of the e-mail
should read, “WDB Subsequent Certification.”

The State will review the application and supporting documentation. The State will also
gather information about whether or not the local workforce development area met its
performance measures for the previous two program years, as well as information
regarding the local area's fiscal integrity, to determine how effectively workforce activities
have been carried out in the local area.

The State will notify the chief elected official(s) within 30 calendar days after the
submission of the recertification packet of the subsequent certification or denial of the
WDB.

Failure of a local WDB to achieve recertification will result in reappointment and
certification of another local WDB pursuant to section 107 (c)(2)(C). The local workforce
development area may request technical assistance from the Office of Workforce
Development to assist in the development of a compliant WDB.

4. Decertification of Local Workforce Development Board

Under section 107 (c)(3) of WIOA, the State may decertify a local WDB at any time after
providing notice and an opportunity to comment if one or more of the following conditions
exist:

- Fraud or abuse;

- Failure to carry out the required functions of the local board as outlined in
  section 107 (d) of WIOA; and/or

- Failure to meet the same local performance measures for two consecutive
  program years.

If the State decertifies a local WDB, the State may require that a new local board be
appointed and certified for the local area pursuant to a reorganization plan developed
between the State and the local chief elected official(s).

Pursuant to section 184 (b)(2) of WIOA, if a local WDB is decertified, the chief elected
official(s) may appeal to the United States Department of Labor (USDOL). The appeal
must be filed no later than 30 days after receipt of written notification of the
decertification. If appealed, the decertification of the local WDB will not become effective
until the time for appeal has expired or USDOL has issued a decision.
The appeal must be submitted by certified mail, with return receipt requested, to the following address:

Secretary, U.S. Department of Labor
200 Constitution Ave. N.W.
Washington, D.C. 20210
Attention: ASET

A copy of the appeal must be simultaneously provided to the State.

VI. Monitoring

Through the state’s monitoring system, program monitors will review the local WDB’s composition during the annual onsite monitoring review for compliance with section 107 (b) of WIOA. Any compliance issues will be handled through the state’s findings resolution process. This monitoring process will assist the local areas in identifying and resolving WDB composition compliance issues within the local WDB in preparation of the recertification.

VII. Technical Assistance

The Office of Workforce Development's Technical Assistance Unit will provide technical assistance to those local areas whose WDBs were not certified or recertified, were decertified, or whose WDBs have been deemed out of compliance during the annual program monitoring.

Ongoing support, guidance, training and technical assistance on WDB composition requirements and recruitment, development, and engagement of its members is also available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, §§ 106 – 107, Public Law 113-128.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-01, Local Workforce Development Area Designation (July 1, 2015).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-11, Use of Individual Training Accounts (July 1, 2015).

I. Purpose
The Ohio Department of Job & Family Services (ODJFS) is committed to providing employer customers with workforce solutions throughout the business cycle and may do so by helping local workforce development areas (local areas) to avert or mitigate employer layoffs and closures using rapid response (RR) to fund layoff aversion (LA) strategies as outlined in this policy.

II. Effective Date
Immediately

III. Rescission

IV. Background
Under WIOA, workforce development, education, and economic development partners coordinate services and activities to meet the needs of employers throughout the business cycle, including assisting with potential reductions in their labor force. Local WIOA-funded providers of employer services and other partners in workforce, economic development, and education programs should coordinate to provide a range of layoff aversion (LA) strategies as part of their routine and on-going menu of business services (e.g., identifying employers who are at-risk of downsizing, assessing employer needs, facilitating access to capital, providing worker training, helping to improve quality or production processes, etc.)

LA strategies save jobs and increase economic productivity by preventing or deferring layoff events, shortening the duration of unemployment, and minimizing the negative impacts on workers, the employer, and the community. A layoff is averted when:

1. A worker’s job is saved with an existing employer that is at risk of downsizing or closing;
2. A worker at risk of dislocation transitions to a different job with the same employer; or
3. A worker at risk of dislocation transitions to a new job with a different employer and experiences no or a minimal period of unemployment.

LA strategies can be effective tools to assist employers in developing the skilled workforce necessary to adapt to the changing economy, to stay in business, and to retain talent. The local area should opt to deploy LA strategies that are most likely to retain jobs and critical industries in the region, promote new industry-sector growth strategies and new jobs in the economy, and provide improved coordination between partners. Such strategies may include, but are not limited to:

1. Assisting employers in managing reductions in force, which may include:
   a. Early identification of firms at risk of layoffs (e.g., early warning networks or trend monitoring);
   b. Assessment of the needs of, and options available to, at-risk firms (e.g., asset mapping, employee buy-outs, or succession planning); and
c. The delivery of services, or referrals to other resources and providers, to address the assessed needs;

2. Ongoing engagement, partnership, and relationship-building activities with businesses in the community to create an environment for successful LA efforts and to enable the provision of assistance to dislocated workers in obtaining reemployment as soon as possible;

3. Funding feasibility studies to determine if a company's operations may be sustained through a buyout, employee ownership, or other means to avoid or minimize layoffs;

4. Implementing incumbent worker training (IWT) programs;

5. Connecting companies to:
   a. Short-time compensation (e.g., SharedWork Ohio) or other programs designed to prevent layoffs or to quickly reemploy dislocated workers, available under Unemployment Insurance programs;
   b. Employer loan programs for employee skill upgrading; and
   c. Other Federal, State, or local resources as necessary to address other business needs that cannot be funded by WIOA;

6. Establishing linkages with economic development activities at the Federal, State, and local levels, including Federal Department of Commerce programs and available State and local business retention and expansion projects;

7. Partnering or contracting with business-focused organizations to assess risks to companies, propose strategies to address those risks, implement services, and measure impacts of services delivered;

8. Conducting an analysis of the suppliers of an affected company to assess their risks and vulnerabilities from a potential closing or shift in production of their major customer;

9. Engaging in proactive measures to identify opportunities for potential economic transition and for fulfilling worker training needs in growing industry sectors or expanding businesses; and

10. Connecting businesses and workers to short-term, on-the-job, or customized training programs and apprenticeships before or after layoff to help facilitate rapid reemployment.

In addition to providing services following a layoff or closure, the WIOA RR program is designed to be proactive by helping local areas implement these and other LA strategies.

V. Definitions

Imminent Layoffs: Workforce reductions by an employer that, according to documented foreseeable circumstances, are likely to occur within the next 36 months, and likely to result in the potentially affected workers remaining out of work for at least 6 months.

Incumbent worker: An employed individual who meets the Fair Labor Standards Act requirements for an employer-employee relationship and has an established employment history with the employer for six months or more or is a member of a training cohort in which most of the workers have such an employment history.

Incumbent worker training (IWT): Training designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment. IWT is conducted with the commitment of the employer to retain or avert the layoffs of the incumbent workers trained. IWT may be funded with local adult or dislocated worker formula grants or with state RR funding.
Layoff aversion (LA): A strategy that prevents and/or minimizes unemployment for employees of companies that have either announced layoffs or are struggling and at risk of downsizing.

Ohio Rapid Event Data (OhioRED): An information tracking system that records all employer event information and data on the delivery of RR services.

Ohio Workforce Case Management System (OWCMS): A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

VI. Local Workforce Development Area Requirements

A. Local Area Strategic Framework for LA Activities

Local workforce development boards (WDB) have the unique opportunity to implement proactive programs meant to predict and avert layoffs, thereby saving jobs and helping their communities grow and prosper. Under the strategic direction of the WDB, the partners in the local area must establish processes and procedures to:

1. Effectively deliver services to employers throughout the business cycle (i.e., normal expansions and contractions of the economy);
2. Develop an operations protocol for local area and regional partner programs that provide employer services to coordinate their efforts;
3. Identify opportunities to conduct LA activities;
4. Determine the appropriate LA strategy or mix of strategies that best fits each opportunity;
5. Develop the RR funding request for implementation of LA strategies when local area resources are insufficient to address the local needs;
6. Implement the approved LA strategies; and
7. Capture the data associated with LA in the appropriate State-designated information systems.

When the need to implement one or more LA strategies has been identified, local area partner or community resources available to implement the strategy must be explored, including WIOA adult and dislocated worker formula funds. If the expected costs of implementing the necessary LA strategies exceed the resources available in the local area, a request for RR funding may be submitted in accordance with the WIOA policy letter on funding for RR layoff aversion.

Local areas may request RR funding to implement either IWT programs or proactive LA strategies.

B. RR Incumbent Worker Training (RRIWT)

One of the most commonly implemented and effective LA strategies is the provision of IWT to enable workers to obtain the skills necessary to avert potential layoffs. If local resources (e.g., the portion of WIOA formula funding that may be spent on IWT, the employer’s own resources, and other partner funding) are not sufficient to adequately address the training needs for an employer facing layoffs, then local areas may request RRIWT funding. Local areas may apply for up to $4,200 for each incumbent worker that will receive training.

Many employers express the need to upgrade the skills of their workforce to enhance profitability and competitiveness, but the primary focus of the RR program must remain on serving unemployed workers and averting layoffs. Therefore, RRIWT funds will not be awarded for skill upgrades that are unrelated to imminent layoffs. Examples of situations that would justify the need for RRIWT funding to prevent imminent layoffs include, but are not limited to:

- An employer experiences ongoing losses or declining sales that are likely to be mitigated by IWT;
A significant share of the employer’s revenue is derived from contracts or agreements that risk being discontinued if worker skills are not upgraded to complete the deliverables; or Successful implementation and operation of new equipment or technology necessary for the sustained viability of the company requires specialized or intensive worker training.

When requesting funds for RRIWT, the local area must include explanations of how the employer is facing imminent layoffs and how they would be averted through the provision of training for the workers.

RRIWT services must be implemented in compliance with the IWT guidelines (i.e., employer eligibility requirements, training provider considerations, procurement options, allowable costs, etc.), except for the provision allowing IWT for skill upgrades unrelated to imminent layoffs, which is not permitted under RRIWT funding but may be provided with local funds.

Upon receipt of RRIWT funds, the local area must ensure that impacted workers are not turned away from services based upon their residency.

C. Proactive LA Strategies

Local areas may request LA funds for strategies to launch innovative solutions unrelated to imminent layoffs by a specific employer or group of employers, such as creating an early warning network; assessing risks to industries or companies and proposing strategies to mitigate the risks; and mapping local assets that benefit employers.

Local areas should utilize proactive LA strategies that target industries that will most significantly improve the labor market and economy of the region. This includes industries that:

- Provide the types of long-term wages, benefits, and career opportunities that will allow individuals and families to become and/or remain financially independent and self-sufficient;
- Employ a relatively large share of the local or regional workforce;
- Have established career pathways for low-income populations;
- Diversify job opportunities for workers in the labor market; and
- Create economic spin-off activity or technological advancement.

When requesting RR funding for a proactive LA strategy, the local area shall list in the application the planned goals or outcomes expected to result from the project, which must be stated as numeric values (e.g., number of employer needs assessments completed, percentage decrease in annual layoffs, dollar value of economic development funds leveraged, etc.). This goal-setting will enable evaluation of the success of the project upon completion.

D. Reporting Requirements

If LA funding is approved, ODJFS will send a notice of approval to the local area, which will include a rapid response identification number (RRID) for the employer. Each approved LA strategy must be entered into the State-designated information system for tracking layoff events within ten days of ODJFS’s issuance of the notice of approval.

For RRIWT projects, each trainee must be entered in the mini-incumbent worker module in the State-designated case management system within 30 days following the start of his or her training. The reporting of outcomes is also required within 30 days after the conclusion of each worker’s training period.

Depending on the LA strategy, the local area may be required to register individuals receiving services as participants in the State-designated case management system under one or more special grant offices, which will enable the reporting of long-term outcomes to evaluate the success of the LA project. Instructions on the tracking of RR data under a special grant office, if required, will be provided when the funding request is approved.
In addition to the above data collection requirements, local WDBs may choose to collect more information, if it is needed to conduct successful LA strategies. Given the sensitive nature of a business’s financial status and of all personal data, local WDBs should be cautious in gathering confidential information beyond the requirements of this policy.

Upon completion of the LA project, the local area must submit an evaluation of the effectiveness of the area’s implementation of the planned strategies, which shall include a report on the completion status of each planned goal or outcome. The evaluation may also include an assessment of collaboration among partners that assisted with the LA project; the efficiency of service delivery to employers and affected workers; timeliness and completeness of data entry into OhioRED and/or OWCMS; use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures; and other qualitative or quantitative evaluations that the local WDB deems appropriate.

VII. State Requirements

A. Oversight of Local Area LA Implementation

The Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD), is the agency responsible for the administration of WIOA and the delivery of the RR program. The OWD RR unit oversees the RR program to ensure compliance with federal and state requirements, carrying out the delivery of LA primarily through sub-recipient awards to participating local areas.

To effectively manage the investment of RR resources and to oversee the delivery of LA services, the OWD RR Unit shall:

1. Manage RR funds to ensure sufficient resources remain available to respond to unavoidable mass layoffs and for other strategic priorities and for LA projects as appropriate;
2. Provide policy guidance and a planning form that local areas may submit to request LA funding;
3. Establish financial guidelines to be used in determining local area eligibility for an LA award and the award amount;
4. Review requests for RR funding to ensure compliance with this policy letter and related policies, regulations, and legislation;
5. Monitor LA project implementation by the local area (e.g., worker counts, expenditure rates, outcomes) by communicating with local areas and reviewing data reported in the applicable information systems; and
6. Negotiate and issue incremental awards and adjust the parameters and funding levels of LA projects that are in progress in response to communications with the local area and other data.

B. Technical Assistance

The RR Unit will provide technical assistance to local areas implementing LA projects under RR funding, including:

1. Documenting statewide RR activity and identifying best practices;
2. Overseeing the activities performed under RR-funded LA;
3. Providing support, guidance, and training to local areas participating in LA projects; and
4. Reviewing, managing, and reporting local area LA activity.

For additional information or to request technical assistance, email the OWD Rapid Response Unit at RAPDRESP@jfs.ohio.gov.

VIII. References

20 C.F.R. §§ 682.300-682.370.

USDOL, Training and Employment Guidance Letter WIOA No 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules (March 1, 2017).

ETA, Unemployment Insurance Program Letter No. 03-13, Financing of Temporary Federal Short-Time Compensation Programs under Section 2163 of the Middle Class Tax Relief and Job Creation Act of 2012 (December 4, 2012).

Ohio Rev. Code §§ 4141.09 and 4141.50.

WIOAPL 15-15.2 (Rapid Response Program Requirements - Employer Closure, Mass Layoff, Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events)

Workforce Innovation and Opportunity Act Policy Letter No. 15.2
April 11, 2018

To: Workforce Innovation and Opportunity Act Local Workforce Development Boards Directors, Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Rapid Response Program Requirements - Employer Closure, Mass Layoff, Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events

I. Purpose

Ohio is committed to providing workforce solutions throughout the business cycle, including the delivery of rapid response (RR) activities. The purpose of this policy is to outline the requirements for delivery of RR program services during an employer closure, mass layoff, disaster mass job dislocation, and/or filing of a Trade Adjustment Assistance (TAA) petition event.

II. Effective Date

Immediately

III. Rescission


IV. Background

RR is a series of activities provided by the State in partnership with the local workforce development areas (local area), to assist dislocated workers in obtaining reemployment as soon as possible, when one or more of the following circumstances occur:

1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
2. Announcement or notification of a mass layoff;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

The purpose of RR is to promote economic recovery and vitality by developing ongoing, comprehensive approaches to identifying, planning for, or responding to layoffs and dislocations, and preventing or minimizing their impacts on workers, businesses, and communities. Ohio's RR delivery system strengthens partnership, communication, professional development, accountability, and timely access to needed services for employers and impacted workers. Rapid reemployment is the central purpose of RR and is done by helping workers impacted by an employer closure, mass layoff, disaster mass job dislocation, and/or TAA petition filing event quickly transition to new employment, minimizing the duration of unemployment, or averting layoff when possible.

Under section 134(a)(2)(A)(i) of the Workforce Innovation and Opportunity Act (WIOA) and 20 C.F.R. 682.310, each state is responsible for providing RR activities. Through coordinated efforts, Ohio will utilize a combination of state/local teams, as well as eligible service providers to be most effective in serving at-risk workers and employers.
Collaboratively, building and preserving relationships with employers will improve local team effectiveness by enhancing the focus on current and future workforce needs of local businesses and industry. Through this partnership, teams can strategically avert layoffs or minimize their impact, reduce the duration of unemployment, and positively affect the local economy. Ohio's RR program can and should bring together government, education and training resources to not only meet the needs of the business community, but to exceed those needs throughout all phases of the business cycle.

The Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD) is the agency responsible for the administration of WIOA and RR programs. The OWD RR Unit will oversee Ohio's RR program to ensure compliance with federal and state requirements.

If a layoff occurring in the local area does not meet the RR event definition, the local area is still required to provide WIOA Title I services to eligible dislocated workers affected by the layoff. Pursuant to section 134(c)(1) of WIOA, dislocated worker formula funds allocated to the local area shall be used to establish a workforce delivery system, to provide career services to dislocated workers, to provide training services to dislocated workers, to establish and develop relationships with large and small employers, and to develop, convene, or implement industry and sector partnerships. The local workforce development boards (WDBs) determine the most appropriate mix of these services, and both career and training services must be available to eligible dislocated workers. It is expected that the local area will provide career and/or training services to dislocated workers whose dislocation does not meet the threshold for RR program services using the local area's dislocated worker program formula funds.

A. **Rapid Response Employer Event Determination**

The classification of an event is without regard to the industry, size of the employer, number of individuals potentially impacted, or the time between notification and layoff date. Pursuant to section 134(a)(2)(A)(i)(II) of WIOA, RR activities provide additional assistance to local areas that experience employer closures, mass layoffs, disaster mass job dislocations, or TAA petition filings that precipitate substantial increases in the number of unemployed individuals. RR services and activities should be provided to all employers who experience an RR event regardless of how the RR team was notified of the event.

There are two types of RR events:

1. **Worker Adjustment and Retraining Notification (WARN) Event** – Any employer that provides written notice of a mass layoff or closure with intent to meet the federal WARN requirements.

2. **Non-WARN Event** – Any employer experiencing a mass layoff or closure, even if it is not subject to the federal WARN requirements.

B. **Provision of Required Rapid Response Activities for RR Events**

As part of the local area RR service delivery system and pursuant to 20 C.F.R. 682.330, the State, working in conjunction with the local WDBs and American Job Centers (which in Ohio are known as OhioMeansJobs centers), must have the following array of services available, as needed, for local employers and affected workers:

1. Immediate and on-site contact with the employer, representatives of the affected workers, and the local community, including an assessment of and plans to address the:
   a. Layoff plans and schedules of the employer;
   b. Background and probable assistance needs of the affected workers;
   c. Reemployment prospects for workers; and
   d. Available resources to meet the short and long-term assistance needs of the affected workers;
2. The provision of information about and access to unemployment compensation benefits and programs, such as short-time compensation (e.g., SharedWork Ohio), comprehensive OhioMeansJobs Center services, and employment and training activities, including information on the TAA program, Pell Grants, the GI Bill, and other resources;

3. The delivery of other available services and resources including workshops and classes, use of worker transition centers (which must complement, not replace, the OhioMeansJobs center), and job fairs, to support reemployment efforts of affected workers;

4. Partnership with the local WDBs and chief elected official(s) to ensure a coordinated response to the dislocation event and, as needed, obtain access to State and local economic development assistance. Such coordinated response may include the development of an application for a national dislocated worker grant;

5. The provision of emergency assistance adapted to the mass layoff;

6. Delivery of services to worker groups for which a petition for TAA has been filed; and

7. The provision of limited, additional assistance to local areas that experience RR events when such events exceed the capacity of the local area to respond with existing resources.

The above list represents the minimum services that must be readily available and should be offered with the end goal of rapid reemployment. Pursuant to 20 C.F.R. 682.340, a state or designated entity may devise RR strategies or conduct activities that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities, to ensure rapid reemployment for workers affected by RR events. When circumstances allow, the RR team may provide guidance.

Activities for Unemployment Compensation Claimants

Additionally, to assist workers impacted by employer layoff and closure events, House Bill 2 (130th General Assembly) made changes to Ohio Revised Code section 4141.29 of Ohio's Unemployment Compensation law by requiring claimants to connect with job opportunities and to participate in reemployment activities through the OhioMeansJobs.com system and/or OhioMeansJobs centers. The JFS 55213, Worker's Guide to Unemployment Compensation, provides additional guidance on required reemployment activities and may be found at [http://www.odjfs.state.oh.us/forms/file.asp?id=2187&type=application/pdf](http://www.odjfs.state.oh.us/forms/file.asp?id=2187&type=application/pdf)

C. The Rapid Response Team

1. Responsibility of the Rapid Response Team

   For RR events that have occurred within the previous 6 months, the RR team will work collaboratively to:

   a. Develop a process to address calls from employers and potentially affected workers (PAWs) requesting information regarding federal and state programs and their requirements (e.g., WARN, Short-term Compensation, Unemployment Compensation, or TAA);

   b. Identify the range of skills and abilities of the affected workforce and compare with local workforce needs to match the affected workers with job vacancies for rapid reemployment;

   c. Develop a coordinated service delivery plan that identifies the strategies to engage local employers in rapid reemployment activities and identifies the outreach strategies needed to highlight the skills of the PAWs. The plan must utilize
resources, such as on-the-job training (OJT) and/or customized training, which will most effectively serve both the PAWs and the targeted employer's needs;

d. Examine the potential impact of an RR event on other employers whose business is dependent on the employer experiencing an RR event (e.g., upstream and downstream customers) to determine an appropriate course of action to connect impacted companies to RR early intervention services; and

e. Ensure PAWs register in OhioMeansJobs.com to increase reemployment opportunities.

2. **Rapid Response Team Protocol**

Establishing a standard local area protocol among all RR team members results in a more effective local team response to layoffs and closures, impacts the service delivery outcome, and creates an environment for proactive RR.

The RR team protocol is a result of conducting a responsibility assignment exercise known as the RACI (Responsible, Accountable, Consulted, Informed), which clearly describes the role(s) of each team member in the completion of RR tasks and activities. The RACI should provide a clear depiction of each RR activity and associated tasks and the role each team member needs to perform in order to deliver workforce solutions effectively and efficiently to RR customers. The protocol should take into consideration the role of the TAA representative as it pertains to administration of RR activities when a TAA petition has been filed.

The RACI, when applied to the RR process, looks at each role and function of RR and helps local teams determine who is:

- **Responsible** – the individual who does the job;
- **Accountable** – the individual(s) who is/are ultimately accountable for the action, task, or function;
- **Consulted** – the individual(s) who need(s) to be consulted prior to a final decision or action being taken; and
- **Informed** – the individual(s) who need(s) to be informed after a final decision or action is taken.

3. **RR Events Affecting Multiple Local Areas and Planning Regions**

WIOA envisions a workforce development system that is customer-focused on both the job seeker and business, and anticipates and responds to the needs of regional economies. It requires that local WDBs and chief elected officials design and govern the system regionally, aligning workforce policies and services with regional economies and supporting service delivery strategies tailored to those needs. As businesses pull resources and employees from various workforce development areas, it is important that local areas and planning regions address RR processes on a regional basis, ensuring that policies and procedures pertaining to the delivery of RR services are aligned to minimize confusion for the business community. Specifically, local areas must coordinate with one another should an employer closure, mass layoff, disaster mass job dislocation, or TAA petition filing occur affecting multiple local areas, including reemployment service delivery and requests for funding.

V. **Definitions**

**Disaster mass job dislocation:** Any reduction in force, due to a disaster as defined by state or local emergency management policy, that does not result in a total plant/branch/office closing, but still results in the filing of a Worker Adjustment and Retraining Notification Act notice, regardless of the
number of workers affected by the layoff announced; or, if no WARN correspondence is issued, employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

**Employer:** An individual, business, company, firm, agency, organization, etc. that employs one or more people.

**Employer closure:** The permanent shutdown of an Ohio business, facility or agency.

**Event:** Any situation in which workers are at risk of layoff from a downsizing or closure of an employer’s Ohio business, facility, or agency.

**Layoff:** A separation due to the lack of work or other factor(s) not related to the behavior or performance of the employee.

**Local rapid response coordinator (LC):** An individual representing the local WDB, local area, and the OhioMeansJobs centers on the RR team.

**Local plan:** A comprehensive 4-year plan developed by the local WDB, in partnership with the chief elected official, and submitted to the State which provides descriptions of the strategic planning elements and services provided in the local area. Requirements for local plans are outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-03, Regional and Local Planning.

**Mass layoff:** Any reduction in force that does not result in a total plant/branch/office closing, but still results in the filing of a WARN Act notice, regardless of the number of workers affected by the layoff announced; or, if no WARN correspondence is issued, employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

**Notification:** The process by which an individual on the RR team is made aware of a possible layoff or employer closing. A notification can come from a variety of sources, including, but not limited to: a WARN letter, word of mouth, the media, local Chamber of Commerce, ODJFS Trade Unit, OhioMeansJobs Center, union officials, local government, affected workers, etc.

**ODJFS regional rapid response coordinator (RC):** An ODJFS workforce specialist assigned to a specific local workforce development area or planning region of Ohio to maintain contact with the employer and to ensure all the activities of the local RR team are completed.

**OhioMeansJobs center operator:** The entity or a consortium of entities designated or certified through a competitive process to operate a one-stop center under section 121(d) of the Workforce Innovation and Opportunity Act, 29 U.S.C. 3151(d).

**OhioMeansJobs.com:** The statewide electronic system for labor exchange and job placement activity operated by the state.

**Ohio Rapid Event Data (OhioRED):** An information tracking system that records all employer event information and data on the delivery of RR services.

**Ohio Rapid Response Workforce Survey (RRWS):** The standardized survey (JFS 08124) used in Ohio to identify demographics of the affected workforce and serve as a preliminary needs assessment.

**Ohio Workforce Case Management System (OWCMS):** A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.
Planning region: Two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

Potentially affected workers (PAW): Employees at risk of becoming unemployed due to an event.

Rapid Response Emergency Assistance Funds (RREAF): State rapid response funding allocated to local areas for the provision of reemployment services outlined in the service plan to workers and employers who have been affected by a mass layoff, employer closure, disaster mass job dislocation, or TAA petition.

Rapid response (RR) event: When one or more of the following circumstances occur:
1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
2. Announcement or notification of a mass layoff;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

Rapid response team: Individuals from state and local workforce entities that respond collectively to mass layoffs, employer closures, disaster mass job dislocations, and TAA petition filing that occur within their local area or planning region and assist in providing RR services to employers and affected workers.

Rapid response worker reemployment session: The provision of reemployment information to the affected workers on the benefits, services, and resources available to rapidly transition them before layoff date or/and during their layoff to new employment.

Service plan: A plan which details all RR services that will be provided to an affected workforce and a timeline of when the services will be delivered.

Trade Adjustment Assistance (TAA): A program which provides assistance, including reemployment and training services, to workers whose jobs have been threatened or lost due to foreign imports, or shifts in production and/or services to a country outside the United States.

Worker Adjustment Retraining Notification Act (WARN): The Federal Act that protects workers, their families, and communities by requiring most employers with 100 or more employees to provide notification 60 calendar days in advance of plant closings and mass layoffs. General provisions of WARN covers employers with 100 or more employees, not counting those who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week. Additional material for compliance and assistance can be found at http://www.doleta.gov/layoff/warn.cfm.

Workforce development board (WDB) director: The individual hired or designated by the local WDB to assist in completion of duties for the local WDB, including oversight of workforce development employment and training programs and development of the budget for the local area.

VI. Local Workforce Development Area Requirements

A. Identification of the Rapid Response Team

Each local area must identify members of its RR team. The RR team, in coordination with the RC, shall develop a protocol to ensure the team works together so services are provided to employers and affected workers in a timely, efficient and quality manner.

The local area's RR team is made up of the following partners fulfilling the following roles when responding to an RR event:

1. **ODJFS Rapid Response Coordinator**: The RC will:
a. Ensure that the initial contact is made with the business;
b. Conduct and/or participate in the initial meeting, in conjunction with the LC as appropriate, and ensure effective and consistent communication with the employer throughout RR activities;
c. Disseminate information regarding the RR event to the RR team;
d. Conduct rapid response worker reemployment sessions or work with the LC to ensure such sessions are conducted;
e. Coordinate team members to effectively deliver RR program and other services to employers and affected workers;
f. Assist in coordination of resources within the defined region, which includes coordination with other workforce areas and/or planning region(s) as necessary to ensure timely, effective, and consistent delivery of RR services;
g. Collaborate with other RCs and other local RR teams for events and initiatives that are regional or statewide;
h. Collaborate with LC on the development of the reemployment strategy and service delivery plan, in conjunction with the RR team, that best fits the situation; and
i. Discuss with the team the best course of action when other employers are at risk of downsizing or closing due to an event.

2. Local Rapid Response Coordinator: The LC will:
a. Conduct and/or participate in the initial meeting, in conjunction with the RC, as appropriate;
b. Collaborate among partners;
c. Collaborate with the RC on the development of the reemployment strategy, in conjunction with the RR team, that best fits the situation;
d. Coordinate with LCs in other local areas when the event affects multiple local areas regarding reemployment strategy and RR service delivery plan;
e. Develop a customized RR service delivery plan for every employer event;
f. Determine the need for Rapid Response Emergency Assistance Funds (RREAF) and collaborate with RC in completing the application;
g. Collaborate with the local area’s fiscal agent and local WDB to mutually agree on funding amounts to support the plan for services;
h. Guide the team through the funding application process, including applying for funds and submitting the form to the WDB director for signature and approval; and
i. Assist in the implementation of the RR service delivery plan.

3. WDB Director: The WDB Director reviews the RR team protocol and its effectiveness every four years as part of the development of the local area’s plan, or after two years as part of the local area plan review and modification, or as needed. The WDB Director (or designee) also signs and submits the RREAF application.

In addition to the RR team members listed above, local RR teams should also include the following members so that the team has quality representation in the delivery of RR services:

1. OhioMeansJobs center operator;
2. Economic development agency, including the regional JobsOhio agency, as appropriate;
3. Representative of business services in the local area or the local area’s business resource network, if applicable;

4. Representative of TAA;

5. Representative of WIOA Title I Programs;

6. Representative of WIOA Title III Wagner-Peyser Employment Services Program; and

7. Representative of Unemployment Insurance (UI).

B. Establish Rapid Response Team Protocol

Local areas shall utilize the RACI exercise to delineate functions for each RR process or activity and the responsibility and accountability for completion of such functions to establish an RR team protocol. The protocol should be developed to ensure communication amongst the team members and to maintain the flexibility to customize for the needs of individual employers and employees impacted by an event.

The RR processes, which will be outlined using the RACI tool, include, but are not limited to, the following activities:

1. Notify team of new event;

2. Enter event information into OhioRED;

3. Conduct research;

4. Make initial contact with the employer to gather information using the JFS 01810;

5. Develop a proposed reemployment strategy for the affected workforce, which is driven by talent needs of local workforce development area and regional employers, and presented at the initial employer meeting;

6. Conduct initial employer meeting to establish rapport, collect needed information, and develop a proposed plan of service. Representatives of the RR team attending this meeting, for most events, should be the RC, a local representative, and representative(s) of UI or TAA, as applicable. Other attendees may include State and/or local economic development agencies and other State agencies, as appropriate;

7. Issue the RRWS to provide local teams with demographics and characteristics of the workforce that will be potentially affected by layoff or closure, captures desired worker services, and will be used in the strategy for service delivery;

8. Develop a service plan;

9. Develop an RR budget, including potential application for RREAF. The RREAF application process is outlined in WIOAPL No. 17-05, Funding for Rapid Response–Employer Closure, Mass Layoff Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events;

10. Conduct the rapid response worker reemployment session using the standard, core presentation developed by ODJFS;

11. Update OhioRED and OWCMS;

12. At least monthly, update RR team on activities and results;

13. Check the effectiveness of the service plan and modify as needed; and


Collaboration and coordination by all RR team members is crucial to successful provision of RR services to employers and employees.
The local area must review team protocols to ensure their effectiveness, at a minimum, every two years as part of local area planning, development or modification. The local WDB Director will submit any revised RR team protocol for the local area to the OWD Rapid Response Unit at RAPDRESP@jfs.ohio.gov with the subject line of Rapid Response Team Protocol.

C. Use of RRWS

Local RR teams must utilize RRWS to identify the demographics of an impacted workforce for a preliminary needs assessment that will be used by the RR team to develop a service delivery plan as described in Section VI. A. RRWS is completed on the JFS 08124, Ohio Rapid Response Event Data.

All RR team members, service providers and contractors that receive or access personally identifiable information (PII) on impacted workers must safeguard the information from disclosure in accordance with federal and state confidentiality laws, rules, and policies. However, de-identified data can be disclosed in aggregate to provide insight on workforce trends and labor availability.

D. Transitioning from Rapid Response Services to the Local Area WIOA Adult and Dislocated Worker Programs

Local area procedures must be in place to identify the workers served under the RR program and RR services received. All RR services that individuals receive prior to determination of WIOA eligibility must be considered when developing service delivery strategies for workers who will be eligible to receive additional services under WIOA. Such consideration will help prevent duplication of services and ensure that workers can quickly access needed services.

E. Transitioning from Rapid Response Services to TAA Program

Local areas must have procedures in place to identify the workers served under the RR program and RR services received. If individuals who are potentially Trade eligible also received WIOA services prior to Trade certification, these services must also be identified. All RR and, possibly, WIOA services that individuals received must be considered when developing service strategies for workers eligible to receive additional services under TAA. Such consideration will help prevent duplication of services, ease transition of services, and help ensure that workers can quickly access needed services. Individuals may be co-enrolled in both TAA and WIOA programs to receive ongoing reemployment services.

VII. Reporting Requirements

Accurate and up-to-date information on closure and layoff events is critical to stakeholders within the workforce development system. This data is also a key factor in assessing the need for financial assistance at the state and federal levels.

There are two levels of reporting for employer closure and mass layoff events:

1. Employer/event data tracking in OhioRED; and
2. Worker data in OWCMS.

A. OhioRED

ODJFS has implemented an RR information tracking system, OhioRED. This system records all significant information and data from each event, beginning with notification and initial contact with the employer, through the transition of affected workers to the OhioMeansJobs Centers and the local workforce development system.

Based upon the RACI, the team member responsible for entering information into OhioRED must record WARN and non-WARN events and any subsequent updates in OhioRED on a timely basis. At a minimum, a local RR team member must enter all the following required
information into OhioRED, preferably within the next business day, but prior to application for RR funds, as appropriate:

1. Company information, including company contact information, identification of RR team leader, notification of event, and event information;
2. Layoff information, including number of affected workers, layoff date, and specifics regarding the layoff or closure; and
3. Business and initial planning information.

B. OWCMS

Based upon the RACI, the team member responsible for OWCMS data entry must record all individual workers who attend a reemployment session or receive other RR services. Data for OWCMS can be acquired, among other methods, by using the JFS 08124. The rapid response identification (RRID) number assigned at the point of data entry into OhioRED will be entered into OWCMS to track individual workers accessing services from each event. Although data elements are minimal for workers at this level of service, it is the beginning of a log of services that can then be used to ensure a smooth transition to WIOA program enrollment, should additional services be needed.

Depending on the RR funded activities associated with the substantial layoff or employer closure, the team member may be required to enter participant information into OWCMS under Special Grants. By reporting information into OWCMS, the local area may report outcomes.

VIII. Monitoring

The local WDB’s oversight and monitoring must include a review of the effectiveness of the area’s rapid response program. This may include:

1. An assessment of collaboration among RR teams and members;
2. The efficiency of service delivery to employers and PAWs; and
3. Timeliness and completeness of data entry into OhioRED and/or OWCMS.

IX. Technical Assistance

The OWD Rapid Response Unit will oversee Ohio’s RR service delivery to identify notable practices and document RR activity throughout the state. The OWD Rapid Response Unit will also provide oversight of the activities of the local RR teams.

The RR unit provides the following types of assistance:

1. Technical assistance for the development of an RR team protocol;
2. Ongoing support, guidance, training, and technical assistance to local RR teams, local business resource teams or other business teams, local WDBs, and OhioMeansJobs centers;
3. Reviewing, managing, and reporting out on data derived from local activity; and
4. Providing financial resources to the local RR teams and stakeholders.

For additional information, questions may be sent to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov.

X. References


20 C.F.R. §§ 682.300 - 682.370.

USDOL, Training and Employment Guidance Letter WIOA NO. 19-16 Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 16-03, Regional and Local Planning, (October 21, 2016).


WIOAPL 15-15.1 (Rapid Response Program Requirements -- Employer Mass Layoff, Employer Closure, and Trade Adjustment Assistance Events)

Workforce Innovation and Opportunity Act Policy Letter No. 15-15.1
January 23, 2017

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDB), Fiscal Agents, ODJFS Program Delivery Managers, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Rapid Response Program Requirements -- Employer Mass Layoff, Employer Closure, and Trade Adjustment Assistance Events

I. Purpose

Ohio is committed to providing workforce solutions throughout the business cycle to all of its customers and can do so when delivery of rapid response (RR) is intended to avert or mitigate employer layoffs and closure events. The purpose of this policy is to outline the requirements for delivery of RR program services during an employer mass layoff, closure, and/or filing of a Trade Adjustment Assistance (TAA) petition event.

II. Effective Date

February 1, 2017

III. Background

Pursuant to section 134 (c)(1) of the Workforce Innovation and Opportunity Act (WIOA), funds allocated to the local workforce development area for dislocated workers shall be used to establish a workforce delivery system, to provide career services to dislocated workers, to provide training services to dislocated workers, to establish and develop relationships with large and small employers, and to develop, convene, or implement industry and sector partnerships. The local workforce development boards (WDBs) determine the most appropriate mix of these services, and both career and training services must be available to eligible dislocated workers. It is expected that local dislocated worker funds will be utilized to support the provision of services to individuals who have been terminated or laid off, or received a notice of termination or layoff from employment.

Rapid response (RR) is a series of activities provided by the State, to assist dislocated workers in obtaining reemployment as soon as possible, when one or more of the following circumstances occur:

1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
2. Announcement or notification of a mass layoff;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

RR may also be provided if multiple employers experience downsizing causing a significant impact on the community.

The objective of Ohio’s RR delivery system is to strengthen accountability, partnership, communication, professional development, and timely access to needed services for employers and impacted workers. Rapid reemployment is the central purpose of RR and is done by helping workers impacted by an employer mass layoff and/or closure event quickly transition to new employment, minimizing the duration of unemployment, or averting layoff when possible.
Under section 134(a)(2)(A)(i) of the Workforce Innovation and Opportunity Act (WIOA), each state is responsible for providing RR activities. Ohio will utilize a combination of state/local teams, as well as eligible service providers to be most effective in serving at-risk workers and employers.

Building and maintaining relationships with current and new employers can further local team effectiveness by understanding current and future workforce needs of local businesses and industry. With this knowledge, teams can strategically avert layoffs or minimize their impact, reduce the duration of unemployment, and positively affect the local economy. Ohio’s RR program can, and should, bring together government, education and training resources to not only meet the needs of the business community, but to further it throughout all phases of the business cycle.

The Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD) is the agency responsible for the administration of WIOA and RR programs. The OWD RR Unit will oversee Ohio’s RR program to ensure compliance with federal and state requirements. Detailed operation descriptions and procedural guidelines are found in the Ohio Rapid Response Operations Guidance. This manual is updated as needed to reflect any necessary changes in the implementation of the program. Copies are available online at http://www.ohiored.gov/misc/forms.stm.

IV. Definitions

Chief elected official(s): The chief elected executive officer(s) of a unit of general local government in a local workforce development area and, in a case in which a local workforce development area includes more than one unit of general local government, the individual(s) designated under the agreement that specifies the respective roles of the individual chief elected officials.

Employer: An individual, business, company, firm, agency, organization, etc. that employs one or more people.

Event: Any situation in which workers are at risk of layoff from a downsizing or closure of an employer’s Ohio business, facility, or agency.

Fiscal agent: The entity designated by the chief elected official(s) to perform accounting and funds management on behalf of the chief elected official(s). The fiscal agent coordinates with the local workforce development board regarding funding for the planned array of dislocated worker and rapid response services and ensures fiscal integrity and accountability for expenditure of these funds.

Layoff: A separation due to the lack of work or other factor(s) not related to the behavior or performance of the employee.

Local area rapid response coordinator (LC): An individual representing the local WDB, workforce development area, and OhioMeansJobs centers on the RR team.

Mass layoff: Any reduction in force that is not the result of a total plant/branch/office closing, but still results in the filing of a Worker Adjustment and Retraining Notification (WARN) Act notice, regardless of the number of workers affected by the layoff announced; or, if no WARN correspondence is issued, employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

Notification: The process by which an individual on the RR team is made aware of a possible layoff or employer closing. A notification can come from a variety of sources, including, but not limited to: a WARN letter, word of mouth, the media, local Chamber of Commerce, ODJFS Trade Unit, OhioMeansJobs Center, union officials, local government, etc.

ODJFS rapid response point of contact: The ODJFS workforce specialist who is stationed in an OhioMeansJobs center within the local workforce development area identified to maintain communication with the employer.
**V. Rapid Response Employer Event Determination**

The classification of an event is without regard to the industry, size of the employer, the number of individuals potentially impacted, or the time between notification and layoff date. Pursuant to section 134(a)(2)(A)(II) of WIOA, RR activities provide additional assistance to local workforce development areas that experience disasters, mass layoffs, filing of TAA petitions, or employer closures, or other events that precipitate substantial increases in the number of unemployed individuals. RR processes and activities should be provided to all employers who experience a mass layoff regardless of how the RR team was notified.

There are two types of events:
1. **WARN Event** – Any employer that provides written notice of a layoff or closure with intent to meet the federal WARN requirements.

2. **Non-WARN Event** – Any employer that provides any form of notice of a layoff that does not meet the federal WARN requirements.

The local workforce development area will serve all other layoffs through local dislocated worker funds.

### VI. **Requirements**

**A. The Rapid Response Team**

**Responsibility of the Rapid Response Team**

For employer closure, mass layoff, and TAA events that have occurred within the previous 6 months, the RR team will work collaboratively to:

1. Develop a process to address calls from employers and PAWs requesting information regarding federal and state programs and their requirements (e.g., WARN, Short-term Compensation, Unemployment Compensation, or TAA);

2. Identify the range of skills and abilities of the affected workforce and compare with local workforce needs to match the impacted workers with job vacancies for rapid reemployment;

3. Develop a service delivery plan that identifies the strategies to engage local employers in rapid reemployment activities and identifies the outreach strategies that highlight the skills of the PAWs. The plan must utilize resources, such as on-the-job training (OJT) and/or customized training, which will most effectively serve both the PAWs and the targeted employer's needs;

4. Examine the potential impact of layoffs on the affected company's upstream and downstream customers and suppliers to determine an appropriate course of action to connect impacted companies to RR early intervention services; and

5. Ensure PAWs register in OhioMeansJobs.com to increase reemployment opportunities.

**Identification of the Rapid Response Team**

Each workforce development area must have a state/local area RR team made up of the following partners and fulfilling the following roles when responding to an employer closure or layoff event:

1. **ODJFS Rapid Response point of contact**: It is important that employers experiencing a layoff or closure event have one individual with whom to communicate. The RR point of contact will:
   a. Make the initial contact and serve as the main communicator with the employer throughout RR activities.
   b. Disseminate information regarding the layoff or employer closing to the RR team; and
   c. Coordinate with the RRC.

2. **RRC**: The RRC will:
   a. Lead team members to effective delivery of the RR program and other services to employers and impacted workers;
   b. Direct team members in the development of the team protocol;
c. Assist in coordination of resources within the defined region, which includes coordination with other workforce areas and/or planning region(s) as necessary to ensure timely, effective, and consistent delivery of RR services;

d. Collaborate with other RRCs and other local RR teams for events and initiatives that are regional or statewide;

e. Collaborate with LC on the development of the reemployment strategy and service delivery plan; and

f. Instruct the team on the best course of action when other employers are at risk of downsizing or closing due to an event.

3. ODJFS Program Delivery Manager: The ODJFS Program Delivery Manager will coordinate RR events that cover more than one local workforce development area or planning region, including coordinating discussion between all local WDB directors of the affected local workforce development areas.

4. LC: The LC will coordinate and facilitate the following activities:

a. Collaborate among partners;

b. Determine the reemployment strategy that best fits the situation;

c. Develop a customized RR service delivery plan for every employer event;

d. Determine the need for Rapid Response Emergency Assistance Funds (RREAF) and collaborate with RRC in completing the application;

e. Guide the team through the funding application process, including applying for funds and submitting the form to the RRC for review;

f. Submit the application to the WDB director and/or staff; and

g. Assist in the implementation of the RR service delivery plan.

5. WDB Director: The WDB Director approves and submits the RREAF providing assurances that the local workforce development area:

a. Has met all minimum dislocated worker expenditure and obligation requirements;

b. Will provide timely and accurate financial reports to ODJFS; and

c. Will associate all participants to an OhioRED rapid response identification (RRID) number and will capture all services funded through RR in OWCMS.

In addition to the RR team members listed above, it is recommended that local RR teams also include the following members so that the team has quality representation in the delivery of RR services:

1. OhioMeansJobs center operator;

2. Local workforce development area fiscal agent;

3. Economic development agency;

4. Representative for TAA; and

5. Representative for Unemployment Compensation.

B. Rapid Response Team Protocol

The RR team, with the direction of the RRC, shall develop a protocol to ensure the team works together so services are provided to employers and affected workers in a timely, efficient and high quality manner. Establishing a protocol among all members results in a more effective local
team response to layoffs and closures, impacts the service delivery outcome, and creates an environment for proactive RR.

Team Protocol

The RACI (Responsible, Accountable, Consulted, Informed) is a responsibility assignment matrix which clearly describes the role(s) of each team member in the completion of RR tasks and activities. The RACI provides a clear depiction of each RR activity and associated tasks and the role each team member has to deliver workforce solutions effectively and efficiently to RR customers. The protocol should take into consideration the role of the TAA representative as it pertains to administration of RR activities when a TAA petition has been filed.

The RACI tool, when applied to the RR process, looks at each role and function of RR and helps local teams determine who is:

1. **Responsible** – the individual who actually does the job;
2. **Accountable** – the individual(s) who is/are ultimately accountable for the action, task, or function;
3. **Consulted** – the individual(s) who need(s) to be consulted prior to a final decision or action being taken; and
4. **Informed** – the individual(s) who need(s) to be informed after a final decision or action is taken.

The RR processes, which will be outlined using the RACI tool, include, but are not limited to, the following activities:

1. Notification.
2. Research early intervention services.
3. Initial contact – A standard rapid response initial contact checklist, developed by the ODJFS shall be used when gathering information from the employer.
4. RRWS – The RRWS provides local teams with demographics and characteristics of a workforce that is potentially affected by layoff or closure, and captures desired worker services and shall be used in the strategy for service delivery.
5. Strategy meeting – Development of a reemployment strategy, driven by talent needs of local workforce development area and regional employers for the affected workforce, to present at the initial employer meeting. State resources shall be used before outsourcing services that are being paid for through emergency RR funds.
6. Funding for layoff and closure events – To ensure greatest benefit of funds, RRCs should work with the local area fiscal agent and local workforce development board to mutually agree on funding amounts to support the plan for services.
7. Initial employer meeting – Establishment of rapport, collection of needed information, and development of a proposed plan of service.
8. Plan for services – A plan, approved by the employer, which details all RR services that will be provided to an affected workforce and a timeline of when the services will be delivered.
9. Rapid response worker orientation – Using standard, core presentation developed by ODJFS, the RR orientation session is the first opportunity to sell the affected workers on the benefits, services, and resources available to rapidly transition them before layoff date or during their layoff to new employment.
10. Additional rapid response services, including identification of the team member responsible for entering information in OhioRED and the Ohio Workforce Case Management System (OWCMS).

11. Transition to WIOA adult and dislocated worker employment and training services and/or TAA training services.

12. Post rapid response follow-up.

Local teams must use the RACI or another tool which delineates RR functions for each RR process or activity and the responsibility and accountability for completion of such functions to establish an RR team protocol. The protocol should be developed to ensure communication amongst the team members and to maintain the flexibility to customize for the needs of individual employers and employees impacted by an event.

If the RACI is not utilized, the tool must establish the primary and secondary RR team members, define the member roles for each process step, and describe the level of team member engagement by process function. The protocol defines who is responsible, accountable, consulted, and informed for every RR action step.

Collaboration and coordination by all RR team members is crucial to success of this program.

The operations guidance for local RR teams is found within the Ohio Rapid Response Operations Guidance available online at http://www.ohiored.gov/misc/forms.stm. The operations guidance should be used as a quick reference guide that also incorporates a recommendation for team member and partners roles for various process steps and functions of service delivery.

Current RR team protocols established by the local workforce development area must be reviewed based upon new roles of RR team members and the RACI tool (or similar tool, as appropriate) and appropriate modifications to the protocol must be made. Current RR teams may continue established protocols until such time the new or modified protocol has been created.

The ODJFS Program Delivery Manager will submit the RR team protocol for the local workforce development area to the OWD Rapid Response Unit at RAPDRESP@jfs.ohio.gov with the subject line of Rapid Response Team Protocol by June 30, 2017.

RR and Planning Regions

WIOA envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. It requires local WDBs and chief elected officials to design and govern the system regionally, aligning workforce policies and services with regional economies and supporting service delivery strategies tailored to these needs. As businesses pull resources and employees from various workforce development areas, it is important that planning regions address RR processes on a regional basis, ensuring that policies and procedures pertaining to the delivery of RR services are aligned to minimize confusion for the business community.

Use of the RRWS

Local RR teams must utilize the RRWS to identify demographics of an impacted workforce for a preliminary needs assessment that will be used by the RR team to develop a service delivery plan as described in Section VI. A. The RRWS is completed on the JFS 08124, Ohio Rapid Response Event Data.

All RR team members, service providers, and any contractors that receive or access personally identifiable information (PII) on impacted workers must safeguard the information from disclosure in accordance with federal and state confidentiality laws, rules, and policies.
However, de-identified data can be disclosed in aggregate to provide insight on workforce trends and labor availability.

C. **Provision of Required Rapid Response Activities for Employer Mass Layoff, Closure, and TAA Events**

As part of the local area RR service delivery system and pursuant to 20 C.F.R. 682.330, the State, working in conjunction with the local WDBs and OhioMeansJobs Centers, must have the following array of services available, as needed, for local employers and impacted workers:

1. Layoff aversion, including the creation of early warning networks in each local workforce development area which provides early intervention services for employers and employees;

2. Immediate and on-site contact with the employer, representatives of the affected workers, and the local community, including an assessment of and plans to address the:
   a. Layoff plans and schedule of the employer;
   b. Background and probable assistance needs of the affected workers;
   c. Reemployment prospects for workers; and
   d. Available resources to meet the short and long-term assistance needs of the affected workers;

3. The provision of information about and access to unemployment compensation benefits and programs, such as short-time compensation (e.g., SharedWork Ohio), comprehensive OhioMeansJobs Center services, and employment and training activities, including information on the TAA program, Pell Grants, the GI Bill, and other resources;

4. The delivery of other available services and resources including workshops and classes, use of worker transition centers (which must complement, not replace, the OhioMeansJobs center), and job fairs, to support reemployment efforts of affected workers;

5. Partnership with the local WDBs and chief elected official(s) to ensure a coordinated response to the dislocation event and, as needed, obtain access to State and local economic development assistance. Such coordinated response may include the development of an application for a national dislocated worker grant;

6. The provision of emergency assistance adapted to the particular layoff;

7. As appropriate, develop systems and processes for:
   a. Identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion;
   b. Analyzing, and acting upon, data and information on dislocations and other economic activity in the State, region, or local area; and
   c. Tracking outcome and performance data and information related to the activities of the RR program;

8. Developing and maintaining partnerships with other appropriate Federal, State, and local agencies and officials, employer associations, technical councils, other industry business councils, labor organizations, and other public and private organizations, as applicable, in order to:
   a. Conduct strategic planning activities to develop strategies for addressing dislocation events and ensure timely access to a broad range of necessary assistance;
b. Develop mechanisms for gathering and exchanging information and data relating to potential dislocations, resources available, and customization of layoff aversion or RR activities, to ensure the ability to provide RR services as early as possible;

9. Delivery of services to worker groups for which a petition for TAA has been filed;

10. The provision of additional assistance to local areas that experience disasters, mass layoffs, and other dislocation events when such events exceed the capacity of the local area to respond with existing resources; and

11. Provision of guidance and financial assistance, as appropriate, in establishing a labor-management committee, if voluntarily agreed to by the employee's bargaining representatives and management. The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. The assistance to this committee may include:
   a. The provision of training and technical assistance to members of the committee; and
   b. Funding the operating costs of a committee to enable it to provide advice and assistance in carrying out RR activities and in the design and delivery of WIOA-authorized services to affected workers.

The above list represents the minimum services that must be readily available and should be offered with the end goal of rapid reemployment. Pursuant to 20 C.F.R. 682.340, a state or designated entity may devise RR strategies or conduct activities that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities, to ensure rapid reemployment for workers affected by layoffs and closures. When circumstances allow, RR may provide guidance and/or financial assistance to establish community transition teams to assist the impacted community in organizing support for dislocated workers and meeting the basic needs of their families, including heat, shelter, food, clothing, and other necessities and services that are beyond the resources and ability of the OhioMeansJobs Centers to provide.

Activities for Unemployment Compensation Claimants

Additionally, to assist workers impacted by employer layoff and closure events, House Bill 2 (130th General Assembly) made changes to Ohio Revised Code section 4141.29 of Ohio's Unemployment Compensation law by requiring claimants to connect with job opportunities and to participate in reemployment activities through the OhioMeansJobs.com system and/or OhioMeansJobs Centers. The JFS 55213, Worker's Guide to Unemployment Compensation, provides additional guidance on required reemployment activities and may be found at [http://www.ohiodjs.state.oh.us/forms/file.asp?id=2187&type=application/pdf](http://www.ohiodjs.state.oh.us/forms/file.asp?id=2187&type=application/pdf).

Transitioning from Rapid Response Services to the Local Area WIOA Adult and Dislocated Worker Programs

Local procedures should be in place to identify the workers served under the RR program and RR services received. All RR services that individuals receive prior to determination of WIOA eligibility must be considered when developing service delivery strategies for workers that receive additional services under WIOA. Such consideration will help prevent duplication of services and ensure that workers can quickly access needed services.

Transitioning from Rapid Response Services to TAA Program

Procedures must be in place to identify the workers served under the RR program and RR services received. If individuals who are potentially Trade eligible also received WIOA services prior to Trade certification, these services must also be identified. All RR and, possibly, WIOA services that individuals received must be considered when developing service strategies for workers that receive additional services under TAA. Such consideration will help prevent
duplication of services, will ease transition of services, and will ensure that workers can quickly access needed services.

D. Reporting Requirements

Ready access to accurate, up-to-date information for Ohio’s employer closure and substantial layoff events is critical to many stakeholders within the state and local workforce development systems. This data is also a key factor in assessing the need for financial assistance at the state and federal levels.

There are two levels of reporting for employer closure and substantial layoff events:

1. Employer/event data tracking in OhioRED; and
2. Worker data in Ohio Workforce Case Management System.

OhioRED

ODJFS has implemented an RR information tracking system, OhioRED. This system records all of the significant information and data from each event beginning with notification and initial contact with the employer, through the transition of affected workers to the OhioMeansJobs Centers and the local workforce development system.

Based upon the RACI, the team member responsible for entering information into OhioRED must record WARN and Non-WARN events and any subsequent updates in OhioRED on a timely basis and in accordance with the Ohio Rapid Response Operations Guidance. At a minimum, a local RR team member must enter the following information into OhioRED prior to approval and receipt of RR funds:

1. On the company contact tab:
   a. Company name;
   b. Company street address, including city, state, and zip code;
   c. Company contact name;
   d. Name of team leader (e.g., rapid response coordinator);
   e. Notification source;
   f. Whether or not the event was triggered by a WARN letter;
   g. Whether or not the trade petition has been filed;
   h. Date of the event notification;
   i. WARN number, if applicable; and
   j. Whether or not the facility has been trade certified.

2. On the layoff information tab (if information is undetermined, "unknown" must be selected):
   a. Number of impacted workers, if known;
   b. Layoff date range, if known;
   c. Type of work performed at affected site, if known;
   d. Specific reasons for layoff or closing, if known;
   e. Timetable for expected layoffs, if known;
   f. Type of work remaining at affected location, if known;
   g. Determination if there are any activities already in place, if known; and
h. Determination if this is a union facility.

3. On the business and initial planning tab;
   a. Determination if layoff averision is possible;
   b. Whether there are any assets for sale (plant, equipment, etc.); and
   c. Whether there are pending buy-outs or rescue plans.

Ohio Workforce Case Management System (OWCMS)

Based upon the RACI, the team member responsible for entering information into OWCMS must record all individual workers who attend a worker orientation session by direct entry or another system. Data for the OWCMS can be acquired, among other methods, by using the state's RRWS. The RRID number assigned at the point of data entry into OhioRED will be entered into OWCMS to track individual workers accessing services from each event. Although data elements are minimal for workers at this level of service, it is the beginning of a log of services that can then be used to ensure a smooth transition to WIOA program enrollment, should additional services be needed.

Depending on the RR funded activities associated with the substantial layoff or employer closure, the team member may be required to enter participant information into OWCMS under Special Grants. By reporting information into OWCMS, the local workforce development area may report outcomes.

E. Funding for Rapid Response Employer Layoff and Closure Events

Rapid response emergency assistance funds (RREAF) are available to local workforce development areas allowing flexibility in serving PAWs and employers who have been affected by an event within the last six months. The RR team must have conversations with the affected business and survey employees to determine which RR services must be provided.

RREAF is to be used to ensure the effective delivery of RR services and an efficient transition to any additional services needed for reemployment (e.g., referrals to WIOA formula-funded programs, Adult Basic and Literacy Education (ABLE) services, financial services, etc.). Upon receipt of RR funds for approved dislocation events, local WDBs must ensure that PAWs are not turned away from services based upon residency.

RREAF is intended to supplement the local Dislocated Worker formula-funded program, not to supplant these funds; RREAF must not replace dislocated worker formula funds when providing RR services. RREAF is available when the current dislocated worker funds are not sufficient to provide the necessary services during an RR event. RREAF is based on the need for additional financial resources to serve PAWs and employers during a mass layoff when there is a shortage of a local workforce development area's dislocated worker formula funds.

The process for requesting RREAF, as described below, allows for a quicker release of funds. However, the local workforce development area should be continuously assessing and creating a strategic plan for the use of dislocated worker formula funds. This is especially important as the request for RREAF may be made on behalf of a county or counties within a local area using the review of the individual county's expenditures to assist in the approval process of the RREAF. The local workforce development area must be aware that there is a potential adverse impact on making application for a National Dislocated Worker Grant if the local area's expenditure rate, as a whole, is significantly different (e.g., local area has a lower expenditure rate) than the individual county's expenditure rate.

Initial Request for RREAF

The WDB director, or designee, on behalf of a county or counties within their local workforce development area may request up to $10,000 to commence transition services by sending an e-
mail to RAPDRESP@jfs.ohio.gov. These transition services may include, but are not limited to, the following:

1. Transition centers;
2. Initial meetings/worker orientations;
3. Labor management committees; or
4. Costs to survey workers.

These funds should provide the RR team with emergency resources to immediately respond and begin generalized services and information gathering.

**Application for RREAF**

If the local RR team determines that RR funds are needed for a dislocation event, the local WDBs must apply using the JFS 18126, Application for Rapid Response Emergency Assistance Funds-Layoff or Closure Event Service Plan.

The application submitted by the local workforce development area for RREAF should only be completed once a survey of affected workers is completed, a strategy meeting has been conducted, and a plan for service has been developed, discussed, and approved.

If an RR event involves a planning region, an application for RREAF may be submitted on behalf of the affected planning region. RREAF will be available to all local workforce development areas in the planning region to assist in the delivery of RR services. The RREAF application will be approved and submitted by the WDB director of the local workforce development area in which the employer is headquartered.

The local workforce development area’s WDB director, or designee, on behalf of the local area or counties within an area, may apply for up to $4,200 per PAW registered in OWCMS. For example, company ABC issues a WARN impacting 100 PAWs; 40 PAWs complete surveys and are entered into OWCMS, the local workforce development area may request a maximum of $168,000.00 (40 X $4,200) to implement the plan of services as described in the application, with no more than 25% (or $42,000) budgeted for career services.

In addition to funds for implementing the plan of services to the PAWs, the application may also include the maintenance of a transition center, including the staff for the center, if established in the initial request for RREAF. If the application includes maintenance of a transition center, the application must include a description of how Wagner-Peyser program staff were considered and utilized within the plan for staffing and maintaining the transition center prior to submission of the request for RREAF.

The JFS 18126 must be e-mailed to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov. **Review and Approval of RREAF**

Since RREAF is based on need and should not replace dislocated worker formula funds, the OWD RR Unit will review the following, in addition to the RREAF application to assist in making a funding determination:

1. The local workforce development area’s habits of transferring dislocated worker formula funds, including how the local area has strategized to respond to unforeseen events when they transferred funds.

2. The county’s spending levels of adult and dislocated worker formula funds. Spending rates will be reviewed to determine a financial need for RREAF. ODJFS requires the county to have spent 70 percent of carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of the current fiscal year. The target spending total
is based upon the quarter in which the RREAF is requested and is computed using the following formulas:

**Quarter 1 Target Spending Total for August – October applications:**

\[
\text{[Prior Year Adult/DW Allocations]} \times [70\%]
\]

**Quarter 2 Target Spending Total for November – January applications:**

\[
\text{[Prior Year Adult/DW Allocations]} \times [70\%] + \\
\text{[Current Year PY Adult/DW Allocations]} \times [17.5\%]
\]

**Quarter 3 Target Spending Total for February – April applications:**

\[
\text{[Prior Year Adult/DW Allocations]} \times [70\%] + \\
\text{[Current Year Adult/DW Allocations]} \times [35\%]
\]

**Quarter 4 Target Spending Total for May – July applications:**

\[
\text{[Prior Year Adult/DW Allocations]} \times [70\%] + \\
\text{[Current Year Adult/DW Allocations]} \times [52.5\%]
\]

If the spending thresholds are not met, the local workforce development areas may submit further documentation of their spending as part of the application. Because the total spending formula is based upon expenditures, the local area may also provide information on the county's commitments through the end of the current fiscal year to demonstrate the county being "on track" to spend at least 70 percent of first year funds and to demonstrate a financial need for RREAF. For direct services to participants, the county's commitments shall be reported by the participant in the County Finance Information System (CFIS) Client Tracking System. To report additional commitments not tracked in CFIS, the JFS 18126 includes specific line items identifying the types of commitments that may be taken into consideration.

If the local workforce development area does not meet the spending criteria, the RREAF application will still be reviewed for potential partial funding.

3. Information entered into OhioRED and OWCMS. Specific layoff event(s) to be funded with RREAF must be entered into OhioRED with expected layoff dates and include the number of PAWs within six months before or after the initial RR request date. Basic information regarding the PAWs who attended a worker orientation session must be entered into OWCMS by direct entry or another system.

4. The level of partner collaboration. The local workforce development area through the RREAF application must demonstrate a streamlined service delivery model by reducing duplicative efforts and leveraging available resources, including Wagner-Peyser employment services and other workforce development system partner staff.

5. Funding career services. RREAF applications shall budget no more than 25 percent of the total requested budget for career services.

The OWD RR Unit will review and determine whether or not to approve the application. Applications and the approval of funds must be for a particular program year. If the delivery of RR services goes beyond the program year, the WDB director must e-mail the OWD RR Unit requesting that funding continue for the next program year.

**Incremental Funding**

Depending on its finances, ODJFS may fund large requests incrementally by calendar quarter. Local workforce development areas may request subsequent increments by e-mail to RAPDRESP@jfs.ohio.gov. Requests will be reviewed against the plan for services and outcomes, participant service data in OWCMS, and spending and obligation of the prior
increment(s). The outcomes will need to be on track according to the plan for services for incremental approval.

Also, if the local workforce development area or county expends at least 70 percent of the total requested funds according to the plan of services, the local area may submit a new application for additional funding to serve additional PAWs from the event.

VII. Monitoring

The local workforce development area's oversight and monitoring must include a review of the effectiveness of the area's response to the event. This includes:

1. An assessment of collaboration among RR teams and members;
2. The efficiency of service delivery to employers and PAWs;
3. Timeliness and completeness of data entry into OhioRED and/or OWCMS; and
4. Use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures.

Through the state's monitoring system, program and fiscal monitors will review the following during the annual onsite monitoring review:

1. The local area's implementation of RR activities, including results from local monitoring efforts;
2. The funding application, and
3. Compliance with federal laws and regulations and state and local policies.

Any compliance issues will be handled through the state's findings resolution process.

VIII. Technical Assistance

The OWD Rapid Response Unit will oversee Ohio's RR program to identify notable practices and document RR activity throughout the state. The OWD Rapid Response Unit will also provide oversight of the activities of the local RR teams.

The RR unit provides the following activities:

1. Technical assistance for the development of a RR team protocol;
2. Ongoing support, guidance, training, and technical assistance to local teams, local WDBs, and OhioMeansJobs centers;
3. Reviewing, managing, and reporting out on data derived from local activity; and
4. Providing financial resources to the local RR teams and stakeholders.

For additional information, questions may be sent to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov.

IX. References

20 C.F.R. §§ 682.300 - 682.370.


USDOL, Training and Employment Guidance Letter WIOA N0. 3-15 Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services, (July 1, 2015).

Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-14.1
April 15, 2019

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Kimberly Hall, Director

Subject: Needs-Related Payments (NRPs) Using Adult and Dislocated Worker Funds

I. Purpose

The purpose of this policy is to provide guidance on NRPs that may be provided to eligible adults and dislocated workers by a local workforce development area (local area). This policy applies to all eligible individuals served with formula and National Dislocated Worker Grant (NDWG) funds by the local areas.

II. Effective Date

Immediately.

III. Rescission

ODJFS, Workforce Innovation and Opportunity Act (WIOA) Policy Letter No. 15-14, Needs-Related Payments (NRPs) Using Adult and Dislocated Worker Formula Funds, (July 15, 2015).

IV. Background

NRPs provide financial assistance to eligible adults and dislocated workers for the purpose of enabling them to participate in training programs, and are one of the supportive services authorized by section 134(d)(3) and section 170 of WIOA.

V. Definitions

Lower living standard income level (LLSIL): As defined in section 3 (36)(B) of WIOA, the income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the United States Department of Labor (USDOL) based on the most recent lower living family budget issued by the USDOL.

Poverty line: The income level defined by the federal Office of Management and Budget and revised annually by the United States Department of Health and Human Services in accordance with section 673(2) of the Community Services Block Grant Act (42 U. S. C. 9902(2)).

Program of training services: One or more courses or classes or a structured regimen leading to a recognized post-secondary credential (RPC), employment, or measurable skills gains toward an RPC.

Supportive services: Services such as transportation, child care, dependent care, housing, and NRPs that are necessary to enable an individual to participate in WIOA activities.

Trade readjustment allowance (TRA): Income support paid to individuals who have exhausted Unemployment Compensation and whose jobs were affected by foreign imports as determined by a certification of group coverage issued by the United States Department of Labor.

Unemployment compensation (UC): Short-term insurance benefits paid by ODJFS to individuals who are involuntarily out of work through no fault of their own, and who meet all statutory eligibility criteria to qualify to receive benefits.

VI. Requirements

A. Eligibility for Needs-Related Payments
The parameters for determining programmatic eligibility for WIOA adults and dislocated workers are found in ODJFS WIOA Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility. Participants must meet all financial and non-financial requirements, as set forth in law, regulation and policy, to be eligible to receive NRPs.

**Adult NRP Eligibility**

To be eligible for NRPs, an adult must:

- Be unemployed;
- Be ineligible for or ceased to qualify for Unemployment Compensation (UC); and
- Be enrolled in a program of training services under section 134(c)(3) of WIOA.

**Dislocated Worker NRP Eligibility**

To be eligible for NRPs, a dislocated worker must:

- Be unemployed;
- Be ineligible for or ceased to qualify for UC or TRA; and
- Be enrolled in a program of training services under section 134(c)(3) of WIOA within the timeframes described below.

The dislocated worker must be enrolled in a program of training services by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

If, due to the lack of funds in the State or local area at the time of a dislocation, dislocated workers served by NDWG funds are not able to meet the 13th or 8th week deadline for enrollment in training, as set forth in section 134(d)(3)(B) of WIOA, then such individuals may be eligible for NRPs if they are enrolled in training by the end of the 6th week following the date of the NDWG award.

**B. Level of Payments and Conditions**

**Adults**

The level of NRP made to adults may not exceed the equivalent weekly amount of the local area's annual 100 percent LLSIL for a family of one.

**Dislocated Workers**

The level of NRPs for participants may not exceed the following:

1. For participants who were eligible for UC and who are no longer receiving benefits, the weekly payment may not exceed the applicable weekly level of the UC benefits; or
2. For participants who did not qualify for UC as a result of the qualifying layoff, the weekly payment will be equal to the poverty line based on family size and income for an equivalent period.

Weekly or biweekly NRPs may begin on the Monday after both eligibility and training enrollment criteria have been met without requiring proration of the benefit amount for a partial week of eligibility.

Note: Documentation verifying all UC or TRA payments, the amounts paid, and that the participant is no longer receiving benefits, must be maintained in the participant's WIOA program case file.

**C. Participant Training Requirements**
If the participant has been accepted into a training program that will begin within 90 calendar days of the determination of NRP eligibility, NRPs may be awarded prior to the start date of the training classes for the purpose of enabling the participant to enroll in the program.

All NRP participants must be enrolled in or attending full-time training as defined by the training provider and must remain in good standing with the training provider as defined in the local area’s NRP policy, such as by maintaining a specified minimum grade point average for the types of training that issue interim grade reports.

When a participant has a break in training of 30 business days (not counting weekends or holidays) or less, the participant remains eligible for and will continue to receive NRPs. If the break in training is greater than 30 business days, the participant will not receive the NRPs for that period until the participant’s training program begins again.

In the event that training is delayed, NRPs may be paid while a participant is waiting to start training classes provided that the participant has been accepted in a training program that will begin within 90 calendar days.

In the event a participant’s circumstances prevent him or her from beginning training, or the training is further delayed (over 90 days), the case manager must make the participant aware of the need to disclose this information to avoid disallowed costs. The provider must also inform the case manager of delays to their training program.

NRP funds may be used only during the period in which an individual participates in WIOA training.

NRPs must be immediately terminated for any participant who fails to meet one of these training requirements.

### D. Training Services

Types of training that qualify a participant for NRPs may include:

- Occupational skills training, including training for nontraditional employment;
- Programs that combine workplace training with related instruction, which may include cooperative education programs;
- Training programs operated by the private sector;
- Skills upgrading and retraining;
- Entrepreneurial training;
- Job readiness skills;
- Adult education and literacy activities provided in combination with any other training service listed above; and
- Customized training with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

### E. Termination of NRPs

NRPs must be terminated for a recipient who:

1. Fails to comply with reporting requirements defined in the local area’s NRP policy and communicated to the recipient;
2. Notifies the local area that he or she no longer plans to attend the training classes;
3. Fails to attend or stops attending the training classes;
4. Fails to maintain a full-time training schedule as defined by the training provider;
5. Fails to remain in good standing with the training provider as defined in the local area’s NRP policy;
6. Begins to qualify for TRA or UC benefits;
7. Becomes employed; or
8. Dies or becomes incarcerated, institutionalized, physically incapacitated, or otherwise unable to participate in current or future training services.

If a recipient’s eligibility for NRPs was based on his or her false claims, provision of fraudulent documentation, or failure to disclose information affecting NRP eligibility within the local area’s reporting time limit, the recipient may be held liable for repayment of NRPs received in error.

Under no circumstances will recipients be required to pay back NRPs that were issued incorrectly through no fault of the recipient, such as if the recipient reported changes resulting in termination of his or her NRPs within the local area’s reporting time limit but the subsequent payment(s) could not be stopped in time.

Recipients who disagree with the decision to terminate their NRPs may file a programmatic complaint in accordance with the local area’s WIOA complaint process. The initiation of the programmatic complaint process or subsequent appeal process, if applicable, shall not require continuation or reinstatement of the terminated NRPs by the local area. However, if it is determined during the complaint resolution or appeal process that the recipient/complainant was eligible for NRPs for some or all of the benefit weeks after NRPs were terminated, then payments for those missed benefit weeks shall be issued retroactively. The complaint resolution and appeal process shall also address the complainant’s potential eligibility for reinstatement of NRPs for future benefit weeks.

F. WDB Policy Requirements

NRPs are an allowable support service where authorized by the local workforce development boards. It is a local WDB decision to allow or prohibit the payment of NRPs. The local WDB supportive service policy must indicate whether or not NRPs are available to eligible participants.

The local area’s NRP policy may establish limits on the provision of NRPs including a maximum amount of funding and maximum length of time for NRPs to be available to participants. The local NRP policy may also establish parameters for determining a participant’s financial need for NRPs based on family income and a process for determining and verifying that the participant has enrolled in training.

The local policy may include reasonable reporting requirements to ensure participants intend to follow through with training and continue to meet NRP eligibility requirements. The local area may terminate NRPs for participants who fail to comply with the established reporting requirements. The local area must implement a procedure for informing NRP recipients of any reporting responsibilities that they have that may affect their ongoing eligibility for NRPs.

Additionally, the local NRP policy must include language requiring the participant to report the inability to participate in training due to unforeseen circumstances. Also, the policy must include the payment level determined for adults and dislocated workers.

VII. Monitoring

Through the State’s monitoring system and during the annual onsite monitoring review, program monitors will review the local area’s documentation regarding the provision of NRPs to ensure that the local area’s actions and decisions have been consistent with the guidelines of this policy and with federal laws and regulations during the annual onsite monitoring review. If a local area issued NRPs during a program year, the local area’s issuance of NRPs in accordance with federal laws and regulations, this policy letter, and the local WDB’s policy may also be reviewed. Any issues will be handled through the State’s monitoring resolution process.

VIII. Technical Assistance

For technical assistance, email to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.
IX. References

Workforce Innovation and Opportunity Act, Public Law 113-128.


USDOL, Training and Employment Guidance Letter No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for implementation of the WIOA Final Rules (March 1, 2017).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility (July 15, 2015).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers (June 6, 2017).

I. **Purpose**
This communication provides guidance on paid and unpaid work experience for the youth program under Title I of the Workforce Innovation and Opportunity Act (WIOA). WIOA administrative entities should convey this guidance to subrecipients and other entities that provide WIOA youth activities and services.

II. **Effective Date**
July 1, 2015

III. **Background**
Under the Workforce Innovation and Opportunity Act, paid and unpaid work experience is an allowable activity and one of the fourteen (14) youth program elements required to be competitively procured when selecting a youth service provider for this activity.

IV. **Definitions**

- **Incentive**: remuneration to participants for successful participation and achievement of expected outcomes as defined in the individual service strategy (ISS).

- **Internship**: a system of gaining on-the-job experience by placement in a work environment for a period of time with the goal to build technical and job awareness skills. Internships may be paid or unpaid.

- **Job shadowing**: a short-term unpaid activity which introduces a participant to the workplace and provides exposure to occupational areas of interest to increase career awareness. Job shadowing is limited and allows youth to observe only.

- **On-the-job training (OJT)**: training by an employer that is provided to a paid participant while engaged in productive work in a job that:
  - Provides knowledge or skills essential to the full and adequate performance of the job;
  - Is made available through a program that provides reimbursement to the employer of a percentage of the wage rate of the participant; and
  - Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, prior work experience of the participant, and the service strategy for the participant.

- **Pre-apprenticeship programs**: programs or set of strategies designed to prepare individuals to enter and succeed in Registered Apprenticeship programs and have a documented partnership with at least one, if not more, Registered Apprenticeship programs.

- **Stipend**: a fixed and regular small payment such as an allowance.

- **Summer employment opportunities**: an activity conducted mainly during the summer months which involves work experience as the primary strategy and must provide direct linkages to academic and occupational learning.

- **Work experience**: a planned, structured learning activity that takes place in a workplace setting for a limited period of time.
V. Requirements

Work experience is one of the fourteen (14) required program elements that must be made available to all registered youth and should be offered throughout the program year. It is a planned, structured learning activity that takes place in a workplace setting for a limited period of time and has an academic and occupational education component. Work experience may be paid or unpaid.

The primary intent of work experience is to help the youth understand proper workplace behavior and what is necessary in order to attain and retain employment. Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. Work experience can serve as a stepping stone to unsubsidized employment and is an important step in the process of developing a career pathway for youth. All work experiences should expose youth to realistic working conditions and task as much as possible.

Work experience must be based on identified needs of the individual youth. Use of work experience situation must be based on an objective assessment and identified on the youth’s individual service strategy (ISS).

Paid and unpaid work experience must include academic and occupational education. The types of work experiences include the following categories:

- Internship and job shadowing;
- Summer employment opportunities;
- On-the-Job training; and
- Pre-apprenticeship programs.

Work experience may be conducted in the private-for-profit, private non-profit and public sectors. Although a business, public agency or non-profit (hereafter collectively referred to as "work experience provider") may also receive some benefit from work experience in the form of work being done or recruiting a potential new employee, the primary goal of work experience is to benefit the participant.

Per section 129 (c)(4) of the WIOA, not less than 20% of the youth program funds shall be used to provide youth participants with paid and unpaid work experiences.

A. Appropriate Employers

The WDB should seek employers that are committed to helping participants receive the experience and training that is required for employment beyond the work experience period. Employers should be willing to work closely with program staff and be flexible in working with youth who have barriers to employment.

Attention must be given to ensure that work experience arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements. Work experience, including internships, in the private for-profit sector must be structured so as not to appear to be subsidizing private for-profit operations. The work of the participant should not materially impact the profit margin of a private-for-profit company.

The WDB may encounter employers reluctant to assume responsibility for youth as employees. If an employer/employee relationship does exist, the youth provider may deem it advisable to be the employer of record and refer youth participants to host sites so they may receive experience.

B. Determining "Trainee" versus "Employee"

Work experience may be paid or unpaid. It is expected that work experience will be paid in most cases and the federal Fair Labor Standards Act (FLSA) will apply in any situation where an employer/employee relationship exists. WIOA participants are subject to the requirements of the FLSA to the extent that the activities performed in the work experience constitute employment.
A local area shall ensure that the youth provider makes a determination regarding whether work experience is a "training" situation or an "employment" situation. The local WDB should establish a process for making these determinations.

**Trainee**

Because the FLSA’s definition of "employee" is broad, the excluded category of "trainee" is necessarily quite narrow. In general, the more a training program is centered around a classroom or academy as opposed to the work experience provider's actual operations, the more likely the activity is training. The more the training is providing the participants with skills that can be used in multiple employment settings, as opposed to skills particular to one work experience provider's operations, the more likely the participant is a trainee.

According to the Wage and Hour Division of the U.S. Department of Labor, Employment Standards Administration, if all of the following six (6) items exist, the work experience can be considered a "training" situation and an employment relationship does not exist under the FLSA:

1. The training, even though it includes actual operation of the facilities of the work experience provider is essentially a training experience similar to a vocational school;
2. The participant is primarily the beneficiary of the experience;
3. Regular employees are not displaced and the experience is closely supervised/observed;
4. The work experience provider that hosts the experience derives no immediate or significant advantage (and may even be adversely impacted);
5. The participant is not guaranteed a job at the conclusion of the experience; and
6. There is mutual understanding between the participant and the host agency that the participant is not entitled to wages for this time because the activity is essentially a training experience.

As the participant is a "trainee" and an employment relationship does not exist under the FLSA, the FLSA’s minimum wage and overtime provisions do not apply to the participant.

**Employee**

On the other hand, if the youth participants are engaged in the primary operations of the work experience provider and are performing productive work (for example, filing, performing other clerical work, or assisting customers), then receiving some benefits in the form of a new skill or improved work habits is unlikely to make the participant a trainee, given the benefits received by the work experience provider.

If the worksite uses the youth participants as substitutes for regular full time or part time employees, it is more likely that the participants are employees as opposed to trainees. Also, if the work experience provider would have needed to hire additional employees or require overtime had the participants not performed the work, then the participants are likely employees.

**Employer of Record**

1. **Employer** - If the work experience provider is relying on the participant to perform real work, i.e., to be productive, then the situation should be recognized as an employer-employee relationship. In this situation, the site employer is the employer of record. Participants must receive no less than the applicable state or federal minimum wages, related benefits are required and payroll taxes should be deducted. The employer of record will be responsible for paying all taxes and providing similar benefits as are available to other employees.

2. **Youth Provider** - The youth provider has the option of being the employer of record for the youth participant. The employer of record is responsible for paying the participant and
negotiating with the host site the activities that will be performed by the participant. The work experience may occur at the youth service provider location or the participant may be referred to a host site to receive the work experience. The host site is the location where work experience tasks will occur.

"Trainee" versus "Employee" when Job Shadowing

If the employer is providing job shadowing opportunities whereby the participant learns certain functions under the close and constant supervision of regular employees, but performs no or minimal work, this type of activity is more likely to be a bona fide training program. However, if the participant receives the same level of supervision as employees, this would suggest an employment, rather than training, relationship.

C. Child Labor Laws

The local area must ensure compliance with child labor laws. The employer must comply with all applicable federal laws and with state child labor laws if the participant is less than 18 years of age. The Fair Labor Standards Act (FLSA); Ohio Revised Code (O.R.C.) Chapter 4109 Employment of Minors, and Chapter 3331 Age and Schooling Certificates; and Ohio Administrative Code (O.A.C.) Chapter 4101:9-2 Employment of Minors in Occupations Hazardous or Detrimental to Health and Well-Being, are primary legislation which governs the employment of minors at the federal and state levels.

Proof of age and parental consent must be given for both paid and unpaid work experience. Minors participating in a work experience while school is in session also require a work permit. Minors who are under 16 also must have an Age and Schooling Certificate (work permit).

D. Health and Safety Standards

The local areas must apply the same health and safety standards otherwise applicable to working conditions of employees to working conditions of participants in programs and activities under Title I of the WIOA.

The state workers’ compensation law may or may not apply to a participant in work experience depending on the work experience arrangements and employer's benefits. If the state workers' compensation law does not apply to a participant in work experience, the administrative entity must secure insurance coverage for injuries suffered by the participant in work experience.

E. Unpaid Work Experience

Unpaid work experience is an activity exposing participants to the working environment, and an individual does not expect payment for tasks performed. An employer and employee relationship must not exist, which means that all six conditions listed in Section V.B. of this policy letter must be met. The use of unpaid work experience should be limited.

For unpaid work experience, WIOA funds may be used for incentives and/or a stipend for youth. Incentives and stipends encouraging successful completion are beneficial to youth.

The incentives or stipends are determined by the local WDB. Stipends should be reasonable and allocable and issued through a uniform payment system. Such incentives or stipends are not considered income for WIOA eligibility purposes, are not required to meet minimum wage requirements, are not to be dispersed as payroll, and income tax is not to be withheld.

It is recommended that the youth program provider consult with other public assistance case managers where applicable to ensure that the receipt of incentives or stipends do not negatively impact the youth participant’s receipt of public assistance.

Incentives

Unpaid work experience participants may receive remuneration in cash or non-cash incentives. The incentive should equate to an achievement, and should be tied to training and education, a work readiness skill attainment and/or an occupation skill attainment goal identified in the ISS.
Incentives for youth may include plaques, certificates, gift certificates, recognition ceremonies for participants, caps and gowns, class pictures, class rings, school supplies and/or calculators, or a check.

The local area must have written policies and procedures in place governing the awarding of incentives and must ensure that such incentive payments are:

- Tied to the goals of the specific program;
- Outlined in writing before the commencement of the program that may provide incentive payments;
- Aligned with the local program's organizational policies; and
- Accord with the requirements contained in 2 CFR 200.

**Stipends**

WIOA, Title I is silent on using the term "stipend." Reasonable stipends are allowable expenditures for unpaid work experience for youth when the provision of stipend is included in the participant's ISS. A youth may receive a stipend for an entire day if at least 51% of the youth's time is spent in unpaid work experience. For example, if a youth spends five hours per day in unpaid work experience and three hours in GED, the participant may receive a stipend for the day.

**F. Worksite/Job Site/Host Site Agreement**

The WDB must ensure that the youth provider has a written agreement to ensure compliance with the WIOA and applicable regulations. The agreement is a written document that details terms and conditions of paid and unpaid work experience and the expectations of the parties to the agreement. The written agreement is between the participant, the site employer or host site, and the youth provider.

The written agreement, which may be called a worksite agreement, job site agreement, or host site agreement must include at a minimum: the duration, remuneration, tasks, duties, supervision, health and safety standards and other conditions of work experience such as consequences of not adhering to the agreement and a termination clause. The worksite or host site entity, the participant and the youth provider should all be given a copy of the agreement. The agreement must be available for audit and monitoring purposes.

**G. Local Workforce Development Board Policy**

The WDB is responsible for creating and directing policy and a service delivery strategy for administering both paid and unpaid work experience. When developing this policy, the needs, circumstances and characteristics of the youth population should be taken into consideration. At a minimum, the WDB's policy should include all of the following:

- **The goal of the work experience** - Work experience designed to aid participants in a structured environment, learning good work habits with the focus on career exploration.
- **Duration of work experience** - The duration of paid and unpaid work experience should be stated in the policy. A minimum and a maximum limitation must be set on the number of hours that may be assigned for any single work experience.
- **Incentives / stipends** – Incentives and stipends should be appropriate and in support of the activity. The policy should define appropriate incentives and stipends along with a minimum and maximum limitation on the type and/or dollar amount.
- **Monitoring** – The policy must describe the frequency of monitoring and staff responsible for monitoring, and include a monitoring guide, form or checklist.

**VI. Documentation to be Maintained**

Documentation of the work experience must be maintained in the participant's file. Local policy and procedures should specify what documentation will be kept in the participant’s file, which should include, at a minimum, the following items:
• An objective assessment and ISS indicating a need for work experience;
• Justification for incentive/stipend, and description of type of payment method and amount, if applicable;
• A copy of the agreement between the participant, the worksite or host site and the local workforce investment board, including any attachments to the agreement, such as a training plan;
• Time sheets, attendance sheets and performance records, as appropriate; and
• Documentation of receipt of incentives, stipends and supportive services received by the participant.

To ensure effective and efficient record keeping practices, local procedures should specify where certain documents will be placed in the file.

VII. Tracking Youth Work Experience

The WIOA request that not less than 20% of funds allocated to the local area be used to provide in-school and out-of-school with paid and unpaid work experiences. In order to ensure that this requirement is met, local areas should track program funds spent on paid and unpaid work experiences and report such expenditures as part of the local WIOA youth financial reporting. Program expenditures on the work experience program element include wages as well as staffing costs for the development and management of work experiences. Local area administrative costs are not subject to the 20% minimum work experience expenditure requirement.

VIII. Monitoring

The WDB is responsible for ensuring oversight of the program. The local area must periodically monitor the participant and the worksite or a host site to ensure that goals are being met and adherence to this guidance and WIOA law and regulations.

Through the state’s monitoring system, program monitors will review the local area’s use of work experience in the WIOA youth program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

IX. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIAQNA@JFS.OHIO.GOV.

X. References

Workforce Innovation and Opportunity Act, Pub. L. 113-128
29 U.S.C. 3101 et seq
2 CFR 200
I.R.S. Revenue Ruling 75-246, 1975-1 C.B. 24, Scenarios distinguish between amounts paid in connection with training—excludable under general welfare exception—and amounts paid in connection with services.
O.R.C. Ch. 3331 (2002).
O.R.C. Ch. 4109

**Rescission**

WIOAPL 15-12 (Work Experience for Adults and Dislocated Workers)

Workforce Innovation and Opportunity Act Policy Letter No. 15-12

July 15, 2015

To: Local Workforce Development Boards (WDBs) Directors, Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Work Experience for Adults and Dislocated Workers

I. Purpose

This communication provides guidance on paid and unpaid work experience for the adult and dislocated worker programs under Title I of the Workforce Innovation and Opportunity Act (WIOA).

II. Effective Date

July 1, 2015

III. Background

Under the Workforce Innovation and Opportunity Act, work experience is a career service that is provided in order for an individual to obtain or retain employment and is linked to a potential career choice.

IV. Definitions

Internship: a system of gaining on-the-job experience by placement in a work environment for a period of time with the goal to build technical and job awareness skills. Internships may be paid or unpaid.

Job shadowing: a short-term unpaid activity which introduces a participant to the workplace and provides exposure to occupational areas of interest to increase career awareness.

Public service employment: work normally provided by governments, and includes, but is not limited to work in fields of: human betterment and community improvement, child care, health care, education, crime prevention, public transportation, streets and parks, solid waste removal, housing and neighborhood improvement, rural development, etc.

Work experience: a planned, structured learning activity that takes place in a workplace setting for a limited period of time.

V. Requirements

Work experience is a planned, structured learning activity that takes place in a workplace setting for a limited period of time. Work experience is paid or unpaid and may include, but is not limited to internship and job shadowing.

Work experience functions as a workplace-values activity for acquiring of behavioral competencies and specific occupation or job skills. The primary intent of work experience is to provide participants with opportunities for career exploration and skill development to gain work readiness skills in preparation for employment. Work experiences should enable adults and dislocated workers to gain exposure to the working world and its requirements. It is a strategy for participants who have little or no work experience in situations where an employer can offer a meaningful experience.

Work experience must be based on identified needs of the adult and dislocated worker. Use of work experience situation must be based on an assessment and identified on the participant’s individual employment plan (IEP). A likely candidate for work experience is a participant who is appropriate for long term employment in a particular industry or occupation, but does not have all of the skills or the experience to qualify for entry-level employment in the field.
Work experience may be conducted in the private-for-profit, private non-profit and public sectors. It must be clearly distinguishable from public service employment. Public service employment is a prohibited activity under the WIOA. Although a business, public agency or non-profit (hereafter collectively referred to as "work experience provider") may also receive some benefit from work experience in the form of work being done or recruiting a potential new employee, the primary goal of work experience is to benefit the participant.

Work experience may be combined with classroom instruction relating to a particular position, occupation, industry or basic skills and abilities to successfully compete in the local labor market. Work experience is an intermediate employment step toward the long-term goal of moving along a career path.

A. Appropriate Employers

The WDB should seek employers that are committed to helping participants receive the experience and training that is required for employment beyond the work experience period. Employers should be willing to work closely with program staff and be flexible in working with participants who have barriers to employment.

Attention must be given to ensure that work experience arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements. Work experience, including internships, in the private for-profit sector must be structured so as not to appear to be subsidizing private for-profit operations. The work of the participant should not materially impact the profit margin of a private-for-profit company.

B. Determining "Trainee" versus "Employee"

Work experience may be paid or unpaid. It is expected that work experience will be paid in most cases and the federal Fair Labor Standards Act (FLSA) will apply in any situation where an employer/employee relationship exists. WIOA participants are subject to the requirements of the FLSA to the extent that the activities performed in the work experience constitute employment.

A local area shall ensure that staff providing career services make a determination regarding whether work experience is a "training" situation or an "employment" situation. The local WDB should establish a process for making these determinations.

Trainee

Because the FLSA's definition of "employee" is broad, the excluded category of "trainee" is necessarily quite narrow. In general, the more a training program is centered around a classroom or academy as opposed to the work experience provider's actual operations, the more likely the activity is training. The more the training is providing the participants with skills that can be used in multiple employment settings, as opposed to skills particular to one work experience provider's operations, the more likely the participant is a trainee.

According to the Wage and Hour Division of the U.S. Department of Labor, Employment Standards Administration, if all of the following six (6) items exist, the work experience can be considered a "training" situation and an employment relationship does not exist under FLSA:

1. The training, even though it includes actual operation of the facilities of the work experience provider is essentially a training experience similar to a vocational school;
2. The participant is primarily the beneficiary of the experience;
3. Regular employees are not displaced and the experience is closely supervised/observed;
4. The work experience provider that hosts the experience derives no immediate or significant advantage (and may even be adversely impacted);
5. The participant is not guaranteed a job at the conclusion of the experience; and,
6. There is mutual understanding between the participant and the host agency that the participant is not entitled to wages for this time because the activity is essentially a training experience.

As the participant is a "trainee" and an employment relationship does not exist under the FLSA, the FLSA’s minimum wage and overtime provisions do not apply to the participant.

**Employee**

On the other hand, if the adult or dislocated worker participants are engaged in the primary operations of the work experience provider and are performing productive work (for example, filing, performing other clerical work, or assisting customers), then receiving some benefits in the form of a new skill or improved work habits is unlikely to make the participant a trainee, given the benefits received by the work experience provider.

If the worksite uses the adult or dislocated worker participants as substitutes for regular full time or part time employees, it is more likely that the participants are employees as opposed to trainees. Also, if the work experience provider would have needed to hire additional employees or require overtime had the participants not performed the work, then the participants are likely employees.

**Employer of Record**

1. Employer - If the work experience provider is relying on the participant to perform real work, i.e., to be productive, then the situation should be recognized as an employer-employee relationship. In this situation, the site employer is the employer of record. Participants must receive no less than the applicable state or federal minimum wages, related benefits are required and payroll taxes should be deducted. The employer of record will be responsible for paying all taxes and providing similar benefits as are available to other employees.

2. Provider of Career Services - The OhioMeansJobs center operator or the contracted provider of career services, whichever situation applies, has the option of being the employer of record for the adult or dislocated worker participant. The employer of record is responsible for paying the participant and negotiating with the host site the activities that will be performed by the participant. The work experience may occur at the provider of career services, service provider, or employer location or the participant may be referred to a host site to receive the work experience. The host site is the location where work experience tasks will occur.

**C. Health and Safety Standards**

The local areas must apply the same health and safety standards otherwise applicable to working conditions of employees to working conditions of participants in programs and activities under Title I of the WIOA.

The state workers’ compensation law may or may not apply to a participant in work experience depending on the work experience arrangements and employer's benefits. If the state workers' compensation law does not apply to a participant in work experience, the administrative entity must secure insurance coverage for injuries suffered by the participant in work experience.

**D. Unpaid Work Experience**

Unpaid work experience is an activity exposing participants to the working environment, and an individual does not expect payment for tasks performed. An employer and employee relationship must not exist, which means that all six conditions listed in Section V.B. of this policy letter must be met. The use of unpaid work experience should be limited.

Unpaid work experience may include job shadowing. A participant experiences the work environment to increase career awareness, observe models of behavior on the job through examples, and receives
help in making career decisions. Job shadowing can reinforce the link between classroom learning and work requirements. Job shadowing is limited and allows participants to observe only.

WIOA adult and dislocated worker participants who are in school and required to complete an unpaid internship as part of a training program may receive needs-related payments in accordance with the WIOA requirements governing needs-related payment (refer to WIOAPL No. 15-14, Needs-Related Payments (NRP) – WIOA Adult and Dislocated Worker Formula Funds).

E. Worksite/Job Site/Host Site Agreement

The local WDB must ensure that the provider of career services has a written agreement to ensure compliance with the WIOA and applicable regulations. The agreement is a written document that details terms and conditions of paid and unpaid work experience and the expectations of the parties to the agreement. The written agreement is between the participant, the site employer or host site, and the provider of career services.

The written agreement, which may be called a worksite agreement, job site agreement, or host site agreement must include at a minimum: the duration, remuneration, tasks, duties, supervision, health and safety standards and other conditions of work experience such as consequences of not adhering to the agreement and a termination clause. The worksite or host site entity, the participant and the provider of career services should all be given a copy of the agreement. The agreement must be available for audit and monitoring purposes.

F. Local Workforce Development Board Policy

The WDB is responsible for creating and directing policy and a service delivery strategy for administering both paid and unpaid work experience. When developing this policy, the needs, circumstances and characteristics of the adult and dislocated worker populations should be taken into consideration. At a minimum, the WDB's policy should include all of the following:

- **The goal of the work experience** - Work experience designed to aid participants in a structured environment, learning good work habits with the focus on career exploration.
- **Duration of work experience** - The duration of paid and unpaid work experience should be stated in the policy. A minimum and a maximum limitation must be set on the number of hours that may be assigned for any single work experience.
- **Monitoring** – The policy must describe the frequency of monitoring and staff responsible for monitoring, and include a monitoring guide, form or checklist.

VI. Documentation to be Maintained

Documentation of the work experience must be maintained in the participant's file. Local policy and procedures should specify what documentation will be kept in the participant’s file, which should include, at a minimum, the following items:

- An assessment and IEP indicating a need for work experience;
- A copy of the agreement between the participant, the worksite or host site and the local workforce investment board, including any attachments to the agreement, such as a training plan;
- Time sheets, attendance sheets and performance records, as appropriate; and
- Documentation of receipt of supportive services received by the participant.

To ensure effective and efficient record keeping practices, local procedures should specify where certain documents will be placed in the file.

VII. Monitoring

The WDB is responsible for ensuring oversight of the program. The local area must periodically monitor the participant and the worksite or a host site to ensure that goals are being met and adherence to this guidance and WIOA law and regulations.
Through the state’s monitoring system, program monitors will review the local area’s use of work experience in the WIOA adult and dislocated worker programs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VIII. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIAQNA@JFS.OHIO.GOV.

IX. References

Workforce Innovation and Opportunity Act, Pub. L. 113-128
20 CFR Parts 603 et al.
29 U.S.C. 3101 et seq
I.R.S. Revenue Ruling 75-246, 1975-1 C.B. 24, Scenarios distinguish between amounts paid in connection with training—excludable under general welfare exception—and amounts paid in connection with services.
O.R.C. § 4109
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-14, Needs-Related Payments (NRP) – WIOA Adult and Dislocated Worker Formula Funds, (July 1, 2015).

Rescission

ODJFS, Workforce Investment Act Transmittal Letter No. 17, Work Experience for Adults and Dislocated Workers, (October 26, 2005).
I. **Purpose**

The purpose of this policy is to identify the parameters for development of a local area Individual Training Account (ITA) policy and to standardize the delivery of ITAs so local workforce development areas (local areas) consistently provide training opportunities to participants leading to employment in an in-demand occupation.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

A program of training services is one or more courses or classes, or a structured regimen that provides the services that are listed in 20 C.F.R. 680.200 and leads to:

1. An industry-recognized certificate or certification, a certification of completion of a registered apprenticeship, a license recognized by Ohio or the Federal government, or an associate or baccalaureate degree;
2. A secondary school diploma or its equivalent;
3. Employment; or
4. Measurable skill gains toward a credential described in paragraphs 1 and 2 of this section or employment.

To be eligible for training services, the local area or the Comprehensive Case Management and Employment Program (CCMEP) lead agency must determine whether adult, dislocated worker, or out-of-school youth participants are appropriate for training services. Determination of appropriateness should be done by completion of an interview, evaluation or assessment, and career planning. Assessment may include, among other things;

1. A combination of standardized tests;
2. Inventory of participant's interests, skills assessment, career exploration, and
3. Available labor market information.

Training services must be provided in a manner which maximizes informed consumer choice in selecting an eligible provider. When participants and local areas select an eligible training provider, they should consider providers who are eligible for financial aid to ensure best utilization of Workforce Innovation and Opportunity Act (WIOA) funds.

A. **Individual Training Accounts**

Eligibility information, combined with assessment information, help determine the need for training assistance. Additionally, local areas or CCMEP lead agencies must review family self-
sufficiency if the ITA is provided to an adult participant age 18-24 or an out-of-school youth participant. WIOAPL No. 15-09.1, Training Services for Adults and Dislocated Workers, and WIOAPL No. 15-10, Youth Program Services, provide further direction for determining appropriateness for training services for adults, dislocated workers, and out-of-school youth. Limits to training services may be based on the needs of the adult, dislocated worker, or out-of-school youth and identified in the individual employment plan or the individual service strategy, such as the participant’s occupational choice or goal and the level of training to succeed in that goal.

Training services for adults, dislocated workers, and out-of-school youth are typically provided by training providers who receive payment for their services through an ITA. An ITA is a key tool used in the delivery of training services and is one of the primary methods through which training is financed and provided. ITAs are established on behalf of the WIOA participant to purchase a program of training services from eligible providers selected in consultation with the case manager. Additionally, the cost of training, time commitment of the participant, fees and books, tuition, and other associated costs should be considered when conducting a cost benefit analysis for the ITA.

Per WIOAPL No. 15-09.1, WIOAPL No. 15-10, and rule 5101:14-1-02 of the Administrative Code, training services for which ITAs are used shall only be delivered by providers who have met the eligibility criteria and are listed on the Workforce Inventory of Education and Training (WIET) pursuant to section 122 of WIOA.

Training services under ITAs must be provided in a manner that maximizes informed customer choice in selecting an eligible training provider. Each local workforce development board (WDB), through the American Job Center (which in Ohio is known as an OhioMeansJobs center), must make available to job seekers the State list of eligible training providers. The local WDB may also coordinate funding for ITAs with funding from other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services. Priority consideration must be given to training programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors or occupations in the local area.

B. Registered Apprenticeship Programs and Individual Training Accounts

Registered apprenticeship is a proven model of job preparation that combines paid on-the-job training (OJT) with related instruction to progressively increase a workers’ skill levels and wages. Registered apprenticeship is also a proven business-driven model that provides an effective way for employers to recruit, train, and retain highly skilled workers. Graduates of registered apprenticeship programs receive nationally-recognized, portable credentials, and in some instances their training may be applied toward further postsecondary education.

Only registered apprenticeship programs that have been approved by the Ohio Department of Job and Family Services (ODJFS) as recognized State apprenticeship programs, will be permitted to enter into ITAs with local areas to fund the educational portion of the registered apprenticeship for eligible apprentices. ITAs may also be used to finance pre-apprenticeship training in preparation for the formal registered apprenticeship training if the pre-apprenticeship program provider has been approved as an Ohio eligible training provider and listed on WIET per WIOAPL No. 16-02, Eligible Training Providers.

All registered apprenticeship programs approved by ODJFS are automatically approved as eligible training providers and included on Ohio’s eligible training provider list contained on WIET.

C. Considerations for Funding Individual Training Accounts

1. Duration of ITAs
The duration of an ITA is determined by a participant’s course of study. Realistic and attainable training plans must be considered. Generally, training is either short-term or long-term. Short-term training is training which is completed in 12 months or less. Short-term training is the preferred method since the goal is to attain employment quickly.

However, the local areas must keep in mind the participant's career pathway, and the training and services necessary to meet the participant's goal. For instance, the classroom training portion of a Registered Apprenticeship program is typically longer than a year. However, this training is part of a career pathway involving longer training, and the apprentice is also simultaneously employed.

Long-term training is training whose length does not exceed 24 months. Four-year degree programs may be funded when the customer can document that he or she is in the last 2 years of the program (e.g., remaining hours are equal to or less than 50 percent of the total credit hours required for the degree) and is in an in-demand occupation.

Because of all the benefits of a registered apprenticeship program, including an established career pathway and simultaneous employment, the classroom training portion of the Registered Apprenticeship programs may be up to 4 years in length. For this program, the local areas may fund the full length of the training.

There may be instances where a participant is unable to complete the training program within the time frame outlined in the ITA, and the ITA may be extended. While determinations have to be based on the factual circumstances of each case, some instances when more time may be warranted include, but are not limited to, those directly related to:

a. A participant's military service or military-related leave time;
b. Lack of availability of classes;
c. Cancellations of classes; or
d. Unforeseen illness (of the participant or an immediate family member of the participant).

For the purposes of this policy, immediate family members include the participant's parents (including step-parents), spouse, domestic partner, and children (including step-children or children who the participant has been awarded custody of through a court).

2. Funding ITAs

The cost for ITAs are determined by the average cost of training for specific in-demand occupations within the local area as well as the following criteria:

a. Whether the training investment is in line with the future expected earnings of the participant;
b. Whether the training is being provided as part of the registered apprenticeship program; and
c. Consideration of the full cost of participating in training services, including costs for fees and books, tuition and other associated costs.

An adult, dislocated worker, or out-of-school youth participant may select training that costs more than the maximum amount available for ITAs when other sources of funds are available to supplement the ITA.

3. Allowable Individual Training Account Costs
ITA expenditures are costs required by the training institution to complete the training. ITA costs required to complete the training may include, but are not limited to:

a. Tuition and fees;
b. Books;
c. Tools;
d. Uniforms;
e. Tests; and
f. Medical immunizations/tests.

ITA costs do not include any supportive services' costs related to the ITA (e.g. transportation or child care).

D. In-Demand Occupations

To receive an ITA, a participant must select a training program that is directly linked to employment that is in high demand.

1. State In-Demand Occupations (85 Percent)

“In-demand” occupations were chosen using various industry- and occupation-focused measures. These measures include: projected openings; projected growth; select JobsOhio industry cluster occupations; and historic job posting data. The list of in-demand occupations will be validated or further enhanced using business data from the online Workforce Information Exchange job forecasts monthly.

Each program year, at least 85 percent of new ITA enrollments for the local area must be in an "in-demand" occupation as defined by the state of Ohio. Participants who have a current program year training service start date and whose ITA will carry into the next program year, will not be counted in the next program year’s percentage.

The link below provides access to in-demand occupation data: http://jfs.ohio.gov/owd/OMJResources/In-DemandOccupations.stm.

2. Local Area In-Demand Occupations (15 Percent)

The remaining 15 percent of ITA enrollments for the local area may be for occupations defined as in-demand within the local area. Some examples of local area in-demand occupations may include, but are not limited to:

a. A local in-demand occupation in a geographic area to which the participant is willing to work or relocate;
b. Employment associated with a regional industry sector or career pathway consortium for workforce development;
c. A written guarantee of a bona fide job upon completion of training.

Appropriate documentation must be maintained in the case files. ODJFS will review adherence to this policy and the federal law during comprehensive monitoring visits.

V. Definitions

Comprehensive Case Management and Employment Program (CCMEP): An integrated intervention program that combines the Temporary Assistance for Needy Families (TANF) program and WIOA Youth program to provide employment and training services to individuals ages 14 through 24 years.

Eligible training provider: An entity that receives funding for training services through an ITA; must be included on the State list of eligible training providers and programs; must provide a program of training services; and must be one of the following entities:
1. Institution of higher education that provides a program which leads to a recognized postsecondary credential;

2. Entity that carries out programs registered under the National Apprenticeship Act (29 U.S.C. 50 et seq.); or

3. Other public or private provider of training services, which may include:
   a. Community-based organizations;
   b. Joint labor-management organizations; and
   c. Eligible providers of adult education and literacy activities under Title II of WIOA if such activities are provided in combination with training services described in 20 C.F.R. 680.350.

In-demand occupation: As determined by the State or local board, an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy, as appropriate.

Lead agency: The local participating agency designated under section 5116.22 or the Revised Code to serve for a fiscal biennial period, or part thereof, as a county’s lead agency for the purpose of CCEMP.

Planning region: A region comprised of two or more local areas that are collectively aligned with the region.

Pre-apprenticeship program: Programs or sets of strategies designed to prepare individuals to enter and succeed in Registered Apprenticeship programs and have documented partnership with at least one, if not more, Registered Apprenticeship programs.

Recognized postsecondary credential: A credential consisting of an industry recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree.

Registered apprenticeship program: A program meeting Federal and State standards of job preparation that combines paid on-the-job training and related instruction to progressively increase workers’ skill levels and wages.

VI. Local Workforce Development Area Requirements

A. Development of a Local ITA Policy

Each local WDB is required to develop an ITA policy. There may be instances where dislocated workers from multiple local areas or a planning region are impacted from one business downsizing or one dislocation event. Local areas are encouraged to work with contiguous local areas to develop consistent eligibility requirements and delivery of services for ITAs.

Consistency between contiguous local areas and planning regions is particularly crucial if the ITAs are funded through the rapid response program because of a mass layoff or employer closing or through a national dislocated worker grant.

The local WDB’s ITA policy must include, but is not limited to, the following criteria:

1. Maximum duration of an ITA

   For the Registered Apprenticeship program, the length of training and the skills and competencies required for mastery of an occupation are set by industry. Traditional registered apprenticeship programs are time-based and require a specific number of hours of OJT and related instruction. As such, local WDBs should make allowances in their local ITA policies to accommodate the required training hours for a registered apprenticeship program.
2. Maximum funding for training financed through ITAs

The local WDB may establish a range of amounts and/or a maximum amount applicable to all ITAs. This limitation must not be implemented in a manner that undermines WIOA’s requirement for training services to be provided in a manner that maximizes customer choice in the selection of an eligible training provider.

The local WDB may also allow for additional ITA funding limits for those enrolled in a registered apprenticeship program. Additional federal funding for registered apprenticeship programs is available through several federal agencies to support business investments in apprentices and to assist educators and intermediaries in strengthening the tie between training and employment through registered apprenticeship. The Department of Labor’s Training and Employment Guidance Letter No. 13-16 provides websites for several registered apprenticeship funding resources.

Furthermore, the policy must contain language that would allow a way to override the maximum funding cap based upon the needs of the individual, the selected program of training services, and/or other criteria established by the local board.

3. Allowable costs to complete training financed through ITAs

Costs must be reasonable and necessary and must represent a sound investment of public funds.

4. Other locally defined considerations

A comprehensive assessment of the cost of the ITA, which involves accessing other grants or funding, including Federal Pell Grants, Trade Adjustment Assistance (TAA), and scholarships, must be conducted to ensure best utilization of WIOA funds. The local area should utilize all financial aid resources available to minimize any out-of-pocket expense to the participant. The local ITA policy should not be so limited that a participant cannot be served because the training in an in-demand occupation exceeds the maximum ITA funding limit.

Local WDBs may implement evaluation and performance requirements for those training providers and programs, which the State and/or local area has approved to be on the statewide Eligible Training Provider (ETP) list contained on WIET. Local WDBs may want to review the performance of a provider to determine whether the training provider meets established local program and cost requirements. If a training provider does not meet the performance requirements, local areas may choose not to use the provider. Criteria to be considered for evaluation may include, but is not limited to, ability to accept financial aid and grants, availability of student support, graduation rates, placement rates, and wage rates of the graduates from the institution.

B. Waiver Request

Each program year, at least 85 percent of new ITA enrollments for the local area must be in “in-demand” occupations as defined by the State. The remaining 15 percent of ITA enrollments for the local area may be for occupations defined as “in-demand” for the local area.

In situations where the local area may exceed the 15 percent enrollment requirement for local “in-demand” occupations, the local WDBs may request a waiver to exceed this requirement. Waivers will be approved on a case by case basis. The waiver template must be completed providing the appropriate justification for the waiver and submitted to WIOA@JFS.OHIO.GOV. The subject of the email should read, "ITA Waiver Request."

VII. Reporting Requirements
Pursuant to rule 5101:9-30-04 of the Administrative Code, the local board shall ensure, within 30 days, accurate reporting of WIOA participants, activities, case management, and performance information by using the Ohio Workforce Case Management System (OWCMS).

VIII. Monitoring

At the local level, the local area must conduct oversight of the implementation of the WIOA programs to ensure that participants are enrolled in the programs and have been provided identified services.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA programs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

IX. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

X. References

Workforce Innovation and Opportunity Act, §§ 122 and 134, Pub. L. 113-128
29 U.S.C. 3101 et seq.
USDOL, Training and Employment Guidance Letter No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Services (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-09.1, Training Services for Adults and Dislocated Workers, (January 8, 2018).
To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Youth Program Services

I. Purpose

The purpose of this policy is to communicate guidance and information regarding the provision of services for the Workforce Innovation and Opportunity Act (WIOA) youth program.

II. Effective Date

July 1, 2015

III. Background

The goal of the WIOA youth program is to assist youth in making a successful transition to employment and further education. However, the WIOA recognizes that simply providing training is not enough to enter a specific occupation. A wide range of activities and services must be available to assist youth, especially those who are disconnected and out-of-school, in making a successful transition to adulthood. The WIOA youth program is designed to provide services, employment, and training opportunities to those who can benefit from, and who are in need of such services. Funds allocated to the local workforce development areas must be used to carry out a series of services to eligible youth.

IV. Definitions

Adult mentoring: one-to-one supportive relationship between an adult and a youth that is based on trust.

Alternative school: schools which offer specialized, structured curriculum inside or outside of the public school system which may provide work/study and/or academic intervention for students with behavior problems, physical/mental disabilities, who are at-risk of dropping out, who are institutionalized or adjudicated youth and/or youth who are in the legal custody of the Ohio Department of Youth Services and are residing in an institution. An alternative school must be approved by the local education agency.

Career pathway: a combination of rigorous and high-quality education, training, and other services that:

- Aligns with the skill needs of industries in the economy of the State or regional economy involved;
- Prepares an individual to be successful in any of the full range of secondary and postsecondary education options, including apprenticeships;
- Includes counseling to support an individual in achieving the individual's education and career goals;
- Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
- Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the education and career advancement of the individual to the extent practicable;
- Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
- Helps an individual enter or advance within a specific occupation or occupational cluster.
Comprehensive guidance and counseling: a process of helping youth make and implement informed education, occupation, and life choices.

Enrollment: the collection of information to support eligibility determination and participation in any one of the 14 program elements.

Entrepreneurial skills training: training which provides the basics of starting and operating a small business.

Follow-up services: activities after completion of participation to monitor youths' success during their transition to employment and further education and to provide assistance as needed for a successful transition.

In-demand occupation: an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy as determined by the State and local boards.

In-demand industry sector: an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, and local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors as determined by the State and local boards.

Leadership development opportunities: opportunities that encourage responsibility, confidence, employability, self-determination and other positive social behaviors.

Occupational skill training: an organized program of study that provides specific vocational skills that lead to proficiency in performing actual task and technical functions required by certain occupational fields at entry, intermediate, or advance levels and results in attainment of a certificate.

On-the-job training (OJT): training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- Provides knowledge or skills essential to the full and adequate performance of the job;
- Is made available through a program that provides reimbursement to the employer of a percentage of the wage rate of the participant; and
- Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, prior work experience of the participant, and the service strategy for the participant.

Participation: the point at which the individual has been determined eligible for youth program services, has received an assessment, and has received or is receiving at least one program element and is the point at which the individual is to be included in calculations for performance measures.

Pay-for-performance contracts: a procurement strategy that uses pay-for performance contracts which specifies a fixed amount that will be paid to an eligible service provider based on achievement of specified levels of performance on the primary indicators of performance for target populations as identified by the local board within a defined timetable, and which may provide for bonus incentives to such service provider to expand capacity.

Postsecondary school: any schooling that follows graduation from high school or completion of high school equivalency, including community colleges, four-year colleges and universities, and technical and trade schools.

Pre-apprenticeship programs: programs or set of strategies designed to prepare individuals to enter and succeed in Registered Apprenticeship programs and have a documented partnership with at least one, if not more, Registered Apprenticeship programs.
Recognized postsecondary credential: a credential consisting of an industry-recognized certificate or certification, certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree.

Secondary school: a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education as determined under State law, except that the term does not include any education beyond grade 12.

Supportive services: services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under the WIOA.

Work experience: a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experiences may be paid or unpaid.

V. Requirements

The youth program is designed to provide the following:

- Activities leading to the attainment of a secondary diploma or its recognized equivalent, or a recognized post-secondary credential;
- Preparation for postsecondary educational and training opportunities;
- Strong linkages between academic instructions and occupation education that lead to the attainment of recognized postsecondary credentials;
- Preparation for unsubsidized employment opportunities, as appropriate; and
- Effective connections to employers, including small employers, in in-demand industry sectors and occupations of the local and regional labor markets.

The local workforce development board (WDB) shall ensure that parents, participants, and other members of the community with experience relating to programs for youth are involved in the design and implementation of the youth program, which includes the provision of the following to each participant:

- Information on the full array of applicable or appropriate services which are available through the local board or other eligible providers or OhioMeansJobs center partners.
- Referrals to appropriate training and educational programs that have the capacity to serve the participant either on a sequential or concurrent basis.

Local WDBs must provide eligible youth with information about the full array of applicable or appropriate services available through the local board or other eligible providers, or OhioMeansJobs partners. It also provides that local boards must refer eligible youth to appropriate services that have the capacity to serve them on a concurrent or sequential basis. Additionally, eligible providers must refer youth who either do not meet the enrollment requirements of a particular program or who cannot be served by that program for further assessment, as necessary, or to appropriate programs to meet the skills and training needs of the participant.

Per section 129 (c)(8) of the WIOA, the local WDB shall make opportunities available for individuals who have successfully participated in programs carried out under this section to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

A. Procurement of Providers of Youth Program Activities

Per section 123 of the WIOA, the local WDB shall award grants or contracts on a competitive basis to providers of youth workforce investment activities. If an insufficient number of eligible providers of youth workforce investment activities in the local area are available, the WDB may award grants or contracts on a sole-source basis.
Youth providers should be selected based upon their ability to provide youth program activities, especially those that may be identified in the State Plan, as well as the ability to meet performance accountability measures. The WDB shall conduct oversight of the selected youth providers.

The requirement that eligible providers of youth services be selected by awarding a grant or contract on a competitive basis does not apply to the design framework services when these services are more appropriately provided by WIOA staff.

The local WDB may implement a pay-for-performance contract strategy for program elements for which the local board may reserve and not use more than 10% of the total funds.

B. Pre-enrollment Activities

Clearly, there are an array of activities that must occur before enrollment into the WIOA youth program. These "pre-enrollment" activities include recruitment, intake, initial assessment including an initial determination of barriers and appropriateness for the program, referrals, and the determination of WIOA youth eligibility. None of these activities require enrollment in the local youth program. Pre-enrollment activities are considered to be those activities leading up to the decision to register a participant for services in the local WIOA youth program.

In addition to the "pre-enrollment" activities listed above, informational and self-help activities provided through the OhioMeansJobs centers or through OhioMeansJobs.com are not considered registered services in the WIOA youth program.

C. Design Framework Services

Framework services include the objective assessment, individual service strategy (ISS), general case management, and follow-up services that lead toward successful outcomes for WIOA youth participants.

Framework services are completed prior to participation in the WIOA youth program. As a result, these services may be completed by local WIOA staff. WIOA staff providing framework services may be in the best position to provide such services and can ensure the continuity of WIOA youth programming as youth service providers change.

Both the objective assessment and the ISS are integral to the youth program, and are intended to be on-going throughout program participation. These two activities serve as the basis for which decisions are made that lead to the receipt of the array of the 14 program elements.

When completing either the objective assessment or the ISS, a new assessment of the youth is not required if the youth provider determines it is appropriate to use a recent assessment (within 6 months) of the participant conducted pursuant to another education or training program. This may include evaluations completed by a secondary school, Vocational Rehabilitation, Adult Basic and Literacy Education (ABLE), or other education or training providers.

Objective Assessment

Per section 129 (c)(1)(A) of the WIOA, local areas are required to provide an objective assessment of the academic levels, skill levels, and service needs of each youth participant. The purpose of the objective assessment is to identify the appropriate services, including the identification of career pathways, for each youth participant. The objective assessment shall include a review of all the following information:

- Basic skills;
- Occupational skills;
- Prior work experience;
- Employability;
- Interests;
- Aptitudes (including interests and aptitudes for nontraditional jobs);
• Supportive service needs; and
• Developmental needs.

All the information captured as part of the objective assessment must be contained within the participant’s case file.

**Individual Service Strategies (ISS)**

Per section 129 (c)(1)(B) of the WIOA, local areas are required to develop service strategies for each participant that are directly linked to one or more performance measure and include the identification of a career pathway that includes education and employment goals, appropriate achievement objectives, and appropriate services for the participant. It is a personalized plan for each WIOA youth participant. As such, the ISS should be completed with the youth participant and periodically reviewed with the participant.

**D. Program Elements**

Per section 129 (c)(2) of the WIOA, in order to support the attainment of a secondary school diploma or its recognized equivalent, entry into postsecondary education, and career readiness for participants, the local area youth program shall make each of the following services available to youth participants:

1. **Tutoring, study skills training, instruction, and evidence-based dropout prevention and recovery strategies.**
   
   These strategies must lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate or attendance or similar document for individuals with disabilities) or for a recognized postsecondary credential.

2. **Alternative secondary school services or dropout recovery services.**

3. **Paid and unpaid work experiences.**
   
   Work experience helps youth understand proper workplace behavior and what is necessary in order to attain and retain employment. They are designed to enable youth to gain exposure to the working world and its requirements. Work experiences can serve as a stepping stone to unsubsidized employment and is an important step in the process of developing a career pathway for youth. This is particularly important for youth with disabilities.

   A work experience 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 employer/employee relationship, as defined by the Fair Labor Standards Act or applicable State law, exists. Work experiences provide the youth participant with opportunities for career exploration and skill development.

   Work experiences must include academic and occupational education. The types of work experiences include the following categories:

   • Summer employment opportunities and other employment opportunities available throughout the year;
   • Pre-apprenticeship programs;
   • Internships and job shadowing; and
   • On-the-job training (OJT) opportunities.

   Not less than 20% of the youth program funds shall be used to provide in-school and out-of-school youth with work experience activities. WIOA youth programs must track program funds spent on paid and unpaid work experiences, including wages and staff costs for the development and management of work experiences, and report such
expenditures as part of the local WIOA youth financial reporting. The percentage of funds spent of work experience is calculated based on the total local area youth funds expended for work experience rather than calculated separately for in-school and out-of-school. Local administrative costs are not subject to the 20% minimum work experience expenditure requirement.

Guidance and requirements pertaining to paid and unpaid work experiences for youth participants are outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-13, Work Experience for Youth.

4. Occupational skills training.

Occupational skills training shall include priority consideration for training programs that lead to recognized postsecondary credentials that are aligned with state and local in-demand industry sectors or occupations. Such training must:

- Be outcome-oriented and focused on occupational goals specified in the ISS;
- Be of sufficient duration to impart the skills need to meet the occupational goal; and
- Result in the attainment of a recognized post-secondary credential.

An individual training account (ITA) is one of the primary methods through which training is financed and provided. ITAs are established on behalf of a WIOA participant to purchase a program of training services from eligible training providers. The use of an ITA is allowed for out-of-school youth, ages 18 to 24, using WIOA youth funds when appropriate.

As part of the determination of the appropriateness for occupational skills training, a review of "family self-sufficiency" must be completed for those youth participants whose eligibility was not based upon being a low income individual. In these cases, WIOA youth-funded ITAs may only be approved for those who have been determined to be below a locally defined standard of "family self-sufficiency." This requirement is intended to ensure that participants whose eligibility was not based upon being a low income individual and who are seeking youth-funded ITAs are those whose families lack or have limited ability to pay for training and supportive services needed in order to obtain or retain employment.

Guidance and requirements pertaining to the use of ITAs are outlined in WIOAPL No. 15-11, Use of Individual Training Accounts (ITA).

5. Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster.

This element requires integrated education and training to occur concurrently and contextually with workforce preparation activities and training for a specific occupation or occupational cluster for the purpose of educational and career advancement. This program element describes how workforce preparation activities, basic academic skills, and hands-on occupational skills training are to be taught within the same time frame and connected to training in a specific occupation, occupational cluster, or career pathway. Youth participants will not be required to master basic skills before moving on to learning career-specific technical skills.

6. Leadership development opportunities.

Leadership development opportunities include:

- Exposure to post-secondary education opportunities;
- Community and services learning projects;
• Peer-centered activities, including peer mentoring and tutoring;
• Organizational and team work training, including team leadership training;
• Training in decision-making, including determining priorities and problem solving;
• Citizenship training, including life skills training such as parenting and work behavior training;
• Civic engagement activities which promote the quality of life in a community; and
• Other leadership activities that place youth in a leadership role such as serving on youth leadership committees.

Positive social behaviors are outcomes of leadership opportunities. Benefits of leadership development may include:
• Positive attitudinal development;
• Self-esteem building;
• Openness to work with individuals from diverse backgrounds;
• Maintaining healthy lifestyles;
• Maintaining positive social relationships with responsible adults and peers, and contributing to the well-being of one’s community;
• Maintaining a commitment to learning and academic success;
• Avoiding delinquency;
• Postponing parenting and responsible parenting;
• Positive job attitudes and work skills; or
• Keeping informed in community affairs.

The purpose of leadership development activities is to develop skills and attitudes that are important in all areas of life. It provides encouragement and support to youth, developing skills, and instilling confidence as they transition to adulthood.

7. Supportive services.
Supportive services for youth may include, but are not limited to:
• Linkages to community services;
• Assistance with transportation;
• Assistance with child care and dependent care;
• Assistance with housing;
• Needs-related payments;
• Assistance with educational testing;
• Reasonable accommodations for youth with disabilities;
• Referrals to health care; and
• Assistance with uniforms or other appropriate work attire and work-related tool costs

Supportive services may be provided to youth both during participation and after program exit.
8. Adult mentoring for the period of participation and subsequent period, for a total of not less than 12 months.

Adult mentoring for youth must:

- Last at least 12 months and may take place both during the program and following exit from the program;
- Be a formal relationship between a youth participant and an adult mentor that includes structured activities where the mentor offers guidance, support, and encouragement to develop the competence and character of the mentee;
- Include a mentor who is an adult other than the assigned youth case manager; and
- While group mentoring activities and mentoring through electronic means are allowable as part of the mentoring activities, at a minimum, the local youth program must match the youth with an individual mentor with whom the youth interacts on a face-to-face basis.

The purpose of adult mentoring is to build positive, supportive relationships between youth and adults and to provide positive adult role models for youth. High-quality adult mentoring programs include an adult role model who builds a working relationship with a youth and who fosters the development of positive life skills in youth.

Mentoring may include workplace mentoring where the local program matches a youth participant with an employer or employee of a company.

9. Follow-up services.

Follow-up services are critical services provided following a youth's exit from the program to help ensure the youth is successful in employment and/or post-secondary education and training.

Follow-up services may include:

- Leadership development and supportive service activities;
- Regular contact with a youth participant's employer, including assistance in addressing work-related problems that arise;
- Assistance in securing better paying jobs, career pathway development, and further education or training;
- Work-related peer support groups;
- Adult mentoring; and/or
- Services necessary to ensure the success of youth participants in employment and/or post-secondary education.

All youth participants must receive some form of follow-up services for a minimum duration of 12 months. Follow-up services may be provided beyond the 12 months at the local board's discretion. The types of services provided and the duration of services must be determined based on the needs of the youth and therefore, the type and intensity of follow-up services may differ for each participant. However, follow-up services must include more than only a contact attempted or made for securing documentation in order to report a performance outcome.

10. Comprehensive guidance and counseling.
Comprehensive guidance and counseling provides individualized counseling to participants. This includes career and academic counseling, drug and alcohol counseling, mental health counseling, and referral to partner programs.

The purpose of comprehensive guidance and counseling is to promote growth in each youth’s educational, personal, social, and employability skills. Comprehensive guidance and counseling programs impart through counselor-directed learning opportunities that help youth achieve the success through academic, career, personal, and social development.

When referring participants to necessary counseling that cannot be provided by the youth program or its service providers, the local youth program must coordinate, including obtaining releases of information to obtain information regarding appropriateness of WIOA services, with the organization it refers to in order to ensure continuity of service.


Financial literacy includes activities which:

- Support the ability of youth participants to create household budgets, initiate savings plans, and make informed financial decisions about education, retirement, home ownership, wealth building, or other savings goals;
- Support participants in learning how to effectively manage spending, credit, and debt, including student loans, consumer credit, and credit cards;
- Teach participants about the significance of credit reports and credit scores; what their rights are regarding their credit and financial information; how to determine the accuracy of a credit report and how to correct inaccuracies; and how to improve or maintain good credit;
- Support a participant's ability to understand, evaluate, and compare financial products, services, and opportunities and to make informed decisions;
- Educate participants about identity theft, ways to protect themselves from identity theft, and how to resolve cases of identity theft and in other ways under their rights and protection related to personal identity and financial data; and
- Support activities that address the particular financial literacy needs of non-English speakers, including providing the support through the development and distribution of multilingual financial literacy and education materials.
- Provide financial education that is age appropriate, timely, and provides opportunities to put lessons into practice, such as by access to safe and affordable financial products that enable money management and savings; and
- Implement other approaches to help participants gain the knowledge, skills, and confidence to make informed financial decisions that enable them to attain greater financial health and stability by using high quality, age-appropriate, and relevant strategies and channels, including where possible, timely and customized information, guidance, tools, and instructions.

12. Entrepreneurial skills training.

Entrepreneurial skills training must develop skills associated with entrepreneurship. Such skills include, but are not limited to the ability to:

- Take initiative;
- Creatively seek out and identify business opportunities;
• Develop budgets and forecast resource needs;
• Understand various options for acquiring capital and the trade-offs associated with each option; and
• Communicate effectively and market oneself and one’s ideas.

Approaches to teaching youth entrepreneurial skills include, but are not limited to, the following:
• Entrepreneurship education that provides an introduction to the values and basics of starting and running a business;
• Enterprise development which provides supports and services that incubate and help youth develop their own business; and
• Experiential programs that provide youth with experience in the day-to-day operation of a business.

13. Services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services.

14. Activities that help youth prepare for and transition to postsecondary education and training.

Local areas must make all these program elements available to youth participants. This does not mean, however, that every youth participant must receive services from all program elements. Local areas have the discretion to determine what specific program elements will be provided to a youth participant, based on each participant's objective assessment and ISS.

Although the fourteen program elements must be provided and/or made available to WIOA eligible youth participants in each local area, they are not the sole array of services that made up the local youth programs.

Local areas are not required to use WIOA youth funds for each of the program elements. Local programs may leverage partner resources to provide some of the readily available program elements. However, the local area must ensure that if a program element is not funded by the WIOA, the local program has an agreement in place with the partner organization to ensure that the program element will be offered. The local board must ensure that the program element is closely connected and coordinated with the WIOA youth program.

VI. Reporting Requirements

There is no self-service concept for the WIOA youth program and every individual receiving services under the WIOA must meet eligibility criteria and formally enroll in the program.

Program participation begins when the youth is determined eligible and receives an assessment and a program element. Therefore, at the point of participation, a youth participant will be enrolled in the youth program and reported in the Ohio Workforce Case Management System (OWCMS). All youth participants will be counted in the WIOA youth program performance measure calculations.

VII. Monitoring

At the local level, the local area must conduct oversight of the implementation of the WIOA youth program to ensure that participants enrolled in the program have an objective assessment and ISS and that identified services have been provided.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA youth program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.
VIII. **Technical Assistance**
For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

IX. **References**
Workforce Innovation and Opportunity Act, Pub. L. 113-128.

20 C.F.R. 603 et seq.

29 U.S.C. 3101 et seq.


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-11, Use of Individual Training Accounts (ITA), (July 1, 2015).

**Rescission**

I. Purpose

The purpose of this policy is to provide direction to the local workforce development boards (WDBs) in the provision of training services to adults and dislocated workers.

II. Effective Date

Immediately

III. Rescission


IV. Background

The Workforce Innovation and Opportunity Act (WIOA) is designed to provide employment and training opportunities to those who can benefit from, and who need such opportunities. Training services can be critical to the employment success of many adults and dislocated workers. As there is no sequence of services, WIOA staff may determine training services are appropriate, regardless of whether the individual has received basic or individualized career services first.

Under WIOA, training services may be provided if the WIOA staff, including staff from partner programs at the American Job Center (which in Ohio is called OhioMeansJobs center), determines, after conducting an interview, evaluation, or assessment, and career planning, that the individual:

1. Is unlikely or unable to obtain or retain employment;
2. Needs training services to obtain or retain employment;
3. Has the skills and qualifications to successfully participate in the selected program of training services;
4. Is unable to obtain grant assistance from other sources (for example, Federal Pell Grants, Temporary Assistance for Needy Families (TANF), and State-funded training funds) to pay the costs of such training, or requires WIOA assistance in addition to other sources;
5. Is a member of a worker group covered under a petition for Trade Adjustment Assistance (TAA) and is awaiting a determination;
6. Is determined eligible and a member of a priority population if training services are provided through the WIOA adult program; and/or
7. Selects a program of training services that is directly linked to a state in-demand occupation.

A. Training Services

Training services are provided to equip individuals to enter the workforce and retain employment. Training Services may include:

1. Occupational skills training, including training for nontraditional employment;
2. Registered apprenticeship (which incorporates both on-the-job training (OJT) and classroom training);


4. Incumbent worker training (IWT), as outlined in WIOAPL No. 15-23, Incumbent Worker Training (IWT) Guidelines;

5. Workplace training with related instruction, which may include cooperative education programs;

6. Training programs operated by the private sector;

7. Skill upgrading and retraining;

8. Entrepreneurial training;

9. Job readiness training provided in combination with other training services or transitional jobs outlined in WIOAPL No. 15-12, Work Experience for Adults and Dislocated Workers;

10. Adult education and literacy activities, including activities for English Language acquisition and integrated education and training programs, provided concurrently or in combination with other training services;

11. Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training, as outlined in WIOAPL No. 15-24, Customized Training Guidelines.

B. Individual Training Account (ITA)

An ITA is the primary method to be used for procuring training services under WIOA. ITAs are established on behalf of a WIOA participant to purchase a program of training services from eligible training providers. WIOAPL No. 15-11.1, Use of Individual Training Accounts, provides guidance for the use of ITAs.

However, in certain circumstances, a training contract may be used to provide training services, instead of an ITA. These circumstances are referred to as the “training exceptions” or “contract exceptions.” Training contracts may only be used if at least one of the five circumstances apply and the process for their use is described in the local plan:

1. On-the-job training, which may include paying for the on-the-job training portion of a registered apprenticeship program, customized training, incumbent worker training, or transitional jobs;

2. If the local WDB determines there are an insufficient number of eligible providers of training services in the local area to accomplish the purposes of a system of individual training accounts as described in the local plan. This determination process must include a public comment period for interested providers of at least 30 days and must be described in the local plan;

3. If the local WDB determines there is a training services program of demonstrated effectiveness, through criteria developed by the local board, offered in the local area by a community-based organization or another private organization to serve individuals with barriers to employment;

4. If the local WDB determines that the most appropriate training could be provided by an institution of higher education or other provider of training services to facilitate the training of a cohort of multiple individuals for jobs in in-demand industry sectors or occupations, provided the contract does not limit customer choice; or
5. If the local WDB determines a Pay-for-Performance contract is suitable, and ensures that the contract will be consistent with 20 C.F.R. 683.510 (note that no more than 10 percent of the local funds may be spent on pay-for-performance contract strategies as they are defined in section 3(47) of WIOA).

C. Eligible Training Providers

Training services and occupational skills training for which ITAs are used shall only be delivered by providers who have met the eligibility criteria and have been listed on Ohio’s Workforce Inventory of Education and Training (WIET) pursuant to section 122 of the WIOA. WIOAPL No. 16-02, Eligible Training Providers, establishes the criteria for eligible training providers and the procedures for approval on WIET.

Pursuant to 20 C.F.R. 680.530, providers of OJT, customized training, incumbent worker training, internships, paid or unpaid work experience, or transitional jobs are not subject to the requirements applicable to entities listed on the eligible training provider list, and are not included on WIET, the state's list of eligible training providers.

D. Registered Apprenticeship Programs

Registered apprenticeship is an important component for training and employment services that the workforce system can provide to its participants. It is a proven model of job preparation that combines paid OJT with related instruction to progressively increase workers’ skill levels and wages. Registered apprenticeship is also a proven business-driven model that provides an effective way for employers to recruit, train, and retain highly skilled workers. Graduates of registered apprenticeship programs receive nationally-recognized, portable credentials, and their training may be applied toward further postsecondary education.

Registered apprenticeship programs may be funded through several mechanisms. The classroom training portion of a registered apprenticeship may be funded through an ITA, per WIOAPL No. 15-11.1. To allow registered apprenticeship programs to be more directly connected to the workforce system, registered apprenticeship programs that have been approved by the Ohio Department of Job and Family Services (ODJFS), as a recognized State apprenticeship agency, are automatically eligible to be training providers and included on WIET per WIOAPL No. 16-02.

V. Definitions

Appropriateness: The possession of qualities that are right, needed, or suitable for training services.

Basic skills deficient: An individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.

Customized training: Training that is designed to meet the specific requirements of an employer (including a group of employers), that is conducted with the commitment by the employer to employ an individual upon successful completion; and for which the employer pays:

1. A significant portion of the cost of training, as determined by the local board involved, taking into account the size of the employer and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees, relation of the training to the competitiveness of the participant, and other employer-provided training and advancement opportunities; and

2. In the case of customized training involving an employer located in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor of the State, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.
Entrepreneurial training: Training that provides the basics of starting and operating a small business, including developing viable business ideas, creating a business plan, and/or assistance in accessing small loans or grants.

Extenuating circumstances: An economic hardship that is beyond the reasonable control of the person(s) responsible for providing financial assistance to the WIOA participant for training.

Family: Per 20 C.F.R. 675.300, two or more persons related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

1. A married couple and dependent children.
2. A parent or guardian and dependent children.
3. A married couple.

Family self-sufficiency: An economic standard that uses a combination of family members' incomes to determine whether the participant has the means to fund training services.

Incumbent worker training (IWT): Training to employed workers who need additional skills to support job retention and career development.

In-demand industry sector: An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, and local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors as listed on the State In-Demand Occupations list or as defined by the local area per the WIOAPL No. 15-11.1.

In-demand occupation: An occupation that currently has or is projected to have positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy as listed on the State In-Demand Occupations list or as defined by the local area per WIOAPL No. 15-11.1.

Individual employment plan: An individualized career service in which a plan is jointly developed and reviewed by the participant and staff that includes an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for the participant to obtain these goals and objectives.

Individual with a barrier to employment: Per section 3(24) of WIOA, an individual who is a:

1. Displaced homemaker (as defined in section 3(16) of WIOA);
2. Low-income individual (as defined in section 3(36) of WIOA);
3. Indian, Alaska native, and Native Hawaiian (as defined in section 166(b) of WIOA);
4. Individual with a disability (as defined in section 3(25) of WIOA), including adults and youth who are in receipt of Social Security Disability Insurance benefits;
5. Older individual (age 55 and older);
6. Ex-offender ("offender" is defined in section 3(38) of WIOA);
7. Homeless individual or homeless child and youth;
8. Youth who is in or has aged out of the foster care system;
9. English language learner, has a low level of literacy, and is facing substantial cultural barriers;
10. Eligible migrant and seasonal farmworker;
11. Individual within two years of exhausting lifetime temporary assistance to needy families (TANF) eligibility;
12. Single parent (including single pregnant woman);
13. Long-term unemployed individual (unemployed for 27 or more consecutive weeks); and/or
14. Other groups of individuals as the State determines to have barriers to employment.

Interim employment (also known as stop-gap employment): Employment that has been accepted for income maintenance prior to, and/or during, participation in career or training services with the intention of ending such employment at the completion of the career or training services and entry into permanent, unsubsidized employment as a result of the services. Interim employment is accepted because the affected workers have lost the primary occupation for which their training, experience, or work history qualifies them. Interim employment can be part-time or full-time and must not be with the same employer from which the affected workers were dislocated.

Occupational skill training: An organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels and results in attainment of a recognized postsecondary credential.

On-the-job training (OJT): Training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;
2. Is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in section 134(c)(3)(H) of WIOA, for the extraordinary costs of providing the training and additional supervision related to the training; and
3. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, prior work experience of the participant, and the service strategy for the participant.

Priority population: Individuals who have barriers to employment, who are on public assistance, and who are basic skills deficient are given priority to receive individualized career services and training services. This priority must be consistent with priority of services for veterans and eligible spouses.

Program of training services: Per 20 C.F.R. 680.420, one or more courses or classes, or a structured regimen leading to:

1. An industry-recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by Ohio or the federal government, an associate or baccalaureate degree;
2. A secondary school diploma or its equivalent;
3. Employment; or
4. Measurable skill gains toward a credential as described in paragraphs 1 and 2 of this definition or employment.

Pay-for-performance contract strategy: A procurement strategy that uses pay-for-performance contracts in the provision of training services and includes:

1. Contracts, each of which shall specify a fixed amount that will be paid to an eligible service provider based on the achievement of specified levels of performance on primary indicators of performance for target populations within a defined timetable, and which may provide for bonus payment to such service provider to expand capacity to provide effective training;
2. A strategy for independently validating the achievement of the performance; and
3. A description of how the State or local board will reallocate funds not paid to the provider because the achievement of performance did not occur for further activities related to such a procurement strategy.

**Primary occupation:** The customary work for which the dislocated worker's training, experience, or work history qualifies them.

**Public assistance:** As defined in section (3)(50) of WIOA, federal, state, or local government cash payments for which eligibility is determined by a needs or income test. This includes temporary assistance for needy families (TANF), the supplemental nutrition assistance program (SNAP), and supplemental security income (SSI).

**Self-sufficiency:** Per section 134 (a)(3)(A)(xii) of WIOA and 20 C.F.R. 680.140(b)(6), an economic standard that specifies the income needs of families, by family size, the number and ages of children in the family, and local area geographical considerations.

**Registered apprenticeship program:** A program meeting Federal and State standards of job preparation that combines paid on-the-job training and related instruction to progressively increase workers’ skill levels and wages.

**Transitional jobs:** A time limited work experience that is wage-paid and subsidized, and is in the public, private, or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the local WDB. These jobs are designed to enable an individual to establish a work history, demonstrate success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment.

**VI. Local Workforce Development Area Requirements**

**A. Evaluate Appropriateness to Receive Training Services**

The local WIOA Title I program staff (WIOA staff) must determine the appropriateness of a participant to pursue a program of training services. It is important that WIOA staff gather enough information to justify the need for training services. The participant case record must contain a determination of need for training services through the following determination process.

1. **Conduct Interview, Evaluation or Assessment, and Career Planning**

Pursuant to section 134(c)(3)(A) of WIOA, training services may be provided to adults or dislocated workers who, after an interview, evaluation, or assessment and career planning, have been determined by WIOA staff or OhioMeansJobs center partner staff to:

**a. Be unlikely or unable to obtain or retain employment.**

WIOA staff determines the individual is unlikely or unable, by only receiving career services, to retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment.

There is no requirement that career services be provided as a condition of receipt of training services; however, if career services are not provided before training, the WIOA staff must document the circumstances that justified its determination to provide training services, either after conducting a new interview, evaluation or assessment; or, if appropriate, based on a prior recent interview, evaluation or assessment that was conducted for another education or training program.

**b. Be in need of training services to obtain or retain employment.**

WIOA staff must determine that the training the individual receives would result in employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment.
Individual employment plans (IEP) are one of the most effective ways to serve individuals with barriers to employment and to coordinate the various services, including training services they may need to overcome these barriers. Therefore, all participants who receive an individualized career service per WIOAPL No. 15-08.1, Career Services for Adults and Dislocated Workers, or a training service must receive an IEP.

c. **Have the skills and qualifications to successfully participate in the selected program of training services.**

WIOA staff must determine, through evaluation or assessment of the individual, that the individual has the skills and qualifications to successfully participate in and complete training.

The local WIOA staff shall, where appropriate, utilize previous assessments when making training determinations to reduce duplicate assessment and develop enhanced alignment across partner programs. The local WIOA staff determines when it is appropriate to use a recent assessment (within 6 months) of the participant conducted pursuant to another education or training program. This may include assessments completed by a secondary school, postsecondary school, WIOA Title II program (which in Ohio is known as Aspire), WIOA Title III program (Wagner-Peyser Employment Services), WIOA Title IV program (vocational rehabilitation), Veteran Services Program, or other education or training providers.

d. **Be unable to obtain grant assistance from other sources to pay the costs of such training or require WIOA assistance in addition to other sources of grant assistance.**

WIOA staff must coordinate training funds available and make funding arrangements with OhioMeansJobs center partners and other entities. Staff must consider the availability of other sources of grants to pay for training costs such as Temporary Assistance for Needy Families (TANF), State-funding, and Federal Pell Grants, so that WIOA funds supplement other sources of training grants.

WIOA funding for training is limited to participants who are unable to obtain grant assistance from other sources to pay the costs of such training or require assistance beyond what is available under grant assistance from other sources. WIOA funds may be used in instances where other sources of training grants do not cover the cost of the training. When determining whether additional assistance beyond grant assistance from other sources is needed, WIOA staff may take into account the full cost of participating in training services, including the cost of supportive services and other appropriate costs.

A participant may enroll in WIOA-funded training while his/her application for a Pell Grant is pending as long as the WIOA staff has made arrangements with the training provider and the WIOA participant regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the training provider must reimburse the local area the WIOA funds used to underwrite the training for the amount the Pell Grant covers, including education fees the training provider charges to attend training. Reimbursement is not required from the portion of the Pell Grant assistance disbursed to the participant for education-related expenses.

e. **Be members of a worker group covered under a petition for Trade Adjustment Assistance (TAA) who are awaiting a determination.**

f. **Be determined eligible and are members of a priority population if training services are provided through the WIOA adult program.**
WIOA focuses on serving individuals with barriers to employment and seeks to ensure access to quality services to these populations.

WIOA also establishes a statutory requirement. Priority for training services funded by and provided through the WIOA Adult program shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient, so that they can receive the training services that have been determined to be needed to obtain or retain employment. The emphasis in WIOA is to prioritize services to those individuals who have the most barriers to employment and to provide those individuals with the opportunity to benefit from employment and training services. Priority must be implemented regardless of the amount of funds available to provide services in the local area.

For both the Adult and Dislocated Worker Programs, the Jobs for Veterans Act, Public Law 107-288 establishes priority of service for veterans and eligible spouses. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority of receipt of services. Priority means that veterans and eligible spouses take precedence, with all other qualifying eligibility requirements being equal, over non-veteran and eligible spouses in obtaining services and program enrollment.

WIOAPL No. 15-08.1 and WIOAPL No. 15-20.1, Priority of Service for Veterans and Eligible Spouses, provide additional guidance for providing services to these priority populations.

g. Have selected a program of training services that is directly linked to a state in-demand occupation.

Training services provided shall be directly linked to an in-demand industry sector or occupation or one with a high potential for sustained growth in the local workforce development area (local area) or planning region, or in another local area to which an adult or dislocated worker receiving such services is willing to relocate. Refer to WIOAPL No. 15-11.1 for the guidelines on the selection of state in-demand occupations and local in-demand occupations

2. **Determine Economic Self-Sufficiency**

Pursuant to section 134 (c)(3)(A)(i)(I) of WIOA, for adults and dislocated workers to receive training services, they must need such service to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment.

Local WDBs must determine criteria for economic self-sufficiency. The determination as to what constitutes economic self-sufficiency may vary by local area and the local economy, so this flexibility allows local WDBs to tailor their services in a way that works in their local economy. Resources are available to assist in the determination of economic self-sufficiency for local areas. The Ohio Association of Community Action Agencies (OACAA) provides a self-sufficiency calculator by county for the state (oacaa.org).

For working dislocated workers, the determination of economic self-sufficiency requires a two-step assessment of the worker’s employment:

a. **Determine if the employment is “interim employment.”**

b. If the employment is not “interim,” determine if the wage is at least the locally defined level of self-sufficiency or if the hourly wage is comparable to or higher than wages from previous employment.
It should be noted that workers who have received notice of layoff, but have not yet been laid off and who do not have any other sources of employment are not subject to review of economic self-sufficiency.

**Interim Employment for Dislocated Workers**

Typically, employment is considered interim if the salary is below the salary of the dislocated worker’s primary occupation and/or if the dislocated worker is working under the skill level of his or her customary occupation. There may be circumstances where interim employment does provide a sufficient wage temporarily but is not considered permanent employment that leads to economic self-sufficiency (e.g., working through a temporary agency). The determination about whether a dislocated worker’s employment is interim employment must be made on a case-by-case basis and take into consideration the dislocated worker’s personal, family, financial, and employment situation.

A dislocated worker who is in interim employment is not considered to be self-sufficient even if the hourly wage exceeds the lower living standard income or if the hourly wage is comparable to or higher than the wages from previous employment.

If a dislocated worker has interim employment, this participant is considered unemployed at participation and information should be entered into the Ohio Workforce Case Management System (OWCMS) as such.

**Wage Standard for Non-Interim Employment for Dislocated Workers**

Employed dislocated workers whose wages are over the locally defined economic self-sufficiency standard or comparable to or higher than the wages from previous employment are considered economically “self-sufficient,” unless the employment is considered “interim employment.” Dislocated workers who are determined to be economically “self-sufficient” may receive career services only.

**Additional Requirements for Adult-Funded ITAs**

As part of the determination of the appropriateness for training services, the local area must review "family self-sufficiency" for participants seeking a WIOA adult-funded ITA. WIOA adult-funded ITAs may only be approved for those who have been determined to be below a locally defined standard of "family self-sufficiency." This requirement is intended to ensure that adult participants seeking adult-funded ITAs are those whose families lack or have limited ability to pay for the training and supportive services needed to obtain or retain employment.

Additionally, all young adults, ages 18-24, who are seeking WIOA adult-funded ITAs, must also be screened for dependency status. Refer to WIOAPL No. 15-06, Determination of Dependent Status, for guidance on determining dependency status. If an adult, ages 18-24, is determined to be dependent, "family self-sufficiency" would include the income(s) of all family members, including the young adult's parent(s).

WIOA eligible adults who are over the local standard for "family self-sufficiency" are not eligible for adult-funded ITAs. Other WIOA services may be provided, as appropriate. They may also be served using other WIOA funds, if eligible.

Local WDBs are required to develop the criteria for "family self-sufficiency." The local definition of family self-sufficiency should not be confused with the "self-sufficiency" definition.

**Extenuating Circumstances for WIOA Adult-Funded ITAs**

If a participant's family income exceeds the "family self-sufficiency" standard, a participant may still receive an adult-funded ITA if extenuating circumstances exist. When
evaluating extenuating circumstances, the costs related to the economic hardship must be the responsibility of either that person or that of his or her legal dependent, spouse, or parent. Those costs must be ongoing and expected to cause a financial hardship for the duration of the ITA.

Economic hardships include, but are not limited to:

a. The portion of medical procedure or prescription medication costs that are not covered by insurance and are ongoing and determined to be medically essential;

b. Health insurance premium payments that are not paid for by private or public sources;

c. Payments on past due or back mortgage, rent, or essential services (e.g., electric, water, natural gas, propane, and other utility arrearages) that accumulated because of involuntary unemployment or underemployment;

d. Court-ordered child support or spousal payments;

e. Ongoing payments to a nursing home, home health care provider, elder care provider, or assisted living provider; or

f. Payments toward debt that accumulated due to a natural disaster, severe illness, or disability.

Extenuating circumstances do not include normal rent, mortgage, utility, automobile, fuel, grocery, credit card, or "pay-day loan" payments.

Exceptions may be approved on a case-by-case basis for individuals whose family income exceeds the family self-sufficiency standard. Documentation explaining the extenuating circumstances must be maintained in the participant file, along with the signature approval of the local WDB Fiscal Agent and WDB Director or designee.

3. Informed Customer Choice

Training services shall be provided in a manner which maximizes consumer choice in the selection of an eligible provider of such services. Each local WDB, through the OhioMeansJobs centers, shall make available the list of eligible providers of training services and accompanying performance information. Based upon the available information, participants, with the assistance of the local area, are able to make informed customer choices.

VII. Reporting Requirements

Program participation begins when the participant is determined eligible, receives the staff-assisted basic career service, individualized career service, or training service which is funded by the adult or dislocated worker program. Pursuant to rule 5101:9-30-04 of the Administrative Code, the local board shall ensure the timely (i.e., within 30 days) and accurate reporting of WIOA participants, services, case management activities, and performance information, using the Ohio Workforce Case Management System (OWCMS).

VIII. Monitoring

At the local level, the local area must conduct oversight of the implementation of the WIOA adult and dislocated worker programs to ensure that participants are enrolled in the programs and have been provided identified services.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA youth program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.
IX. **Technical Assistance**

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

X. **References**


29 U.S.C. 3101 et seq.


USDOL, Training and Employment Guidance Letter WIOA No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Services (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers, (June 6, 2017).


I. **Purpose**

The purpose of this policy is to communicate guidance in the provision of career services to adults and dislocated workers.

III. **Effective Date**

Immediately

III. **Background**

The American Job Center Network (in Ohio, called the OhioMeansJobs delivery system) is the foundation of the workforce system. Pursuant to section 134(c)(1) of the Workforce Innovation and Opportunity Act (WIOA), funds allocated to the local area for adults and dislocated workers shall be used to establish an OhioMeansJobs delivery system, to provide career services to adults and dislocated workers, to provide training services to adults and dislocated workers, to establish and develop relationships with large and small employers and their intermediaries, and to develop, convene, or implement industry and sector partnerships.

Career and training services, tailored to the individual needs of job seekers, form the backbone of the OhioMeansJobs delivery system. While some job seekers may only need self-service or other basic career services, others will need services that are more comprehensive and tailored to their individual career needs. WIOA provides an individual receiving services in the American Job Centers (in Ohio, called the OhioMeansJobs centers) the opportunity to receive the services needed to help him or her meet his or her employment and career goals.

The WIOA Adult and Dislocated Worker programs are designed to provide services, employment, and training opportunities to those who can benefit from, and who are in need, of such services. A wide range of activities and services must be available to assist individuals in obtaining the skills and credentials necessary to secure and advance in employment.

A. **Career Services**

Career services must be made available through the OhioMeansJobs delivery system to individuals who are adults or dislocated workers. Career services are classified into three categories: basic career services, individualized career services, and follow-up services. This classification is not designed to create barriers to training, but rather identifies the importance that these three types of career services can have in helping individuals obtain employment.

Basic career services are universally accessible and must be made available to all individuals seeking employment and training services. Individualized career services are to be provided by local workforce development areas (local area) as appropriate to help individuals obtain or retain employment. Follow-up services provide the continuing link between the participant and workforce system. There is no order in which services are provided; service delivery is based on the individual needs of the participant. Therefore, an individual does not need to attempt a career service to demonstrate a failure to secure employment prior to receiving training services.

1. **Coordination with Wagner-Peyser Employment Service Program**
WIOA provides a significant opportunity for coordination across all the core programs including planning, reporting, and service delivery. In particular, labor exchange services, the primary services provided by Wagner-Peyser Employment Services staff, fall under the basic career services described below, including specific obligations in serving unemployment insurance claimants. Additionally, all of the basic career services must be made available by Employment Services staff in coordination with other OhioMeansJobs center partners. Employment Services staff may also make available the individualized career services described below. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-09, Establishment of the Workforce Delivery System, provides guidance on the role of the Unemployment Insurance Program in the OhioMeansJobs centers.

2. **Provider of Career Services**

Per section 107(d)(10)(D) of WIOA, local WDBs have the responsibility to identify eligible providers of career services for the WIOA Title I Adult and Dislocated Worker programs. Local WDBs may assign the OhioMeansJobs center operator the responsibility for delivery of career services (through contracts with the operator), or may execute agreements with service providers, or may competitively procure service providers. WIOAPL No. 16-08, Procurement of the OhioMeansJobs Center Operator and Provider of Career Services, provides further guidance.

3. **Basic Career Services**

Basic career services are available to job seekers coming to an OhioMeansJobs center seeking assistance. Generally, these services involve less staff time and involvement. These services may be provided by both the WIOA Adult and Dislocated Worker programs and the Wagner-Peyser Employment Service program.

**Basic Career Services Not Triggering Participation in WIOA**

Some basic career services are informational services and require limited to no assistance from OhioMeansJobs center staff. Job seekers engaged in self-service and informational activities do not require registration and receipt of the service does not trigger participation into the WIOA adult or dislocated worker programs or the Wagner-Peyser Employment Service program. These basic career services include the following:

a. Determination of whether the individual is eligible to receive WIOA adult, dislocated worker, or youth services, including co-enrollment among these programs;

b. Outreach, intake (including identification through the state’s Worker Profiling and Reemployment Services system of Unemployment Insurance (UI) claimants likely to exhaust benefits), and orientation to the information and other services available through the workforce delivery system;

c. Self-directed or self-service job search assistance;

d. Workforce and labor market information, which may be found on OhioMeansJobs.com. This service includes the provision of statistical information relating to local, regional, and national labor market areas, including:
   - Job vacancy listings in such labor market areas;
   - Information on job skills necessary to obtain the vacant jobs; and
   - Information relating to state and local in-demand occupations and the earnings, skill requirements, and opportunities for advancement in such occupations;

e. Provision of information on in-demand industry sectors and occupations;
f. Provision of information on nontraditional employment;
g. Provision of performance information and program cost information on the eligible providers of training services by program and type of providers;
h. Referrals to and coordination of activities with other programs and services, including programs and services within the OhioMeansJobs delivery system and, in appropriate cases, other workforce development programs;
i. Provision of information, in usable and understandable formats and languages, regarding how the local area is performing on the local performance accountability measures and any additional performance information with respect to the OhioMeansJobs delivery system in the local area;
j. Provision of information, in usable and understandable formats and languages, relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including:
   • Child care;
   • Child support;
   • Transportation available in the local area;
   • Medical or child health assistance available through the State's Medicaid program and Children's Health Insurance Program (CHIP);
   • SNAP;
   • Assistance through the earned income tax credit;
   • TANF;
   • Other supportive services; and
k. Group workshops (e.g., interviewing, job search, financial management, and resume writing).

Basic Career Services Triggering Participation in WIOA

Other basic career services require staff assistance from OhioMeansJobs center staff and receipt of these services triggers an individual to become a participant and be included in WIOA performance if the individual was provided services as part of the WIOA Adult and Dislocated Worker program. Therefore, the eligibility must be determined for the individual pursuant to WIOAPL No. 15-02, Adult and Dislocated Worker Eligibility. If these services are provided by Employment Service staff as part of the Wagner-Peyser program, WIOA eligibility does not have to be conducted and these individuals will be included in Wagner-Peyser performance.

These basic career services include the following:
a. Initial assessment of skill levels, including literacy, numeracy, and English language proficiency, as well as aptitudes and abilities (including skills gaps);
b. Supportive service needs assessment;
c. Staff-assisted job search assistance;
d. Placement assistance (includes job matching, job referrals, and job development);
e. Career counseling, including staff-assisted career guidance and provision of information on in-demand industry sectors and occupations, on nontraditional employment, and from career profiles and interest inventories;
f. Provision of information and assistance regarding filing claims for unemployment compensation, by which the OhioMeansJobs center must provide meaningful
assistance as described in WIOAPL No. 16-09 to individuals seeking assistance in filing a claim for unemployment compensation; 

g. Assistance in establishing eligibility for programs of financial aid; and 
h. Provision of job club activities.

4. Individualized Career Services

Per section 134(c)(2)(A)(xii) of WIOA, some individualized career services are available to adults and dislocated workers if determined to be appropriate in order to obtain or retain employment. Individualized career services include short-term pre-vocational services and must be provided to participants after staff determine that such services are required to retain or obtain employment. Generally, these services involve significant staff time and customization to each individual’s need. These services generally will be provided by the WIOA Adult and Dislocated Worker programs, although it may be appropriate for the Wagner-Peyser Employment Service to provide some of these services.

Receipt of WIOA individualized career services triggers participation, and the participant is included in WIOA performance if these individuals were provided services. Therefore, the eligibility must be determined for the individual pursuant to WIOAPL No. 15-02. If these services are provided by Employment Service staff as part of the Wagner-Peyser program, WIOA eligibility does not have to be conducted and these individuals will be included in Wagner-Peyser performance.

Individualized career services include:

a. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include:
   - Diagnostic testing and use of other assessment tools; and 
   - In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

b. Development of an individual employment plan (IEP) to identify all of the following:
   - Employment goals;
   - Appropriate achievement objectives;
   - Appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible training providers and career pathways to attain career objectives.

IEPs are one of the most effective ways to serve individuals with barriers to employment and to coordinate the various services, including training services they may need to overcome these barriers. Therefore, all participants who receive an individualized career service or a training service pursuant to WIOAPL No. 15-09, Training Services for Adults and Dislocated Workers, must receive an IEP. IEPs must be reviewed with the participant to ensure the IEP is effectively addressing the needs of the participant.

c. Group counseling; 
d. Individual counseling; 
e. Career planning; 
f. Short-term prevocational services to prepare individuals for unsubsidized employment or training, which include:
   - Development of learning skills; 
   - Communication skills;
Interviewing skills;
• Punctuality;
• Personal maintenance skills;
• Professional conduct.

g. Internships and work experiences (including transitional jobs) that are linked to careers;
h. Workforce preparation activities;
i. Financial literacy services;
j. Out-of-area job search assistance and relocation assistance; and
k. English language acquisition and integrated education and training programs.

5. Follow-Up Services
Appropriate follow-up services must be made available to a participant placed in unsubsidized employment for a minimum of 12 months following the participant's first date of employment. Follow-up services can be useful for participants in order to maintain employment. WIOA staff can provide workplace information and tips for success in the workplace environment and other counseling about the work place.

Additionally, follow-up services provide the continuing link between the participant and workforce system. These services allow the WIOA staff to assist with other services the participant may need once he or she obtains employment. Examples may include assistance with employer benefits, health insurance, and financial literacy and budgeting assistance.

Follow-up services do not extend the date of exit in performance reporting.

6. Registration in OhioMeansJobs.com
Per section 6301.18 of the Revised Code, each participant in the WIOA adult and dislocated worker program must create an account in OhioMeansJobs.com at the time of participation in the program.

This requirement does not apply in any of the following circumstances, where the individual:

a. Is legally prohibited from using a computer.
b. Has a physical or visual impairment that makes the individual unable to use a computer; or
c. Has a limited ability to read, write, speak, or understand a language in which OhioMeansJobs.com is available.

B. Supportive Services
Supportive services are designed to provide a participant with the resources necessary to enable their participation in career services. Supportive services may include, but are not limited to:

1. Assistance with transportation;
2. Assistance with child care and dependent care;
3. Linkages to community services;
4. Assistance with housing;
5. Needs-related payments;
6. Assistance with educational testing;
7. Reasonable accommodations for individuals with disabilities;
8. Referrals to health care;
9. Assistance with uniforms or other appropriate work attire and work-related tools;
10. Assistance with books, fees, school supplies, and other necessary items for students enrolled in post-secondary education classes;
11. Payments and fees for employment and training-related applications, tests, and certifications; and
12. Legal aid services.

Referrals to supportive services are career services that may be available to adults and dislocated workers through the workforce development system.

Supportive services may only be provided to participants who are in career or training services, to participants who are unable to obtain supportive services through other programs providing supportive services, and in a manner necessary to enable individuals to participate in career and/or training services.

C. **Use of Previous Assessments**

When determining the services needed for an individual to obtain or retain employment, the local area or OhioMeansJobs center partner shall not be required to complete a new interview, evaluation, or assessment of a participant if the local area or OhioMeansJobs center partner determines it is appropriate to use a recent (meaning within the preceding 6 months) interview, evaluation, or assessment of the participant, that was conducted by another education or training program. This may include evaluations or assessments completed by a secondary school, Vocational Rehabilitation, ABLE, Veteran program, or other education or training provider.

D. **Priority for the Adult Program**

WIOA focuses on serving individuals with barriers to employment and seeks to ensure access to quality services for these populations. Individualized career services provided with adult funds may be a pathway to self-sufficiency for low-income adults, public assistance recipients, and individuals who are basic skills deficient. Section 134(c)(3)(E) of WIOA establishes a priority requirement with respect to funds allocated to the local area for adult employment and training activities. Under WIOA, priority must be implemented regardless of the amount of funds available to provide services in the local area.

Therefore, priority for individualized career services funded by and provided through the adult program shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of those career services determined appropriate to obtain or retain employment. Individuals who are English language learners meet the criteria for basic skills deficient and must be included in the priority population.

Individuals who are underemployed as defined in this policy and meet the definition of a low-income individual may receive individualized career services under the Adult program on a priority basis. This priority does not necessarily mean that these services may only be provided to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. Individuals who are not members of the priority group may still receive individualized career services as determined appropriate.

The emphasis in WIOA is to prioritize services to those individuals who have the most barriers to employment and to provide those individuals with the opportunity to benefit from employment
and training services. As such, the State will monitor this priority by reviewing the characteristics of adults and dislocated worker participants.

E. Priority for Veterans and Eligible Spouses

Additionally, the Jobs for Veterans Act, Public Law 107-288 establishes priority of service for veterans and eligible spouses. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority of receipt of services. Priority means that veterans and eligible spouses take precedence, with all other qualifying eligibility requirements being equal, over non-veteran and eligible spouses in obtaining services and program enrollment.

Priority must be given in the following order:

1. To veterans and eligible spouses who are also included in the groups given statutory priority for WIOA Adult formula funding. This means that veterans and eligible spouses who are also recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient would receive first priority for services with WIOA Adult formula funds for individualized career services.

2. To individuals who are not veterans or eligible spouses who are included in the groups given priority for WIOA Adult formula funds.

3. To veteran and eligible spouses who are not included in WIOA’s priority groups.

4. Priority populations established by the State or local board.

5. To individuals who are outside the groups given priority under WIOA.

IV. Definitions

Affiliate OhioMeansJobs center: An access point in addition to the comprehensive OhioMeansJobs center in each local area, which makes available to job seeker and employer customers one or more of the OhioMeansJobs center partners’ programs, services, and activities.

Appropriateness: The possession of qualities that are right, needed, or suitable for career services.

Basic skills deficient: An individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Career counseling: Facilitated exploration of occupational and industry information that will lead to a first, new, or better job for the job seeker.

Career pathway: a combination of rigorous and high-quality education, training, and other services that:

1. Aligns with the skill needs of industries in the economy of the State or regional economy involved;

2. Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including registered apprenticeships;

3. Includes counseling to support an individual in achieving the individual’s education and career goals;

4. Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

5. Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable.

6. Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least 1 recognized postsecondary credential; and
7. Helps an individual enter or advance within a specific occupation or occupational cluster.

Career planning: Per 3(8) of WIOA, the provision of a client-centered approach in the delivery of services designed to:

1. Prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, using, where feasible, computer-based technologies; and
2. Provide job, education, and career counseling, as appropriate during program participation and after job placement.

Comprehensive OhioMeansJobs center: A physical location where job seeker and employer customers can access the programs, services, and activities of all required partners. A comprehensive OhioMeansJobs center must provide career services, training services, access to any employment and training activities carried out by WIOA or any of the OhioMeansJobs center partners, and workforce and labor market information.

Eligible spouse: Per United States Department of Labor, Training and Employment Guidance Letter (TEGL) No.10-09, the spouse of any of the following:

1. Any veteran who died of a service-connected disability;
2. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
   - Missing in action;
   - Captured in the line of duty by a hostile force; or
   - Forcibly detained or interned in the line of duty by a foreign government or power;
3. Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veteran Affairs; or
4. Any veteran who died while a disability was in existence. A spouse whose eligibility is derived from a living veteran or service member (i.e., categories 2 and 3 above) would lose his or her eligibility if the veteran or service member were to lose the status that is the basis for the eligibility (e.g., if a veteran with a total service-connected disability were to receive a revised disability at a lower level). Similarly, for a spouse whose eligibility is derived from a living veteran or service member, that eligibility would be lost upon divorce from the veteran or service member.

English language acquisition program: A program of instruction that:

1. Is designed to help eligible individuals who are English language learners achieve competence in reading, writing, speaking, and comprehension of the English language; and
2. Leads to:
   - Attainment of a secondary school diploma or its recognized equivalent and transition to postsecondary education and training; or
   - Employment.

Financial literacy services: Activities provided to gain an understanding of basic financial information which is necessary to become self-sufficient, and includes the following:

1. Supporting the ability of participants to create household budgets, initiate savings plans, and make informed financial decisions about education, retirement, home ownership, wealth building, or other savings goals;
2. Supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;
3. Increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, including determining their accuracy (and how to correct current inaccuracies in the reports and scores) and their effect on credit terms;

4. Supporting the ability to understand, evaluate, and compare financial products, services, and opportunities; and

5. Supporting activities that address the particular financial literacy needs of non-English speakers, including providing support through the development and distribution of multilingual financial literacy and education materials.

Follow-up services: Activities to monitor adults or dislocated workers' success during their transition to employment and further education and to provide assistance as needed for a successful transition.

Group counseling: Activity which involves two or more participants addressing certain issues, problems, or situations that may be shared by group members.

In-demand occupation: An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy as listed on the State In-Demand Occupations list or as defined by the local area per the Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts (ITA).

In-demand industry sector: An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, and local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors as listed on the State In-Demand Occupations list or as defined by the local area per the WIOAPL No. 15-11.

Individual counseling: One-on-one session that may go into greater detail for a participant regarding certain issues, problems, or situations.

Individual with a barrier to employment: Per section 3(24) of WIOA, an individual who is a:

1. Displaced homemaker;
2. Low-income individual;
3. Indian, Alaskan native, and Native Hawaiian;
4. Individual with disabilities;
5. Older individual (age 55 and older);
6. Ex-offender;
7. Homeless individual or homeless child and youth;
8. Youth who is in or has aged out of the foster care system;
9. English language learner, has low levels of literacy, and is facing substantial cultural barriers;
10. Eligible migrant and seasonal farmworker;
11. Individual within two years of exhausting lifetime temporary assistance to needy families (TANF) eligibility;
12. Single parent (including single pregnant woman);
13. Long-term unemployed individual (unemployed for 27 or more consecutive weeks); and
14. Other groups of individuals as the State determines to have barriers to employment.

Individual employment plan (IEP): An individualized career service in which a plan is jointly developed and reviewed by the participant and staff that includes an ongoing strategy to identify employment
goals, achievement objectives, and an appropriate combination of services for the participant to obtain these goals and objectives.

**Integrated education and training:** A service approach that provides adult education and literacy activities concurrently and contextually with workforce preparation activities and workforce training for a specific occupation or occupational cluster for the purpose of educational and career advancement.

**Internship:** A system of gaining on-the-job experience by placement in a work environment for a period of time with the goal to build technical and job awareness skills. Internships may be paid or unpaid.

**Job club:** A structured job search program designed to prepare individuals for a successful job search by obtaining basic job-seeking skills and individualized assistance. The program includes, at a minimum, instruction on resume writing, application preparation, interviewing skills, job lead development, development of a job search plan, and mock interviews.

**Long term unemployed individual:** A person who has been unemployed for 27 or more consecutive weeks.

**Lower living standard income level (LLSIL):** As defined in section 3 (36)(B) of WIOA, the income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Department of Labor based on the most recent lower living family budget issued by the Secretary.

**Low-income individual:** As defined in section 3(36)(A) of WIOA, an individual who:

1. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the Supplemental Nutrition Assistance Program (SNAP), TANF, or the Supplemental Security income (SSI) program, or local income-based public assistance;

2. Is in a family with total family income that does not exceed the higher of:
   a. The poverty line; or
   b. 70% of the lower living standard income level.

3. Is a homeless individual;

4. Receives or is eligible to receive a free or reduced price lunch;

5. Is a foster child on behalf of whom State or local government payments are made; or

6. Is an individual with a disability whose own income meets the income requirement of clause (2), but who is a member of a family whose income does not meet this requirement.

**Meaningful assistance:** Providing assistance on-site using staff who are well-trained in unemployment compensation claims filing and the rights and responsibilities of claimants or providing assistance by phone or other technology, as long as the assistance is provided by trained and available staff and within a reasonable time. WIOAPL No. 16-09 provides further guidance to the role of the Unemployment Insurance Program in the OhioMeansJobs centers and provision of meaningful assistance.

**Participant:** A reportable individual who received services other than self-service, after satisfying all applicable programmatic requirements for the provision of services, such as having an eligibility determination completed by local WIOA staff.

**Participation:** The point at which the individual has been determined eligible for program services and has received or is receiving a career or training service, other than basic career services and is the point at which an individual is to be included in calculations for performance measures.

**Public assistance:** As defined in section (3)(50) of WIOA, federal, state, or local government cash payments for which eligibility is determined by a needs or income test. This includes TANF, SNAP, or SSI.
Registration: The process of collecting information to support a determination of eligibility for the WIOA adult and dislocated worker programs. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application.

Reportable individual: An individual who has taken action that demonstrates an intent to use the program services and who meets specific reporting criteria of the program, including:

1. Individuals who have provided identifying information;
2. Individuals who only use the self-service system; or
3. Individuals who only receive information-only services or activities.

Self-service: When individuals independently (with little to no staff assistance) access any workforce development system program’s information and activities in either a physical location, such as an OhioMeansJobs center resource room or partner agency, or remotely via the use of electronic technologies (e.g., OhioMeansJobs.com). Self-service does not uniformly apply to all virtually accessed services (e.g., virtually accessed services that provide a level of support beyond independent job or information seeking on the part of an individual would not qualify as self-service).

Supportive services: Services that are necessary to enable an individual to participate in activities authorized under WIOA.

Transitional job: A time-limited work experience that is wage-paid and subsidized, and is in the public, private or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the local board. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment.

Underemployed individual: An individual who is one of the following:

- Employed less than full-time who is seeking full-time employment;
- Employed in a position that is inadequate with respect to their skills and training;
- Employed and meets the definition of a low-income individual; or
- Employed, but whose current wages are not sufficient compared to wages from previous employment per local policy.

Veteran: An individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable, which may include National Guard or Reserve personnel.

Work experience: A planned, structured learning activity that takes place in a workplace setting for a limited period of time (refer to WIOAPL No. 15-12, Work Experience for Adults and Dislocated Workers).

Workforce preparation activities: Activities, programs, or services designed to help an individual acquire a combination of basic academic skills, critical thinking skills, digital literacy skills, and self-management skills, including competencies in:

- Utilizing resources;
- Using information;
- Working with others;
- Understanding systems;
- Skills necessary for successful transition into and completion of postsecondary education or training, or employment; and
- Other employability skills that increase an individual’s preparation for the workforce.

V. Local Area Requirements

A. Provision of Career Services
Career services for adults and dislocated workers must be made available in at least one comprehensive OhioMeansJobs center in the local area. Services may also be available in the affiliate OhioMeansJobs centers. Local WDBs determine the most appropriate mix of these services, but both career and training services must be available for eligible adults and dislocated workers.

B. Coordinate with Wagner-Peyser Employment Services

The local WDB and the OhioMeansJobs center operator should review career services to determine if any of these services are being provided or may be provided by a required partner, including the Wagner-Peyser Employment Service program in the OhioMeansJobs center. The local WDB, OhioMeansJobs center operator, and the Wagner-Peyser Employment Service should discuss strategies to reduce duplication and to appropriately utilize resources when providing services to universal customers, specifically when basic career services are being provided.

The memorandum of understanding (MOU) should address how WIOA self-service or informational career services will be coordinated with partner programs.

C. Development of Local Policies

1. Follow-Up Services

Local WDBs must establish a policy that defines what are considered to be appropriate follow-up services, as well as policy for identifying when to provide follow-up services to adult and dislocated worker participants.

2. Supportive Services

The local WDB must develop a policy on supportive services that ensures resources and service coordination in the local area. Local WDBs may establish limits on the provision of supportive services, including a maximum amount of funding and maximum length of time for supportive services to be available to participants. Supportive services are WIOA-funded only when these services are not available through other programs and agencies and the services are necessary for the individual to participate in Adult and Dislocated Worker program activities. Therefore, the policy must also address procedures for referral to such services, including how such service will be funded when they are not otherwise available from other sources. Procedures granting exceptions to the limits may also be established.

VI. Reporting Requirements

Registration is the process for collecting information to support a determination of eligibility. Program participation begins after the registration process of collecting information to support an eligibility determination and begins when the individual receives a basic career service triggering participation, individualized career service, or training service which is funded by the WIOA Adult or Dislocated Worker program. Pursuant to rule 5101:9-30-04 of the Administrative Code, the local WDB shall ensure the timely and accurate reporting of WIOA participants, activities, and performance information by using the Ohio Workforce Case Management System (OWCMS).

VII. Monitoring

At the local level, the local area must conduct oversight of the implementation of the WIOA Adult and Dislocated Worker programs to ensure that priority populations are being served, participants are enrolled in the programs and have been provided identified services.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA Adult and Dislocated Worker programs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.
VIII. **Technical Assistance**

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. **References**

Workforce Innovation and Opportunity Act, § 134, Public Law 113-128.

USDOL, Training and Employment Guidance Letter WIOA No. 19-16, Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services provided through the Adult and Dislocated Worker Programs Under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017)


USDOL, Training and Employment Guidance Letter WIOA No. 10-16, Operating Guidance for the Workforce Innovation and Opportunity Act, Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III, and Title IV Core Programs (December 19, 2016).

USDOL, Training and Employment Guidance Letter WIOA No. 3-15, Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services, (July 1, 2015).

USDOL, Training and Employment Guidance Letter No. 10-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2009).

O.R.C. 6301.18.


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility, (July 15, 2015).

**Rescission**

ODJFS, [Workforce Innovation and Opportunity Act Policy Letter No. 15-08](#), Career Services for Adults and Dislocated Workers, (July 15, 2015).
Workforce Innovation and Opportunity Act Policy Letter No. 15-07.2

February 20, 2019

To: Workforce Innovation and Opportunity Act Local Workforce Development Boards, Fiscal Agents, CCMEP Lead Agencies, OhioMeansJobs Center Operators, and Providers of Career and Youth Services

From: Kimberly Hall, Director

Subject: Source Documentation for Workforce Innovation and Opportunity Act Title I Program Eligibility

I. **Purpose**

The purpose of this policy is to communicate the documentation requirements necessary to support eligibility determinations in the Workforce Innovation and Opportunity Act (WIOA) adult, dislocated worker, and youth programs.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

WIOA establishes general and specific program eligibility criteria. As recipients of WIOA Title I, Subtitle B funds, the ODJFS Office of Workforce Development (OWD), the local workforce development areas (local areas), and Comprehensive Case Management and Employment Program (CCMEP) lead agencies are required to maintain and report accurate program and financial information.

V. **Definitions**

**Comprehensive Case Management and Employment Program (CCMEP):** An integrated intervention program that combines Temporary Assistance for Needy Families (TANF) and the WIOA youth program to provide employment and training services to individuals ages 14 through 24 years.

**Lead agency:** The local participating agency designated by the board of county commissioners to administer CCMEP.

**Ohio Workforce Case Management System (OWCMS):** A system used by workforce professionals to gather and report WIOA and CCMEP participant and program data and information.

**Personal information and personally identifiable information (PII):** Any information describing anything about a person, indicating actions done by or to a person, or indicating a person's personal characteristics, which can be retrieved from a system by a name, identifying number, symbol, or other identifier assigned to a person. This information can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

**Registration:** The process of collecting information to support a determination of eligibility for the WIOA adult, dislocated worker, and youth programs. This information may be collected through methods, including electronic data transfer, personal interview, or an individual's application.

**Workforce service providers (WSPs):** Local areas, career services providers, youth program providers, and CCMEP lead agencies that carry out a workforce development activity or program.
VI. Workforce Service Provider Requirements

Workforce service providers (WSPs) Local areas, career services providers, youth program providers, and CCMEP lead agencies must verify or confirm eligibility requirements through an examination of documents or by using one or more of the additional methods of source documentation described below.

Documentation requirements to support WIOA adult and dislocated worker eligibility are tied to the level of services provided to the participant. For adults and dislocated workers receiving only basic career services which do not trigger participation in the WIOA program, the local area may accept information provided by these reportable individuals at face value to complete the basic intake process without requiring source documentation.

Documentation requirements increase for participants who receive basic career services triggering participation, individualized career services, or training services. Definitions and examples of basic career services and individualized career services are contained in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-08.1, Career Services for Adults and Dislocated Workers.

CCMEP WIOA youth program eligibility documentation does not vary between types of services or program elements received.

Attachment A provides guidance for the specific types of source documents that may be used to verify participant eligibility at each level of service.

A. Electronic Files

Eligibility documentation may be stored electronically. However, the documentation requirements remain unchanged. If WSPs use electronic files, the documents must be available to the program and fiscal monitors and auditors for monitoring purposes.

The Ohio Workforce Case Management System (OWCMS) is the system of record for all WIOA workforce activities. Per rule 5101:9-30-04 of the Administrative Code, local areas must use OWCMS to accurately report the following:
1. WIOA participant information, including eligibility criteria and barriers to employment;
2. Services provided to the participant;
3. Case management activities, including case notes; and

Information must be placed into OWCMS within 30 days of obtaining the information. No other system of case management shall be maintained.

B. Electronic Signatures

WSPs may have an electronic WIOA adult and dislocated worker programs eligibility form. In these instances, the electronic form must capture the electronic signatures of the applicants.

For the CCMEP WIOA youth program, WSPs must use the JFS 03002, WIOA Youth Program Eligibility Application. This form must be used to determine eligibility for all WIOA youth program participants per rule 5101:14-1-02 of the Administrative Code. WSPs making this form electronic must capture all required electronic signatures.

C. Additional methods of Source Documentation

For documentation of eligibility for WIOA adult, dislocated worker, and youth programs, there are multiple forms of acceptable source documentation. In most instances, one of the source documents listed in Attachment A, Allowable Source Documentation for WIOA Program Eligibility, should be used to verify the eligibility of a participant. Below are additional methods
that WSPs may use if, per Attachment A of this policy letter, the method is permissible for the eligibility criteria or data element being verified.

1. **Telephone or Electronic Communication**

   In instances where telephone or electronic communication is acceptable and used, the case file must contain the name of the agency representative, the date of the conversation, and the result of the eligibility verification.

   WSPs must use the JFS 13188, WIOA Telephone Eligibility Verification, to document telephone communication. If a telephone communication is used to verify dislocation, the case file must contain the date and reason for termination, and a possible recall date if applicable.

2. **Self-Attestation**

   Self-Attestation occurs when a participant states his or her status for an eligibility criterion or set of eligibility criteria, and then signs and dates a form acknowledging this status. The key elements for self-attestation are:

   a. The participant identifying his or her status for permitted eligibility criteria; and
   b. Signing and dating the form attesting to this self-identification.

   WSPs must use the JFS 13186, Self-Attestation, or the JFS 13187, Citizenship Status/Authorization to Work Self-Attestation.

   Local areas may add the JFS 13186 to a local area WIOA Adult and Dislocated Worker eligibility determination form if all the components of the form, including language, remain intact. The self-attestation is not a blanket verification for all eligibility components as noted in Attachment A. Within this self-attestation, the individual must document which specific elements of eligibility he or she is attesting (e.g., authorization to work, proof of termination or layoff, etc.) and how he or she meets the eligibility criteria.

   WSPs must be cognizant that not all eligibility source documentation may be verified with self-attestation. Therefore, self-attestation does not alleviate or replace the need to collect documentation of some eligibility elements from the individual.

3. **Case Notes**

   Case notes refer to statements placed in OWCMS by the case manager and identify, at a minimum, the following:

   a. A participant's status for a specific eligibility criterion or set of eligibility criteria;
   b. The date on which the information was obtained; and
   c. The case manager who obtained the information.

4. **Cross-Match**

   A cross-match requires the WSP staff to acquire detailed supporting evidence for the eligibility criteria in another database (e.g., public assistance records). An indicator or presence of a social security number in a database alone is not sufficient evidence to document WIOA eligibility; additional details such as the date of the eligibility determination, date of participation, and services rendered should be obtained from the cross-match to confirm the accuracy and currency of the information.

5. **State Management Information System (MIS)**

   State MIS refers to specific, detailed information that is stored in OWCMS and supports eligibility criteria. An indicator such as a checkmark or date on a computer screen is not acceptable source documentation.
D. Handling and Protecting Personally Identifiable Information (PII)

1. Identifying information collected about adult, dislocated worker, and youth workforce program participants is not considered a public record, should only be used for workforce program administrative purposes, and should not be disclosed to the general public or to unauthorized individuals. Identifying information includes, but is not limited to, names, home and email addresses, phone numbers, social security numbers, dates of birth, and other identifying information collected or maintained about individual job-seekers, those seeking education or training, and those seeking assistance in overcoming their barriers to employment.

2. Moreover, certain types of personally identifiable information (PII) about workforce participants are more sensitive and confidential than others, because the disclosure of such information could result in financial or other harm to the individual whose name or identity is linked to that information. Such information requires a higher level of security — including staff training — to prevent unauthorized access, use and disclosure. Examples of the types of PII that are more sensitive, and therefore subject to a higher level of security, include, but are not limited to, social security numbers (SSN), state and federal tax identification numbers, driver’s license numbers, state identification numbers, credit and debit card numbers, bank and financial account numbers, student educational records (including transcripts, and information about current or prior enrollment, course progress, or graduation), medical history and information about an individual’s current or prior physical or mental status, financial information, and information identifying the individual as an applicant for or recipient of unemployment compensation benefits, or food or cash assistance.

3. Any WSP staff who work directly with job-seekers and other workforce program participants, or who handle or process PII about workforce participants, must take steps to ensure that PII is processed in a manner that will protect the confidentiality of the records/documents, and that PII is not accessed, viewed, or used by either the general public, or unauthorized staff at OMJ Center partner organizations.

4. Federal law, OMB Guidance, and United States Department of Labor (USDOL) policies require that PII and other sensitive information be protected. To ensure that PII and sensitive information is handled appropriately, WSPs must:
   a. Ensure PII is not transmitted to unauthorized users and all PII transmitted through e-mail or stored electronically (e.g., DVD or thumb drive) is encrypted.
   b. Take necessary steps to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure.
   c. Ensure that any PII used as part of the WIOA grant has been obtained in conformity with applicable Federal and state laws governing confidentiality of information. PII shall not be stored on personally owned equipment, at off-site locations (e.g., employee’s home), and on personal e-mail accounts.
   d. Ensure that all PII obtained through the WIOA grant is stored in an area that is physically safe from access by unauthorized persons at all times.
   e. Store PII only on secure work servers and equipment that are approved by ODJFS or the local board. Storing PII on personally owned equipment, at off-site locations (e.g., employee’s home), and on personal e-mail accounts is prohibited.
   f. Advise all local area and/or provider staff who have access to sensitive/confidential/proprietary/private data of the confidential nature of the
information, the safeguards required to protect the information, and the civil and
criminal sanctions for noncompliance with such safeguards.

g. Implement policies and procedures regarding the handling of PII, including staff
acknowledgement of their understanding of the confidential nature of the data and
the safeguards with which they must comply in their handling of such data.

E. Outlined below are requirements to protect PII:

1. Before obtaining a participant’s SSN, the WSP should have the participant sign a release
acknowledging the use of social security numbers for eligibility determination and federal
grant purposes only.

2. WSPs should use unique identifiers for participant tracking instead of the SSN. If SSNs
are to be used for tracking purposes, they must be stored or displayed in a way that is not
attributable to an individual, such as using a truncated or masked SSN (e.g., last 4 digits
only).

3. WSPs using an electronic system in addition to OWCMS for basic career services
tracking or other registration processes must truncate or mask an individual's SSN in
such systems.

4. WSPs using paper applications containing SSNs must, at a minimum, enter the basic
intake information and the SSN in OWCMS the day the information is received and
destroy the paper application if feasible. If all eligibility information is not placed in
OWCMS that day, staff must mask the SSN on the paper application and store in a
secure manner.

5. Documentation of SSNs (e.g., physical copy of social security card) shall not be obtained
until such time WIOA eligibility is determined, the individual receives a WIOA adult,
dislocated worker, or WIOA CCMEP youth program service which triggers participation in
the program, and the individual becomes a participant.

6. When an individual becomes a participant, the WSP must attempt to obtain and verify the
SSN for performance reporting purposes but shall not deny access to the American Job
Center’s (in Ohio, called OhioMeansJobs center) resource room or to WIOA program
services if the individual does not disclose his or her SSN. If the individual refuses to
provide an SSN, the local area will assign a temporary alternative identifying number.
The individual will use this number for identification during subsequent visits to the
OhioMeansJobs center or for program-funded activity tracking.

7. WSPs should keep SSNs electronically in OWCMS minimizing the use of paper files. If
paper files are used or if the participant’s SSN is listed on other forms of source
documentation listed in Attachment A, the WSP must ensure that the SSN on the paper
document has been masked.

8. WSPs must use appropriate methods for destroying sensitive PII in paper files and
securely deleting sensitive electronic PII.

9. WSP staff at the OhioMeansJobs center or other service delivery location shall not leave
records containing PII open and unattended.

10. WSPs shall store documents containing PII in locked cabinets when not in use.

11. Local workforce development board directors shall report within 24 hours any breach or
suspected breach of PII by the area or its subrecipient to the Deputy Director at OWD,
ODJFS and to Ohio’s assigned Federal Project Officer at the Department of Labor (DOL),
Region 5, and follow any instructions provided by ODJFS or DOL.

F. Retention of Records
VII. Monitoring

At the local level, the local area must conduct oversight of the implementation of the WIOA adult, dislocated worker, and youth programs to ensure that participants are eligible for enrolled programs and documentation supporting the eligibility are contained in the case files. The procedures for protecting PII must also be monitored by the local area.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA adult, dislocated worker, and youth programs, including a participant file review during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VIII. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References


29 U.S.C. 3101 et seq.


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers, (June 6, 2017).

Attachment A, Allowable Source Documentation for WIOA Program Eligibility

Attachment B, Allowable Source Documentation for WIOA Performance Measures

JFS 13188, WIOA Telephone Eligibility Verification

JFS 13186, Self-Attestation

JFS 13187, Citizenship Status/Authorization to Work Self-Attestation
I. **Purpose**

The purpose of this policy is to outline the process for determining if an applicant or member of a family is dependent on, or independent of, his/her parents(s) or guardian(s).

II. **Effective Date**

July 1, 2015

III. **Background**

This policy is intended to help avoid uncertainty and/or inconsistency in making eligibility decisions regarding family size and the inclusion of income when relevant for all appropriate members of the applicant's family. The support provided by parents or guardians must be carefully considered when determining eligibility for WIOA adult and youth program services. The definition of dependent is being expanded to include young adults, ages 18-24, as well as youth applicants and participants.

IV. **Definitions**

**Dependent**: an applicant who falls in any one of the following categories:
- Under 18 years of age, living with parents or guardians, and is receiving support from them; or
- Age 18-24 and parent(s) or guardian(s) pay(s) for more than 50% of the applicant's support.

**Independent**: an applicant who falls into any one of the categories below:
- Under 18 years of age, not living with parents or guardians, and is not receiving any support from them;
- Individuals, age 18-24, providing more than 50% of their own support;
- Age 25 or older;
- Married (including separated, but not divorced);
- Has children that receive more than half of their support from the applicant;
- Has dependents other than a spouse or children who live with the applicant and receive more than half of their support from the applicant;
- Lives in own residence or in a residence without financial or other support from parents or guardians;
- Is on active duty in the U.S. armed forces for purposes other than training; or
- A veteran of the U.S. armed forces.

**Support**: as it relates to dependent, financial assistance from parents or guardians to help pay for food, clothing, shelter, utilities, education, medical and dental care, recreation, transportation, and any other living expenses; as well as government-provided cash public assistance and food assistance.

V. **Requirements**

**WIOA Youth Program**

Dependent status must be documented for all WIOA eligible youth applicants, ages 14-24, as defined in section 129 (a)(1), (2), and (3) of the WIOA. Verification of dependent status and means of support must be documented for each youth program participant by completion of checklist that incorporates,
at a minimum, the categories listed in Attachment A. Self-attestation may be accepted to document parental support pursuant to self-attestation procedures outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-07, Source Documentation for WIOA Eligibility.

An individual under 18 years of age is always considered to be a dependent child, unless the youth is not living with parents or guardians and is not receiving any support from them.

The issue of guardianship concerning dependent children is determined either by decree of court or by a state or federal agency that has established or assumed guardianship.

Determination of dependent status is particularly important for WIOA youth, ages 18-24, who are applying for WIOA youth-funded individual training accounts (ITAs) as not all out-of-school youth enrolled in the youth program are low income individuals.

WIOA Adult Program

Dependent status must be documented for all WIOA adults, ages 18-24, who are applying for WIOA adult-funded individual training accounts (ITAs). The determination of dependent status is driven by the following factors:

- The amount of support provided by the applicant by his or her parent(s) or guardian(s); and
- The applicant's age;
- The applicant's marital status;
- The applicant's dependents (biological/adopted children, disabled adults, and others dependent on the applicant for more than 50% of the applicant's support; and
- Veteran status.

Verification of dependent status and means of support must be documented for each WIOA adult participant, ages 18-24, who is applying for an ITA. This is done by completion of checklist that incorporates, at a minimum, the categories listed in Attachment A of WIOAPL No. 15-07. The JFS 13186, Self-Attestation, may be accepted to document parental support when signed by a parent or guardian.

VI. Monitoring

Through the state's monitoring system, program monitors will review the area's application of dependent status for the youth program and 18-24 year old participants applying for WIOA adult-funded ITA, including conducting a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

VII. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, Public Law 113-128
29 U.S.C. 3101 et seq.


Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-05

July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Serving Applicants with a Close Relationship to the Workforce Innovation and Opportunity Act Program

I. Purpose

The purpose of this policy is to outline requirements and procedures that ensure all individuals enrolled in the Workforce Innovation and Opportunity Act (WIOA) program have been determined eligible, assessed, and served in an ethical manner that is free from any real or perceived conflict of interest.

II. Effective Date

July 1, 2015

III. Background

The WIOA program, while not an entitlement, should be accessible to any individual who is eligible and suitable for services available in the local area, subject to local workforce development board (WDB) policies and procedures. However, when applicants have a close relationship to the WIOA staff, management, and other specific stakeholders of the workforce development system, attention must be given to ensure access to program services is not based upon this relationship or political influence. It is possible that even without an intention to misuse WIOA funds, the decision to enroll an individual in the program could be perceived as improper and cause potential non-compliance with state and/or federal law.

All subrecipients of WIOA funds agree, through rule 5101:9-31-01 of the Administrative Code (entitled, "General requirements for use and expenditures of WIOA funds for local areas"), that they will comply with the standards of conduct for maintaining the integrity of the program and avoid any conflict of interest in its administration including, but not limited to, 29 U.S.C. 2832 (g), chapter 6301 of the Revised Code, and Ohio ethics law.

Local elected officials, WDBs, designated fiscal agents, and administrative entities must help meet the objectives of the WIOA through effective policies, procedures, and safeguards that ensure the integrity of these public funds. Safeguards must be in place throughout the State that ensure all individuals served in the program are not only eligible and suitable, but also served in a manner that is free from the perception of any impropriety or conflict of interest.

IV. Definitions

Bright-line test: an objective rule that resolves a legal issue in a straightforward, predictable manner.

Close relationship: the applicant's prior and/or present social interactions and/or business dealings with stakeholders of the workforce development system gives a reasonable observer cause to believe that the applicant's access to WIOA program services would be based upon this relationship, as opposed to demonstrated need.

Close family member: parents, step parents, spouse, domestic partner, children, step-children, foster children, siblings, grandchildren, grandparents, and any immediate relatives by blood or marriage (i.e., in-laws, cousins, nieces, nephews, aunts, and uncles).
Stakeholders: individuals not related but have direct or indirect management or responsibility for managing the WIOA workforce system (including WIOA executive staff, supervisors, local elected officials, contractors (e.g., adult, dislocated worker, or youth program vendors), WDB and subcommittee members, WIOA employees, and OhioMeansJobs center partner staff.

V. Requirements

When applicants have a close relationship to WIOA staff, management, and other specific stakeholders of the workforce development system, attention must be given to ensure access to program services is not based upon this relationship or political influence. Although this determination may be simple if the applicant is a close family member or friend, it may be more difficult if the applicant has a close relationship with WIOA staff, management, and other stakeholders.

There is no bright-line test for the determination of such a relationship. WIOA staff, management, and other workforce development systems are advised to avoid the appearance of impropriety by abstaining from directly assisting and/or influencing the application process of friends, close family members, former and/or present colleagues, and persons with whom they have an ongoing social or business relationship.

An "arms-length determination" of eligibility must be conducted by a staff member that has no relationship with the individual. Likewise, decisions relating to approving training, supportive services, job referrals, or other service needs must be made by the WDB director or an authorized designee with no such relationship to the applicant. Stakeholders identified in this issuance shall not use their position to influence a decision to enroll an individual in the WIOA program.

WDB Policy Requirements

All local WDBs must establish policies and procedures for determining eligibility and service needs of close family members, friends, and others with whom there is a close relationship. The local policy and procedures must include, at a minimum, the following requirements:

1. A process for immediate disclosure and documentation of the relationship (e.g., close family members, friends, and others with close relationships) between the applicant and any of the following stakeholders of the workforce development system:
   a. Local elected officials;
   b. WDB members;
   c. WDB subcommittee members;
   d. WIOA executive staff and supervisors;
   e. WIOA employees;
   f. OhioMeansJobs center partner staff;
   g. WIOA sub-recipients and/or contractors; and
   h. County employees.

   All individuals applying for services in the WIOA program are required to indicate whether or not a relationship exists that is covered by this policy. If not incorporated in the intake process, the local WDBs shall develop a disclosure form for this purpose. Documentation of the disclosure, including the name of the person and the nature of the relationship, must be maintained in the participant's file. When a relationship exists, it must be disclosed at the time of application to the program.

2. A description of the internal process that will ensure that a transparent and arms-length assessment of the applicant's eligibility and development of the individual employment plan or individual service strategy has been conducted by staff with no personal or business relationship, bias, special interest, or prejudice.
Local WDBs are encouraged to develop agreements or memorandums of understanding with other Ohio WDBs to accept referrals for eligibility determination and assessment of appropriateness to receive services when the referring WDB’s applicant is one of the following or a family member or friend of one the following:

- Local elected official;
- WDB or Subcommittee member; and
- WIOA executive staff or supervisor.

By having another Ohio WDB conduct eligibility and appropriateness for service determinations and/or assessments, the local WDB could avoid situations that give rise to a suggestion that any decision was influenced by these parties.

3. Describe the approval process for authorizing an individual subject to this policy to be served in the local WIOA program, including how training and supportive service decisions are made.

Either the WDB Director or his/her authorized designee is required to sign off on approval and enrollment of subsequent services.

4. Describe how individuals subject to this policy will be tracked by the local WDB.

Local areas must provide a list of all participants who have disclosed that a close relationship to WIOA staff, management, or other specific stakeholders of the workforce development system exists to ODJFS program monitors and auditors at the onset of all monitoring visits.

5. Describe the process and frequency by which the local WDB will monitor compliance with the local policy.

Local WDBs are required to provide training on the local WDB approved policy to person directly involved with assessment and determining eligibility of participants. WBDs must also ensure that all new staff members and providers are informed of this policy.

Real or perceived violations of this policy shall result in referral, including but not limited to the Ohio Ethics Commission or prosecuting authority for investigation.

VI. Monitoring

Through the state’s monitoring system, program monitors will review the area’s documentation of disclosing whether or not a relationship exists that is covered by this policy as well as the required list of all participants who have disclosed that a close relationship exists during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VII. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, Public Law 113-128
29 U.S.C. 3101 et seq.
Ohio Rev. Code 102
Ohio Admin Code 5101:9-31-01
Rescission

WIOAPL 15-04 (Selective Service Registration)

Workforce Innovation and Opportunity Act Policy Letter No. 15-04

July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Selective Service Registration

I. Purpose

The purpose of this policy is to outline the requirements for Selective Service System (hereafter "Selective Service") registration as mandated by the Workforce Innovation and Opportunity Act (WIOA) and the Military Selective Service Act (MSSA) for:

- Male participants born on or after January 1, 1960, ages 18 through 25 years old; and
- Male participants born on or after January 1, 1960, ages 26 and over who have not registered; and
- Male participants born on or after January 1, 1960 who are exempt from registering with Selective Service.

This policy applies to enrollment in the youth, adult, and dislocated worker programs.

II. Effective Date

July 1, 2015

III. Background

Section 189 (h) of the WIOA requires all participants receiving assistance or benefit under WIOA to comply with Selective Service registration requirements under the MSSA. Section 3(a) of the MSSA requires male citizens of the United States who are born on or after January 1, 1960 and who are ages 18 through 25 years of age, to register for Selective Service at www.sss.gov.

IV. Requirements

The Military Selective Service Act (MSSA) requires every male U.S. citizen and non-citizen national, and non-immigrant males not in compliance with their legal status in the country who are ages 18 through 25 years of age to register with the Selective Service. The WIOA requires that males must register with Selective Service to participate in services and activities funded by the WIOA.

A. Exemptions to Selective Service Registration

1. Cadets and Midshipmen at Service Academies.
2. Confined, incarcerated, or hospitalized or institutionalized for medical reasons. However, they must register within 30 days after being released if they have not yet reached their 26th birthday.
3. Continually confined to a residence, hospital, or institution.
4. Females: While women officers and enlisted personnel serve with distinction in the U.S. Armed Forces, women have never been subject to Selective Service registration or a military draft in America.
5. Lawful non-immigrants on visas (i.e., diplomatic personnel, foreign students, tourists with expired forms). However, a non-immigrant who failed to maintain legal status for more than 30 days is required to register. A non-immigrant student who failed to maintain full-time student status is also required to register.
6. Military-related: Members of the Armed Forces on active duty.
7. Non-Citizen male: If he enters the U.S. as a permanent resident after he has already passed his 26th birthday, he is not required to register because he is over the age limit.
9. Students in Officer Procurement Programs at military institutions.

Special Categories

1. Disabled men, or men with medical conditions: Neither the Military Selective Service Act nor the Presidential proclamation provide an exemption from registration because of a man's mental or physical condition unless Selective Service is provided with documented evidence that the man is hospitalized or institutionalized; or home-bound and unable to function outside the home, with or without assistance; or is in such a physical or mental condition that he would not comprehend the nature of his registration with the Selective Service System. A determination is then made by the Selective Service as to whether or not the man qualifies for exemption from registration.

2. Individuals who have had a sex change: Individuals who are born female and have a sex change are not required to register. U.S. citizens or immigrants who are born male and have a sex change are still required to register. In the event of a resumption of the draft, males who have had a sex change can file a claim for an exemption from military service if they receive an order to report for examination or induction.

3. Only sons: Sole surviving sons must register and they can be drafted. However, they may be entitled to peacetime deferment if there is a military death in the immediate family.

An individual may obtain a Status Information Letter from Selective Service if he:

- Believes that he was not required to register; or
- Did register but cannot provide any documentation of the registration.

The Request for Status Information Letter form can be accessed at http://www.sss.gov/PDFs/infoform.pdf and the instructions can be accessed at http://www.sss.gov/PDFs/instructions.pdf. The individual will need to describe, in detail, the circumstances that prevented him from registering and provide the documentation of such circumstances. The documentation should be specific as to the dates of the circumstances.

If the Status Information Letter indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in WIOA services. If the Status Information Letter indicates that the individual was required to and did not register, he is presumed to be disqualified from participation in WIOA services until it can be determined that his failure to register was not knowing and willful.

It should be noted that the request for a Status Information Letter from Selective Service is not required. The local area may initiate its process to determine if the failure to register was knowing and willful without first having the applicant request the Status Information Letter.

B. Determining Eligibility for Customers who Failed to Register

Males ages 18 through 25

An individual who is of age (i.e., ages 18 through 25) but not registered with Selective Service must be directed to register at www.sss.gov prior to enrollment in the WIOA.

Males ages 26 and older

In 1986, the Military Selective Service Act was amended by Public Law 99-661, 1366, to require that military registration status must be examined and confirmed as follows:
"A person may not be denied the right, privilege, or benefit under federal law by reason of failure to present himself for and submit to registration under section 453 of the MSSA if:

1. The requirement to register has terminated or become inapplicable to the person, and
2. The person shows by preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register."

Males age 26 and older, born on or after January 1, 1960, who have not registered with Selective Service, are considered "ineligible" to participate in WIOA services.

If the individual was required to but failed to register with the Selective Service as determined by the Status Information Letter or by his own acknowledgement, the individual may only receive services if he can establish by a preponderance of the evidence that the failure to register was not knowing or willful. The WIOA staff is responsible for evaluating the evidence presented by the individual and determining whether the failure to register was a knowing and willful per the local area's procedures.

**Note:** Former Illegal Aliens – Male aliens 26 years or older who entered the U.S. illegally and who were subsequently granted legal status by the INS (IRCA-legalized aliens) or who were born after December 31, 1959, can be registered in WIOA. It is important to remember that WIOA prohibits participation of an alien without legal status from INS, even if there is a determination that there is evidence to show the customer did not knowingly and willfully fail to register with Selective Service.

C. Local Workforce Development Area Procedures

Local areas must have written procedures in place to document compliance with the Selective Service registration requirement, documentation showing an applicant was not required to register, and to establish the process and criteria for documentation establishing that the failure to register was not knowing and willful.

Documentation presented to demonstrate that the lack of registration was not knowing and willful may include the individual's written explanation and supporting evidence of his circumstances at the time of the required registration and the reasons for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case.

In order to establish consistency regarding the implementation of the requirement, the local area should consider the following questions when determining whether or not a failure to register is knowing and willful.

**Knowing**

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him?
- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?

**Willful**

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decide not to register?
- What actions, if any, did the individual take when he learned of the requirements to register?
If, after evaluating the evidence provided by the applicant, the local area staff determines that the failure to register was not knowing and willful, and he is otherwise eligible for WIOA, services may be granted.

However, if the determination is that the individual's failure to register was knowing and willful, WIOA services will be denied. Individuals denied services should be advised of the available grievance procedures under WIOA. Decisions by the local area regarding selective service registration determinations are subject to the WIOA grievance and appeal procedures.

D. **How to Register for Selective Service**

**Register Online**

Of-age males may register online with Selective Service: [www.sss.gov](http://www.sss.gov).

**At the Post Office**

Selective Service "mail-back" registration forms are available at any U.S. Post Office. Of-age males can complete the form and mail it to Selective Service, while those living overseas may register at any U.S. Embassy or consular office.

**Check Box**

Males ages 18 through 26 can register when completing the Federal Student Financial Aid (FAFSA) form. By checking box #22 of the FAFSA form, the Department of Education will furnish the registration information to Selective Service.

**High School**

Males attending high school should consult with their guidance counselor regarding the identification of the assigned Selective Service registrar.

V. **Documentation**

Local areas need to maintain accurate documentation in circumstances where either the individual is too old to register or meets any of the allowable exceptions to the Selective Service registration requirement. Such documentation must be maintained in the participant file following source documentation requirements outlined in WIOAPL No. 15-07, *Source Documentation for WIOA Eligibility*.

The Selective Service number is required to be reported, as appropriate, in the Ohio Workforce Case Management System (OWCMS).

VI. **Monitoring**

Through the state’s monitoring system, program monitors will review selective service documentation, including conducting a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VII. **Technical Assistance**

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VIII. **References**

Workforce Innovation and Opportunity Act, Public Law 113-128
29 U.S.C. 3101 et seq.

USDOL, Training and Employment Guidance Letter No. 11-11, Change 2, Selective Service Registration Requirements for Employment and Training Administration Funded Programs, (May 16, 2012).


**Rescission**

ODJFS, [Workforce Investment Act Policy Letter No. 10-10](#), Selective Service Registration, (September 15, 2011).
WIOAPL 15-03.1 (WIOA Youth Program Eligibility)

Workforce Innovation and Opportunity Act Policy Letter No. 15-03.1

September 4, 2018

To: Workforce Innovation and Opportunity Act Local Workforce Development Boards, Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: WIOA Youth Program Eligibility

I. **Purpose**

To communicate requirements and guidance for determining Workforce Innovation and Opportunity Act (WIOA) youth program eligibility.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

Title I of WIOA outlines an integrated service delivery system and provides a framework through which states and local workforce development areas (local areas) can leverage other federal, state, local, and philanthropic resources to support in-school and out-of-school youth. The WIOA youth program is designed to provide services, employment, and training opportunities to those who can benefit from and who need such opportunities. Meeting the eligibility criteria for a WIOA-funded program does not entitle an individual to receive program elements and services. All elements must be made available to the eligible youth population, whether funded by WIOA or other resources, but the local decision on whether to provide a specific service to a youth participant must be based upon the individual’s needs, appropriateness for the service, and funding availability.

The implementation of the Comprehensive Case Management and Employment Program (CCMEP) in Ohio transformed the network of human services and workforce programs by integrating youth programs funded by Temporary Assistance for Needy Families (TANF) and WIOA into one program in local areas that opt to participate. The braiding of WIOA and TANF dollars and co-funding of services when feasible leverages federal dollars to provide integrated wrap-around services that address the various needs of participants who are eligible for these separate funding sources.

Each local workforce development board (WDB) is responsible for establishing the WIOA youth program within the overall strategy of the workforce development system. Per section 5116.20 of the Revised Code, the local WDB is required to decide whether to authorize the use of WIOA youth funds allocated to the local area for CCMEP implementation. The local WDB’s decision applies to all counties contained within the local area governed by the board. By authorizing the WIOA funds to be used for CCMEP, the local WDB agrees to adhere to all provisions of CCMEP, including the implementing legislation, procedure letters, and other guidance pertaining to the delivery of services.

Per section 5116.21 of the Revised Code, if the local WDB does not authorize the use of WIOA youth funds for CCMEP, the local area will administer a WIOA-only youth program and forgo access to the additional TANF funds dedicated to CCMEP. In this case, the local area will adhere to the eligibility requirements contained in this policy.

V. **Definitions**
Alternative secondary school services: Services provided to youth who have struggled in traditional secondary education to help them re-engage and persist in education to complete a high school diploma or recognized equivalent, including basic education skills training, individualized academic instruction, and English as a Second Language training.

Attending school: An individual who is enrolled in and/or attending secondary or postsecondary school, including alternative secondary school services.

Basic skills deficient: A youth who has English reading, writing, or computing skills at or below the eighth grade level, based on a generally accepted standardized test, or who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Charter school: Public, nonprofit, nonsectarian, tuition-free schools operating independently of a school district, but under contract with a Sponsor that has been approved by the Ohio Department of Education (ODE).

Comprehensive Case Management and Employment Program (CCMEP): An integrated intervention program that combines Temporary Assistance for Needy Families (TANF) and the WIOA youth program to provide employment and training services to individuals ages 14 through 24 years.

Covered individual: An eligible WIOA youth who is:

1. An in-school youth, or
2. An out-of-school youth who is low income and meets one of the following criteria:
   a. Has a secondary school diploma or its recognized equivalent and is basic skills deficient or an English language learner; or
   b. Requires additional assistance to enter or complete an educational program or to secure or hold employment.

English language learner: An individual who has limited ability in reading, writing, speaking, or comprehending the English language, and whose native language is a language other than English or who lives in a family or community environment where a language other than English is the dominant language.

Family: Per 20 C.F.R. 675.300, two or more persons related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

1. A married couple and dependent children;
2. A parent or guardian and dependent children; or
3. A married couple.

Homeless child or youth (as defined in 42 U.S.C. 11434a(2)): An individual who lacks a fixed, regular, and adequate nighttime residence and includes the following:

1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children (as such term is defined in 20 U.S.C. 6399) who qualify as homeless for the purposes of this part because the children are living in one of the previously mentioned circumstances.

**Homeless individual** (as defined in section 41403(6) of the Violence Against Women Act of 1994 (34 U.S.C. 12473(6))): An individual who lacks a fixed, regular, and adequate nighttime residence and includes:

1. An individual who:
   a. Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
   b. Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
   c. Is living in an emergency or transitional shelter;
   d. Is abandoned in a hospital; or
   e. Is awaiting foster care placement.

2. An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

3. Migratory children who qualify as homeless because the children are living in circumstances listed above.

**Individual with a disability**: An individual who:

1. Has a physical or mental impairment that substantially limits one or more major life activities of such individual;

2. Has a record of such an impairment; or

3. Is regarded as having such an impairment.

**Low income individual** (as defined in 29 U.S.C. 3102(36)(A)): An individual who:

1. Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or supplemental security income (SSI), or State or local income-based public assistance;

2. Is in a family with total family income that does not exceed the higher of –
   a. The poverty line; or
   b. 70 percent of the lower living standard income level.

3. Is a homeless individual or homeless child or youth;

4. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), (does not include students in school districts participating in the Community Eligibility Provision (CEP) Healthy, Hunger-Free Kids Act of 2010);

5. Is a foster child on behalf of whom the State or local government payments are made; or

6. Is an individual with a disability whose own income meets the eligibility income requirement of clause (2) but who is a member of a family whose income does not meet this requirement.

**Offender**: An adult or juvenile who:
1. Is or has been subject to any stage of the criminal justice process and for whom services under WIOA may be beneficial; or
2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

**Participation:** The point at which the individual has been determined eligible for youth program services, has received an assessment, and has received or is receiving at least one program element and the point at which the individual is to be included in calculations for performance measures.

**Postsecondary school:** Any schooling that follows graduation from high school or completion of high school equivalency, including community colleges, four-year colleges and universities, and technical and trade schools.

**School dropout:** As defined in section 3(54) of WIOA, an individual who is no longer attending any school and has not received a secondary school diploma or its recognized equivalent.

**School year calendar quarter:** The timeframe identified as an academic quarter by the local school district or charter school that a youth last attended, or the calendar quarter if not defined by the district or school.

**Secondary School:** A school operated by a board of education, a community school established under Chapter 3314 of the Revised Code, or a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code that provides secondary education as determined under State law, except that the term does not include any education beyond grade 12.

### VI. Requirements

Local areas implementing WIOA Youth program services must ensure that participant eligibility for such services and participant school status are accurately determined based on the following requirements. Each eligibility factor must be verified in accordance with the policy on source documentation for WIOA programs.

#### A. In-School Youth (ISY) Eligibility Requirements

An individual is eligible as an in-school youth if, at the time of enrollment, he or she is:

1. Attending school, including secondary and postsecondary school;
2. Not younger than age 14 or older than age 21 (unless an individual with a disability who is attending secondary school under state law);
3. A low-income individual; and
4. Has one or more of the following barriers:
   a. Basic skills deficient;
   b. An English language learner;
   c. An offender;
   d. A homeless individual, homeless child or youth, or a runaway;
   e. An individual in foster care or has aged out of the foster care system or has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under the John H. Chafee Foster Care Independence Program, or in an out-of-home placement;
   f. An individual who is pregnant or parenting (which may include a mother or father, custodial or non-custodial);
   g. An individual with a disability; or
h. An individual who requires additional assistance to complete an education program or to secure or hold employment.

B. Out-of-School Youth (OSY) Eligibility Requirements

An individual is eligible as an out-of-school youth if, at the time of enrollment, he or she is:

1. Not attending any school;
2. Not younger than age 16 or older than age 24; and
3. Has one or more of the following barriers:
   a. A school dropout;
   b. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter;
   c. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is basic skills deficient or an English language learner;
   d. An offender;
   e. A homeless individual, homeless child or youth, or a runaway;
   f. An individual in foster care or has aged out of the foster care system or has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under the John H. Chafee Foster Care Independence Program, or an individual in an out-of-home placement;
   g. An individual who is pregnant or parenting (which may include a custodial or non-custodial mother or father);
   h. A youth who is an individual with a disability; or
   i. A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

C. Determining School Status

School status must be based on status at the time the eligibility determination portion of program enrollment is made. Once the school status of a youth is determined, that school status remains the same throughout the youth’s participation in the WIOA youth program, unless the youth exits from the program, reapsplies, and is again determined eligible.

For the purposes of determining ISY status, the school attended may be either a secondary school (including alternative secondary school services) or postsecondary school. If the youth participant is enrolled in credit-bearing postsecondary classes, including credit-bearing community college and credit-bearing continuing education classes, he or she is attending postsecondary education and is an ISY. If the youth is only enrolled in non-credit bearing postsecondary classes, he or she would be considered an OSY.

For the purposes of WIOA school status, the following are not considered to be schools, so youth enrolled only in these programs are OSY:

- Adult education programs under Title II of WIOA (in Ohio, called Aspire);
- YouthBuild programs; and
- JobCorps programs.
Youth enrolled in high school equivalency programs and dropout re-engagement programs are also generally considered OSY, unless the program is funded by the public K-12 school system and the youth is enrolled in the school system, in which case the youth is an ISY.

If a youth is determined eligible for the WIOA youth program during the summer and is in between school years, the youth is considered an ISY if enrolled to continue school in the fall. A youth who is determined eligible for the WIOA youth program between high school graduation and postsecondary education is considered an ISY once he or she has registered for postsecondary courses (i.e., when courses for the upcoming term have been selected and confirmed) even if classes have not yet begun. However, if a youth who completed secondary education has not yet registered for postsecondary courses at the time of eligibility determination, he or she is an OSY, even if he or she has been accepted into a postsecondary education program.

Regardless of the prior paragraph, a secondary student earning postsecondary credit through the College Credit Plus program defined in Chapter 3365 of the Revised Code who intends to continue attending the same postsecondary school after graduating secondary school remains an ISY during the period between completion of secondary school and enrollment in the postsecondary school.

For the purposes of this policy, if a child is being homeschooled in accordance with the requirements of ODE, the child is in school.

D. Dropout Barrier

Local areas must verify a youth's dropout status at the time of program enrollment. If a youth has not received a high school diploma or a recognized equivalent and is not attending any school at the time of eligibility determination, he or she is considered a dropout and is an OSY. A dropout only includes an individual who is currently a secondary school dropout at the time of enrollment and does not include a youth who previously dropped out of secondary school but subsequently returned.

A youth receiving alternative secondary school services at the time of enrollment is not a dropout. A youth who is an OSY at the time of enrollment and is subsequently placed in alternative secondary school services (or any school) remains an OSY. Additionally, a youth who has stopped attending postsecondary education is not a dropout for the purposes of youth program eligibility.

E. Not Attending School Barrier

In Ohio, children between the ages of 6 and 18 are required to attend school, whether it be public, private, or home schooling. Exceptions from compulsory school attendance are granted to children who:

1. Received a high school diploma before the age of 18;
2. Are over 14 years old, lawfully employed, and it is necessary that they work; or
3. Have a physical or mental condition that does not allow for school attendance.

To meet OSY eligibility, youth who are excused from compulsory school attendance due to one of the above exceptions would need to be facing some other barrier besides not attending school.

F. Basic Skills Deficient Barrier

In assessing basic skills, local programs must use assessment instruments that are valid and appropriate for the target population. The local program must also provide
reasonable accommodation in the assessment process, if necessary, for people with disabilities.

G. Additional Assistance Barrier

For both ISY and OSY, as stated in Ohio’s Combined State Plan, an individual who requires additional assistance to complete an education program or to secure or hold employment is a youth who receives, or in the past six months received assistance from the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or Supplemental Security Income (SSI), or who meets the criteria defined by the local WDB.

The local WDB must establish definitions and eligibility documentation requirements to verify that the local criteria have been met by youth who require additional assistance to enter or complete an educational program or to secure or hold employment. The local area’s policy should be reasonable, quantifiable, and based on evidence that the specific characteristics of the youth identified in the policy objectively require additional assistance.

Of the total ISY enrolled by a local area during a program year, no more than five percent may be individuals who require additional assistance to complete an educational program or to secure or hold employment.

H. Youth Living in a High-Poverty Area

For WIOA eligibility purposes, living in a high-poverty area is an additional criterion establishing that the youth is a low-income individual. Per 20 C.F.R. 681.260, a high-poverty area is defined as a Census tract or a set of contiguous Census tracts with a poverty rate of at least 25 percent based on the American Community Survey data.

Instructions on determining if a county or Census tract is a high-poverty area using the Census Bureau’s American Fact Finder homepage are available in Attachment 2 of the Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) No. 21-16.

I. Five Percent Low-Income Exception for Youth Eligibility

Youth participants whose eligibility criteria require them to be low-income individuals are defined as covered individuals. Up to five percent of a local area’s covered individuals may be enrolled in the youth program if they meet all other eligibility criteria except the low-income criterion. In a program year, the number of newly enrolled covered individuals who are not low-income must not exceed five percent of the local area’s total new enrollments of covered individuals.

J. Selective Service Eligibility

Male youth participants who are 18 years of age and older and have fulfilled registration requirements of the Military Selective Service Act (MSSA), 32 C.F.R. Part 1605, are eligible to participate in WIOA-funded programs and services. The WIOA policy letter on selective service registration provides further guidance on this requirement.

If a male reaches his 18th birthday during WIOA program participation, he must register for selective service to continue receiving WIOA youth program services. A male youth applicant who is 18 years old or older who has not registered for the selective service or who is unwilling to register will be denied any WIOA program services.

K. Co-Enrollment with Other Programs

Youth may participate in both the WIOA youth program and the adult program at the same time if they are eligible and appropriate for both. The determination of the
appropriateness for co-enrollment is based on the participant’s service needs, career readiness, occupational skills, prior work experience, and employability. If such concurrent enrollment occurs, the local area must track expenditures separately by program.

Youth may not be co-enrolled in the WIOA dislocated worker program because any youth meeting the eligibility for the dislocated worker program would have already successfully attained a job and would most likely be more appropriately served under the dislocated worker program.

Youth who are eligible under both programs may enroll concurrently in the WIOA youth program and Aspire program services under WIOA Title II.

VII. Out-of School Priority

For any program year, not less than 75 percent of the youth funds available to local areas shall be used to provide youth workforce investment activities for OSY.

VIII. Reporting

As sub-recipients of WIOA youth program funds, local areas are required to maintain and report accurate program and financial information. Per rule 5101:9-30-04 of the Ohio Administrative Code (O.A.C.), program information including participant demographic data, activities, and performance must be accurately entered, within 30 days, into the Ohio Workforce Case Management System (OWCMS) and financial information must be accurately entered into the County Finance Information System (CFIS).

IX. Monitoring

The local area must conduct oversight and monitoring of the implementation of the WIOA youth program to ensure that participants enrolled in the program are eligible and that eligibility has been properly documented.

Through the state’s monitoring system, ODJFS program monitors will review the local area’s determination of WIOA youth program eligibility and the provision of services to eligible youth during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

X. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

XI. References

O.R.C. § 3321.01, et seq.
USDOL, Training and Employment Guidance Letter WIOA No. 23-14, Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition, (March 26, 2015).

WIOAPL 15-02 (Adult and Dislocated Worker Eligibility)

Workforce Innovation and Opportunity Act Policy Letter No. 15-02

July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Adult and Dislocated Worker Eligibility

I. Purpose

The purpose of this policy is to communicate guidance and parameters when determining eligibility requirements for individuals who are seeking to participate in Workforce Innovation and Opportunity Act (WIOA)-funded adult and dislocated worker employment and training programs.

II. Effective Date

July 1, 2015

III. Background

WIOA requires states to assist local workforce development areas with the implementation of employment and training activities to adults and dislocated workers. The WIOA program is designed to provide employment and training opportunities to those who can benefit from, and who are in need of such opportunities. Meeting the eligibility criteria for a WIOA-funded program does not entitle an adult or dislocated worker to receive certain employment and training services. Local decisions on whether to provide specific services must be based upon additional state and local policy considerations, including, but not necessarily limited to, the appropriateness for services.

IV. Definitions

- **Attachment to workforce**: An individual who, at the time of application for WIOA services, worked at the same company or in the same occupation for 15 out of the last 26 weeks.

- **Basic skills deficient**: an individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

- **Disability**: Any person who has a physical, sensory, or mental impairment, which substantially limits one or more major life activities per the American Disabilities Act of 1990 (42 U.S.C. 12102) and has record of such impairment or is regarded as having such impairment.

- **Displaced homemaker**: An individual who has been providing unpaid services to family members in the home and who:
  
  - Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; **AND**
  - Has been dependent on the income of another family member, but is no longer supported by that income; **OR**
  - Is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section); a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code; a permanent change of station; or a service-connected (as defined in section 101(16) of title 38, United States Code) death or disability.

- **Eligible for or has exhausted unemployment insurance**: An individual who has been determined to be eligible for benefit payments under one or more State or Federal unemployment compensation
programs whether or not he or she has exhausted his/her benefit rights. An individual need not actually receive benefits to be eligible.

Farmer, ranch worker or fisherman: An individual who is self-employed or employed by another, on a farm, ranch, or boat, which produces agricultural or food products with annual sales of $1,000 or more, or who receives at least 50 percent of their family or individual income from agricultural or food production.

General announcement: A communication by an employer stating intent to close a business within 180 days.

Laid-off or layoff: A separation due to the lack of work or other factor(s) not related to the behavior of the employee.

Natural disaster: Events that may include a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mud-slide, snowstorm, ice storm, drought, fire, explosion, or other catastrophe.

Notice of termination from employment: A written notice from an employer concerning the layoff or termination of an employee. Such written notice of layoff or termination may consist of:

- A final letter from an employer laying off or terminating the employee (which includes the layoff or termination date); or
- A public announcement by an employer about an upcoming lay-off or termination affecting groups of employees, provided that the announcement makes clear that the applicant is a member of that group.

Occupation: An individual’s usual or principal work, business, profession, or trade used as a means of earning a living.

Permanent closure: The permanent shutdown of a plant, facility or enterprise.

Public assistance: as defined in section (3)(50) of WIOA, federal, state, or local government case payments for which eligibility is determined by a needs or income test. This includes temporary assistance for needy families (TANF), supplemental nutrition assistance program (SNAP), or supplemental security income (SSI).

Plant, facility or enterprise: A distinct unit of business or industry; for example the closure of a division of a corporation, the entire facility at a specific site or location, or the closure of a functional unit, such as a warehouse.

Recently separated veteran: any veteran who applies for participation under WIOA within 48 months after the discharge or release from active military, naval, or air service.

Self-employed: Persons who work for profit or fees in their own business, profession, trade, or farm.

Substantial layoff: Any reduction in force that is not the result of a total plant/branch/office closing, but still results in an employment loss at a single site of employment during any 60 day period for:

1. At least 25 percent of employees, or
2. At least 50 employees.

Termination of employment: Separation from employment due to reasons other than discharge for cause, voluntary departure or retirement; OR individuals who accept early or forced retirement as part of a reduction in workforce; OR an individual who has been dismissed but is still eligible for unemployment compensation.

Transitioning service member: an individual in active duty status (including separation leave) who registers for employment services and is within 24 months of retirement or 12 months of separation.
Underemployment: An individual who is working part time but desires full time employment, or who is working in employment not commensurate with the individual's demonstrated level of educational and/or skill achievement. Also, includes individuals who fall below the dislocated worker self-sufficiency threshold, as defined by the local WDB.

Unemployed individual: An individual who is without a job, who is able to work, and who is available for work. The determination of whether an individual is without a job is made in accordance with the criteria used by the Bureau of Labor Statistics in defining individuals as unemployed.

Unemployed as a result of general economic conditions or natural disaster: Business lost due to one of the following reasons:

- The closure or substantial lay-off of a primary supplier or customer affecting the self-employed applicant’s products or services;
- Less demand for the occupation or product within the community;
- A decline in profits significant enough to lead to closure, documented by most recent tax return or other company documents showing negative gains/losses statement; or
- Natural disaster, as defined by State or Federal declaration.

Unlikely to return to previous industry or occupation: An individual who is laid off without a recall date (or the recall date has passed) and falls into one of the following categories:

1. The number of jobs in the applicant's previous industry/occupation is declining based on Labor Market Information (LMI) data;
2. The projected annual increase in employment growth within the local area based on LMI or O*Net is fewer than 100 jobs in the previous industry (including replacements) or the projected annual increase in growth openings is fewer than 30 jobs in the previous occupation;
3. The applicant is dislocated from a job not found on the most recent local or state list of demand occupations (if applicable);
4. The applicant has conducted a dedicated but unsuccessful job search in the previous industry/occupation, as evidenced by employer rejection letters or employer contact logs;
5. Evidence, preferably from several sources including OhioMeansJobs.com, professional journals, etc., of few openings in the previous industry or occupation; or
6. The applicant is unable to perform the duties of the previous job due to age, ability, or disability (as defined in this section).

Veteran: An individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable, which may include National Guard or Reserve personnel.

V. Statutory Eligibility Requirements for Adult and Dislocated Workers

Individuals wishing to receive employment and training services funded through the adult and dislocated worker programs must meet all of the following requirements:

1. Be legally authorized to work in the United States;
2. Be 18 years of age or older;
3. Be properly registered for selective service (refer to WIOAPL No. 15-04, Selective Service Registration, for details, including the list of exceptions to this requirement).

There are no additional eligibility criteria for the adult program. However, priority for career and training services funded by and provided through the adult program shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of those career services determined appropriate to obtain or retain employment.
Additional Statutory Eligibility Requirements for Dislocated Workers

In addition to the requirements listed above, an individual must also fall into one or more of the following eligibility categories as outlined in section 3(15)(A-E) of WIOA:

Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment

- Has been terminated or laid off or has received a notice of termination or layoff from employment; **AND**
- Is eligible for or has exhausted entitlement to unemployment compensation; **OR**
- Has been employed for a duration sufficient to demonstrate attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a state unemployment compensation law; **AND**
- Is unlikely to return to a previous industry or occupation.

Category B: Plant Closure or Substantial Layoff

- Has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise; **OR**
- Is employed at a facility where the employer has made a general announcement that such facility will close within 180 days; **OR**
- For purposes of eligibility to receive services other than training services described in section 134(c)(3) of WIOA, career services described in section 134(c)(2)(A)(xii) of WIOA, or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close.

Category C: Self-Employed Individual

- Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of natural disasters; or general economic conditions in the community where the individual resides.

Category D: Displaced Homemaker

- Is a displaced homemaker.

Category E: Military Spouse

- Is the spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code), and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty state of such member; **OR**
- Is the spouse of a member of the Armed Forces on active duty and who meets the criteria of a displaced homemaker who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

VI. Special Eligibility Conditions for Dislocated Workers

The following are special circumstances that, when met, allow the worker to be determined eligible for the dislocated worker program provided that the applicant is authorized to work in the United States, is 18 years of age or older, and is properly registered for selective service.

A. Reemployment Services and Eligibility Assessment (RESEA) and Unemployment Compensation Reemployment Services (UCRS)

The RESEA and UCRS systems are early intervention approaches for providing dislocated workers with reemployment services to expedite their return to productive employment. The Ohio Job Insurance (OJI) system selects claimants who have no return to work date, are not job attached, have received a first UC payment, and were previously employed in a declining industry for participation in both
programs. These selected claimants are considered to be unlikely to return to their previous occupations or industries and are considered dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment.

B. **Trade Eligible**

The Trade Adjustment Act (TAA) is a program that assists individuals, who became unemployed as a result of increased imports, with their return to suitable employment based upon an approved petition. The TAA program provides reemployment services and allowances for eligible individuals. Applicants are considered to be dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when the affected worker provides a copy of the petition approval letter or a screen shot from the "Program Data" tab on "Basic Intake" from the Ohio Workforce Case Management System (OWCMS) indicating that the individual is trade eligible.

C. **Locked-out Workers**

Locked-out workers are considered to be dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when an ODJFS Office of Unemployment Compensation hearing officer has issued a determination that a lockout exists.

The listing of ODJFS Unemployment Compensation lockouts can be found at: [http://jfs.ohio.gov/owd/WorkforceProf/policy_info.stm](http://jfs.ohio.gov/owd/WorkforceProf/policy_info.stm).

D. **Buyouts and Forced or Early Retirements**

Workers who receive buyouts or who are forced to retire are considered dislocated workers under Category A: Terminated or Laid Off, or Received a Notice of Termination or Layoff From Employment, when all of the following conditions are met:

- The employer has offered a buyout or early retirement or forced an early retirement as a means to reduce its workforce by providing a financial incentive for long-term (and therefore better paid) workers to leave their employment; and
- The participating workers would not be voluntarily leaving their positions or retiring from employment at this time; and
- The worker is eligible for Unemployment Insurance (UI); and
- Is unlikely to return to a previous industry or occupation.

Workers in the situation listed above are considered to be preserving the jobs for employees with less seniority.

E. **Transitioning Service Members and Recently Separated Veterans**

Dislocated worker funds can help transitioning service members or recently separated veterans enter or reenter the civilian labor force.

If the transitioning service member or the recently separated veteran is separating from the Armed Forces with a discharge that is anything other than dishonorable, the transitioning service member or recently separated veteran qualifies for dislocated worker activities based on the following criteria:

- The transitioning service member or recently separated veteran has received a notice of separation, a DD-214 from the Department of Defense, or other documentation showing a separation or imminent separation from the Armed Forces to satisfy the termination or layoff part of the dislocated worker eligibility criteria;
- The transitioning service member or recently separated veteran qualifies for the dislocated worker eligibility criteria on eligibility for or exhaustion of unemployment compensation; and
- As a transitioning service member or recently separated veteran service member, the individual meets the dislocated worker eligibility criteria that the individual is unlikely to return to a previous industry or occupation.

VII. **Reporting**
As recipients of WIOA dislocated worker funds, the Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development and the local workforce development areas are required to maintain and report accurate program and financial information. Pursuant to rule 5101:9-30-04 of the Ohio Administrative Code, information regarding WIOA participants and their activities and performance must be entered into Ohio Workforce Case Management System (OWCMS) accurately and timely. OWCMS may be used to assist in the determination of eligibility. However, OWCMS cannot be used as verification of adult or dislocated worker eligibility. WIOAPL No. 15-07, Source Documentation for WIOA Eligibility, lists the type of acceptable documentation to verify eligibility for the WIOA adult and dislocated worker programs.

VIII. Monitoring

At the local level, the area must conduct oversight of the implementation of the WIOA adult and dislocated worker programs to ensure that participants enrolled in the programs are eligible and that eligibility has been properly documented.

Through the state’s monitoring system, program monitors will review the area's determination of eligibility for adults and dislocated workers, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

IX. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

X. Reference

Workforce Innovation and Opportunity Act, Pub. L. 113-128
20 C.F.R Parts 603 et al
29 U.S.C. 3101 et seq.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-09, Training Services for Adult and Dislocated Worker, (July 1, 2015).

Rescission

I. **Purpose**

The purpose of this policy is to establish the procedures for the initial designation of local workforce development areas.

II. **Effective Date**

Immediately

III. **Background**

The Workforce Innovation and Opportunity Act (WIOA) envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. Local workforce development areas (local areas) are designated for the purpose of implementing WIOA, establishing OhioMeansJobs service delivery system, and administering the workforce development programs. The local area serves as a jurisdiction for the administration of workforce development activities. Local areas must be designated by the State as a prerequisite to receiving adult, dislocated worker, and youth funding under Title I, Subtitle B of WIOA.

As outlined in section 106 (b)(2) of WIOA and 20 CFR 679.250, the criteria for initial designation are that the area:

1. Was designated as a local area for purposes of the Workforce Investment Act (WIA) for the 2-year period preceding the date of enactment of WIOA;
2. Performed successfully; and
3. Sustained fiscal integrity.

The following local areas designated under WIA have met the criteria of initial designation:

1. Area 1
2. Area 2
3. Area 3
4. Area 4
5. Area 6
6. Area 7
7. Area 9
8. Area 10
9. Area 11
10. Area 12
11. Area 13
12. Area 14
Two local areas that were designated under WIA but do not meet all the requirements for initial designation are Area 5 and Area 8. These local areas may still request initial designation.

Initial designation applies to Program Years (PYs) 2016 and 2017.

IV. **Definitions**

Chief elected official(s): per section 3(9) of WIOA, the chief elected executive officer(s) of a unit of general local government in a local area and, in the case of a local area that includes more than one unit of general local government, the individual(s) designated under an inter-governmental agreement.

Consultation: a robust conversation in which all parties are given the opportunity to share their thoughts and opinions.

Performed successfully: the local area met or exceeded the levels of performance the Governor negotiated with the local board and chief elected official under WIA sec. 136(c) for the last two full program years before the enactment of WIOA, and that the local area has not failed any individual measure for the last 2 consecutive program years before the enactment of WIOA.

Sustained fiscal integrity: the Secretary has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two year period preceding the determination.

V. **Local Workforce Development Area Requirements**

The chief elected official(s) has the responsibility for requesting local area designation and shall complete and submit the JFS 00512, Workforce Development Area Designation Application, and include all of the following information:

1. Evidence supporting how the local area meets designation criteria; and
2. Board or council resolution approving the proposed local area.

Designation applications and supporting documents shall be submitted to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov. The subject of the email should read, "WDA Designation."

VI. **State Requirements**

A. **Consultation and Comment**

When making the decision to initially designate local areas, the State must consult and consider comments received through a public comment process which included the following stakeholders:

1. Local workforce development boards:
2. Local elected officials;
3. Businesses;
4. Institutions of higher education:
5. Labor organizations;
6. Other primary stakeholders; and
7. The general public.

In Ohio, consultation will entail one or more of the following activities:

1. E-mail notification of requested local workforce development area initial designation to the CEOs and local WDB directors with the opportunity to provide comment;
2. Dialogue with the one or more of the following associations which provide support and guidance to the CEOs and local WDBs:
   a. County Commissioner Association of Ohio; and
   b. Ohio Workforce Association;
3. In-person meetings and/or teleconferences with individual CEOs and local WDB directors;
4. Collaboration with the Governor's Executive Workforce Board and the Office of Workforce Transformation;
5. Presentations at training events and/or at local WDB meetings; and
6. The Ohio Department of Job and Family Services (ODJFS) legal public comment process for workforce policies.

B. Review and Approval of Initial Designation Packets

The State will review the initial designation application and supporting documentation. Under section 106 (b)(2) of WIOA, the State shall approve a request for initial designation from the chief elected official of a local area which met the criteria for initial designation. If a local area designated under WIA requests initial designation under WIOA but does not meet all the requirements, the State has the discretion to approve the initial designation under WIOA.

The State will notify the chief elected official within 45 calendar days after the initial submission of the initial designation or the denial of proposed local area.

VII. Appeals

Pursuant to section 106 (b)(5) of WIOA and 20 CFR 683.630, if the State denies initial designation of an area as a local area, the chief elected official(s) may appeal the decision through the following appeals process:

- Within 14 days from the date of receipt of the notice of denial, the chief elected official(s) may file an appeal to the State Board by submitting in writing all of the following information: a statement that the chief elected official(s) is appealing the denial of initial or subsequent designation; the reason(s) why the local area should be designated; and signature of the chief elected official(s).
- The written appeal shall be submitted by e-mail to: OWDPOLICY@jfs.ohio.gov.
- Pursuant to 20 CFR 679.290 (b) and 20 CFR 683.630 (a), the State Board will provide the parties with the opportunity for a hearing, review the appeal, and make a ruling on the appeal within 60 days after the submission of the appeal.

The State Board shall notify the chief elected official(s) in writing, of its decision on whether or not to approve initial or subsequent designation of an area as a local area under section 106 (b)(2) or (b)(3) of WIOA and 20 CFR 679.250.

In the event the State Board denies the appeal or fails to issue a decision within sixty (60) days of the date the appeal is submitted, the chief elected official(s) may further appeal the State Board's decision or lack thereof to the U.S. Department of Labor (USDOL). Pursuant to 20 CFR 683.640, appeals made to USDOL, must be filed no later than 30 days after receipt of written notification of the denial from the
State. The appeal must be submitted by certified mail, with return receipt requested, to the following address:

Secretary, U.S. Department of Labor
200 Constitution Ave. N.W.
Washington, D.C. 20210
Attention: ASET

The appellant must establish in its appeal to USDOL that the appellant was not accorded procedural rights under Ohio's appeal process, or that it meets the requirements for designation in section 106 (b)(2) or (b)(3) of WIOA and 20 CFR 679.250.

The appellant must provide a copy of the appeal to the State Board at the same time that the appellant sends the appeal to USDOL.

VIII. Technical Assistance

Ongoing support, guidance, training and technical assistance on workforce development area designation requirements, including stakeholder consultation, are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, §106, Public Law 113-128.

Rescission

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-01 Local Workforce Development Area Designation, (July 1, 2015).
WIOA Manual Transmittal Letters
WIOAMTL 3 (WIOA Youth Program: Eligibility Requirements)

Workforce Innovation and Opportunity Act Manual Transmittal Letter (WIOAMTL) No. 3

March 21, 2019

To: All Human Services Innovation Manual Holders, Local Elected Officials, Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards, Fiscal Agents, and OhioMeansJobs Center Operators

From: Kimberly Hall, Director

Subject: Workforce Innovation and Opportunity Act (WIOA) Youth Program: Eligibility Requirements

Purpose

This letter transmits a rule governing the WIOA youth program eligibility requirements that will be effective March 25, 2019. The rule has been subject to a review by the Joint Committee on Agency Rule Review (JCARR).

Background

On July 1, 2017, Governor Kasich signed House Bill 49 into permanent law which codified the Comprehensive Case Management and Employment Program (CCMEP). This program requires each individual who is an in-school youth or out-of-school youth to participate in (CCMEP) as a condition of enrollment in workforce development activities funded by WIOA. This rule simplifies the eligibility requirements for WIOA youth program participants to allow a seamless transition into the CCMEP program.

Overview of Revisions

5101:10-3-01 "Workforce Innovation and opportunity act youth program: Eligibility Requirements."

This rule describes definitions for the WIOA youth program, describes who is eligible to participate and how youth participants enroll in CCMEP activities. The Office of Workforce Development (OWD) amended this rule with the following changes:

- Minor language changes for clarity;
- Added “Charter school, Comprehensive case management and employment program, Covered individual, Postsecondary school, School year calendar quarter and Secondary school” definitions in paragraph (A);
- Updated paragraphs (D) and (E) with minor language changes for clarity;
- Updated paragraph (F) to add more specific language about individuals who are out-of-school youth participants;
- Updated paragraphs (G) and (H) with minor language changes for clarity;
- Added new paragraph (I) to provide more details on exceptions that permit participants who are not low-income to be served;
- Updated paragraphs (J) and (K) with more clarifying information on when school status is determined and who is an individual who requires additional assistance; and
- Updated paragraphs (M) through (P) with minor language changes for clarity.
To: All Human Services Innovation Manual Holders, Local Elected Officials, Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards, Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Workforce Innovation and Opportunity Act (WIOA) Youth Program: Eligibility Requirements

Purpose
This letter transmits rules governing the WIOA youth program eligibility requirements that will be effective October 1, 2017. The rule has been subject to a review by the Joint Committee on Agency Rule Review (JCARR).

Background
On July 1, 2017, Governor Kasich signed House Bill 49 into permanent law which codified the Comprehensive Case Management and Employment Program (CCMEP). This program requires each individual who is an in-school youth or out-of-school youth to participate in (CCMEP) as a condition of enrollment in workforce development activities funded by WIOA. This rule simplifies the eligibility requirements for WIOA youth program participants to allow a seamless transition into the CCMEP program.

Overview of Revisions
5101:10-3-01 "Workforce Innovation and Opportunity Act youth program: Eligibility Requirements." This rule describes definitions for the WIOA youth program, who is eligible to participate and how youth participants enroll in CCMEP activities. The Office of Workforce Development (OWD) amended this rule with the following changes:

- Minor language changes for clarity;
- Added "family" and updated "school" definitions in paragraph (A) to align with WIOA;
- Updated paragraph (B) to clarify enrollment;
- Updated paragraph (C) to align with permanent law, reflected an age change for eligibility, and included non-authorization of the use of WIOA youth program funds for CCMEP by a local workforce development board;
- Updated paragraphs (D) and (E) to add more specific language about individuals who are currently in or have aged out of foster care and individuals who are pregnant or parenting;
- Updated paragraph (G) to align low-income determination with WIOA;
- Updated paragraph (H) to describe when school status is determined;
- Struck language in paragraph (L); and
- Updated language in paragraph (M) to align with permanent law.
TO: All Workforce Innovation and Opportunity Act Manual Holders, Local Elected Officials, Local Workforce Development Board Directors, Fiscal Agents, and OhioMeansJobs Center Operators.

FROM: Cynthia C. Dungey, Director

SUBJECT: Workforce Innovation and Opportunity Act (WIOA) Youth Program: Eligibility Requirements

Background

On June 30, 2015, Governor Kasich signed House Bill 64, the state’s biennial budget into law. Section 305.190 of the bill establishes the framework that will transform the network of human services and workforce programs to find a New Way to Work for low-income Ohioans.

Effective July 1, 2016, the Comprehensive Case Management Program (CCMEP) will be the statewide operational framework used to deliver integrated, comprehensive case management and employment services across Ohio’s 88 counties. The primary effect of CCMEP is to combine participants from the Temporary Assistance for Needy Families (TANF) employment program and the WIOA youth program into a single population serviced by CCMEP. Individuals who are eligible for the WIOA in-school or out-of-school youth program are required to participate in CCMEP.

The rule has been subject to a review by the Joint Committee on Agency Rule Review (JCARR). The rule will be effective on 03/24/2016.

5101:10-3-01 "Workforce Innovation and Opportunity Act Youth Program: Eligibility Requirements"

In accordance with HB 64, each in-school or out-of-school youth that is age sixteen to twenty-four and who is considered to have a barrier to employment under WIOA shall participate in CCMEP as a condition of enrollment in workforce development activities funded by the WIOA youth program. This new rule is being adopted to describe the eligibility process and the criteria for determining eligibility for the WIOA youth program.
In accordance with section 5116.10 of the Revised Code, each individual who is an in-school youth or out-of-school youth that is age fourteen to twenty-four under the Workforce Innovation and Opportunity Act (WIOA) (2014) shall participate in the comprehensive case management and employment program (CCMEP) as a condition of enrollment in workforce development activities funded by the temporary assistance for needy families (TANF) block grant or WIOA if the local workforce development board authorizes the use of WIOA youth program funds for CCMEP.

(A) Definitions

(1) "Attending school" means when an individual is enrolled in and/or attending a secondary or post-secondary school, including alternative secondary school services as referenced in section 3313.533 of the Revised Code.

(2) "Basic skills deficient" means a youth who has English reading, writing, or computing skills at or below the eighth grade on a generally accepted standardized test or who is unable to compute or solve problems, or read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.

(3) "Compulsory school attendance" means the requirement for children between six and eighteen years of age to attend school under Ohio law.

(3) "Charter school" means a public, nonprofit, nonsectarian, tuition-free school operating independently of a school district, but under contract with a sponsor that has been approved by the Ohio department of education (ODE).

(4) "Comprehensive case management and employment program" (CCMEP) means the integrated intervention program that combines the TANF and WIOA youth program to provide employment and training services to individuals ages fourteen through twenty-four years based upon a comprehensive assessment of the individual's needs.

(5) "Covered Individual" means an eligible WIOA youth who is an in-school youth, or an out-of-school youth who is low income and meets one of the following criteria:

(a) Has a secondary school diploma or its recognized equivalent and is basic skills deficient or an English language learner.

(b) Requires additional assistance to enter or complete an education program or to secure or hold employment.

(6) "English language learner" means an individual who has limited ability in reading, writing, speaking, or comprehending the English language, and whose native language is a language other than English or who lives in a family or community environment where a language other than English is the dominant language.

(7) "Family" means per 20 C.F.R. 675.300 (08/2016), two or more persons related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

(a) A married couple and dependent children.

(b) A parent or guardian and dependent children.
A married couple.

(6)(8) "Homeless children and youths" (section 725 (2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a as in effect on January 1, 2016) as defined in 42 U.S.C. 11434a as in effect on January 1, 2019 means individuals who lack a fixed, regular, and adequate nighttime residence and includes the following:

(a) Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals; or are awaiting foster care placement;

(b) Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(c) Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(d) Migratory children who qualify as homeless because the children are living in one of the previously mentioned circumstances.

(7)(9) "Homeless individual" (Violence Against Women Act, 42 U.S.C. 14043e-2 as in effect on January 1, 2016) as defined in 42 U.S.C. 14043e-2(6) as in effect on January 1, 2019 means an individual who lacks a fixed, regular, and adequate nighttime residence and includes:

(a) An individual who:
   (i) Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
   (ii) Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
   (iii) Is living in an emergency or transitional shelter;
   (iv) Is abandoned in a hospital; or
   (v) Is awaiting foster care placement.

(b) An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(c) Migratory children who qualify as homeless because the children are living in circumstances listed above.

(8)(10) "Individual with a disability" means, per section 3 (25) of WIOA, an individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12102 as in effect on January 1, 2019.

(9)(11) "Low-income individual" means an individual who:

(a) Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through the supplemental nutrition assistance program (SNAP) established under the Food and Nutrition Act of 2008, the program of block grants to States for temporary assistance for needy families (TANF) program under part A of title IV of the Social Security Act, or the supplemental security income (SSI) program established under title XVI of the Social Security Act or state or local income-based public assistance;

(b) Is in a family with a total family income that does not exceed the higher of:
The poverty line; or
Seventy per cent of the lower living standard income level;

Is a homeless individual or a homeless child or youth;

Receives or is eligible to receive a free or reduced-price lunch under the Richard B. Russell National School Lunch Act (02/2014). This does not include students in school districts participating in the community eligibility provision (CEP) Healthy, Hunger-Free Kids Act of 2010 as in effect January 1, 2016 (2019);

Is a foster child on behalf of whom state or local government payments are made; or

Is an individual with a disability whose own income meets the income eligibility requirements of paragraph (A)(9)(b)(A)(11)(b) of this rule, but who is a member of a family whose income does not meet this requirement as permitted in WIOA under section 3(36)(A)(vi) and 20 C.F.R. part 681.280.

"Offender" means, per section 3-(38) of WIOA, an adult or juvenile who:

Is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or

Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

"School" means, for the purposes of WIOA youth program eligibility, any school operated by a board of education, any community school established under Chapter 3314. of the Revised Code, any non-public school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, and post-secondary schools (including community colleges, four-year colleges, universities, and technical and trade schools). It does not include attending classes offered through, aspire, youthbuild, job corps, high school equivalence programs (except those funded by the public K-12 school system), and dropout re-engagement programs.

"Postsecondary school" means any schooling that follows graduation from high school or completion of high school equivalency, including community colleges, four-year colleges and universities, and technical and trade schools.

"School dropout" means, as defined in section 3(54) of WIOA and for the purposes of WIOA youth program eligibility, an individual who is no longer enrolled in secondary school attending any school and has not received a secondary school diploma or its recognized equivalent.

"School year calendar quarter" means the timeframe identified as an academic quarter by the local school district or charter school that a youth last attended, or the calendar quarter if not defined by the district or school.

"Secondary school" means a school operated by a board of education, an alternative school established under section 3313.533 of the Revised Code, a community school established under Chapter 3314. of the Revised Code, or a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code that provides secondary education as determined under state law, except that the term does not include any education beyond grade twelve.

How does a youth enroll in workforce development activities under WIOA funding?

Enrollment begins with completing the JFS 03002 "WIOA Youth Program Eligibility Application" (rev. 10/2017) and includes:
(1) The collection of information necessary to support a WIOA youth program eligibility determination;

(2) The completion of the comprehensive assessment per rule 5101:14-1-04 of the Administrative Code.

(3) The completion of an individual opportunity plan (IOP) as described in rule 5101:14-1-04 of the Administrative Code.

(4) The provision of one or more services described in rule 5101:14-1-02 of the Administrative Code.

(C) Who is eligible for CCMEP?

The following individuals who are at least fourteen but not more than twenty-four years of age are eligible to participate in CCMEP:

(1) Participants in the Ohio works first (OWF) program that have been determined to be work-eligible in accordance with rule 5101:1-3-12 of the Administrative Code are required to participate in CCMEP.

(2) Any OWF participant that has not been determined to be a work-eligible individual in accordance with rule 5101:1-3-12 of the Administrative Code may volunteer to participate in CCMEP.

(3) Each in-school youth, or out-of-school youth registered for a WIOA program who is considered to have a barrier to employment under WIOA is required to participate in CCMEP unless the local workforce development board did not authorize the use of WIOA youth program funds for CCMEP.

(4) Any individual receiving benefits and services under the prevention, retention, and contingency (PRC) program who volunteers for CCMEP within ninety calendar days of the date that PRC benefits or services are received.

(D) Who is an in-school youth?

An in-school youth is an individual who is attending school, including secondary and postsecondary school, not younger than fourteen years or (unless an individual with a disability who is attending school under state law) older than age twenty-one years (unless an individual with a disability who is attending school under state law); is a low-income individual; and has one or more of the following barriers:

(1) Basic skills deficient;

(2) An English language learner;

(3) An offender;

(4) A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2))), or a runaway;

(5) An individual in foster care or who has aged out of the foster care system or has attained sixteen years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under John H. Chafee foster care independence program, or in an out-of-home placement;

(6) An individual who is pregnant or parenting (who may be a custodial or non-custodial mother or father);

(7) An individual with a disability; or
(8) An individual who requires additional assistance to complete an education program or to secure or hold employment as defined in the state plan and by the local workforce development board policy.

(E) Who is an out-of-school youth?

An out-of-school youth is an individual who is not attending any school; not younger than sixteen years or older than age twenty-four years; and has one or more of the following barriers:

1. A school dropout;
2. A youth who is within the age of compulsory school attendance but not younger than sixteen years, who is younger than eighteen years, who has not attended school for at least the most recent complete school year calendar quarter and who is not excluded from school attendance requirements per section 3321.03 of the Revised Code;
3. A recipient of a secondary school diploma or its recognized equivalent who is a low income individual and is basic skills deficient or an English language learner;
4. An offender;
5. A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2))), a homeless child or youth; or a runaway;
6. An individual in foster care or who has aged out of the foster care system or has attained sixteen years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under the John H. Chafee foster care independence program, or in an out-of-home placement;
7. An individual who is pregnant or parenting (who may be the custodial or noncustodial mother or father);
8. A youth who is an individual with a disability; or
9. A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment as defined in the state plan and by the local workforce development board policy.

(F) What criteria are used to determine whether an applicant is an in-school youth or out-of-school youth?

1. For the purposes of determining in-school status, the school attended may be either a secondary school (including alternative secondary school services) or postsecondary school. If the youth participant is enrolled in credit-bearing postsecondary classes, including credit-bearing community college and credit-bearing continuing education classes, he or she is attending postsecondary education and is an in-school youth. If the youth is only enrolled in non-credit bearing postsecondary classes, he or she would be considered out-of-school.

2. For the purposes of WIOA school status, the following are not considered to be schools, so youth enrolled only in these programs are out-of-school youth:
   (a) Adult education programs under Title II of WIOA (in Ohio, called aspire);
   (b) Youthbuild programs; and
   (c) Job corps programs.

3. Youth enrolled in high school equivalency programs and dropout re-engagement programs are also generally considered out-of-school unless the program is funded by the public K-12 school system and the youth is enrolled in the school system, in which case the youth is in-school.
If a youth is determined eligible for the WIOA youth program during the summer and is in between school years, the youth is considered an in-school youth if enrolled to continue school in the fall. A youth who is determined eligible for the WIOA youth program between high school graduation and postsecondary education is considered an in-school youth once he or she has registered for postsecondary courses (i.e., when courses for the upcoming term have been selected and confirmed) even if classes have not yet begun. However, if a youth who completed secondary education has not yet registered for postsecondary courses at the time of eligibility determination, he or she is an out-of-school youth, even if he or she has been accepted into a postsecondary education program.

Regardless of paragraph (F)(4) of this rule, a secondary student earning postsecondary credit through the college credit plus program defined in Chapter 3365. of the Revised Code who intends to continue attending the same postsecondary school after graduating secondary school remains an in-school youth during the period between completion of secondary school and enrollment in the postsecondary school.

For the purposes of this rule, if a child is being homeschooled in accordance with the requirements of ODE, the child is in school.

Whose income is used when determining low-income status?

If the individual is a part of a family and is under eighteen years of age, living with parent(s) or guardian(s), and is receiving support from them or if the individual is ages eighteen to twenty-four years and the parent(s) or guardian(s) pay(s) for more than fifty per cent of the individual's support, the individual is considered to be dependent on the parent(s) or guardian(s) and their income must be used to determine WIOA youth program eligibility unless the individual has a disability per paragraph (A)(8) of this rule. Verification of dependent status and means of support must be documented for each youth program participant.

Is an individual considered a low-income individual if he or she resides in a high-poverty area?

If the poverty rate for a county, census tract or a set of contiguous census tracts where an individual resides is at least twenty-five per cent using the American community survey five-year data, the individual may be considered low income for purposes of determining WIOA youth eligibility. The website containing this information is www.FactFinder.Census.Gov.

Is there an exception that permits services to be provided to covered individuals who are not low income?

Youth participants whose eligibility criteria require them to be low-income individuals are defined as covered individuals. Up to five per cent of a local area's covered individuals may be enrolled in the youth program if they meet all other eligibility criteria except the low-income criterion. In a program year, the number of newly enrolled covered individuals who are not low-income cannot exceed five per cent of the local area's total new enrollments of covered individuals.

When is school status determined?

School status is determined at the time of program enrollment. Because the process of program enrollment can occur over a period of time, school status must be based on the status at the time the eligibility determination is made. Once the school status of a youth is determined, the school status remains the same throughout the youth's participation in CCMEP, unless the youth exits from the program, reenrolls, and is again determined eligible.

Who is an individual requiring additional assistance to enter or complete an education program or to secure or hold employment?

An individual who requires additional assistance to enter or complete an education program or to secure or hold employment is one that is receiving, or has received in the past six months, SNAP, TANF, or SSI per the state plan, or who meets other criteria established by the local workforce
development board. The local workforce development board shall establish definitions and eligibility documentation requirements to verify that the local criteria have been met. The local area's policy should be reasonable, quantifiable, and based on evidence that the specific characteristics of the youth identified in the policy objectively require additional assistance. Of the total in-school youth enrolled by a local area during a program year, no more than five per cent may be individuals who require additional assistance to complete an education program or to secure or hold employment.

(J)(L) Is there any eligibility requirement for an individual to be a citizen of the United States?

Per section 188 (a)(5) of WIOA, in order to be eligible for the WIOA youth program, an individual must be authorized to work in the United States by being a citizen or national of the United States; lawfully admitted permanent resident alien, refugee, asylee or parolee, or other immigrant authorized by the attorney general to work in the United States.

(K)(M) Is there an eligibility requirement to register for the selective service?

In order to be eligible for the WIOA youth program, males ages eighteen and over must have fulfilled the registration requirements of the Military Selective Service Act as in effect on January 1, 2016. If a male reaches his eighteenth birthday during WIOA program participation, he shall register for the selective service to continue receiving WIOA youth program services. A male youth applicant who is eighteen years old or older who has not registered for the selective service or who is unwilling to register will be denied any WIOA program services.

(L)(N) Is there a process for determining WIOA youth program eligibility when a close relationship exists between the individual and any stakeholders of the workforce development system?

All individuals applying for the WIOA youth program are required to document whether or not a close relationship exists between the individual and any stakeholder in the workforce development system on the JFS 03002. If a relationship does exist, the internal process developed by the local workforce development board shall be followed to ensure that a transparent assessment of the individual's eligibility and development of the individual opportunity plan have been conducted with no personal or business relationship, bias, special interest, or prejudice.

(M)(O) Are there funding limitations in the WIOA youth program?

1. For any program year, not less than seventy-five per cent of WIOA youth formula funds available shall be used to provide youth workforce activities for out-of-school youth. The local workforce development board has the authority to use one hundred per cent of WIOA youth formula funds on out-of-school youth.

2. Up to five per cent of in-school and out-of-school youth may be individuals who would be eligible for the WIOA youth program, except that the individual is not low-income.

3. Not more than five per cent of in-school youth may be eligible based upon the individual barrier being that the individual requires additional assistance to complete an educational program or to secure or hold employment.

4. A minimum of twenty per cent of the total local area youth formula funds shall be spent on work experience.

(N)(P) How is WIOA youth program eligibility verified?

WIOA youth program eligibility must be verified or confirmed through an examination of documents. The United States department of labor provides guidance for the specific types of source documents that must be used to verify participant eligibility.

Effective: 3/25/2019

Five Year Review (FYR) Dates: 3/24/2021
Certification: CERTIFIED ELECTRONICALLY
Date: 03/15/2019
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Rule Amplifies: 5116.01, 5116.25, 5116.24, 5116.23, 5116.22, 5116.21, 5116.20, 5116.12, 5116.11, 5116.10, 5116.06, 5116.03, 5116.02
Prior Effective Dates: 03/24/2016, 10/01/2017
I. **Purpose**

To provide the requirements of Disaster Recovery National Dislocated Worker Grants (disaster grants) and to assist local workforce development areas (local areas) in the development of policies and the provision of services when implementing such grants.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

Disaster grants are discretionary awards that create temporary jobs for eligible individuals to assist with clean-up, recovery, and humanitarian efforts in areas impacted by an emergency or disaster. Allowable clean-up activities include the demolition, cleaning, repair, renovation, and reconstruction of damaged or destroyed structures or facilities and lands located within the disaster area related to the emergency or disaster.

Disaster grants may also provide employment and training services if needed to help impacted individuals return to full employment, including situations where a substantial number of individuals have relocated to Ohio from a state in which an emergency or disaster occurred.

V. **Definitions**

**Disaster area:** A geographic region that has suffered from, or in which has occurred, an emergency or disaster.

**Emergency or disaster:** A natural or manmade catastrophic event (e.g., tornado, storm, flood, explosion, etc.) declared eligible for public assistance by the Federal Emergency Management Agency (FEMA) or declared to be a situation of national significance by a federal agency with authority or jurisdiction over the response to the event.

**Equipment:** Tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds $5,000 or the local area’s established equipment threshold, whichever is less.

**Long-term unemployed individual:** A person who meets one of the following criteria, in descending order of priority for services:

1. Has a substantial employment history (i.e., at least 12 months of full-time or 24-months of part-time work experience), is currently unemployed, and has been unemployed for at least 15 of the past 26 weeks;

2. Is currently unemployed and has been unemployed for at least 15 of the past 26 weeks;

3. Is currently employed but had been unemployed for 15 of the past 26 weeks and is not currently self-sufficient based on local policy; or
4. Is either currently unemployed or working part-time, has not worked over 30 hours per week in any 15 of the past 26 weeks, has been seeking but unable to secure full-time employment, and is not currently self-sufficient based on local policy.

Public service employment: subsidized employment provided to eligible individuals to perform work normally provided by governments, including but not limited to work in fields of human betterment and community improvement, child care, health care, education, crime prevention, public transportation, streets and parks, solid waste removal, housing and neighborhood improvement, and rural development.

VI. State Requirements

A. Application Process

When an emergency or disaster has met the criteria for disaster grant funding, the Ohio Department of Job and Family Services (ODJFS) will coordinate with the impacted local area(s) to assess the need for clean-up or humanitarian efforts, ascertain the availability of eligible individuals to perform the disaster relief work, and provide technical assistance on the application process and operational considerations.

If a need for disaster grant funding is identified, the state will work with impacted local areas interested in participating to submit either:

1. An emergency application within 15 days of the disaster declaration using an abbreviated format to facilitate rapid implementation of services (followed by a full application within 60 days of award notification if funding is approved); or

2. A full application within 60 days of the disaster declaration which must include a narrative describing the project and services, a list of worksites in each county, job titles for the temporary positions being created, and line item budget for each participating county.

B. Award Notification

The United States Department of Labor (USDOL) issues its funding decision within 45 calendar days of receipt of a valid application. If the application is approved, ODJFS will notify the participating local areas of their sub-grant award amounts.

Disaster grants are issued incrementally. A maximum funding level will be approved, but a lesser amount will be initially disbursed. Request(s) for additional funds must be submitted when needed and must be supported by enrollments, completion of work goals, and expenditures.

As participating local areas require additional funding to continue operating, ODJFS may temporarily or permanently reduce another area’s maximum funding level or allocation amount to maximize utilization of the grant resources statewide.

C. State Implementation

ODJFS will serve as the grantee and pass-through entity for disaster grant funds. Upon receiving disaster grant funding, ODJFS will:

- Provide technical assistance to participating local areas;
- Prepare and submit a project implementation plan and full application within 60 days of receipt of the grant award;
- Coordinate disaster grant activities with activities funded by federal and state emergency management agencies and other providers to ensure a comprehensive approach and non-duplication;
- Conduct monitoring of local areas and worksites to review eligibility, expenditures, operations, and safety procedures;
- Request prior approval from USDOL for the purchase of any equipment needed at worksites and ensure proper disposition of the items when no longer needed; and
- Submit required program and fiscal reports and grant modifications to USDOL, including requests for additional funding.

VII. **Local Workforce Development Area Requirements**

The local area will administer disaster grant activities in accordance with its sub-grant agreement with ODJFS and the local implementation plan for the disaster project. Funds may be used to provide wages and benefits to participants working in disaster relief employment; to lease facilities, equipment, and supplies; to purchase supplies, personal protective equipment, immunizations, and other supportive services; to dispose of debris; to purchase equipment (if prior approval was obtained); and to employ program staff to manage operations and supervise workers. Up to 10 percent of the funds may be expended on administrative costs.

The local area must receive prior approval through ODJFS before purchasing any equipment items. The equipment request may be included with the emergency application, local implementation plan, or in a modification of the local plan. The request must include identification of the types of equipment, quantity and estimated cost per unit of each type, and a brief justification explaining the need.

A. **Local Implementation Plan**

Within the first 60 days of the disaster project grant period, the local area must submit a local implementation plan based on a template provided by ODJFS. The plan must include:

1. Prioritized list of worksites;
2. Line item budget;
3. Staffing plan identifying job titles, job descriptions, number of full time equivalent staff, and salaries and benefits for all positions funded in whole or in part by the grant;
4. Identification of, and justification for, any equipment required to perform the work;
5. Policies governing supportive services for participants; and
6. Description of the local area monitoring procedures.

The local area must notify ODJFS and submit a revised plan when modifications are necessary. Circumstances that require a plan modification include:

- An increase in the area’s commitment of funding to continue providing services;
- Budget variances that result in more than a 10 percent increase in cost per participant or in any budget line item;
- An extension in the project end date beyond the original plan;
- Additions to, or deletions from, the list of worksites where disaster relief work will be performed;
- Changes in the job titles, duties, or wage levels of participants; and
- Changes to supportive services policy or monitoring procedures.

B. **Contractors**

The local area may enter into contracts with public entities, not-for-profit organizations, and private for-profit entities including staffing agencies to assist with carrying out disaster grant activities, such as serving as employer of record for the temporary disaster relief workers. Contractors must be competitively selected in accordance with procurement rules.
For-profit contractors may keep the profits earned from performance of disaster grant activities. The amount of profit must be negotiated as a separate element of the overall price of the contract with consideration given to the complexity, risk, past performance, and industry profit rates in the surrounding geographical area for similar work. Profits that are excessive or that are not justified using the aforementioned criteria will be disallowed and cannot be paid from WIOA grant funds.

C. Participant Eligibility

Eligible disaster grant participants include:

1. Individuals temporarily or permanently laid off due to the emergency or disaster;
2. Self-employed individuals who became unemployed or significantly underemployed due to the emergency or disaster;
3. Dislocated workers; and
4. Long-term unemployed individuals.

Priority for participation in services must be given to individuals affected by the emergency or disaster followed by dislocated workers and long-term unemployed individuals. Each participant may work no more than 2,080 hours in temporary disaster relief employment related to recovery from a single emergency or disaster.

D. Participant Employment

Although public service employment is generally prohibited for WIOA participants, temporary disaster relief employment is an allowable exception. The goals are to provide income maintenance to participants and services to the community while moving the participants into permanent, unsubsidized jobs.

Participants must be paid comparable rates of pay, including periodic increases, as other individuals who are similarly situated in like occupations having similar training, experience, and skills. Participants must be paid at least the federal, state, or local minimum wage, whichever is highest. Fringe benefits should be provided according to the policies of the employer of record. Workers’ compensation insurance must be established for each disaster grant participant in case of injury.

E. Worksite Selection

Worksites must be located within the geographic region identified in the disaster declaration. The local area must maintain a prioritized list of worksites in each county with the status updated as work is completed or priorities change. Highest priority should be given to public lands or facilities with the most severe damage, consistent with the strategic plans of the community, as determined in consultation with state and local emergency management agencies, local elected officials and their staff, and other stakeholders and citizens.

If private property must be crossed to gain access to a worksite, the local area must secure a right-of-access agreement signed by the property landowner. Under limited circumstances, work on private property may occur, such as to remove public health and safety hazards or repair the homes of economically disadvantaged individuals eligible for the federal Weatherization program. Local areas should seek further guidance from ODJFS before beginning work on private property.

Activities performed in natural areas must not negatively impact endangered species or their habitats. If an endangered species or its habitat exists at a worksite, the local area must consult with the Fish and Wildlife Service (FWS) to mitigate negative impacts before performing any work. Regardless of the presence of endangered species, disaster grant operations should be conducted in a manner that minimizes damage to riparian and other natural areas, maintains existing vegetation, and avoids the removal of living trees unless necessary to ensure health and safety.

F. Safety Considerations
During periods of severe inclement weather when outdoor operations cannot be performed safely, participants may be scheduled to perform project-related activities such as inventory control, safety training, or maintenance of tools and equipment but may not perform re-employment activities such as job search or resume-writing instruction while on the disaster grant payroll. Extended periods of inclement weather may require temporary shut-down of disaster grant operations.

Local areas must ensure that applicants and participants will be able to safely perform assigned duties which are often physically demanding. A position description explaining the working conditions and physical requirements should be provided to applicants. Local areas shall follow the same hiring protocols for any grant-funded workers for whom the local area will become the employer of record, that the local area would follow for its other prospective employees. Any costs associated with adhering to such hiring protocols may be charged to the disaster grant, including for those applicants who do not enter the program as participants and do not become temporary employees of the local area.

The same health and safety standards applicable to other employees also apply to participants in disaster relief employment. The work environment must be free from recognized hazards likely to cause injury or death. Initial and on-going safety instruction must be provided on relevant topics such as Occupational Safety and Health Administration (OSHA) rules, First Aid, and chainsaw operation. The OSHA workplace compliance poster at [https://www.osha.gov/Publications/osha3165.pdf](https://www.osha.gov/Publications/osha3165.pdf) must be posted and visible to all employees.

Employers of record must implement policies, procedures, and controls to ensure compliance with OSHA standards relevant to their operations, such as personal protective equipment for rigging and logging operations, and Material Safety Data Sheets for flammable and combustible liquids, etc.

Public sector organizations should consult with the Public Employee Risk Reduction Program (PERRP) to schedule regular safety training, compliance visits, and site-specific evaluations. All employers of record should schedule compliance visits with the Ohio Bureau of Workers’ Compensation every six months during disaster grant operation.

**G. Reporting Requirements**

The local area must report disaster grant participants and services in the Ohio Workforce Case Management System (OWCMS) under the special grant office created for the grant. Participants enrolled in disaster relief employment will not affect the local area's WIOA performance measures unless they are co-enrolled in formula funded programs.

Costs of services, including accruals and obligations, must be updated at the sub-area level every two weeks in the County Finance Information System (CFIS) using the project code established for the grant. All expenditures must be supported with acceptable documentation, including timesheets signed by a supervisor for payroll costs.

If necessary, additional reporting such as progress, injury, or monitoring narratives may also be required. ODJFS will provide instructions and due dates to local areas after the disaster grant is in progress.

**H. Monitoring**

If participating in a disaster grant, local areas must develop monitoring policies outlining the procedures and frequency for reviewing disaster grant operations and how staff will resolve findings of non-compliance. At a minimum, monitors should review the following items monthly and issue findings as appropriate:

- Ensured use of required safety protective gear;
- Employer payroll records and signed timesheets;
- Participant file documentation such as eligibility verifications;
Program fiscal records, including timekeeping information and administrative charges;
- Observations of workplace safety;
- Assessment of environmental hazards;
- Participant feedback on relevant matters such as safety training, protective equipment, and payroll accuracy.

VIII. **Technical Assistance**
For additional information, contact the Office of Workforce Development at NEG@JFS.OHIO.GOV.

IX. **References**
Workforce Innovation and Opportunity Act, § 170, Pub. L. 113-128.
USDOL, Training and Employment Guidance Letter No. 02-15, Operational Guidance for National Dislocated Worker Grants, pursuant to the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act), (July 1, 2015).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02, Adult and Dislocated Worker Eligibility, (July 15, 2015).
*Archive*  WIOAPL 16-11 (Development of the Memorandum of Understanding for the Workforce Delivery System)

Workforce Innovation and Opportunity Act Policy Letter No. 16-11

July 19, 2017

To: Chief Elected Officials, Local Workforce Development Board Chairpersons, Local Workforce Development Board Directors, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Development of the Memorandum of Understanding for the Workforce Delivery System

I. **Purpose**

The purpose of this policy is to define the requirements for the development and negotiation of the local workforce development area’s (local area’s) memorandum of understanding (MOU) for the delivery of workforce and other related services.

II. **Effective Date**

Immediately

III. **Background**

Integrated service delivery is the cornerstone of the public workforce delivery system, through which workforce development, educational, and other human resource services are made available to individuals and employers at the American Job Centers (in Ohio, called OhioMeansJobs centers) in each local workforce development area. Management of the local service delivery system is to be shared among states, local workforce development boards (WDB), core Workforce Innovation and Opportunity Act (WIOA) programs, required partners, additional partners, and OhioMeansJobs center operators.

WIOA sets forth the requirements for local workforce development systems. Section 121 of WIOA identifies the required partner programs and defines the responsibilities of local WDBs, chief elected officials (CEOs), and partners in the operation of the local workforce development system. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-09, Establishment of the Workforce Delivery System, provides the guidance for determining required and non-required OhioMeansJobs center partners.

Required partner programs must make services available through local workforce development systems and local OhioMeansJobs centers. Required partners must also use a portion of their program funds to maintain local workforce development systems in proportion to the use of and relative benefit received. This includes costs of infrastructure and other costs associated with the operation of the local workforce development system.

Local WDBs, CEOs, and local required and additional partners in each local area must enter into good-faith negotiations to determine:

1. How services and activities will be coordinated;
2. Which services will be shared;
3. How proportionate shares of costs will be determined, allocated, and funded;
4. How referrals will be made; and
5. How all parties will ensure that programs, services, and activities are accessible to all individuals, including those with barriers to employment and individuals with a disability.

Once consensus is reached among the parties, the result of negotiations will be written into a local WIOA memorandum of understanding (MOU).
A. Content of Memorandum of Understanding

The MOU is a product of local discussion and negotiations and should serve as a blueprint that clearly outlines the roles and responsibilities of the local WDB, local partners, and partners’ staff in the local workforce development system. Each provision of the MOU should be written in a manner that provides any new local WDB member, CEO, local partner, or other stakeholder a clear understanding of how services are coordinated through the local workforce development system and how infrastructure and other shared costs are funded. Each local area MOU must comply with section 121(c) of WIOA and Part C of 20 C.F.R. 678.

As a courtesy, the Ohio Department of Job and Family Services (ODJFS) has developed an MOU template that includes the WIOA-required and other provisions listed below. The template may be modified as needed. The local WDB or its designee has the responsibility to complete each provision to clearly and accurately reflect the terms and costs as agreed-upon during the negotiation process.

The MOU template is available on the Office of Workforce Development’s website at http://jfs.ohio.gov/owd/OneStops/owd-one-stops-mou-home.stm. Any required modifications to the template must be completed by February 1 for the subsequent fiscal year.

The contents of each provision should include the details described below:

1. Services – A description of all services provided through the local workforce development system and a description of how the local WDBs and partners will coordinate delivery of those services, which should also include:
   a. Identification of each comprehensive, affiliate, and specialized OhioMeansJobs center where local partners will make services and activities available;
   b. A description of how each partner program will make services and activities available, including:
      i. The number of partner staff members who will maintain a physical presence at each OhioMeansJobs center;
      ii. The number of hours per week the staff members will deliver services at each OhioMeansJobs center; and
      iii. How partners that do not maintain a physical presence will provide a direct linkage to services through technology and/or training of a different program partner who is physically present at the OhioMeansJobs center.
   c. Identification of the services that will be shared by local partner’s staff members;
   d. Contribution of the partner staff time;
   e. The number of staff and staffing hours per week required for delivery of each shared service;
   f. The method to determine each local partner’s proportionate share of staff time to contribute;
   g. Each local partner’s proportionate share of staff time; and
   h. How coverage will be ensured in the event of absences.

2. Operating Costs – A description of how the local WDB and local partners will fund infrastructure and other shared costs associated with the operation of the local workforce development system. The MOU should include:
   a. A budget that identifies all infrastructure and other shared costs;
b. A description of the method used to determine each partner’s proportionate share of costs;

c. A description of the method used to allocate costs to each partner;

d. A description of the resources each partner will use to fund its proportionate share of costs, which may be cash, noncash, or third party in-kind contributions;

e. A description of a method to reconcile budgeted costs to actuals on at least a quarterly basis and to distribute updated budgets to the local partners;

f. A description of the state infrastructure funding mechanism that will be implemented should the parties fail to reach consensus on local infrastructure costs through the local infrastructure funding mechanism (local negotiation of infrastructure costs); and

g. The local infrastructure funding agreement (IFA), which will be incorporated by reference to the MOU.

The MOU template includes the necessary components of the IFA (e.g., effective time period of agreement, identification of partners, modification process). The MOU budget attached to the MOU includes both the infrastructure costs and additional costs necessary to operate the OhioMeansJobs center. The infrastructure costs are the costs listed in the Facility, Resource Room, Equipment and Supplies, Outreach and Marketing, and Miscellaneous Costs Pools of the budget attachment. The additional costs are the costs listed in the Center Personnel Cost Pool of the operating budget. By signing the MOU, the parties (i.e., local WDB, CEO(s), and partners) also agree to the terms of the IFA, including the modification and review process to ensure equitable benefit among partners, process to resolve issues when consensus cannot be reached, operating budget, and projected partner contributions.

The IFAs must be executed and incorporated into the MOUs in accordance with the United States Department of Labor (USDOL) Training & Employment Guidance Letter (TEGL) 17-16 and WIOAPL No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs.

3. **Accessibility**- The days and hours of operation for each center, with access to programs, services, and activities in the comprehensive center(s) to be made available during regular business days. A description of the methods that will be used to ensure that both general access to services and programmatic accessibility to services, including via technology and materials available through the workforce delivery system, will address the needs of job seekers, youth, Limited English proficient (LEP) individuals, and individuals with barriers to employment, such as individuals with disabilities. A description of any service hours available beyond regular business hours or the plan in place to accommodate schedules of individuals who cannot visit a center during regular business hours.

4. **Methods of Referral**- A clear description of the methods and processes for referral of customers to appropriate services and activities between the OhioMeansJobs center operator(s) and partner programs.

5. **Agreement Period**- The effective beginning and ending dates for the MOU and for the MOU renewal period. The MOU period may cover an annual or biennial period that is consistent with the state fiscal year and state fiscal biennium. The MOU must include an assurance that the MOU will be reviewed by local WDBs and partners no less than every two years.

6. **Amendment Process**- A detailed description of a process to amend the MOU, including the events or circumstances that will necessitate an amendment to the MOU.
7. **Termination/Separation**-A description of the conditions that will prompt termination of the MOU as well as the process and potential consequences for separation by a partner.

8. **Confidentiality**-A description of how the parties will ensure confidential information will be safeguarded in accordance with the applicable federal and state laws and regulations applicable to each partner program.

9. **Dispute Resolution**- The process the parties will follow to resolve disputes in the event of an impasse during the negotiation process or implementation of MOU provisions.

10. **Safety & Security** – Identification of each partner staff member at the management level who will serve as the point of contact for each respective partner program in regard to safety and personnel issues.

11. **Signatories**- Signatures of the CEO(s), local WDB director, and authorized representatives of all required and additional partner programs that are making services available through the local workforce development system. Each signature line must identify the partner entity and the partner program. The name of each authorized representative must be printed below the signature line.

12. **Negotiation**- Documentation of the negotiation process and efforts to reach consensus.

The MOU may contain any other provisions agreed to by the parties that are consistent with WIOA title I, the authorizing statutes and regulations of the OhioMeansJobs center partner programs, and the WIOA regulations.

**B. Memorandum of Understanding Negotiations**

WIOA emphasizes full and effective partnerships between local WDBs, chief elected officials, and OhioMeansJobs center partners. Local WDBs, CEOs, and all required and additional partners must enter into good-faith negotiations. Local WDBs, CEOs, and partners may also request assistance from the State agency responsible for administering the partner program, or other appropriate parties on other aspects of the MOU.

Should the parties reach an impasse, the local WDB or partners must report it to the State and provide the documentation of the negotiation efforts, including the MOU and/or budget if either have been developed and signed by one or more parties.

If the impasse is not resolved by May 31 of the state fiscal year immediately preceding the state fiscal year in which the renewal will take effect, including failure to agree upon infrastructure funding costs, the State will be required to implement the state infrastructure funding mechanism and determine each local required partner’s proportionate share of infrastructure costs in accordance with WIOAPL 16-06.

Should a required partner file an appeal to dispute the amount determined by the State per WIOAPL 16-06, and the appeal results in an adjustment of that partner’s share of infrastructure costs, the MOU, budget, and IFA, if developed, must be amended to reflect that adjustment. Copies of the updated MOU, budget, and IFA must be sent to all parties to the MOU in a timely manner.

The IFA must be executed by May 31 of the state fiscal year immediately preceding the state fiscal year in which it will take effect, consistent with the MOU execution deadline.

**C. Amendment and Renewal**

WIOA requires that all MOUs contain provisions that specify when amendment of the MOU is required during the agreed upon MOU period, and the process and time-frame for renewal of the MOU at the conclusion of each MOU period.
1. **Amendment** - The circumstances listed below will require an amendment to the MOU. The local WDB and partners may agree to additional circumstances that will prompt the amendment process.

   a. The addition or removal of a partner entity;
   
   b. A change of OhioMeansJobs center operator, the physical location of an OhioMeansJobs center, or the administrative structure of a local workforce development system; and/or
   
   c. A change that significantly alters negotiated terms of the MOU, such as changes in shared services, service delivery, referral methods, or cost sharing.

   Amendments that do not impact negotiated terms (e.g., the addition of another partner entity that decreases partner costs and does not impact shared services or the separation of a partner that has no impact on shared costs or services) need only be signed by authorized representatives of the local WDB, the CEOs, and the affected partner(s).

   Any changes to the negotiated terms that affect all parties must be signed by all parties, and may require re-negotiation.

   Quarterly reconciliation of the budget and IFA will not require a formal amendment to the MOU.

   Regardless of whether all parties have to sign, the MOU should include a process to ensure that all parties receive advance notice of the amendment and are provided the opportunity to comment. The MOU should also include a provision to ensure that each party receive a copy of each executed MOU amendment and updated budget and/or IFA, as applicable, within a timely manner.

   An amendment to the IFA will not require an amendment to the MOU. However, an IFA amendment will require signatures of the local WDB, CEO(s), and all local required partners.

2. **Renewal** – All local WDBs and partners are required to renew the local MOU no less than every two years, with an MOU period that is concurrent with the state fiscal biennium (beginning July 1 of even-numbered years and ending June 30 of the subsequent odd-numbered year). Annual MOUs must be renewed concurrent with the state fiscal year (beginning July 1 of the current fiscal year and ending June 30 of the subsequent state fiscal year).

   Regardless of whether the MOU period is annual or biennial, all parties must meet at least once annually, preferably during the third quarter of each state fiscal year to review the current MOU, budget, and IFA to determine if re-negotiation of terms and/or costs is necessary.

   If the parties agree that changes are necessary to an MOU executed for a biennial period, the MOU may be amended instead of renewed—unless the changes are so substantial that re-negotiation of the MOU is necessary, in which case the existing MOU must be terminated upon the execution of a new MOU.

   For the renewal MOU period, the IFA must be negotiated and executed concurrently with the MOU.

   All renewal MOUs must be executed by May 31 of the state fiscal year immediately preceding the state fiscal year in which it will take effect. If an MOU is in process, but all signatures will not be acquired by the May 31 deadline, local WDBs must provide written notice to ODJFS that signatures are forthcoming and provide an estimated date of
submission. In order to avoid delay in payment of partner contributions, MOUs should be executed prior to the end of the current MOU period.

IV. **Definitions**

**Access:** To each partner program and its services means:

1. Having a program staff member physically present at the OhioMeansJobs center;
2. Having a staff member from a different partner program physically present at the OhioMeansJobs center appropriately trained to provide information to customers about the programs, services, and activities available through partner programs; or
3. Making available a direct linkage through technology to program staff who can provide meaningful information or services.

**Affiliate OhioMeansJobs center:** A site that makes available to job seeker and employer customers one or more of the programs, services, and activities of the OhioMeansJobs Center’s partners.

**Comprehensive OhioMeansJobs center:** A physical location where job seeker and employer customers can access the programs, services, and activities of all required OhioMeansJobs center partners.

**Core program:** A program which is authorized under one of the following program provisions:

1. Chapters 2 and 3 of subtitle B of WIOA Title I, relating to youth workforce investment activities and adult and dislocated worker employment and training activities;
2. Title II, relating to adult education and literacy activities;
3. Sections 1 through 13 of the Wagner-Peyser Act (29 U.S.C. 49 et seq), relating to employment services; and

**Disability:** Per section 29 C.F.R. 38.4(q) means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

**Direct linkage:** Providing direct connection at the OhioMeansJobs center, within a reasonable time, by phone or through real-time Web-based communication to a program staff member who can provide program information or services to the customer.

**Good faith:** Negotiations that include fully and repeatedly engaging partners, transparently sharing information, and maintaining a shared focus on the needs of the customer.

**Infrastructure Funding Agreement (IFA):** An agreement between local WDBs, CEOs, and local required partners that identifies local infrastructure costs and includes provisions for determination of partner shares and resolution of infrastructure funding-related issues that may arise. The IFA details are to be completed within and generated from the state’s County Finance Information System (CFIS) using the MOU Functions menu item.

**Limited English proficient (LEP) individual:** Per section 29 C.F.R. 38.4(hh) means an individual whose primary language for communication is not English and who has a limited ability to read, speak, write and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).
Local WIOA Memorandum of understanding (MOU): An agreement developed and executed between the local WDB, with the agreement of the CEO(s) and the OhioMeansJobs center partners, relating to the operation of the OhioMeansJobs delivery system in the local area.

Local workforce development system: A system under which entities responsible for administering separate workforce development, education, and human services programs collaborate to create a seamless system of service delivery that will enhance access to the programs' services and improve long-term employment outcomes for individuals and businesses.

OhioMeansJobs center partner: An entity described in section 121(b)(1) or (b)(2) of WIOA that participates in the operation of the local workforce development system.

Partner Entity: The grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area.

Programmatic accessibility: Per section 29 C.F.R. 38.4(tt) means policies, practices, and procedures providing effective and meaningful opportunity for persons with disabilities to participate in or benefit from aid, benefits, services, and training.

Specialized centers: Centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters.

V. State Requirements

A. Negotiation Assistance

Upon request by local WDBs and/or local partners, ODJFS will provide assistance to support negotiation efforts and/or to help resolve disputes that may arise. ODJFS will also coordinate with state-level WIOA partners as appropriate to mediate with local parties in an effort to resolve the impasse. The State Board, called the Governor’s Executive Workforce Development Board (GEWDB), and the State agencies overseeing the partner programs may consult with the appropriate Federal agencies regarding impasse situations related to issues other than infrastructure funding, if ODJFS and state partner intervention fails to resolve local disputes.

The Governor or the GEWDB must report the failure to resolve an impasse to the Secretary of Labor and to the head of any other Federal agency with responsibility for oversight of a partner’s program.

B. Good Partnership

ODJFS, in its role as the WIOA State Agency, has executed an MOU with the other state-level partner agencies to demonstrate the State’s commitment to good partnership by ensuring that staff members participating in negotiations have the knowledge and information needed to be well prepared for the negotiation process.

The state-level partners also agree to make the best efforts to delay any staffing or other significant changes to the beginning of the next state fiscal year and to work with local WDBs to minimize the impact of any such changes on the other local partners. The state core partner agencies include:

1. Ohio Department of Higher Education (Adult Education and Basic Literacy);
2. Opportunities for Ohioans with Disabilities (Vocational Rehabilitation), and
3. Ohio Department of Aging (Senior Community Employment Services Program).

VI. Local Workforce Development Area Requirements

A. Convening Negotiation Meeting

Prior to the beginning of the program year starting the biennial budget, the local WDB must provide all partners at the OhioMeansJobs center(s) the opportunity to participate in a negotiation process to determine how to fund the costs of the local area’s OhioMeansJobs
center(s) in the upcoming two program years. On an annual basis, the local WDB must also provide partners the opportunity to review the current MOU, budget, and IFA to determine if renegotiation of terms and/or costs is necessary and if the MOU needs amendment or renewal. Local WDBs and partners must enter into good faith negotiations. The negotiation process must include at least one annual meeting, preferably during the third quarter of the current state fiscal year, to discuss the MOU. The local WDB and/or its director must schedule this meeting and any additional meetings that are necessary. The purpose of the meeting is to assess the partner’s roles, responsibilities, benefits, and ability to assist in funding the OhioMeansJobs center(s).

The following topics should be covered during the negotiation meeting:

1. Partner’s presence or access to partner services in the OhioMeansJobs center.
2. Partner’s role(s) and responsibility(ies) in the OhioMeansJobs center.
3. Coordination of partner services offered through the local workforce development system.
4. Partner benefit to having a presence in the OhioMeansJobs center (e.g., effortless referral to partner program(s), cost savings, etc.).
5. Identification of infrastructure and other shared costs.
6. Methods to determine each partner’s portion of infrastructure and other shared costs and to allocate costs to partners.
7. Resources each partner will use to fund its proportionate share of costs, which may be cash, noncash, or third-party in-kind contributions.

It may take more than one negotiation meeting to reach agreement, prepare the partner’s portion of the MOU based upon these negotiations, and obtain the partner’s signature.

It is strongly encouraged that the parties reconvene once the MOU, budget, and IFA are developed to review and sign the documents. If this isn’t feasible, the local WDB must develop a process for local partner review and signature of the MOU, budget, and IFA that ensures each partner has the opportunity to review each document and return the documents with signatures and allows sufficient time for local WDBs to gather all signatures and submit the documents to ODJFS.

B. MOU Submission

1. **Local WDB Review**- Prior to submission to partners for signature, the local MOU and budget should be reviewed thoroughly to ensure:
   a. All parties to the MOU are identified in the introduction and are included on the signature pages of the MOU;
   b. All negotiated terms have been included in the MOU in the proper location and are clearly and accurately stated;
   c. The signature lines for each partner, identify:
      i. The partner entity;
      ii. The partner program; and
      iii. The individual authorized to sign the MOU on behalf of the partner entity, by name and by title;
   d. The budget accurately lists the agreed upon costs and cost methodologies; and
   e. All other attachments are accurate and up to date.
2. **Partner review**- Once the local WDB review is complete, the MOU, budget generated as a report from the CFIS system, and all attachments should then be distributed to all local required and additional partners for review and signature, excluding the ODJFS signature which is obtained later. If the parties cannot reconvene to sign the MOU in person, the local WDB shall ensure the parties are given instructions to return the complete MOU (MOU, signature pages and attachments) by a specified date that allows the local WDB sufficient time to collect all signatures and complete a final, review prior to submission to ODJFS.

3. **Submission**- Once all local signatures have been collected, each MOU should be reviewed to ensure that no changes or redactions have been made. Once the final review is complete, the MOU, the signature pages, and all attachments should be combined into a single pdf document and submitted to ODJFS, Office of Workforce Development (OWD) at WIOAMOU@jfs.ohio.gov. Any additional attachments may be sent separately from the MOU.

   If the pdf is too large to be emailed or if mailing the MOU is preferred by the local WDB, a hard copy of the MOU, the signature pages, and all attachments may be sent to: ODJFS, Office of Workforce Development, Grants Administration, 4020 East 5th Avenue, Columbus, Ohio 43219.

4. **ODJFS Review and Signature**- Upon receipt of each MOU, the OWD Grants Administration Unit will conduct a review to ensure all of the following:
   a. All parties are identified;
   b. All local signatures are included (ODJFS will not process any MOU that does not have the signatures of all parties);
   c. All required provisions are clearly written, and
   d. The cost-sharing provisions are consistent with the budget attachment and correctly entered in CFIS.

   Upon completion of its review, Grants Administration will obtain the signature of the ODJFS Workforce Administrator, who will sign for ODJFS in its role as the required partner, and the signature of the ODJFS Assistant Director, who will sign for ODJFS in its role as the administrative and oversight agency for WIOA programs and the statewide workforce development system and as the required partner.

   Grants Administration will send a pdf copy of each fully signed and executed MOU with all attachments to each local WDB. Local WDBs or their designees have the responsibility to ensure that the CEOs and each local partner receive a copy of the fully executed MOU and attachments.

**VII. Technical Assistance**

ODJFS, OWD Grants Administration will provide guidance and technical assistance to local WDBs and partners on matters relevant to the MOU, including, but not limited to:

- Negotiation preparation;
- MOU and/or IFA development;
- Compliance with WIOA and all applicable federal and state laws, regulations, and policies; and
- Any other matters that may arise.

Requests for technical assistance may be sent to OWD, Grants Administration at WIOAMOU@jfs.ohio.gov.

**VIII. References**
Workforce Innovation and Opportunity Act, §§121 and 188, Public Law 113-128.


29 C.F.R. § 38.4.


I. Purpose

The purpose of this policy is to outline the requirements for establishing a workforce delivery system in the local workforce development area.

II. Effective Date

Immediately

III. Background

The workforce delivery system is the cornerstone of the public workforce development system. It is designed to increase access to, and opportunities for the employment, education, training, and support services that individuals need to succeed in the labor market, particularly those with barriers to employment. The workforce delivery system brings together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to the programs' services and improves long-term employment outcomes for individuals receiving services. This is accomplished by providing all customers access to high-quality American Job Centers (in Ohio, called OhioMeansJobs centers) that connect them with the full range of services available in their communities, whether they are looking to find jobs, build basic educational or occupational skills, earn a postsecondary certificate or degree, or obtain guidance on how to make career choices, or are businesses and employers seeking skilled workers.

The Workforce Innovation and Opportunity Act (WIOA) requires the State and local workforce development areas (local areas) to create and maintain a workforce delivery system that enhances the range and quality of education and workforce development services that employers and individuals can access. The system must include at least one comprehensive physical OhioMeansJobs center in each local area. The system may also have additional arrangements to supplement the comprehensive center. These arrangements may include an affiliated site or a network of affiliated sites and specialized centers.

Under WIOA, OhioMeansJobs centers and partner staff strive to:

- Provide job seekers with the skills and credentials necessary to secure and advance in employment with wages that sustain themselves and their families;
- Provide access and opportunities to job seekers, including individuals with barriers to employment to prepare for, obtain, retain, and advance in high-quality jobs and high-demand careers;
- Enable businesses and employers to easily identify and hire skilled workers and access other human resource assistance;
- Participate in rigorous evaluation that support continuous improvement of the OhioMeansJobs centers by identifying which strategies work better for different populations; and
- Ensure that high-quality integrated data inform decisions made by policy makers, employers, and job seekers.

A. OhioMeansJobs Centers
Comprehensive OhioMeansJobs Centers

A comprehensive OhioMeansJobs center is a physical location where job seeker and employer customers can access the programs, services, and activities of all OhioMeansJobs partners. Wagner-Peyser Act employment services must be co-located in the comprehensive center. The workforce delivery system must include at least one comprehensive physical center in each local area.

A comprehensive OhioMeansJobs center must provide all of the following:

1. At least one WIOA Title I staff person physically present during operating hours, in a center that provides career services;
2. Access to training services;
3. Access to any employment and training activities carried out under section 134(d) of WIOA;
4. Access to programs and activities carried out by OhioMeansJobs center partners; and
5. Workforce and labor market information.

Customers must have access to these programs, services, and activities during regular business days at a comprehensive OhioMeansJobs center. The local workforce development board (WDB) may establish other service hours at other times to accommodate the schedules of individuals who work on regular business days. Centers not open outside of the regular business hours should have a plan for how they will provide services to individuals who cannot visit a center during regular business hours.

All comprehensive OhioMeansJobs centers must be physically and programmatically accessible to individuals with disabilities.

Affiliate OhioMeansJobs Centers

Local WDBs may also choose to operate access points to services in addition to the comprehensive OhioMeansJobs centers. If used by the local area as part of the service delivery strategy, affiliate OhioMeansJobs centers must be implemented in a manner that supplements and enhances customer access to services.

An affiliate OhioMeansJobs center is an access point in addition to the comprehensive center in each local area. These centers are created to supplement and enhance customer access to services. This type of center makes available to job seeker and employer customers one or more of the OhioMeansJobs partners’ programs, services, and activities. It does not need to provide access to every required OhioMeansJobs center partner program.

Public libraries may provide an additional access point that local WDBs can use as an affiliate OhioMeansJobs center. In addition to offering public computers and internet access for job seekers and individuals, many libraries also provide space for businesses to host career fairs and networking events. As trusted institutions within their communities, libraries are often at the frontline of employment and training related inquiries. Additionally, libraries also serve school-aged youth who can use public resources for career and education planning, along with the traditional adult job seeker.

Affiliate OhioMeansJobs centers allow for more flexibility in terms of the services partner programs provide. These centers do not need to provide access to every required OhioMeansJobs center partner program.

If Wagner-Peyser Act Employment Services are part of an affiliate OhioMeansJobs center, the center must include at least one or more other partners with a physical presence of combined staff more than 50 percent of the time the center is open. In other words, if Wagner Peyser Act Employment Services are located in an affiliate center, there must be staff of at least one other
partner in that center who are physically present more than 50 percent of the time the center is open.

All affiliate OhioMeansJobs centers must be physically and programmatically accessible to individuals with disabilities.

**Specialized Centers**

Based on local workforce needs, the local WDB, in conjunction with the partners and OhioMeansJobs center operator(s), may determine that a specialized center is more appropriate to serve a particular population and may choose to operate a specialized center.

Specialized centers are centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters. These centers may be time-limited transition centers for rapid response activities or centers located within the prison system. The specialized center must be connected to the comprehensive OhioMeansJobs center or any appropriate affiliate OhioMeansJobs center. Wagner-Peyser Act employment services cannot stand alone in a specialized center; a specialized center must include other programs besides Wagner-Peyser Act employment services.

**B. OhioMeansJobs Center Partners**

**Required Partners**

Section 121(b)(1)(B) of WIOA identifies 13 programs which are required partners in the local workforce delivery system unless that program is not available or provided in the local area.

The required partners are as follows:

1. Programs authorized under Title I of WIOA including:
   a. Adults;
   b. Dislocated Workers;
   c. Youth;
   d. Job Corps;
   e. YouthBuild;
   f. Native American programs; and
   g. Migrant and Seasonal Farmworker (MSFW) programs;
2. Wagner-Peyser Act Employment Services;
3. Adult Education and Family Literacy Act (AEFLA), (in Ohio, called Adult Basic Literacy and Education (ABLE));
4. Vocational Rehabilitation;
5. Senior Community Service Employment Program (SCSEP);
6. Career technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006;
7. Trade Adjustment Assistance (TAA) activities;
8. Jobs for Veterans State Grants (JVSG);
9. Employment and training activities carried out under the Community Services Block Grant (CSBG);
10. Employment and training activities carried out by the Department of Housing and Urban Development (HUD);
11. Programs authorized under State unemployment compensation laws;
12. Programs authorized under the Second Chance Act of 2007; and

If approved by the local WDB and the chief elected official(s), other workforce development programs, including Federal, State, or local programs and programs in the private sector, may serve as additional partners in the workforce delivery system. Additional partners may include, but are not limited to:

1. Employment and training programs administered by the Social Security Administration (SSA), including Ticket to Work and Self-Sufficiency Program;
2. Employment and training programs carried out by the Small Business Administration (SBA);
3. Supplemental Nutrition Assistance Program (SNAP) employment and training programs;
4. Client Assistance Program authorized under the Rehabilitation Act of 1973;
5. Programs authorized under the National and Community Service Act of 1990; and
6. Other appropriate Federal, State, and local programs, including, but not limited to, employment, education, and training programs provided by public libraries or in the private sector.

Program Entity Serving as the OhioMeansJobs Center Partner

The program entity carrying out the activities as the OhioMeansJobs center partner is the grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area. The term, "entity," does not include the service providers that contract with, or are subrecipients of, the local entity. For programs that do not include local entities, the responsible State agency must be the partner.

If more than one entity carries out the same required program in the local area, the participation of any of the entities in the comprehensive OhioMeansJobs center meets the participation requirement for the program, although nothing precludes the local area from including additional partners carrying out the same required program in its comprehensive, affiliate, or specialized centers.

For the ABLE program, the entity or agency that carries out the program is the sole entity or agency in the State or outlying area responsible for administering or supervising policy for adult education and literacy activities in the State or outlying area. The State eligible entity or agency may delegate its responsibilities to one or more eligible providers or consortium of eligible providers.

For the Vocational Rehabilitation program, the entity that carries out the program is the designated State agency or designated State unit specified under section 101(a)(2) of the Rehabilitation Act of 1973 that is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, or individuals with disabilities.

The national programs under WIOA Title I include Job Corps, the Native American program, YouthBuild, and MSFW programs. The entity that carries out the Native American program, YouthBuild, and MSFW program is the grantee of those respective programs. The entity for Job Corps is the Job Corps center.

For the Carl D. Perkins Career and Technical Education Act of 2006, the entity that carries out the program is the eligible recipient or recipients at the postsecondary level, or a consortium of eligible recipients at the postsecondary level in the local area.

Collaboration with the Public Libraries
Community partnerships are critical to supporting the local area’s workforce development system. WIOA explicitly identifies public libraries as potential partners by acknowledging a library’s ability to provide an expansive array of services, including boosting skills through online learning, improving individuals’ English literacy and digital literacy, and helping individuals find work. Libraries are also recognized as important providers of Federally-supported training and employment for adult education and literacy. Public libraries provide and/or support employment, education, and training programs.

Roles and Responsibilities of the Required Partners

Jointly funding services is a necessary foundation for an integrated service delivery system. All partner contributions to the costs of operating and providing services within the workforce delivery system must be proportionate to the benefits received and also must adhere to the partner program’s Federal authorizing statute and to the Federal cost principles requirement that costs be reasonable, necessary, and allocable.

The required partner’s initial priority in the OhioMeansJobs center is their responsibility to implement their program. Once this priority has been established, the partner may participate in shared services, such as overseeing the resource room, assisting with greeting customers, etc., unless prohibited from performing such roles by authorizing statute, order of selection, or other mandates specific to the partner program. These shared services must be adequately distributed amongst all partners able to participate in each activity.

Each required partner must:

1. Provide access to its programs or activities through the workforce delivery system, in addition to any other appropriate locations;

2. Use a portion of funds made available to the partner’s programs, to the extent consistent with Federal law authorizing the partner’s program and with Federal cost principles and audit requirements in 2 C.F.R. Parts 200 and 2900 (requiring, among other things, that costs are allowable, reasonable, necessary, and allocable), to:
   a. Provide applicable career services; and
   b. Work collaboratively with the State and local WDBs to establish and maintain the workforce delivery system. This includes jointly funding the OhioMeansJobs center infrastructure through partner contributions that are based upon:
      i. A reasonable cost allocation methodology as outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs;
      ii. Federal cost principles and audit requirements; and
      iii. Any local administrative cost requirements in the Federal law authorizing the partner’s program;

3. Enter into a Memorandum of Understanding (MOU) with the local WDB relating to the operation of the workforce delivery system;

4. Participate in the operation of the workforce delivery system consistent with the terms of the MOU, requirements of authorizing laws, Federal cost principles, and all other applicable legal requirements; and

5. Provide representation on the State and local WDBs as required and participate in Board committees as needed.

C. Services Provided in the OhioMeansJobs Centers

Career Services
The OhioMeansJobs centers provide services to individual customers based on the individual's needs, including the seamless delivery of multiple services to individual customers. Career services provide local areas with the flexibility to target services to the needs of the job seeker. There is no required sequence of services.

It is important to note that “providing” career services in the OhioMeansJobs centers does not mean that each required partner must provide these services directly on-site. However, it does mean that some career services must be provided directly on-site at the OhioMeansJobs center. Career services may be provided through access to OhioMeansJobs partner programs and activities may be delivered in one of three ways:

1. Having a program staff member physically present at the OhioMeansJobs center;
2. Having a staff member from a different partner program physically present at the OhioMeansJobs center and appropriately trained to provide information to job seekers about programs, services, and activities available through all partner programs; or
3. Making available a direct linkage, as defined in this policy, through technology to a program staff member who can provide meaningful information or services.

The OhioMeansJobs center must ensure that the center is both physically and programmatically accessible to individuals with disabilities. Physical accessibility requires the OhioMeansJobs centers to be accessible and usable by individuals with disabilities, including compliance with all applicable federal accessible design standards. All partners must be able to operate ADA adaptive equipment and know how to access language interpretive services, including sign language. The OhioMeansJobs center must use a language interpretive service and may not use partner program staff or the customer's family members who happen to be bi-lingual for language translation.

There are three types of career services: basic career services; individualized career services, and follow-up career services. While basic career services are to all participants, individualized career services are available to participants after the OhioMeansJobs center staff have determined that such services are required to retain and obtain employment.

The applicable career services to be delivered by required OhioMeansJobs Center partners are as follows and are authorized to be provided under each partner's programs:

1. Basic career services must be made available and must include the following services, as consistent with allowable program activities and Federal cost principles:
   a. Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
   b. Outreach, intake, orientation, and provision of information and other services available through the OhioMeansJobs center. For the TANF program, individuals must be provided with the opportunity to initiate an application for TANF assistance and non-assistance benefits and services, which may be implemented through the provision of paper application forms or links to the application website;
   c. Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skill gaps), and supportive service needs;
   d. Labor exchange services, including:
      i. Job search and placement assistance, and, when needed by an individual, career counseling including provision of information on in-demand industry sectors and occupations and provision of information on nontraditional employment; and
ii. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the workforce delivery system;

e. Provisions of referrals to and coordination of activities with other programs and services, including programs and services within the workforce delivery system and, when appropriate, other workforce development programs;

f. Provision of workforce and labor market information, including the provision of statistical information relating to local, regional, and national labor market areas, including:

   i. Job vacancy listings in labor market areas;
   
   ii. Information on job skills necessary to obtain the vacant jobs listed; and
   
   iii. Information relating to local in-demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs;

g. Provision of performance information and program cost information on eligible providers of education, training, and workforce services by program and types of providers;

h. Provision of information, in usable and understandable formats and languages, about how the local area is performing on local performance accountability measures;

i. Provision of information, in usable and understandable formats and languages, relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance;

j. Assistance in establishing eligibility for financial aid assistance for training and education programs not provided under WIOA; and

k. Provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation.

2. Individualized career services must be made available if determined appropriate in order for an individual to obtain or retain employment and must be available at all the comprehensive OhioMeansJobs centers. These services include the following:

a. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include:

   i. Diagnostic testing and use of other assessment tools; and

   ii. In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

b. Development of an individual employment plan;

c. Group counseling;

d. Individual counseling;

e. Career planning;

f. Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct services to prepare individuals for unsubsidized employment or training;

g. Internships and work experiences linked to careers;
h. Workforce preparation activities;

i. Financial literacy;

j. Out-of-area job search assistance and relocation assistance; and

k. English language acquisition and integrated education and training programs.

3. Follow-up services must be provided, as appropriate, including counseling regarding the workplace, for participants in adult or dislocated worker workforce investment activities who are placed in unsubsidized employment, for up to 12 months after the first day of employment.

TANF agencies must identify employment services and related support being provided by the TANF program, within the local area, that qualify as career services and ensure access to them via the local OhioMeansJobs center.

Business Services

Local areas must establish and develop relationships and networks with large and small employers and their intermediaries. The provision of business services supports the local workforce system to meet the needs of businesses in the local area. To assist in this, applicable OhioMeansJobs center partners develop, offer, and deliver quality business services that assist businesses in overcoming the challenges of recruiting, retaining, and developing talent for the regional economy. To support area employers most effectively, OhioMeansJobs center staff, including designated partner staff, must:

1. Have a clear understanding of industry skill needs;

2. Identify appropriate strategies for assisting employers, and coordinate business service activities across the OhioMeansJobs center partner programs, as appropriate; and

3. Incorporate an integrated and aligned business services strategy among OhioMeansJobs center partners to present a unified voice for the OhioMeansJobs center in its communications with employers.

Certain services must be made available to local employers, specifically labor exchange activities and labor market information. These services include:

1. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the workforce delivery system; and

2. Provision of workforce and labor market employment statistical information, including the provision of accurate information relating to local, regional, and national labor market areas, including:

   a. Job vacancy listings in labor market areas;

   b. Information on job skills necessary to obtain the vacant jobs listed; and

   c. Information relating to local in demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs.

Customized business services may be provided to employers, employer associations, or other such organizations. These services are tailored for specific employers and may include:

1. Customized screening and referral of qualified participants in training services to employers;

2. Customized services to employers, employer associations, or other such organizations, on employment-related issues;
3. Customized recruitment events and related services for employers including targeted job fairs;

4. Human resource consultation services, including but not limited to assistance with:
   a. Writing/reviewing job descriptions and employee handbooks;
   b. Developing performance evaluation and personnel policies;
   c. Creating orientation sessions for new workers;
   d. Honing job interview techniques for efficiency and compliance;
   e. Analyzing employee turnover;
   f. Creating job accommodations and using assistive technologies; and/or
   g. Explaining labor and employment laws to help employers comply with discrimination, wage/hour, and safety/health regulations;

5. Customized labor market information for specific employers, sectors, industries, or clusters; and

6. Other similar customized services.

Local areas may also provide other business services and strategies that meet the workforce investment needs of area employers, in accordance with partner programs’ statutory requirements and consistent with Federal cost principles. These business services may be provided through effective business intermediaries working in conjunction with the local WDB, or through the use of economic development, philanthropic, and other public or private resources in a manner determined appropriate by the local WDB. All business services and strategies must be reflected in the regional and/or local plan. Allowable activities, consistent with each partner's authorized activities, include, but are not limited to:

1. Developing and implementing industry sector strategies;
2. Customized assistance or referral for assistance in the development of a registered apprenticeship program;
3. Developing and delivering innovative workforce investment services and strategies for area employers, which may include career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or other employer use, and other effective initiatives for meeting the workforce investment needs of area employers and workers;
4. Assistance to area employers for managing reductions in force in coordination with rapid response activities and with strategies for the aversion of layoffs;
5. The marketing of business services to appropriate area employers, including small and mid-sized employers; and
6. Assisting employers with accessing local, State, and Federal tax credits.

Fee-for-services are not required to be charged to employers. Additionally, fees may not be charged for the following services:

1. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the workforce delivery system; and
2. Provision of workforce and labor market information, including the provision of statistical information relating to local, regional, and national labor market areas, including:
   a. Job vacancy listings in labor market areas;
b. Information on job skills necessary to obtain the vacant jobs listed; and

c. Information relating to local in demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs.

A fee may be charged for customized business services. Additionally, business services and strategies that meet the workforce investment needs of area employers may be provided on a fee-for-services basis or through the leveraging of economic development, philanthropic, and other public and private resources in a manner determined appropriate by the local WDB.

The local WDB may examine the services provided compared with the assets and resources available within the workforce delivery system and through its partners to determine the appropriate cost structure for services, if any.

Any fees earned are recognized as program income and must be expended by the partner in accordance with the partner program's authorizing statute, implementing regulations, and Federal cost principles identified in Uniform Guidance.

Role of Unemployment Insurance Program in the OhioMeansJobs Center

Many areas of opportunity exist for improved integration of the Unemployment Insurance (UI) program into the workforce delivery system, including, but not limited to:

1. Helping UI claimants access the full range of services, including basic career and labor exchange services, both on-line and in-person through the OhioMeansJobs centers.

2. Ensuring claimants meet eligibility requirements, including searching and registering for work, participating in reemployment services, and ensuring that a feedback loop exists to provide UI program staff with information about any potential eligibility issue.


4. Connecting UI claimants to reemployment services.

5. Providing effective services to veterans who file for benefits under the Unemployment Compensation for Ex-Service members (UCX) program.

6. Undertaking strategies to promote entrepreneurship.

7. Ensuring claimants are fully notified of deadlines and eligibility requirements associated with Trade Adjustment Allowances (TRA), Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) programs.

WIOA requires, as a career service, the provision of both information and assistance to individuals regarding the filing of an UI claim. In the context of providing assistance with UI claims, “meaningful assistance” means, per 20 C.F.R. 678.430:

1. Providing assistance on-site using staff who are well trained in unemployment compensation claims filing and the rights and responsibilities of claimants; or

2. Providing assistance by phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time.

“Meaningful assistance" means having staff well-trained in UI claims filing and claimant rights and responsibilities. This assistance requirement only encompasses helping individuals navigate Ohio's claims filing process and providing the individual with general information on their responsibilities as a claimant. These functions are informational in nature and not directly related to determining the claimant's eligibility for benefits. Staff providing this assistance may be Wagner-Peyser or other OhioMeansJobs center partner staff who have been properly trained to provide this type of assistance and service.

Only UI state merit staff may, in person at the OhioMeansJobs center or remotely, answer questions, provide advice, or make decisions that could affect a claimant’s UI eligibility.
In the OhioMeansJobs centers, meaningful assistance to individuals seeking assistance in filing a UI claim includes the following activities:

1. Computers must be made available for individuals to file a claim for unemployment insurance or to file an appeal of their claim.
2. Telephones must be made available with access to the toll-free phone numbers established by the Office of Unemployment Insurance Operations for individuals to use when seeking assistance from UI merit staff in filing claims or appeals. Individuals must not simply be referred to a general information phone number.
3. Posters providing claimants information on how to file unemployment insurance claims must be visible in the resource room.
4. Additional documents that provide assistance to claimants must be available in the resource room.
5. Resource room staff must be trained and have the knowledge to navigate Ohio's claims filing processes and to provide general information to the claimant on their responsibilities as a claimant.

Meaningful assistance may be provided by other technology. It must be a technology approved by the State that enables trained staff to provide the assistance. Examples of technology that enables remote assistance include live web chat applications or other similar technology.

D. OhioMeansJobs Center Operators

The OhioMeansJobs center operator is the entity or consortium of entities that coordinates the service delivery of required OhioMeansJobs center partners and service providers. The local WDB must select the OhioMeansJobs center operator through a competitive process at least every 4 years. WIOAPL No. 16-08, Procurement of the OhioMeansJobs Center Operator, provides guidance to the local WDBs for the procurement of the OhioMeansJobs center operator.

Role of the OhioMeansJobs Center Operator

At a minimum, the OhioMeansJobs center operator must coordinate the service delivery of the required partners and service providers. These roles may include, but are not limited to the following:

1. Conduct partner meetings;
2. Implement local WDB policies;
3. Coordinate partner services;
4. Ensure shared services within the OhioMeansJobs center are adequately distributed amongst all partners;
5. Oversee employer services;
6. Manage technological resources (e.g., local system website);
7. Require effective internal tracking requirements and referral processes;
8. Coordinate the resource room and computer labs;
9. Report performance and budget information to the local WDB on a regular basis; and
10. Ensure all partners are able to operate ADA adaptive equipment and know how to access language interpretive services, including sign language.

Local WDBs may establish additional roles of the OhioMeansJobs center operator, including, but not limited to:
1. Coordinating service providers across the workforce delivery system;
2. Being the primary provider of services within the center;
3. Providing some of the services within the center; or
4. Coordinating service delivery in a multi-center, which may include affiliated sites.

The OhioMeansJobs center operator may not perform the following functions:

1. Convene system stakeholders to assist in the development of the local plan;
2. Prepare and submit local plans;
3. Be responsible for oversight of itself;
4. Manage or significantly participate in the competitive selection process for OhioMeansJobs center operators;
5. Select or terminate OhioMeansJobs center operators, career services, and youth providers;
6. Negotiate local performance accountability measures; or
7. Develop and submit a budget for activities of the local WDB in the local area.

An entity serving as an OhioMeansJobs center operator, that also serves a different role with the workforce delivery system (including provider of career and youth program services or local area fiscal agent), may perform some or all of these functions when it is acting in its other role, if it has established sufficient firewalls and conflict of interest policies and procedures.

WIOAPL No. 15-18.1 outlines the roles and responsibilities of the OhioMeansJobs center operator as well as the requirements for the development of the multi-function agreement when the OhioMeansJobs center operator performs more than one function.

IV. Definitions

Access: To each partner program and its services means:

1. Having a program staff member physically present at the OhioMeansJobs center;
2. Having a staff member from a different partner program physically present at the OhioMeansJobs center appropriately trained to provide information to customers about the programs, services, and activities available through partner programs; or
3. Making available a direct linkage through technology to program staff who can provide meaningful information or services.

Affiliate OhioMeansJobs center: A site that makes available to job seekers and employer customers one or more of the OhioMeansJobs center's partners' programs, services, and activities.

Career services: Services identified in section 134(c)(2) of WIOA and consist of three types:

1. Basic career services;
2. Individualized career services; and
3. Follow-up services.

Comprehensive OhioMeansJobs center: A physical location where job seekers and employer customers can access the programs, services, and activities of all required OhioMeansJobs center partners.

Direct linkage: Providing direct connection at the OhioMeansJobs center, within a reasonable time, by phone or through a real-time Web-based communication to a program staff member who can provide program information or services to the customer. Solely providing a phone number, web site, information, pamphlets, or materials does not constitute a “direct linkage.”
**Entity**: The grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area.

**Memorandum of understanding (MOU)**: An agreement developed and executed between the OhioMeansJobs center partners and the local WDB, with the agreement of the chief elected official, relating to the operation of the OhioMeansJobs delivery system in the local area.

**OhioMeansJobs center operator**: One or more entities designated or certified under section 121(d) of WIOA.

**OhioMeansJobs center partner**: An entity described in section 121(b)(1) and (2) of WIOA who participates in the operation of the workforce delivery system.

**Public library**: A library that is open to the public and that is one of the following:

1. A library that is maintained and regulated under section 715.13 of the Revised Code;
2. A library that is created, maintained, and regulated under Chapter 3375. of the Revised Code;
3. A library that is created and maintained by a public or private school, college, university, or other educational institution; or
4. A library that is created and maintained by a historical or charitable organization, institution, association, or society.

**Specialized centers**: Centers that address specific needs, including those for dislocated workers, youth, or key industry sectors, or clusters.

**Workforce delivery system**: A system under which entities responsible for administering separate workforce development, education, and other human resource programs collaborate to create a seamless system of service delivery that will enhance access to the programs’ services and improve long term employment outcomes for individuals and businesses.

**State Requirements**

WIOA requires the State to create and maintain a workforce delivery system that enhances the range and quality of education and workforce development services that employers and individuals can access. Programs and providers must collaborate, coordinate, and integrate activities and information so that the system as a whole is cohesive and accessible for individuals and employers alike.

When designing the system, States must ensure that information on the availability of career services is available at all OhioMeansJobs center physical locations and access points, including electronic access points, regardless of where the individuals initially enter the local workforce system. Therefore, the workforce system must include at least one comprehensive physical OhioMeansJobs center in each local area. The system may also have additional arrangements to supplement the comprehensive center. These arrangements include an affiliate center or a network of affiliate centers and specialized centers.

A state infrastructure funding methodology must be implemented to ensure required partner funding is available to support infrastructure costs of any OhioMeansJobs centers in the local areas where partners and the local WDB are unable to reach agreement on memorandum of understanding terms and partner funding to support the OhioMeansJobs centers. The details and restrictions of Ohio’s state infrastructure funding methodology is in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-06, State Mechanism for Funding OhioMeansJobs Center Infrastructure Costs.

**Local Workforce Development Area Requirements**

**A. Identification of the OhioMeansJobs Center(s)**
The local WDB must establish at least one comprehensive OhioMeansJobs center in the local area. The location of this center is at the discretion of the local WDB and the chief elected official (CEO).

Additional comprehensive, affiliate, or specialized OhioMeansJobs centers may also be established in the local area at the discretion of the local WDB and chief elected official(s) based upon the need for additional centers in the local area. Such considerations may include:

1. Customer use (the number of customers who enter the center during hours of operation) of the comprehensive, affiliate and/or specialized OhioMeansJobs centers;
2. Funding available for the comprehensive, affiliate, and/or specialized centers, including program funds and lease agreements;
3. Partner availability in the centers; and
4. The potential enhancement of customer access to services.

The local WDB must notify the Ohio Department of Job and Family Services, Office of Workforce Development of the identification of the comprehensive center(s) and any affiliate and/or specialized center(s) in the local area. This is done by identifying such centers in the local and/or regional plans or e-mailing OWDPOLICY@jfs.ohio.gov.

B. Access to Required Partners

The local WDB must ensure that all required partners identified in section 121(b)(1) of WIOA have a physical presence or provide access to their programs in the comprehensive OhioMeansJobs center. Customers must have access to these programs, services, and activities during regular business days at a comprehensive OhioMeansJobs center. A comprehensive OhioMeansJobs center must have at least one WIOA Title I staff person physically present.

An affiliate center does not need to provide access to every required OhioMeansJobs center partner program. The frequency of program staff's physical presence in the affiliate center will be determined at the local level. If Wagner-Peyser employment services are provided at an affiliate center, there must be at least one or more other partners in the center with a physical presence of combined staff more than 50 percent of the time the center is open. Additionally, the other partner must not be the local Disabled Veterans' Outreach Program Specialists (DVOPS), or unemployment compensation programs. If Wagner-Peyser Act employment services and any of these 3 programs are provided at an affiliate OhioMeansJobs center, an additional partner or partners must have a presence of combined staff in the center more than 50 percent of the time the center is open.

C. Availability of Services

The local WDB must ensure that the OhioMeansJobs centers provide services to individual customers based on the individual's needs, including the seamless delivery of multiple services to individual customers. There is no required sequence of services.

The local WDB must coordinate with all required OhioMeansJobs Center partners to provide basic career services, individualized career services, and business services to customers and employers at the comprehensive and affiliate centers. Furthermore, access to training services must be provided for those customers who have been deemed in need of these services.

OhioMeansJobs center staff are trained and equipped in an ongoing learning environment with the skills and knowledge needed to provide effective services to job seekers, including those with disabilities, and businesses in an integrated, regionally focused framework of service delivery.

D. Selection of the OhioMeansJobs Center Operator
The local WDB must select the OhioMeansJobs center operator through a competitive process at least every 4 years. WIOAPL No. 16-08, Procurement of the OhioMeansJobs Center Operator, provides guidance to the local WDBs for the procurement of the OhioMeansJobs center operator.

Some of the factors which should be considered and prioritized by the local WDB include:

1. Understanding the local WDB's responsibilities under WIOA as it pertains to the OhioMeansJobs center operator and the local workforce system.
2. The local WDB's vision and goals for the local system and how the local system will be structured with respect to the number of OhioMeansJobs centers, the types of centers, the types of services to be provided, and the focus of the local area.
3. The relationship between the local WDB and the operator and the expectations of the local WDB for the operator's role.
4. The procurement process, management of the process, potential conflicts of interest, and management of the contract.

The local WDB must procure the OhioMeansJobs center operator to be effective July 1, 2017.

VII. Technical Assistance

Ongoing support, guidance, training and technical assistance on the development of the workforce system are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, §§106 and 121, Public Law 113-128.


2 C.F.R. Parts 200 and 2900.


To: Workforce Innovation and Opportunity Act Local Workforce Development Board Director, Fiscal Agent, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Eligible Training Providers

I. Purpose

The purpose of this policy is to establish the criteria for eligible training providers and the procedures for approval of eligible training providers on the State's Workforce Inventory of Education and Training (WIET).

II. Effective Date

Immediately

III. Background

The workforce development system established under the Workforce Innovation and Opportunity Act (WIOA) emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principles. The State plays a leadership role in ensuring the success of the eligible training provider system in partnership with the local workforce development boards, the OhioMeansJobs system, and its partners.

As required by section 122 of WIOA and 20 C.F.R. 680.400, the State, in partnership with the local workforce development board, must identify providers of training services that are qualified to receive WIOA funds to train adults, dislocated workers, and out-of-school youth. Therefore, WIOA requires that each state maintain a list of eligible training providers. In Ohio, this list is maintained on WIET. The State must establish eligibility criteria and procedures for initial determination and renewals of eligibility for training providers and training programs to receive funds under WIOA Title I-B. WIET and the related eligibility procedures must ensure the accountability, quality, and labor-market relevance of programs of training services. In administering the WIET process, the State and local workforce development areas must work to ensure that qualified providers offering a wide variety of job-driven training programs are available.

Pursuant to Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-09, Training Services for Adults and Dislocated Workers, WIOAPL No. 15-10, Youth Program Services, and paragraph (E)(4) of rule 5101:14-1-02 of the Administrative Code, training services and occupational skills training for which individual training accounts (ITAs) are used shall only be delivered by providers who have met the eligibility criteria and are listed on WIET pursuant to section 122 of WIOA. An ITA is one of the primary methods through which training is financed and provided for adults, dislocated workers, and out-of-school youth who are 18-24 years old. ITAs are established on behalf of a WIOA participant to purchase a program of training services from eligible training providers. Further guidance regarding training services and use of ITAs may be found in WIOAPL No. 15-09, WIOAPL No. 15-10, and WIOAPL No. 15-11, Use of Individual Training Accounts (ITA).

IV. Definitions

Eligible providers of training services: entities who meet the criteria and procedures established by the State to be eligible to receive WIOA title I-B funds.

Occupational skills training: an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational
fields at the entry, intermediate, or advanced level, and results in attainment of a recognized post-
secondary credential.

**Program of training services:** one or more courses or classes, or a structured regimen that leads to:

1. A recognized post-secondary credential, secondary school diploma or its equivalent;
2. Employment; or
3. Measurable skill gains toward such credential or employment.

V. **Requirements**

A. **Eligible Training Providers**

Eligible training providers are those entities who meet the criteria to provide training services through an ITA to adult, dislocated worker, and out-of-school youth participants and include:

1. Institutions of higher education that provide a program which leads to a recognized post-
secondary credential;
2. Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50); and
3. Other public or private providers of a program of training services, which may include joint labor-management organizations and eligible providers of adult education and literacy activities under title II (in Ohio, Adult Basic and Literacy Education (ABLE)), if such activities are provided in combination with occupational skills training.

B. **Management of the Workforce Inventory of Education and Training**

The State establishes the criteria, information requirements and procedures, including procedures identifying the respective roles of the State and local workforce development areas, governing the eligibility of providers of training services. The State is responsible for all of the following activities:

1. Ensuring the development and maintenance of the state list of eligible providers and programs;
2. Ensuring programs meet the eligibility criteria and performance levels established by the State;
3. Removing programs that do not meet State-established program criteria or performance levels;
4. Taking appropriate enforcement actions against providers that intentionally provide inaccurate information or that substantially violate the requirements of WIOA; and
5. Disseminating WIET to the public and the local workforce development boards.

In partnership, the local workforce development board also has responsibilities in the management of WIET. The local board must complete the following activities:

1. Carry out procedures assigned to the local workforce development board by the State, such as informing the State of:
   a. Specific issues pertaining to the providers; and
   b. Inaccurate performance data.
2. Work with the State to ensure there are sufficient numbers and types of providers of training services, including eligible providers with expertise in assisting individuals with disabilities and assisting adults in need of adult education and literacy activities;
3. Ensure the dissemination and appropriate use of WIET through OhioMeansJobs.com.
Additionally, the local workforce development board may also:

1. Make recommendations to the State on the procedure used in determining eligibility of providers;
2. Request additional information from eligible training providers to assist out-of-school youth, adults, and dislocated workers with informed choice; or
3. Conduct site visits and report on these visits in an effort to rate providers.

C. **Initial Eligibility Procedures for New Providers**

With the exception of registered apprenticeship programs, any provider that has not previously been an eligible provider of training services under section 122 of WIOA or section 122 of the Workforce Investment Act of 1998 (WIA), must submit required information to be considered for initial eligibility.

Any training provider who is providing a program of training services funded through WIOA using ITAs must be on WIET.

Any institution of higher education that provides a program that leads to a recognized post-secondary credential and other public or private providers of programs of training services, including online schools, joint labor-management organizations, and ABLE activities, must submit the following information to the State as a prerequisite to being determined an eligible training provider:

1. Provider name, address, e-mail address, and name of contact person;
2. A description of the training or educational institution and each program of training services to be offered;
3. Indicators of performance, including:
   a. Graduation rate;
   b. Job placement rate;
   c. Workplace earnings; and
   d. Credentials received.
4. A demonstration of high quality training services, including accreditation;
5. Evidence of state licensure and/or copies of licensure requirements applicable to training provider;
6. The ability of the provider to provide training services to individuals who are employed and individuals with barriers to employment (e.g., availability of financial aid, grants, and scholarships);
7. Number of years the provider has been in business;
8. American Disabilities Act (ADA) compliance; and
9. To the extent possible, alignment of the training services with in-demand industry sectors and occupations in Ohio.

Any training provider applying to become an eligible training provider must meet all of the following criteria:

1. The training provider must have been in business 2 years, or longer;
2. The program of training services offered by the training provider must be accredited;
3. The training provider must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by the United States Department of Labor (USDOL) or the State of Ohio;

4. The training provider must not have any outstanding tax liability to the federal government or the state of Ohio that are more than six months past due; and

5. The training provider must not have any outstanding civil, criminal, or administrative fines or penalties owed to or pending at the federal level or in the state of Ohio.

To become an eligible training provider the WIET application site at https://owcms.ohio.gov/wiet/ must be completed. The State will review all applications. The training provider will be notified via e-mail of approval or denial. Approvals or denials will be made for both the training institution and each program of training services for which the institution applied.

Eligible training providers may apply for approval of additional programs of training services at any time after initial eligibility by following the same procedure.

D. Transition of Eligible Training Providers from WIA to WIOA

As the State has redesigned the eligible training provider system, including requirements for becoming an eligible training provider, all WIA approved eligible training providers who provide programs of training services through ITAs, must re-register their institution or training entity and their programs of training services to be approved on WIET.

E. Continued Eligibility Procedures for Eligible Training Providers

Procedures for continued eligibility for eligible training providers is a two part process. One process is to renew the eligible training provider status as an institution or training entity, and the other process is to renew each program of training services for that institution or training entity.

Training providers renew their status as eligible training providers as well as their program(s) of training services by submitting the updated information to WIET at https://owcms.ohio.gov/wiet/.

The State will review all submitted applications, both for the provider as well as for the program of training services. The State will terminate and remove providers that fail to meet criteria necessary to remain eligible. The training provider will be notified via e-mail when its status has either been renewed or terminated.

If a provider of training services does not renew its status within 90 days of the renewal date, the provider will be terminated and removed from WIET. The training provider will no longer be permitted to provide training services funded by WIOA.

Institution and Provider Renewals

For an institution or training provider to continue to be an eligible training provider, their status must be renewed, at a minimum, every 12 months based on the date the institution or training provider was last approved.

The institutional or provider renewal is an update of basic provider information and general performance data. Eligible training providers must renew their status by providing updated contact and State licensure and other accreditation requirements in an accurate and timely manner.

Provider’s Program Renewals

For an institution’s or e-training provider’s program of training services to continue to be eligible, the program’s status must be renewed, at a minimum, every 12 months based on the date the
program of training services was last approved. Program renewals may or may not occur concurrently with an institution’s or provider’s renewal.

As part of the renewal process, data in the Ohio Workforce Case Management System (OWCMS) will report the following information as it pertains to the institution’s or provider’s program of training services:

1. The percentage of WIOA program participants who are in unsubsidized employment during the second quarter after exit from the program;
2. The percentage of WIOA program participants who are in unsubsidized employment during the fourth quarter after exit from the program;
3. The median earnings of WIOA program participants who are in unsubsidized employment during the second quarter after exit from the program;
4. The percentage of WIOA program participants who obtained a recognized post-secondary credential, or a secondary school diploma or its recognized equivalent during participation in or within one year after exit from the program;
5. Information on recognized post-secondary credentials received by WIOA program participants;
6. Information on cost of attendance; including costs of tuition and fees, for WIOA program participants; and
7. Information on program completion rate for WIOA participants.

For renewals beginning July 1, 2017, the eligible training provider must update the performance information listed above for all students enrolled in the training program as well as the graduation rate for the program of training services.

F. Registered Apprenticeship Programs

All registered apprenticeship programs that have been approved by the Ohio Department of Job and Family Services, as a recognized State apprenticeship agency, are automatically eligible to be training providers and included on WIET. All current registered apprenticeship programs in Ohio will be notified of their eligibility, the benefits of being an eligible training provider, and their option to being included on WIET. All apprenticeship programs applying to become registered will be informed of their eligibility to become a training provider and the benefits to being included on WIET as part of their application process.

Once included on WIET, registered apprenticeship programs will remain on the list of eligible training providers until they are deregistered or until the registered apprenticeship program notifies the Ohio Department of Job and Family Services that it no longer wishes to be included on this list.

Inclusion of a registered apprenticeship program on WIET allows an adult, dislocated worker, and out-of-school youth, through ITAs, OJTs, or a combination of both, to use WIOA funds toward apprenticeship training, consistent with their availability and limitations.

G. Loss of Eligibility

A training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider. Providers determined to have intentionally supplied inaccurate information or to have substantially violated any provision of title I of WIOA or the WIOA regulations, including 29 CFR part 37, must be removed from WIET in accordance with the enforcement provisions of WIOA section 122 (f) as follows:

Intentionally supplying inaccurate information
Upon determination that a provider of training services intentionally supplied inaccurate information, the eligibility of such provider to receive funds under WIOA shall be terminated for a period of time that is not less than 2 years.

**Substantial Violations**

Upon a determination that a provider of training services substantially violated any requirement under title I of WIOA or title I of WIA, the eligibility of such provider to receive funds under the adult and dislocated worker training activities shall be terminated for a period of not less than 2 years.

**Repayment**

A provider of training services whose eligibility is terminated as a result of either intentionally supplying inaccurate information or substantial violations of WIOA shall be liable for the repayment of funds improperly secured or received during the period the violation(s) occurred.

If a provider has been terminated from WIET based upon intentionally supplying inaccurate information or committing substantial violations, the training provider may appeal the termination of eligibility using the procedure outlined in section V (H).

**H. Appeal Process for Eligible Training Providers**

If an institution or training provider has been denied as an eligible training provider, has lost eligibility, or has been terminated from WIET, the institution or training provider may appeal the denial or termination using the following procedure:

1. Within 14 days from the date of receipt of notice of termination, the provider may file an appeal to the State by submitting in writing all of the following information: a statement from the provider appealing the termination as an eligible training provider; the reason(s) why the provider should be eligible, and the signature of the contact person for the training provider.

2. The written appeal shall be submitted by e-mail to: WIOAQNA@jfs.ohio.gov.

3. The State will review the appeal, provide the opportunity for a hearing and issue a written decision/response within 60 days of the receipt of the appeal.

**I. Partnership with Local Workforce Development Boards**

Local workforce development boards may supplement information requirements established by WIET in order to support informed customer choice and the achievement of local performance measures. This additional information may include:

1. Information on programs of training services that are linked to local in-demand occupations;

2. Information that shows how programs are responsive to local workforce development area needs; and

3. Other appropriate information related to the objectives of WIOA.

Local workforce development boards may also establish policy regarding how eligible training providers listed on WIET will be utilized locally without inhibiting consumer choice.

**J. Dissemination of List of Eligible Training Providers**

In order to assist participants in choosing employment and training activities, the State must disseminate the list of eligible training providers and accompanying performance and cost information to local workforce development boards in the state and to members of the public, including the OhioMeansJobs delivery system and its program partners. Eligible training providers must be reviewed and updated regularly and provider eligibility must be reviewed at least annually.
In order to ensure informed consumer choice, the State's eligible training provider list and accompanying information (WIET) must be widely available to the public through electronic means, including searchable databases. WIET must be available through the OhioMeansJobs delivery system, as well as through its partners, including the State's secondary and post-secondary education systems. WIET should be accessible to individuals seeking information on training outcomes, as well as participants in employment and training activities funded under WIOA. WIET must also be accessible to individuals with disabilities.

WIET must be accompanied by appropriate information to assist participants in choosing employment and training activities. Such information must include:

1. Recognized post-secondary credential(s) offered;
2. Supplied provider information as part of eligibility; and

VI. Technical Assistance

Requests for technical assistance regarding WIET may be sent to ODJFS, Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VIII. References

Workforce Innovation and Opportunity Act, §§ 122, 123, and 188 Public Law 113-128.
O.A.C. 5101:14-1-02(E)(4).

Rescissions:
ODJFS, Workforce Investment Act Transmittal Letter No. 23, WIA Eligible Training Provider Online (ETPO) Procedure Guidance, (September 27, 2006).
Workforce Innovation and Opportunity Act Policy Letter No. 16-01

August 22, 2016

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Transition of the Workforce Innovation and Opportunity Act (WIOA) Youth Program to the Comprehensive Case Management and Employment Program (CCMEP)

I. Purpose

The purpose of this policy is to establish the procedure for transitioning WIOA youth program participants to CCMEP.

II. Effective Date

Immediately

III. Background

On June 30, 2015, Governor Kasich signed House Bill 64, the state's biennial budget, into law. Section 305.190 of the bill establishes a framework to transform the network of human services and workforce programs to find a new way to work for low-income Ohioans. The state is integrating components of the Temporary Assistance for Needy Families (TANF) program with the WIOA youth employment program to create a better-coordinated, person-centered case management system.

Effective July 1, 2016, CCMEP will be the statewide operational framework used to deliver integrated, comprehensive case management and employment services across Ohio's many local workforce development areas and counties. By leveraging the strengths of both the workforce and human services systems, CCMEP seeks to improve employment outcomes for low-income youth and young adults by helping recipients overcome barriers to employment, including educational barriers and developing the skills local and regional employers seek.

The primary effect of CCMEP is to combine funding from TANF with funding from the WIOA youth program in order to serve low-income youth through a single comprehensive case management system. Individuals in the following population groups who receive services through TANF and WIOA-funded programs will be required to participate:

1. OWF recipients ages 16 to 24 years who are work eligible, as defined in OAC 5101:1-3-12; and
2. In-school and out-of-school youth ages 16 to 24 years who are registered for WIOA-funded programs and who have barriers to employment.

Additionally, two groups will be eligible to volunteer for CCMEP:

1. OWF recipients ages 16 to 24 years who are not work-eligible; and
2. Individuals ages 16 to 24 years receiving Prevention, Retention and Contingency (PRC) benefits and services; who volunteer for CCMEP within 30 days of their last having received PRC.

IV. Requirements

Before July 1, 2016

1. Local workforce development areas must review their current WIOA youth participant cases to determine at what stage the youth is for purposes of service delivery.
2. All WIOA youth participants who have completed the WIOA program or who are not currently receiving any WIOA youth funded services should be closed from the WIOA program by June 30, 2016 and begin follow-up services.
3. For WIOA youth participants who are co-enrolled in the WIOA adult program, the local workforce development area may close the youth program and allow the participant only to continue services under the Adult program.

After July 1, 2016

1. Transition of WIOA Youth Participants to CCMEP
   WIOA youth participants, ages 16-24, who are currently enrolled in WIOA and receiving services, will be transitioned to CCMEP. If a WIOA youth participant will turn 16 years old within two months after July 1, 2016, that youth will also be transitioned to CCMEP. Services will be provided to these youth in accordance with rules 5101:14-1-01 through 5101:14-1-07 of the Administrative Code and any accompanying policy or guidance letters.

2. Provision of Follow-Up Services for Exited WIOA Youth Participants
   Exited WIOA youth participants will not be transitioned to CCMEP. Local workforce development areas will continue to provide follow-up services to exited participants using the second year (Program Year (PY) 2015 carry-in) WIOA youth allocation and/or local WIOA administrative funds. If the local area does not have any or does not have sufficient carry-in funds or administrative funds, the local workforce development board director must contact the Budget Manager, Office of Workforce Development and request assistance in funding follow-up services for exited WIOA youth participants, including justification for why additional funding is needed.

3. Provision of Services through the WIOA Adult Program
   WIOA youth participants, ages 18-24 years and co-enrolled in the WIOA adult program, may continue services through the WIOA Adult program. These youth participants will not be transitioned into CCMEP.
   The local workforce development area must close the youth program services and change funding sources to allow the participant to continue to receive services only under the WIOA Adult program.
   Participants who continue services only under the WIOA Adult program will be subject to the following policies:
   a. Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-02, Adult and Dislocated Worker Eligibility;
   b. WIOAPL No. 15-08, Career Services for Adults and Dislocated Workers;
   c. WIOAPL No. 15-09, Training Services for Adults and Dislocated Workers; and
   d. WIOAPL No. 15-12, Work Experience for Adults and Dislocated Workers.

4. Provision of Services for WIOA Youth Participants Ages 14 and 15
   WIOA youth participants who will not turn 16 years old within two months of CCMEP implementation will not be transitioned to CCMEP. Local workforce development areas may continue to provide WIOA youth program services to these participants using the second year (PY 2015 carry-in) WIOA youth allocation and/or local WIOA administrative funds. If the local area does not have any or does not have sufficient carry-in funds or administrative funds, the local workforce development board director must contact the Budget Manager, Office of Workforce Development and request assistance in funding services for WIOA youth participants ages 14 and 15, including justification for why additional funding is needed.
   Working with 14 and 15 year old youth, the emphasis is on career awareness. There are many partners who provide services specifically to this population. The local workforce development area may refer these youth to any of the following partners:
a. Wagner-Peyser employment services;
b. Vocational rehabilitation;
c. Entities who have received federal or state grants to serve 14 and 15 year old youths;
d. Local school system;
e. Appropriate community-based organizations;
f. Appropriate community action agencies;
g. PRC, through the county department of job and family services; and
h. Other partner programs who serve the local area's youth.

Additionally, OhioMeansJobs.com has a variety of services available specific to working with youth on career exploration, resume writing, financial literacy, and other self-service.

V. **Technical Assistance**

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

VI. **References**

Workforce Innovation and Opportunity Act, Public Law 113-128.


Ohio Administrative Code Rules 5101:14-1-01 through 5101:14-1-07.


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08, *Career Services for Adults and Dislocated Workers* (July 15, 2016).


To: Local Workforce Development Boards (WDB), Fiscal Agents, and OhioMeansJobs Center Operators
From: The Office of Legal and Acquisition Services
Subject: On-the-Job Training (OJT) Policy

I. Purpose
The purpose of this policy is to provide guidance to the local workforce development areas when providing OJTs to adult, dislocated worker, and youth participants with formula funds.

II. Effective Date
Immediately

III. Background
Through OJT activities provided under the Workforce Innovation and Opportunity Act (WIOA), adult, dislocated worker, and youth participants can obtain the skill sets necessary to fill the jobs that are available and are being created in this economy. OJT is a type of training that is provided by an employer to a participant. During the training, the participant is engaged in productive work in a job for which he or she is paid, and the training provides knowledge or skills necessary to the full and adequate performance of the job. Employers must commit to hire and retain the participant at the end of a successful training period. OJT activities support the development of a workforce with skills that meet the needs of employers and provide additional training options for workers and employers. OJT provides an incentive to employers to hire individuals and invest in their skill development, and trainees can earn a wage as they learn. It is a critical tool that helps job seekers enter successful employment.

Detailed procedural guidelines are found in the On-the-Job Training Guidance Manual. This manual is updated as needed to reflect any necessary changes in implementation of OJTs. Copies are available online at http://jfs.ohio.gov/owd/wia/Docs/OJT-Procedures-Manual.pdf.

IV. Definitions
Displaced homemaker: An individual who has been providing unpaid services to family members in the home and who:
1. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; AND
2. Has been dependent on the income of another family member, but is no longer supported by that income; OR
3. Is the dependent spouse of a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code) and whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section); a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code; a permanent change of station; or a service-connected (as defined in section 101(16) of title 38, United States Code) death or disability.

Individuals with barriers to employment: a member of one or more of the following populations:
1. Displaced homemakers;
2. Low-income individuals;
3. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in section 166 of WIOA;
4. Individuals with disabilities, including youth who are individuals with disabilities;
5. Older individuals;
6. Ex-offenders;
7. Homeless individuals or homeless children and youth;
8. Youth who are in or have aged out of foster care;
9. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
10. Eligible migrant and seasonal farmworkers;
11. Individuals within 2 years of exhausting lifetime TANF eligibility;
12. Single parents (including single pregnant women);
13. Long-term unemployed individuals; and
14. Such other groups the State determines to have barriers to employment.

Individual with a disability: an individual with a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

Homeless children and youth (section 725 (2) of the McKinney-Vento Homeless Assistance Act): An individual who lacks a fixed, regular, and adequate nighttime residence and includes the following:
1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children who qualify as homeless for the purpose because the children are living in one of the previously mentioned circumstances.

Homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)): An individual who lacks a fixed, regular, and adequate nighttime residence and includes:
1. An individual who:
   a. Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason:
   b. Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
   c. Is living in an emergency or transitional shelter;
   d. Is abandoned in a hospital; or
   e. Is awaiting foster care placement.
2. An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or
3. Migratory children who qualify as homeless because the children are living in circumstances listed above.

**Low-income individual:** As defined in section 3 (36)(a) of WIOA, an individual who –

1. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or the supplemental security income (SSI) or local income-based public assistance;

2. Is in a family with total family income that does not exceed the higher of –
   a. The poverty line; or
   b. 70% of the lower living standard income level.

3. Is a homeless individual;

4. Receives or is eligible to receive a free or reduced price lunch;

5. Is a foster child on behalf of whom the State or local government payments are made; or

6. Is an individual with a disability whose own income meets the eligibility income requirement of clause (2)(b) but who is a member of a family whose income does not meet this requirement.

**On-the-job training:** training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;

2. Is made available through a program that provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided in section 134(c)(3)(H), for extraordinary costs of providing the training and additional supervision related to training; and

3. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

**Planning region:** two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

V. **Requirements**

A. **Participant Eligibility for an OJT**

WIOA-funded OJT is available for eligible WIOA youth and unemployed or under-employed adult and dislocated workers. Employed workers may be eligible for WIOA-funded OJTs when the employee is not earning a self-sufficient wage as determined by the local workforce development area. Participants who have completed occupational skills training via an individual training account (ITA) may be considered for OJT if it creates an opportunity for the participant to become employed.

As outlined in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-09, Training Services for Adults and Dislocated Worker, and WIOAPL No. 15-10, Youth Program Services, training services may be provided to adults and dislocated workers, and youth participants if, after an interview, evaluation, or assessment and career planning, the participant has been determined to have the skills and qualifications to successfully participate in an OJT. WIOA in-school youth aged 14-21 years may qualify for OJT, although such training may not be an appropriate activity for in-school youth whose individual service strategy (ISS) may be geared toward completion of secondary or postsecondary education instead of employment.
OJT participants must receive wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work. Appropriate workers compensation insurance protection must also be provided to all OJT participants by the employer.

OJT participants are not eligible to receive Needs Related Payments (NRPs) and cannot be immediate family members of the business owner or direct supervisor. Refer to the On-The-Job Training Guidance Manual for the different situations in which OJT-related conflict of interest may arise.

B. **Employer Eligibility for an OJT**

OJT is provided under an agreement with an employer in the public, private non-profit, or private for-profit sector to WIOA eligible participants. Careful consideration should be given while selecting a participating employer. Potential business functions to research before selecting an employer include but are not limited to:

1. Working conditions (safety and health);
2. Presence of health benefits;
3. Wage structure;
4. Turnover rates;
5. Adequate staff and equipment to carry out the training; and
6. Compliance with federal, state and local laws.

**Private Placement Agencies**

A private placement agency may, if all required OJT criteria are met, be an eligible employer for WIOA-funded OJTs. Local workforce development areas must develop policy on OJTs with private placement agencies (e.g. OJTs in scenarios of "temp," "temp to hire" or continued long-term employment).

Refer to the On-The-Job Training Guidance Manual for factors to be considered before writing OJT agreements with a private placement agency.

**Disqualifying Factors**

Employers will be disqualified from participating in the OJT program in the following situations:

1. Businesses must not be presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in transactions by USDOL or the State of Ohio. Below are three websites that may be helpful in checking tax, environmental compliance, and debarment status.

   Federal Debarment Site: [http://www.sam.gov](http://www.sam.gov)
   Ohio Department of Taxation: [http://www.tax.ohio.gov](http://www.tax.ohio.gov)
   Business Filing Search: [http://www.sos.state.oh.us](http://www.sos.state.oh.us)

2. Businesses must not have any outstanding tax liability for over six months to the state of Ohio. WDBs will require the businesses to disclose any known outstanding tax liabilities with Ohio and other states prior to entering into contract. The local WDB may consider existing out-of-state violations when determining eligibility to receive OJT funds. The local WDB must document any resolution of outstanding tax liability, which may include letters from the business or from the State from which the tax liability occurred.

3. Businesses must not have any outstanding civil, criminal or administrative fines or penalties owed to or pending in the state of Ohio.
4. The local workforce development board (WDB) must not enter into an agreement with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment.

5. The employer must comply with all applicable federal, state, local laws and regulations related to providing reasonable working conditions. OJT participants are not permitted to train or work in buildings or surroundings under working conditions that are unsanitary, hazardous, or dangerous to the trainee’s health or safety.

6. If during completion of the employer information form, it is determined that a business has relocated from one U.S. labor market to another and caused dislocation at the original location, OJTs may be available at the new location only after the business has conducted work at the new location for more than 120 days. Refer to the On-The-Job Training Guidance Manual for factors to be considered in determining whether business relocation has occurred.

   To verify that a business is not relocating employment from another area, a pre-award review must be undertaken and documented by the local WDB. The review must include the names under which the establishment conducts business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIOA assistance is being sought in connection with past or impending job losses at other facilities of their company. The pre-award review should also include a review of whether appropriate notices have been filed, as required by the Worker Adjustment Retraining Notification (WARN) Act. The review may also include consultations with labor organizations and others in the affected local area(s).

7. Absent a clear and applicable layoff definition within a collective bargaining agreement or personnel policy governing a local operation, a layoff is defined as termination with the intent to recall. A laid off employee who refuses a recall request is no longer considered to be in layoff status. Layoff recall rights will last six months from the last day of work prior to the layoff.

   If the employer has laid off someone from a similar or "substantially equivalent" work at the same local operation, no OJT or other subsidized employment is permitted. The work is considered substantially equivalent if the overlap between the work (duties and job titles) is 80% or greater. If more than one person is laid off from a substantially equivalent job, and all these persons worked their last day more than six months before the training plan begins, the OJT may proceed and the employer may be reimbursed regardless of the previous layoffs.

8. Training positions covered may not have been created by the displacement of an unsubsidized employee by a WIOA subsidized employee. This includes partial displacement such as reduction in the hours of non-overtime work, wages, or employment benefits. There is no requirement for the job to be similar or substantially equivalent. The key is employer intent: if an unsubsidized employee’s earnings are reduced by hiring a WIOA subsidized participant to offset the lost productivity, it is considered displacement.

Prohibited OJT Activities

The following types of activities are prohibited from OJTs:

Sectarian activities: Funds provided to employers for OJT may not be used to employ the participant/trainee in a position involving political or sectarian activities. Furthermore, OJT participants may not assist, promote or deter union organizing, or engage in political activities during work hours.
Religious activities: OJT participants are prohibited from being employed in the construction, operation, or maintenance of any facility which is used for religious instruction or worship.

C. **Employer Reimbursement**

OJT training payments to employers are deemed to be compensation for the extraordinary costs associated with training a participant and his/her potentially lower productivity. Employers are to be reimbursed up to 50% of the wage rate of an OJT participant.

Pursuant to 20 CFR 680.730, the local WDB, through policy established by the planning region, may increase the reimbursement rate for OJT contracts up to 75%, when taking into account the following factors:

1. The characteristics of the participants taking into account whether they are "individuals with barriers to employment;"
2. The size of the employer with emphasis on small business;
3. The quality of the employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and
4. Other factors the planning region may determine appropriate, which may include number of employees participating, wages and benefit levels of the employees (both at present and after completion), and relation of the training to the competitiveness of the participant.

Local WDBs, through the planning region's policy, must document the factors used when deciding to increase the wage reimbursement levels above 50% up to 75%.

D. **Registered Apprenticeship**

OJT contracts may be written with registered apprenticeship programs or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program. Depending on the length of the registered apprenticeship and State and local policies, these funds may cover some or all of the registered apprenticeship training.

E. **Coordination with Trade**

Individuals who are eligible for training dollars under Trade Adjustment Assistance (TAA) are generally not eligible for WIOA-funded OJTs (except in situations where the cost exceeds the TAA program's ability to fund the training, in which case WIOA funds can pay the portion of the cost that exceeds the TAA maximum).

If a participant is already enrolled in a WIOA-funded OJT and subsequently becomes eligible for funding through TAA, the local workforce development area must determine whether to continue funding the OJT with formula dollars or to fund the remainder of the training with TAA funds based on the following criteria:

- If the WIOA-funded OJT uses a different wage reimbursement rate than the Trade program's OJT policy allows, the participant's OJT may continue to be funded by formula dollars until completion;
- If the WIOA-funded OJT uses a different payment point than the Trade program's required OJT payment point, the participant's OJT may continue to be funded by formula dollars until completion;
- If the WIOA-funded OJT uses the same wage reimbursement rate and payment point as the Trade program OJT, the local area must make arrangements for the remainder of the OJT to be funded by TAA beginning at the next payment point. Local areas must coordinate with Trade
staff to develop a plan for transitioning participants from one funding stream to another without negatively affecting the employer or the participant.

Regardless of whether participants remain in the WIOA-funded OJT or transition to TAA funding, it is required that the participant be co-enrolled in both the WIOA-funded OJT and Trade programs and that the OJT be approved under both programs (even if it is being fully funded by formula dollars) to ensure the participant may qualify for other associated Trade benefits and services.

F. OJT Forms

The following types of forms must be completed for the purposes of conducting OJTs. Forms that have an ODJFS Form number contain all required information. However, these forms may be modified by the local workforce development area or planning region to meet the specific needs of that local area or planning region. Any form modified by the local workforce development area or planning region must still include all the components of the corresponding ODJFS form. If a local workforce development area or a planning region adds more information to a form, it should be done in a manner that the form is not overly burdensome to the employer. All OJT forms must be retained for monitoring purposes. For more information, refer to the On-the-Job Training Guidance Manual.

Employer Information Form (Pre-Award Review)

Prior to the placement of an OJT participant, an employer pre-screening must be conducted and the JFS 80646, On-the-Job Training Employer Information form, or its locally or regionally modified equivalent, must be completed to ensure that the employer meets the minimum standards and can provide both training and long-term employment to the OJT participant. The On-the-Job Employer Information Form may be completed once rather than each time an OJT is approved.

In case of a collective bargaining agreement, the On-the-Job Training Employer Information form must identify and the employer must provide a letter indicating union concurrence before the OJT begins. The WIOA staff at the local workforce development area is expected to contact the employer's union representative if the job is under bargaining unit authority.

The On-the-Job Training Employer Information form must be updated:

1. If the business is sold or transferred;
2. If other significant changes affecting training, hiring, or job retention occur; and
3. At least once a year from the date of issuance.

OJT Agreement

One JFS 80649, On-the-Job Training Agreement, or its locally or regionally modified equivalent, is required per employer regardless of the number of participants trained or hired. The agreement may be effective for a maximum period of one year and cover all training plans approved with the employer prior to the On-the-Job Training Agreement’s expiration date.

The OJT agreement, while establishing the reimbursement procedures, remains non-financial in nature, and no money is obligated until the training plan is approved for an eligible participant. Moreover, in case a collective bargaining agreement exists, the union must be a co-signatory on the OJT agreement.

The OJT agreement should be modified before expiration only if there are significant changes, such as layoffs or changes in federal, state, and local rules and policies pertaining to the implementation of OJTs.

On-The-Job Training Plan
The JFS 80642, On-the-Job Training Plan Local Workforce Agency, or its locally or regionally modified equivalent, obligates training funds for a participant and outlines the planned training activities to be accomplished during the training period. Unlike the OJT agreement, the training plan is required for each participant. The On-the-Job Training Plan Local Workforce Agency constitutes the financial obligation between the agency or service provider and the employer, and is the document which authorizes reimbursement of the agreed upon amount after successful completion of the training plan period (or the retention period, if applicable).

The duration of the OJT shall not exceed a maximum of 1,040 hours unless extenuating circumstances exist, in which case appropriate documentation is required. The length of the training considers several factors such as participants’ skills gap including prior work experience, the occupation for which the participant is receiving training, the content of training, and the service strategy of the participant.

Exceptions for individuals with disabilities or other significant barriers: OJT participants facing a significant barrier to employment, such as a disability covered under the Americans with Disabilities Act (ADA), may be considered for a longer training duration up to 50% additional hours when compared to typical length of a similar OJT, not exceeding a maximum of 1,560 hours.

The On-the-Job Training Plan Local Workforce Agency also identifies the skills to be learned during the OJT. OJT providers may base the identification of skills needed, as well as the justification of training duration, upon the Occupational Information Network (O*NET) and specific vocational preparation (SVP), company job description, input from the employer/supervisor, and/or other appropriate data sources.

Invoice

Payments to employers should be managed by an invoice system that documents the number of hours worked by the OJT participant and the hourly rate of pay.

Payment point procedures can be developed by the local workforce development areas so long as the reimbursement does not exceed 50% of wages. Local workforce development areas also have discretion in determining if they wish to withhold reimbursement for 30, 60 or 90 days to ensure retention after the end of training. The State does not mandate or prohibit OJT holdback tied to employment or retention. However, local workforce development areas must ensure that this information is reflected in the local policy, the OJT agreement, and the OJT training plan.

During the WIOA-funded OJT, participants might also become eligible for other funding streams, such as Trade Adjustment Assistance (TAA), that would preclude their receiving continued funding under the OJT. In such an instance, local areas must develop a plan regarding payment points and transitioning participants from one program to another without negatively affecting the employer or the participant.

The reimbursement base is regular "straight time" hours and does not include commissions, overtime pay, holidays, vacation, sick pay or pay for other hours not worked. Further, payments to employers must be based on scheduled raises and regular pay increases if they occur.

It is expected that OJT participants will be retained at the completion of training.

Exception Request Form (if applicable)

There are times when an OJT participant or work conditions may justify an exception to the original training plan. Local areas should outline how exceptions or modifications will be addressed in their local policies. Possible exceptions or modifications to an OJT may include:

1. Extending the agreed upon length of OJT duration as long as the mandated maximum number of hours are not exceeded;
2. Adjusting the maximum or minimum number of hours/week to accommodate a participant’s learning or other disability as long as mandated maximum number of hours are not exceeded;

3. Allowing employer reimbursement for training, even when the participant fails to complete the training, if the participant quit or was fired for just cause; and

4. Consideration for OJT participants who are performing satisfactorily, have completed substantial training and will be retained by an employer at the end of the training period, but have not learned all the requisite OJT-related skills.

All exceptions must be documented on the JFS 80650, On-the-Job Training Exception Request, or its locally or regionally modified equivalent, before the end date of the training plan. Also, exceptions also must be documented in the participant's case notes.

VI. Monitoring

Local workforce development areas are encouraged to develop their own monitoring policies to outline the procedures, frequency and manner in which OJTs will be monitored and how staff persons/monitors will resolve any findings of non-compliance.

At a minimum, monitors should:

1. Document information received directly from the OJT participants;
2. Obtain the trainee supervisor's perspective about the training progress; and
3. Review the employer payroll records.

The key monitoring issues include verifying and documenting that:

1. There was a need for training;
2. Training was provided to the participant;
3. The length of OJT training was reasonable;
4. The employer reimbursement rate complied with policy; and
5. Other applicable OJT rules and requirements were followed.

VII. Reporting

All participants must be eligible, enrolled in WIOA, and entered in Ohio's Workforce Case Management System (OWCMS). Participants may also be co-enrolled in other state-funded WIOA programs.

VIII. Technical Assistance

For additional information, you may send your questions to ODJFS, Office of Workforce Development: WIAQNA@JFS.OHIO.GOV.

IX. References

Workforce Innovation and Opportunity Act, §§ 134, 188, Public Law 113-128.

2 CFR Part 200, Appendix II

Rescission
To: Workforce Innovation and Opportunity Act Local Workforce Development Boards (WDBs), Fiscal Agents, OhioMeansJobs Center Operators, and Department of Labor (DOL) Funded Partner Programs (Wagner- Peyser, Trade Adjustment Assistance, Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farmworkers, Workforce Innovation in Regional Economic Development Grants, and National Dislocated Worker Grants)

From: Cynthia C. Dungey, Director

Subject: Priority of Service for Veterans and Eligible Spouses

I. **Purpose**

The purpose of this policy is to outline requirements of the local workforce development board (WDB) and American Jobs Centers (in Ohio, called the OhioMeansJobs centers) for implementation of priority of service to veterans and eligible spouses for all U.S. Department of Labor (DOL) funded training programs.

II. **Effective Date**

Immediately

III. **Background**

On November 7, 2002, the Jobs for Veterans Act (JVA), Public Law (P.L.) 107-288 was signed into law. One provision of the JVA, codified at 38 U.S.C. 4215, establishes a priority of service requirement for covered persons in qualified job training programs. While recipients of DOL funds for qualified job training programs have been required to provide priority of service since 2002, the publication of 20 C.F.R. Part 1010, Priority of Service for Covered Persons; Final Rule, which took effect on January 19, 2009, signaled that recipients of DOL funds for these job training programs should review and, if necessary, enhance their current policies and procedures to ensure that adequate protocols are in place.

IV. **Definitions**

**Caregiver:** With respect to an eligible veteran, an individual who provides personal care services to the veteran.

**Covered person:** A veteran or his/her eligible spouse.

**Disabled veteran:** A veteran who is entitled to compensation (or who, except for the receipt of military retired pay, would be entitled to compensation) under the Department of Veteran Affairs, or a veteran who was discharged or released from active duty, because of a service-connected disability.

**Disabled Veterans' Outreach Program (DVOP) Specialist:** The individual who provides basic and individualized career services and facilitates placements to meet the employment needs of veterans.

**Eligible spouse:** An individual who is one of the following:

1. The spouse of any person who died of a service-connected disability.
2. The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
   a. Missing in action;
   b. Captured in the line of duty by a hostile force;
c. Forcibly detained or interned in the line of duty by a foreign government or power for a total of more than 90 days; or
d. The spouse of any person who has a total (100%) disability permanent in nature resulting from a service connected disability or the spouse of a veteran who died while a disability was so evaluated was in existence.

Eligible veteran (for Jobs for Veterans State Grant (JVSG) Program): A person who:

1. Served on active duty for a period of more than 180 days and was discharged (or) released with other than a dishonorable discharge;
2. Was discharged or released from active duty because of a service-connected disability; or
3. Is a member of a reserve component under an order to active duty pursuant to 10 U.S.C. 12301(a), (d) or (g), 12302 or 12304, served on active duty during a period of war or in a campaign or expedition for which a campaign badge was authorized, and was discharged or released from such duty with other than dishonorable discharge.

Family caregiver: With respect to an eligible veteran, a family member who is a caregiver of the veteran.

Family member: With respect to an eligible veteran, an individual who:

1. Is a member of the family of the veteran, including:
   a. A parent;
   b. A spouse;
   c. A child;
   d. A step-family member; and
   e. An extended family member; or
2. Lives with, but is not a member of the family of the veteran.

Homeless individual (Sections 103 (a) and (b) of the McKinney – Vento Homeless Assistance Act (42 U.S.C. 11302 (a) and (b), as amended)) means:

1. An individual or family:
   a. Who lacks a fixed, regular, adequate nighttime residence;
   b. With a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
   c. Living in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing); or
   d. Who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided; or
2. An individual or family:
   a. Who will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by:
A court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

The individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

Credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from the individual seeking homeless assistance that is found to be credible evidence for the purposes of this clause; and

b. Has no subsequent residence identified; and

c. Lacks the resources or support networks needed to obtain other permanent housing; or

3. Unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who:

a. Have experienced a long term period without living independently in permanent housing;

b. Have experienced persistent instability as measured by frequent moves over such period; and

c. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

4. Notwithstanding any of the provisions above, the definition of “homeless” shall include any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of the children are jeopardized, and who have no other residence or lack the resources or support networks to obtain other permanent housing.

Low-income individual (Section 3(36)(A)(i) and (ii) of the Workforce Innovation and Opportunity Act (WIOA)): For the purposes of this policy, the term "low income individual" means an individual who receives or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP) established under the Food and Nutrition Act of 2008; the program of block grants to States for temporary assistance for needy families (TANF) program under part A of title VI of the Social Security Act, or the supplemental security income (SSI) program established under title XVI of the Social Security Act, or other income-based public assistance, or is in a family with total family income that does not exceed the higher of:

(i) The poverty line; or

(ii) 70 percent of the lower living standard income level.

Non-covered person: Any individual who meets neither the definition of "veteran," nor the definition of "eligible spouse."

Offender (Section 3(38) of WIOA): An adult or juvenile who:

1. Is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or

2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.
Priority of service: With respect to any qualified job training program, a covered person shall be given priority over a non-covered person in obtaining all employment, training, and placement services provided under the program.

Recently-separated service member: Any veteran during the three year period beginning on the date of such veteran's discharge or release from active duty.

Service-connected disability: A disability resulting from disease or injury incurred or aggravated during active military service.

Special disabled veteran: A veteran who is entitled to compensation under laws administered by the U.S. Department of Veterans Affairs for:

1. Disabilities rated at 30 percent or higher; or
2. Disabilities rated at 10 to 20 percent, if the individual has a serious employment disability; or
3. A veteran who was discharged or released from active duty because of a service-connected disability.

Spouse: Someone who is married.

Transitioning service member: An individual in active duty status (including separation leave) who registers for employment services and is within 24 months of retirement or 12 months of separation.

Veteran (for priority of service): Any person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than "dishonorable." Active service includes full-time Federal service in the National Guard or a Reserve component, other than full-time duty for training purposes.

V. Requirements

Priority of service means that covered persons are given priority over non-covered persons for the receipt of employment, training, and placement services funded in whole or in part by DOL, including Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Innovation and Opportunity Act, Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farmworkers, Workforce Innovation in Regional Economic Development Competitive Grants, and National Dislocated Worker Grants. All DOL funded grant recipients must implement and comply with locally developed priority of service policies. All program operators are required to ensure that priority of service is applied to all subrecipients of DOL funds.

A. Development of a Local Priority of Service Policy

Each local WDB is required to develop a priority of service policy that includes, but is not limited to, the following criteria:

1. How the local workforce development area (local area) will ensure veterans and eligible spouses are notified of their entitlement to priority of service, the full array of employment, training, and placement services available, and applicable eligibility requirements for programs and services.
2. How the local area will assist individuals in identifying themselves as veterans or eligible spouses at the point of entry to the system or priority.
3. How the local area will monitor the area's implementation of priority of service, including how monitoring is a shared responsibility between the Ohio Department of Job and Family Services (ODJFS) program delivery managers, local area, and OhioMeansJobs center's operator.

Physical copies of the local priority of service policy shall be maintained at all service delivery points, including the OhioMeansJobs center, and to the extent practicable, must be posted in a way that makes it possible for members of the general public easy access to them. An electronic version of the
local policy must also be available on the local area’s and/or center’s website. Furthermore, OhioMeansJobs center staff must be trained on the implementation of priority of service for veterans and eligible spouses.

**Notification of Priority of Service**

Within the local priority of service policy, local workforce development areas must develop and implement processes to notify covered persons who physically access the OhioMeansJobs centers or who access the program through the internet with timely and useful information on priority of service. This is accomplished in a number of ways:

1. Awareness through posters and handouts strategically placed at the OhioMeansJobs centers to alert covered persons of their priority of service rights.

2. Notification and description of priority of service rights as well as access to the state policy should be addressed or provided on the local area’s and/or the OhioMeansJobs center’s website(s). The following veteran resources and information must also be contained on these websites:
   a. Links to the following websites:
      i. ODJFS Veterans Workforce Services: [http://jfs.ohio.gov/veterans/index.stm](http://jfs.ohio.gov/veterans/index.stm);
      ii. OhioMeansVeteranJobs (OMVJ): [www.ohiomeansveteranjobs.com](http://www.ohiomeansveteranjobs.com);
      iv. Department of Higher Education, Ohio GI Promise: [https://www.ohiohighered.org/node/258](https://www.ohiohighered.org/node/258);
      v. Department of Veteran Affairs: [https://www.va.gov/](https://www.va.gov/); and
   b. Narrative describing the State Veterans Program and all resources available at the OhioMeansJobs center and the local area. There should not be any reference to the name and contact information for the DVOP;
   c. Any upcoming events, job fairs, and hiring events, including those specific to the veteran population; and
   d. Any veteran success stories or testimonies.

3. Orientations, both in-person or electronically (including local websites) must include a reference to priority of service rights.

4. Assurances that labor exchange activities and services, including posting of and searching for resumes and jobs and job matching are completed in OhioMeansJobs.com per Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 16-12, Mandate Use of OhioMeansJobs.com, and are given priority of service.

5. Descriptions of how partner program staff within the OhioMeansJobs centers and at other service delivery points are made aware of priority of service requirements. This must be accomplished at both the state and local levels through partner meetings, trainings, and other types of communication such as information sheet or desk aid, self-service kiosks, and information bulletin boards.

It should be noted that a clause pertaining to priority of service is included in the OhioMeansJobs center’s Memorandum of Understanding template and must be utilized by all local workforce development areas. Priority of service is also and will continue to be addressed in all DOL funded employment and training program grant agreements.
Identifying Veterans and Eligible Spouses

The local area must enable veterans and eligible spouses to identify themselves at the point of entry to the system or program. Point of entry may include reception through an OhioMeansJobs center, as part of an application process for a specific program, or through any other method by which veterans and eligible spouses express an interest in receiving services, either in-person or virtually. The local area's policy must include processes to ensure that covered persons are identified at the point of entry for services, the full array of programs and services available to them, any applicable eligibility requirements for those programs and/or services, and given an opportunity to take full advantage of priority of service.

Monitoring Implementation of Priority of Service

The implementation of priority of service impacts most services at the OhioMeansJobs centers. As such, it is the responsibility of multiple programs to ensure that veterans and eligible spouses are aware of the benefits of priority of service; that veterans and eligible spouses are identified at the point of program entry; and that priority of service is applied throughout their respective service delivery systems. At the local level, the ODJFS program delivery managers, local areas, and OhioMeansJobs centers' operators will coordinate and share monitoring responsibilities. These monitoring responsibilities include a review of the implementation of internal policies and procedures and how these procedures result in compliance with the priority of service requirements. As such, the local priority of service policy must outline how this shared responsibility will be coordinated and administered.

B. Applying Priority of Service

The OhioMeansJobs centers are to apply the priority of service definition to all covered persons who access the workforce system through the OhioMeansJobs centers. A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program. Priority of service gives veterans and eligible spouses the right to take precedence over non-covered persons in obtaining services. Depending on the type of service or resource being provided, taking precedence may mean:

1. A veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person; or
2. If the service or resource is limited, the veteran or eligible spouse receives access to the service instead of or before the non-covered person.

Determination of Veteran Status

The local area must have a policy outlining the procedure whereby veterans and eligible spouses are identified at the point of entry. During the initial intake processes with a customer, staff shall further explore the covered person's veteran status (e.g., number of days served and discharge status) and assess whether or not the covered person has a significant barrier to employment using the JFS 01863, Veteran Questionnaire. A covered person is determined to have a significant barrier to employment if he or she attests to meeting one or more of the following criteria:

1. A special disabled or disabled veteran (or an individual who has a disability claim pending with the Department of Veterans Affairs (VA); or
2. A homeless individual;
3. A recently-separated service member who has been unemployed for 27 or more weeks in the previous 12 months;
4. An offender who is currently incarcerated or has been released from incarceration;
5. An individual who lacks a high school diploma or equivalent certificate; or
If the covered person has at least one significant barrier to employment and meets the definition of eligible veteran or eligible spouse for the Jobs for Veterans State Grant (JVSG) program, the OhioMeansJobs center staff shall refer this individual to the JVSG program.

OhioMeansJobs center staff shall also refer an eligible veteran age 18 to 24 years to the JVSG program as this population of veterans has experienced a higher rate of unemployment than other veterans as well as nonveterans of the same age. These eligible veterans may need and benefit from the intensive services provided by a DVOP specialist.

The Veterans' Employment and Training Service has also identified the following three categories of transitioning service members as eligible to receive JVSG services and a referral shall be made:

1. Transitioning service members who are age 18 to 24 years old.
2. Transitioning service members who have been identified as in need of intensive services because they were assessed as not meeting career readiness standards as documented on the DD-2958, Service Member Career Readiness Standards/Individual Transition Plan.
3. Active duty service members being involuntarily separated through a service reduction-in-force.

Additionally, members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members are to be referred to the JVSG program.

If the covered person, transitioning service member, or wounded, ill, or injured member of the Armed Forces (or spouse or family caregiver of such) does not meet the criteria for the JVSG program as outlined above, then the individual may still be provided career and/or training services through Wagner-Peyser or WIOA funded programs, based upon eligibility and suitability.

Referral to the Jobs for Veterans State Grant (JVSG) Program

If the individual meets the definition of eligible veteran for the JVSG program or is an eligible spouse, has at least one significant barrier to employment, or is aged 18 to 24 years, the OhioMeansJobs center staff shall refer this covered person to the JVSG program. A covered person should also be referred to the JVSG program if the covered person is later, after further assessment, determined by OhioMeansJobs center staff to have a significant barrier to employment.

Furthermore, transitioning service members who are 18 to 24 years old or who have been identified as needing intensive services on the DD-2958, or active duty service members being involuntarily separated through a service reduction-in-force will be referred to the JVSG program. Referrals to the JVSG program will also be made for those members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members.

Within the JVSG program, the DVOP specialist will provide basic and individualized career services to mitigate significant barriers to employment and transition these individuals into the civilian workforce. The DVOP specialist also coordinates with the ODJFS workforce specialists to match covered persons with job opportunities.

JVSG participants later found to be dishonorably discharged from the military must be referred back to the OhioMeansJobs center for further Wagner-Peyser Employment Services and/or WIOA basic career, individualized career, and/or training services. These individuals do not qualify for priority of service.

Local areas must establish effective linkages with the State JVSG program staff, for two-way referrals of individuals for services.
Documenting Veteran Status

It is not necessary for OhioMeansJobs center staff to require verification of the status of a covered person at the point of entry, unless the individual who self-identifies as a veteran or eligible spouse:

1. Is to immediately undergo eligibility determination and be registered or enrolled in a program; and
2. Is registering or enrolling in a program for which the applicable federal program rules require verification of veteran or eligible spouse status at that time.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a covered person must be enrolled, be provided immediate priority, and be permitted to follow-up subsequently with any required verification of his or her status as a covered person.

For programs or services that cannot rely on self-attestation, verification of veteran status (e.g., DD-214, cross match with veterans’ data, or letter from Veteran Administration) must be provided prior to the provision of intensive services or the commitment to training services.

For a referral to the JVSG program, documentation of the significant barrier to service is preferred. However, customers may qualify through self-attestation. A self-attestation checklist identifying the significant barriers may be added as part of the intake or assessment process. Any written questionnaire used for identifying a significant barrier must make clear that the information requested is intended for use solely in connection with efforts to give priority to persons with disabilities. If written questionnaires are not used, this information must be made clear orally. The OhioMeansJobs center staff seeking the information must state clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide the information will not subject the applicant or participant to any adverse treatment, and that it will be used only in accordance with law.

Priority of Service for Programs

The application of priority of service varies by program depending on the eligibility requirements of the particular program. Qualified job training programs fall into two basic categories:

1. Universal access programs: For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, veterans and eligible spouses must receive priority of service over all other program participants (e.g., basic career services delivered through the OhioMeansJobs centers under Wagner-Peyser and WIOA programs).

3. Programs with Eligibility Criteria: Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered eligible for:
   a. Enrollment in the program;
   b. Receipt of priority for enrollment in the program; and
   c. Priority of receipt of services.

When a program has statutory eligibility requirements, priority means that covered persons take precedence, with all other qualifying eligibility requirements being equal, over non-covered persons in obtaining services and program enrollment.

Programs with Statutory Priorities

In addition to eligibility criteria that all participants are required to meet, some programs also have priorities that establish a rank order to be observed in enrolling or serving participants.

Priority for WIOA adult-funded individualized career and training services is given to low-income individuals, recipients of public assistance, and individuals who are basic skills deficient. When
determining if a veteran or eligible spouse is a "low income individual" for eligibility purposes, amounts paid while on active duty or paid by the Department of Veteran Affairs (VA) for vocational rehabilitation, disability, or related VA-funded programs are not to be considered as income. A low income veteran or eligible spouse takes precedence, with all other qualifying requirements being equal, over a low income non-covered person in obtaining individualized career services and training services.

This does not allow for "bumping" of non-covered persons who had previously been accepted into a program prior to the covered person applying within the same program. However, if there is a waiting list, the veterans or eligible spouses receive access to the service instead of or before the non-covered person on the waiting list.

Programs with Discretionary Priorities

The local area may not apply additional arbitrary or discretionary conditions or requirements above the program's statutory mandated eligibility requirements to priority of service rights. Therefore, for covered persons, priority of service applies to discretionary targeting programs and services the same way that it applies to universal access programs (i.e., veterans and eligible spouses are served first).

Priority of Service for Programs Administered by State Merit Staff

For DOL funded employment and training programs administered by state merit staff (i.e., TAA, REA, UCRS), eligibility for priority of service should be determined at the initiation of services or upon referral of services, whichever occurs first.

VI. Data Collection

Training and Employment Guidance Letter (TEGL) No. 10-09 provides direction regarding the collection of data for serving veterans and eligible spouses and the implementation of priority of service. The local areas must ensure that all appropriate information regarding identified veterans or eligible spouses has been entered in Ohio Workforce Case Management System (OWCMS).

VII. Monitoring

At the local level, the area's priority of service policy must contain criteria for local monitoring of the implementation of priority of service to ensure that covered persons are made aware of and afforded priority of service.

Through the state's monitoring system, program monitors will review the area's implementation of priority of service during the annual onsite monitoring review for compliance with the local policy as well as federal laws and regulations. Any compliance issues will be handled through the state's findings resolution process.

VIII. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, §§ 3(36)(A)(i)(ii) and 3(38), Pub. L. 113-128.
Priority of Service for Covered Persons; Final Rules, 73 FR 78142 - 78144 (December 19, 2008).
USDOL, Training and Employment Guidance Letter No. 19-13, Change 2, Expansion and Clarification of Homeless Definition as a Significant Barrier to Employment (SBE), (October 30, 2015).
USDOL, Training and Employment Guidance Letter No. 19-13, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans’ Outreach Program (DVOP), (February 11, 2015).

USDOL, Veterans' Program Letter No. 03-14, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).

USDOL, Training and Employment Notice No. 10-14, American Job Center (AJC) Participation in Capstone Activities and Other Outreach to Transitioning Service Members, (September 29, 2014).

USDOL Veterans' Program Letter No. 08-14, Designation for Additional Populations Eligible for Services from Disabled Veterans' Outreach Program (DVOP) Specialists: Transitioning Service Members in need of Intensive Services; and Wounded, Ill, or Injured Service Members Receiving Treatment at Military Treatment Facilities or Warrior Transition Units (MTFs - WTUs); and the Spouses and Family Caregivers of such Wounded, Ill or Injured Service Members, (September 26, 2014).


USDOL, Training and Employment Notice No. 15-10, Protocol for Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2010).

USDOL, Training and Employment Guidance Letter No. 10-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2009).

USDOL Veterans' Program Letter No. 07-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in Whole or in Part by the U.S. Department of Labor, (November 10, 2009).


Rescission

I. Purpose
The purpose of this policy is to outline requirements of the local workforce development board (WDB) and OhioMeansJobs Centers for implementation of priority of service to veterans and eligible spouses for all DOL funded training programs.

II. Effective Date
Immediately

III. Background
On November 7, 2002, the Jobs for Veterans Act (JVA), Public Law (P.L.) 107-288 was signed into law. One provision of the JVA, codified at 38 U.S.C. 4215, establishes a Priority of Service requirement for covered persons in qualified job training programs. While recipients of DOL funds for qualified job training programs have been required to provide priority of service since 2002, the publication of 20 C.F.R. Part 1010, Priority of Service for Covered Persons; Final Rule, which took effect on January 19, 2009, signaled that recipients of DOL funds for these job training programs should review and, if necessary, enhance their current policies and procedures to ensure that adequate protocols are in place.

IV. Definitions
The following are definitions of terms used throughout this policy:

Caregiver: With respect to an eligible veteran, an individual who provides personal care services to the veteran.

Covered person: A veteran or his/her eligible spouse.

Disabled Veteran: A veteran who is entitled to compensation (or who, except for the receipt of military retired pay, would be entitled to compensation) under the Department of Veteran Affairs, or a veteran who was discharged or released from active duty, because of a service-connected disability.

Disabled Veterans' Outreach Program (DVOP) Specialist: The individual who provides intensive services and facilitates placements to meet the employment needs of veterans.

Eligible spouse: An individual who is one of the following:

1. The spouse of any person who died of a service-connected disability.
2. The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
   a. Missing in action;
   b. Captured in the line of duty by a hostile force;
c. Forcibly detained or interned in the line of duty by a foreign government or power for a total of more than 90 days; or
d. The spouse of any person who has a total (100%) disability permanent in nature resulting from a service connected or the spouse of a veteran who died while a disability was so evaluated was in existence.

Eligible Veteran (for Jobs for Veterans State Grant (JVSG) Program): A person who:

1. Served on active duty for a period of more than 180 days and was discharged (or) released with other than a dishonorable discharge;
2. Was discharged or released from active duty because of a service-connected disability; or
3. Is a member of a reserve component under an order to active duty pursuant to section 12301 (a), (d), or (g), 12302 or 12304 of U.S.C. Title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge was authorized, and was discharged or released from such duty with other than dishonorable discharge.

Family caregiver: With respect to an eligible veteran, a family member who is a caregiver of the veteran.

Family member: With respect to an eligible veteran, an individual who

1. Is a member of the family of the veteran, including:
   a. A parent;
   b. A spouse;
   c. A child;
   d. A step-family member; and
   e. An extended family member; or
2. Lives with, but is not a member of the family of the veteran.

Homeless individual (Sections 103 (a) and (b) of the McKinney – Vento Homeless Assistance Act (42 U.S.C. 11302 (a) and (b), as amended)) means:

1. An individual or family:
   a. Who lacks a fixed, regular, adequate nighttime residence;
   b. With a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
   c. Living in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing); or
   d. Who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided; or
2. An individual or family
   a. Who will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by:
(i) A court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

(ii) The individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

(iii) Credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from the individual seeking homeless assistance that is found to be credible evidence for the purposes of this clause; and

b. Has no subsequent residence identified; and

c. Lacks the resources or support networks needed to obtain other permanent housing; or

3. Unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who:

a. Have experienced a long term period without living independently in permanent housing;

b. Have experienced persistent instability as measured by frequent moves over such period; and

c. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

4. Notwithstanding any of the provisions above, the definition of “homeless” shall include any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of the children are jeopardized, and who have no other residence or lack the resources or support networks to obtain other permanent housing.

Local Veterans' Employment Representative (LVER): A representative who:

1. Conducts outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and

2. Facilitates employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery systems.

Low-Income Individual (Section 3(36)(A)(i) and (ii) of the Workforce Innovation and Opportunity Act (WIOA)): For the purposes of this policy, the term "low income individual" means an individual who receives or in the past six (6) months has received, assistance through the supplemental nutrition assistance program (SNAP) established under the Food and Nutrition Act of 2008; the program of block grants to States for temporary assistance for needy families (TANF) program under part A of title VI of the Social Security Act, or the supplemental security income (SSI) program established under title XVI of the Social Security Act, or other income-based public assistance, or is in a family with total family income that does not exceed the higher of:

(i) The poverty line; or

(ii) 70 percent of the lower living standard income level.
Non-covered person: Any individual who meets neither the definition of "veteran," nor the definition of "eligible spouse."

Offender (Section 3(38) of WIOA): An adult or juvenile who:

1. Is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or
2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Priority of service: With respect to any qualified job training program, a covered person shall be given priority over a non-covered person in obtaining all employment, training, and placement services provided under the program.

Recently-Separated Service Member: Any veteran during the three year period beginning on the date of such veteran's discharge or release from active duty.

Service-connected disability: A disability resulting from disease or injury incurred or aggravated during active military service.

Special Disabled Veteran: A Veteran who is entitled to compensation under laws administered by the U.S. Department of Veterans Affairs for:

1. Disabilities rated at 30 percent or higher; or
2. Disabilities rated at 10 to 20 percent, if the individual has a serious employment disability; or
3. A veteran who was discharged or released from active duty because of a service-connected disability.

Spouse: Someone who is married.

Transitioning service member: An individual in active duty status (including separation leave) who registers for employment services and is within 24 months of retirement or 12 months of separation.

Veteran (for Priority of Service): Any person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than "dishonorable." Active service includes full-time Federal service in the National Guard or a Reserve component, other than full-time duty for training purposes.

V. Requirements

Priority of service means that covered persons are given priority over non-covered persons for the receipt of employment, training, and placement services funded in whole or in part by DOL, including Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Innovation and Opportunity Act, Senior Community Service Employment Program, Indian and Native American Programs, Migrant and Seasonal Farmworkers, Workforce Innovation in Regional Economic Development Competitive Grants, and National Dislocated Worker Grants. All DOL funded grant recipients must implement and comply with locally developed priority of service policies. All program operators are required to ensure that priority of service is applied to all subrecipients of DOL funds.

A. Development of a Local Priority of Service Policy

Each local workforce development board is required to develop a priority of service policy that includes, but is not limited to, the following criteria:

1. How the local area will ensure veterans and eligible spouses are notified of their entitlement to priority of service, the full array of employment, training, and placement services available, and applicable eligibility requirements for programs and services.
2. How the local area will assist individuals in identifying themselves as veterans or eligible spouses at the point of entry to the system or priority.

3. How the local area will monitor the area's implementation of priority of service, including how monitoring is a shared responsibility between the Ohio Department of Job and Family Services (ODJFS) veterans' program managers, local area, and OhioMeansJobs Center's operator.

Physical copies of the local Priority of Service policy shall be maintained at all service delivery points, including the OhioMeansJobs Center, and to the extent practicable, must be posted in a way that makes it possible for members of the general public easy access to them. Furthermore, OhioMeansJobs Center staff must be trained on the implementation of priority of services for veterans and eligible spouses.

**Notification of Priority of Service**

Within the local priority of service policy, local workforce development areas must develop and implement processes to notify covered persons who physically access the OhioMeansJobs Centers or who access the program through the internet with timely and useful information on priority of service. This is accomplished in a number of ways:

1. Awareness through posters and handouts strategically placed at the OhioMeansJobs Centers to alert covered persons of their priority of service rights.

2. Notification of priority of service rights should be addressed on the local area's and/or the OhioMeansJobs Center's websites or other portals by which job seekers remotely access resources, including self-service resources.

3. Orientations, both in-person or electronically (including local websites) must include a reference to priority of service rights.

4. Assurances that labor exchange activities and services, including posting of and searching for resumes and jobs and job matching are completed in OhioMeansJobs.com per Workforce Investment Act Policy Letter (WIAPL) No. 13-04, Mandate Use of OhioMeansJobs.com for Job Placement and Referral Activities in Ohio, and are given priority of service.

5. Descriptions of how partner program staff within the OhioMeansJobs Centers and at other service delivery points are made aware of priority of service requirements. This must be accomplished at both the state and local levels through partner meetings, trainings, and other types of communication such as information sheet or desk aid, self-service kiosks, and information bulletin boards.

It should be noted that a clause pertaining to priority of service is included in the OhioMeansJobs Center's Memorandum of Understanding template and must be utilized by all local workforce development areas. Priority of service is also and will continue to be addressed in all DOL funded employment and training program grant agreements.

**Identifying Veterans and Eligible Spouses**

The local area must enable veterans and eligible spouses to identify themselves at the point of entry to the system or program. Point of entry may include reception through an OhioMeansJobs Center, as part of an application process for a specific program, or through any other method by which veterans and eligible spouses express an interest in receiving services, either in-person or virtually. The local area's policy must include processes to ensure that covered persons are identified at the point of entry for services, the full array of programs and services available to them, any applicable eligibility requirements for those programs and/or services, and given an opportunity to take full advantage of priority of service.

**Monitoring Implementation of Priority of Services**
The implementation of priority of service impacts most services at the OhioMeansJobs Centers. As such, it is the responsibility of multiple programs to ensure that veterans and eligible spouses are aware of the benefits of priority of services; that veterans and eligible spouses are identified at the point of program entry; and that priority of service is applied throughout their respective service delivery systems. At the local level, the ODJFS veterans' program managers, local workforce development areas, and OhioMeansJobs Centers' operators will coordinate and share monitoring responsibilities. These monitoring responsibilities include a review of the implementation of internal policies and procedures and how these procedures result in compliance with the priority of service requirements. As such, the local priority of service policy must outline how this shared responsibility will be coordinated and administered.

B. Applying Priority of Service

The OhioMeansJobs Centers are to apply the priority of service definition to all covered persons who access the workforce system through the OhioMeansJobs Centers. A covered person is entitled to priority of services under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program. Priority of service gives veterans and eligible spouses the right to take precedence over non-covered persons in obtaining services. Depending on the type of service or resource being provided, taking precedence may mean:

1. A veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person; or
2. If the service or resource is limited, the veteran or eligible spouse receives access to the service instead of or before the non-covered person.

Determination of Veteran Status

The local area must have a policy outlining the procedure whereby veterans and eligible spouses are identified at the point of entry. During the initial intake processes with a customer, staff shall further explore the covered person's veteran status (e.g., number of days served and discharge status) and assess whether or not the covered person has a significant barrier to employment using the JFS 01863, Veteran Questionnaire. A covered person is determined to have a significant barrier to employment if he or she attests to meeting one or more of the following criteria:

1. A special disabled or disabled veteran (or an individual who has a disability claim pending with the Department of Veterans Affairs (VA);
2. A homeless individual;
3. A recently-separated service member who has been unemployed for 27 or more weeks in the previous 12 months;
4. An offender who is currently incarcerated or has been released from incarceration;
5. An individual who lacks a high school diploma or equivalent certificate; or
6. A low income individual.

If the covered person has at least one significant barrier to employment and meets the definition of eligible veteran or eligible spouse for the Jobs for Veterans State Grant (JVSG) program, the OhioMeansJobs Center staff shall refer this individual to the JVSG program.

OhioMeansJobs Center staff shall also refer an eligible veteran age 18 to 24 years to the JVSG program as this population of veterans has experienced a higher rate of unemployment than other veterans as well as nonveterans of the same age. These eligible veterans may need and benefit from the intensive services provided by a DVOP specialist.
The Veterans' Employment and Training Service has also identified the following three categories of transitioning service members as eligible to receive JVSG services and a referral shall be made:

1. Transitioning service members who are age 18 to 24 years old.
2. Transitioning service members who have been identified as in need of intensive services because they were assessed as not meeting career readiness standards as documented on the DD-2958, Service Member Career Readiness Standards/Individual Transition Plan.
3. Active duty service members being involuntarily separated through a service reduction-in-force.

Additionally, members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members are to be referred to the JVSG program.

If the covered person, transitioning services member, or wounded, ill, or injured member of the Armed Forces (or spouse or family caregiver of such) does not meet the criteria for the JVSG program as outlined above, then the individual may still be provided career and/or training services through Wagner-Peyser or WIOA funded programs, based upon eligibility and suitability.

Referral to the Jobs for Veterans State Grant (JVSG) Program

If the individual meets the definition of eligible veteran for the JVSG program or is an eligible spouse, has at least one significant barrier to employment, or is aged 18 to 24 years, the OhioMeansJobs Center staff shall refer this covered person to the JVSG program. A covered person should also be referred to the JVSG program if the covered person is later, after further assessment, determined by OhioMeansJobs Center staff to have a significant barrier to employment.

Furthermore, transitioning service members who are 18 to 24 years old or who have been identified as needing intensive services on the DD-2958, or active duty service members being involuntarily separated through a service reduction-in-force will be referred to the JVSG program. Referrals to the JVSG program will also be made for those members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units or the spouses or other family caregivers of such wounded, ill, or injured members.

Within the JVSG program, the DVOP specialist will provide intensive services to mitigate significant barriers to employment and transition these individuals into the civilian workforce. The DVOP specialist also coordinates with the LVER to match covered persons with job opportunities.

JVSG participants later found to be dishonorably discharged from the military must be referred back to the OhioMeansJobs Center for further Wagner-Peyser employment services and/or WIOA basic career, individualized career, and/or training services. These individuals do not qualify for priority of service.

Local areas must establish effective linkages with the State JVSG program staff, for two-way referrals of individuals for services.

Documenting Veteran Status

It is not necessary for OhioMeansJobs Center staff to require verification of the status of a covered person at the point of entry, unless the individual who self-identifies as a veteran or eligible spouse:
1. Is to immediately undergo eligibility determination and be registered or enrolled in a program; and

2. Is registering or enrolling in a program for which the applicable federal program rules require verification of veteran or eligible spouse status at that time.

Even in those instances in which eligibility determination and enrollment occur at the point of entry, a covered person must be enrolled, be provided immediate priority, and be permitted to follow-up subsequently with any required verification of his or her status as a covered person.

For programs or services that cannot rely on self-attestation, verification of veteran status (e.g., DD-214, cross match with veterans' data, or letter from Veteran Administration) must be provided prior to the provision of intensive services or the commitment to training services.

For a referral to the JVSG program, documentation of the significant barrier to service is preferred. However, customers may qualify through self-attestation. A self-attestation checklist identifying the significant barriers may be added as part of the intake or assessment process. Any written questionnaire used for identifying a significant barrier must make clear that the information requested is intended for use solely in connection with efforts to give priority to persons with disabilities. If written questionnaires are not used, this information must be made clear orally. The OhioMeansJobs staff seeking the information must state clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide the information will not subject the applicant or participant to any adverse treatment, and that it will be used only in accordance with law.

Priority of Service for Programs

The application of priority of service varies by program depending on the eligibility requirements of the particular program. Qualified job training programs fall into two basic categories:

1. Universal access programs: For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, veterans and eligible spouses must receive priority of service over all other program participants (e.g., basic career services delivered through the OhioMeansJobs Centers under Wagner-Peyser and WIOA programs).

2. Programs with Eligibility Criteria: Eligibility criteria identify basic conditions that each and every participant in a specific program is required to meet. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered eligible for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority of receipt of services.

When a program has statutory eligibility requirements, priority means that covered persons take precedence, with all other qualifying eligibility requirements being equal, over non-covered persons in obtaining services and program enrollment.

Programs with Statutory Priorities

In addition to eligibility criteria that all participants are required to meet, some programs also have priorities that establish a rank order to be observed in enrolling or serving participants.

Priority for WIOA adult-funded individualized career and training services is given to low-income individuals, recipients of public assistance, and individuals who are basic skills deficient. When determining if a veteran or eligible spouse is a "low income individual" for eligibility purposes, amounts paid while on active duty or paid by the Department of Veteran Affairs (VA) for vocational rehabilitation, disability, or related VA-funded programs are not to be considered as income. A low income veteran or eligible spouse takes precedence, with all other qualifying requirements being equal, over a low income non-covered person in obtaining individualized career services and training services.
This does not allow for "bumping" of non-covered persons who had previously been accepted into a program prior to the covered person applying within the same program. However, if there is a waiting list, the veterans or eligible spouses receive access to the service instead of or before the non-covered person on the waiting list.

**Programs with Discretionary Priorities**

The local area may not apply additional arbitrary or discretionary conditions or requirements above the program's statutory mandated eligibility requirements to priority of service rights. Therefore, for covered persons, priority of service applies to discretionary targeting programs and services the same way that it applies to universal access programs (i.e., veterans and eligible spouses are served first).

**Priority of Service for Programs Administered by State Merit Staff**

For DOL funded employment and training programs administered by state merit staff (i.e., TAA, REA, UCRS), eligibility for priority of service should be determined at the initiation of services or upon referral of services, whichever occurs first.

**VI. Data Collection**

Training and Employment Guidance Letter (TEGL) No. 10-09 provides direction regarding the collection of data for serving veterans and eligible spouses and the implementation of priority of service. The local areas must ensure that all appropriate information regarding identified veterans or eligible spouses has been entered in Ohio Workforce Case Management System (OWCMS).

**VII. Monitoring**

Within 90 days of the date of this policy, the local WDB shall develop the local priority of service policy required in section V. A. of this policy and submit to ohiovetsfirst@jfs.ohio.gov for review and approval by the ODJFS Veteran program staff. Local workforce development boards will be notified if the plan has been approved or if revisions must be made.

At the local level, the area's priority of service policy must contain criteria for local monitoring of the implementation of priority of service to ensure that covered persons are made aware of and afforded priority of service.

Through the state's monitoring system, program monitors will review the area's implementation of priority of service during the annual onsite monitoring review for compliance with the local policy as well as federal laws and regulations. Any compliance issues will be handled through the state's findings resolution process.

**VIII. Technical Assistance**

Requests for additional information or questions regarding this policy may be directed to the Office of Workforce Development by e-mailing: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

**IX. References**

Workforce Innovation and Opportunity Act, §§ 3(36)(A)(i)(ii) and 3(38), Pub. L. 113-128.


Priority of Service for Covered Persons; Final Rules, 73 FR 78142 - 78144 (December 19, 2008).


USDOL, Training and Employment Guidance Letter No. 19-13, Change 2, Expansion and Clarification of Homeless Definition as a Significant Barrier to Employment (SBE), (October 30, 2015).
USDOL, Training and Employment Guidance Letter No. 19-13, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).

USDOL, Veterans' Program Letter No. 03-14, Change 1, Expansion and Clarification of Definition of Significant Barriers to Employment for Determining Eligibility for the Disabled Veterans' Outreach Program (DVOP), (February 11, 2015).

USDOL, Training and Employment Notice No. 10-14, American Job Center (AJC) Participation in Capstone Activities and Other Outreach to Transitioning Service Members, (September 29, 2014).

USDOL Veterans' Program Letter No. 08-14, Designation for Additional Populations Eligible for Services from Disabled Veterans' Outreach Program (DVOP) Specialists: Transitioning Service Members in need of Intensive Services; and Wounded, Ill, or Injured Service Members Receiving Treatment at Military Treatment Facilities or Warrior Transition Units (MTFs - WTUs); and the Spouses and Family Caregivers of such Wounded, Ill or Injured Service Members, (September 26, 2014).


USDOL, Training and Employment Notice No. 15-10, Protocol for Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2010).

USDOL, Training and Employment Guidance Letter No. 10-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in whole or in part by the U.S. Department of Labor (DOL), (November 10, 2009).

USDOL Veterans' Program Letter No. 07-09, Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in Whole or in Part by the U.S. Department of Labor, (November 10, 2009).


Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-19

November 12, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Poverty Income Guidelines and Lower Living Standard Income Level

I. **Purpose**

The purpose of this policy is to notify the local workforce development areas of the annually updated Poverty Income Guidelines and the Lower Living Standard Income Level tables as mandated by rule 5101:9-30-03 of the Administrative Code.

II. **Effective Date**

Immediately

III. **Background**

The poverty income guidelines and lower living standard income level are used to determine eligibility and low income for programs operated under the Workforce Innovation and Opportunity Act (WIOA). Low income is used to determine eligibility for youth services and to prioritize individuals for receipt of adult career and training services. Under Rule 5101:9-30-03 of the Administrative Code describes the use and the enforcement of the poverty income guidelines and the lower living standard income level by programs under WIOA.

IV. **Requirements**

The poverty income guidelines and lower living standard income level are issued at separate time frames and by different federal agencies. The United States Department of Health and Human Services (HHS) is responsible for the federal poverty income guidelines and historically releases new guidelines during the first quarter of the calendar year. The Secretary of Labor determines and releases the lower living standard income level for Title I of WIOA during the second quarter of the calendar year. The poverty income guidelines and the lower living standard income level are revised annually by the Office of Workforce Development, Ohio Department of Job and Family Services.

When both income tables have been revised at the federal level, the tables, poverty income guidelines, and lower living standard income level will be updated in the Ohio Workforce Case Management System (OWCMS) for income-based eligibility determinations. When the income tables in OWCMS have been updated, notification will be sent via e-mail to the local workforce development boards and OhioMeansJobs center operators.

V. **Technical Assistance**

For additional information on this policy, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VI. **Reference**

Workforce Innovation and Opportunity Act, § 3(36)(A)(B), Public Law 113-128.

Ohio Admin. Code 5101:9-30-03.
Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-18
September 8, 2015

To: Chief Elected Officials, Workforce Innovation and Opportunity Act Local Workforce Development Board Chairmen, Fiscal Agent, and Workforce Innovation and Opportunity Act Local Workforce Development Board Director

From: Cynthia C. Dungey, Director

Subject: Local Workforce Development Area Governance

I. Purpose

The purpose of this policy is to outline roles of the entities responsible for establishing the workforce development system within a local workforce development area. This policy will also define the required agreements to ensure that the local area serves as a jurisdiction for the administration of workforce development activities and expenditure of adult, dislocated worker, and youth funds allocated by the State.

II. Effective Date

July 1, 2015

III. Background

The Workforce Innovation and Opportunity Act (WIOA) envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. It requires workforce development boards and chief elected officials to design and govern the system regionally, aligning workforce policies and services with regional economies and supporting service delivery strategies tailored to those needs.

Local workforce development areas serve as a jurisdiction for the administration of workforce development activities and require the chief elected officials to play an active role in both strategic planning and ongoing operation of the local system. Agreements between the chief elected officials and the entities responsible for the workforce development system will address the logistics of how the local area will function and how administrative tasks will be carried out within the local area.

IV. Requirements

A. Roles and Responsibilities

Chief Elected Official

Per section 3 (9) of WIOA, the chief elected official is the chief elected executive officer of a unit of general local government in a local area and, in a case in which a local area includes more than one (1) unit of general local government, the individual designated under the agreement that specifies the respective roles of the individual chief elected officials.

Responsibilities of the chief elected official include, but are not limited to:

- Requesting local workforce development area designation;
- Appointing member of the local workforce development board;
- Requesting local workforce development board certification;
- Providing input to establish the by-laws of the local workforce development board;
- Designating a fiscal agent (if not serving as grant recipient);
- Remaining liable for any misuse of WIOA grant funds by the local workforce development area;
• Negotiating and reaching agreement on local performance measures with the local workforce development board and the State;
• Negotiating with the local workforce development board and required partners to maintain the OhioMeansJobs delivery system through the Memorandum of Understanding; and
• Partnering with the local workforce development board and planning region to develop and submit the local plan and regional plan.

Fiscal Agent
The fiscal agent is the entity designated by the chief elected official to perform accounting and funds management on behalf of the chief elected officials. The fiscal agent is responsible for the following functions:
• Receiving funds;
• Ensuring sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget (OMB) circulars, WIOA and corresponding federal regulations and State policies;
• Responding to financial audit findings;
• Maintaining proper accounting records and adequate documentation;
•Preparing financial reports; and
• Providing technical assistance to sub-recipients regarding fiscal issues.

Although the appropriate role of the fiscal agent is limited to accounting and funds management functions rather than policy or service delivery, there may be situations in which the fiscal agent may be the procured OhioMeansJobs center operator or the procured adult and dislocated worker career service provider and/or youth service provider.

When the fiscal agent is not the OhioMeansJobs center operator and/or provider of career and/or youth services, then at the direction of the local board, the fiscal agent may have the following additional functions:
• Procuring contracts or obtain written agreements;
• Conducting financial monitoring of service providers; and
• Ensuring an independent audit is conducted of all employment and training programs.

Local Workforce Development Board
The local workforce development board (WDB) provides strategic and operational oversight, assists in achievement of the State’s strategic and operational vision and goals, and maximizes and continues to improve quality of services, customer satisfaction, and effectiveness of services provided.

Some of the roles of the local board are to:
• Develop and submit local and regional plans;
• Conduct workforce research and regional labor market analysis;
• Convene local workforce development system stakeholders to assist in the development of the local plan and identify non-Federal expertise and resources to leverage support for workforce development activities;
• Lead efforts to engage a diverse range of employers and other entities in the region;
• Lead efforts to develop and implement career pathways;
• Lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and job seekers;
• Conduct oversight of the adult, dislocated worker, and youth programs and the entire OhioMeansJobs delivery system, ensure the appropriate use and management of WIOA funds, and ensure the appropriate use, management, and investment of funds to maximize performance outcomes;
• Negotiate and reach agreement on local performance measures with the chief elected official and the State;
• Negotiate with the chief elected official and required partners to maintain the OhioMeansJobs delivery system through the Memorandum of Understanding;
• Competitively procure provider(s) of youth program services, provider(s) of adult and dislocated worker career services, and the OhioMeansJobs center operator;
• Ensure there are sufficient numbers and types of providers of career services and training services serving the local area;
• Coordinate activities with education and training providers in the local area;
• Develop a budget for the activities of the board;
• Assess, on an annual basis, the physical and programmatic accessibility of all OhioMeansJobs centers in the local area, in accordance with section 188 of WIOA (pertaining to nondiscrimination), if applicable, and applicable provisions of the Americans with Disabilities Act of 1990;
• Certify the OhioMeansJobs centers in the local area;
• In partnership with the chief elected official, establish by-laws and codes of conduct, which, at minimum, must address all of the following:
  • The nomination process used by the chief elected official to elect the local board chair and members;
  • The term limitations and how the term appointments will be staggered to ensure only a portion of membership expire in a given year;
  • The process to notify the chief elected official of a board member vacancy to ensure a prompt nominee;
  • The proxy and alternative designee process that will be used when a board member is unable to attend a meeting and assigns a designee as per the requirements at 20 CFR 679.110 (d)(4) of the Regulations;
  • The use of technology, as allowable under Ohio's Sunshine Laws and Ohio's Open Meetings Act, that will be used to promote board member participation;
  • The process to ensure board members actively participate in convening the workforce development system's stakeholders, brokering relationships with a diverse range of employers, and leveraging support for workforce development activities;
The process to ensure that board members' participation on the board is done in a manner which does not pose a conflict of interest; and

A description of other conditions governing how a local board member will continue to serve on the local board if such member has also been appointed to serve on the State Board, as deemed appropriate by the chief elected official; and

Establish additional monitoring and reporting requirements if one entity is fulfilling multiple functions to ensure the entity is compliant with WIOA, regulations, OMB circulars, and the State's conflict of interest policy.

Local Workforce Development Board Director and Staff

The local WDB may hire a qualified director, and as appropriate and feasible, staff to assist in ensuring the functions of the local board are achieved. If the local WDB does not elect to hire a director, the local WDB or the chief elected official may designate an individual or entity to fulfill the role of workforce development director. The individual or entity who is designated to fulfill the role of director must not be the OhioMeansJobs center operator or the provider of career and/or youth services. If the local WDB does not hire or designate a director, all the functions of the local WDB outlined in section 107 (d) of WIOA and 20 CFR 679.370 shall be carried out by the local WDB itself.

The local WDB must establish and apply a set of objective qualifications for the position of director that ensure the individual selected has the requisite knowledge, skills, and abilities to meet identified benchmarks and to assist in effectively carrying out the functions of the board which includes, but is not limited to:

- Coordinating with the chief elected officials regarding the identification and nomination of members to the local WDB and ensuring membership is compliant with WIOA.
- Organizing local WDB meetings and ensuring that the meetings are held according to the WDB's by-laws and the sunshine laws;
- Developing and submitting the local and regional plan;
- Conducting oversight of the adult, dislocated worker, and youth programs, including development of policies and monitoring the administration of the programs;
- Negotiating and reaching agreement on local performance measures;
- Negotiating with chief elected official and required partners for the Memorandum of Understanding;
- Competitively procuring providers of youth program services, providers of adult and dislocated worker career services, and the OhioMeansJobs center operator;
- Developing budget for activities of the board; and
- Certifying the OhioMeansJobs centers.

The director and other staff hired by the local WDB may be employed directly by the local WDB or by another entity or organization not directly involved in the delivery of adult and dislocated worker career services and/or youth program services, and/or is the OhioMeansJobs center operator. If an individual or entity is designated to fulfill the role of director, this individual or entity also must not be directly involved in the delivery of services or the operation of the OhioMeansJobs center. Per 20 CFR 679.410 (d), the general prohibitions that apply to local boards directly providing career services also apply to board staff.
OhioMeansJobs Center Operator

The OhioMeansJobs center operator must be competitively procured by the local WDB. Minimally, the OhioMeansJobs center operator is the coordinator of the OhioMeansJobs partners. Therefore, the OhioMeansJobs center operator must perform the following:

- Coordinate service delivery among partners as defined in the memorandum of understanding;
- Coordinate service delivery among physical OhioMeansJobs centers and electronic sites;
- Coordinate services across the local area workforce development system;
- Implement local WDB policies; and
- Report to the local WDB on operations, performance accountability, and continuous improvements.

However, the entity selected to be the operator may also be procured to provide career services to adult and dislocated workers and/or youth program services.

The OhioMeansJobs center operator cannot assume functions that are inherently the responsibility of the local board and its staff.

B. One Entity Performing Multiple Functions

WIOA establishes clear roles and responsibilities for each entity or organization involved in the workforce delivery system. There may be situations in which one entity can perform multiple functions. Local entities or organizations often function simultaneously in a variety of roles, including fiscal agent, local WDB staff, OhioMeansJobs center operator, provider of career services, and provider of youth services as follows:

- The local WDB, director, and/or staff may also be designated as the fiscal agent.
- The fiscal agent may also be the local WDB, WDB director or WDB staff. The fiscal agent may also be the OhioMeansJobs center operator, the provider of adult and dislocated worker career services, or the provider of youth program services. Please note that the fiscal agent cannot simultaneously perform all the roles and responsibilities of the local WDB, WDB director, WDB staff, OhioMeansJobs center operator, provider of career services, and provider of youth program services.
- The OhioMeansJobs center operator may also be the fiscal agent, the provider of adult and dislocated worker career services, or the provider of youth program services.

The local WDB and its staff shall not have the role and perform the responsibilities of the OhioMeansJobs center operator, the provider of adult and dislocated worker career services, and/or the provider of the youth program. The local WDB is designed to oversee the OhioMeansJobs delivery system and its services, not provide them. The entities performing these functions are procured through the local WDB, which also has the responsibility of monitoring and overseeing the contracts, as well as the services performed through the contract.

However, in certain critical circumstances (e.g., sudden termination of contract or failed procurement), the local WDB may become an OhioMeansJobs center operator or a provider of career and/or youth services on a time-limited (six (6) months or less) basis if the provision is approved by the chief elected official and the State.

Local Workforce Development Area Multi-Function Agreement
For situations in which an entity or organization has been selected or otherwise designated to perform more than one function, the required contract or written agreement shall include a clause to clarify how the entity will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant OMB circulars, and the State’s conflict of interest policy. The written clause in the contract or agreement shall include, at a minimum, the following requirements:

- Definition of roles and duties per function (e.g., fiscal agent, OhioMeansJobs center operator, and/or procured provider of services);
- Description of the separation of staff duties under each role, including deliverables for each separate function;
- Description of how budget authority is separated, including separate line item budgets for each function; and
- Description of how staff duties will be completed while demonstrating compliance with WIOA and regulations, OMB circulars, and the State’s conflict of interest policy, including how conflict of interest will be minimized;
- Description of the roles and responsibilities within the organization, including an organizational chart, and sustainability if a function is removed; and
- Description of how fiscal monitoring will occur if the fiscal agent is performing multiple functions.

The written clause or agreement limits conflict of interest or the appearance of conflict of interest, minimizes fiscal risk, and develops appropriate firewalls within a single entity performing multiple functions.

C. Governance Agreements

Implementation of a local workforce development system pursuant to WIOA requires that the local elected officials play an active role in both strategic planning and ongoing operation of the local system.

Intergovernmental Agreement

The purpose of having an intergovernmental agreement is to identify how the decisions that are delegated to the local elected officials and/or designated chief elected official will reflect the agreement of all the local elected officials in all jurisdictions of a local area. This agreement is between the local elected officials of each jurisdiction within the local area and should contain signatures of all county commissioners and/or mayor(s).

This agreement should clearly state the accord to be reached amongst the governmental entities involved and identify the roles and responsibilities of all local elected officials within the local area. At a minimum, the agreement should contain the following sections:

- **Identification of local workforce development area**
  The agreement needs to clearly identify the units of local government which are covered by this agreement and which make up the local area.

- **Designation of chief elected official(s)**
  The parties to the Intergovernmental Agreement should identify the county commissioner(s) and/or mayor(s) to serve as the chief elected official(s) of the local area for the purposes of approving local and regional plans, establishing policy, authorizing WIOA expenditures, establishing contracts, paying for services outside of the local area or paying costs associated with monitoring or audit findings or sanctions.
• **Designation of the fiscal agent**
  The fiscal agent is the entity designated to perform accounting and funds management on behalf of the chief elected official(s). The agreement should identify the entity performing these duties.

• **Process for local elected officials to provide input**
  The agreement should include a process for local elected officials to provide input to the chief elected official(s) for the purposes of reaching a consensus on critical decisions that may impact the local workforce development system.

• **Liability**
  Under WIOA, chief elected officials are liable for misspent funds, disallowed costs, funds spent fraudulently, and potential sanctions for non-performance. Therefore, local elected officials within a local area must agree on how liability for these funds will be shared among the counties should this situation arise. Some issues that should be addressed include:
  - If a local area receives a monetary sanction for non-performance, who will be responsible for paying the sanction?
  - If there are disallowed costs or misspent funds that cannot be covered by grant funds, how will funds be identified to pay the money back to the State?
  - If a local area receives monetary incentives for good performance, how will decisions on how to spend the money be made?

• **Performance accountability**
  Generally, performance accountability issues are addressed in the local workforce development area's local plan. However, local elected officials should agree on an approach to performance accountability. Issues to be addressed in this section of the intergovernmental agreement include, but are not limited to:
  - Who will be responsible for negotiating local performance measures with the State (this should include the local elected officials and the local WDB)?
  - Will local performance be measured on an area wide basis by individual jurisdiction with an area wide roll-up?
  - Will the local area have any additional performance criteria in addition to federal and state criteria?
  - How will performance be administratively tracked locally?
  - How will incentives and sanctions related to performance be shared among the jurisdictions within the local area?

• **OhioMeansJobs service delivery**
  The development of the local one-stop service delivery system within a local area, which in Ohio is OhioMeansJobs, is a critical requirement under WIOA. There are several issues associated with OhioMeansJobs design and implementation that local elected officials should address in their inter-governmental agreement, such as the following:
  - How will the key partners and stakeholders be brought to the table to design and implement the OhioMeansJobs service delivery system for the local area?
• What specific roles will local elected officials play in the design and implementation and how will they be shared area wide?

• How will the location of the physical OhioMeansJobs centers be identified?

• **Dispute resolution process**

  Because of the different interests of the local elected officials within a local area, it is possible that disputes will occur. The agreement must include provisions for resolving disputes, should they arise. Below are possible issues to address in the agreement relative to dispute resolution:

  • What types of disputes do local elected officials agree arise to the level of needing a dispute resolution process?

  • What type of dispute resolution process should be used (mediation, arbitration, consultation with State, etc.)?

• **Miscellaneous provisions**

  • Duration of the agreement

  • Process for modification or termination of agreement

**Local Governance Agreement**

The purpose of the local governance agreement is to delineate the roles and responsibilities between the chief elected official(s), local WDB (or its director and/or staff), and the fiscal agent. This agreement is between the chief elected official(s), the local WDB, and the fiscal agent and should be signed by all three (3) entities. At a minimum, the agreement should contain the following sections:

• **Establishment, appointment, and operation of the local WDB**

  The agreement should include an agreed process for establishing and appointing the local WDB. Issues to consider include, but are not limited to:

  • The size and membership of the local WDB;

  • Bylaws and procedures for local WDB actions as described in Section IV. A. of this policy under "Local Workforce Development Board;"

  • How board members will be geographically representative of all jurisdictions within the local workforce development area; and

  • How appointed board members can/will be removed or replaced.

• **Hiring or designating the local WDB director and/or staff**

  The local WDB may hire a qualified director and as appropriate and feasible, staff to assist in ensuring the functions of the local WDB are achieved. If a director is not hired, the local WDB or the chief elected official(s) may designate an individual or entity to fulfill the role of workforce development director. At a minimum, the agreement should contain the following information:

  • The established set of objective qualifications for the position of director;

  • The duties of the director and, as appropriate and feasible, the staff;

  • The process of evaluating the director and, as appropriate and feasible, the staff; and

  • The process of terminating the director and, as appropriate and feasible, the staff.
Role of the fiscal agent

Because fiscal decisions frequently impact the overall success of a program or initiative and because there is clear liability associated with the management of public funds, the parties to the agreement must have a clear understanding of the fiscal issues, which must be addressed in the agreement, including how WIOA funds will be divided to ensure each jurisdiction receives its fair share.

Other fiscal issues that should be identified, mentioned, and/or addressed within the local governance agreement include, but are not limited to:

- How the local workforce development area will comply with state and federal fiscal reporting requirements;
- Establishment of fiscal policies relative to procurement, auditing, fiscal monitoring, and overall fiscal administration;
- What flexibility there will be to utilize WIOA program funds for fiscal agent operational costs and for benefit of the overall local workforce development area as opposed to each individual jurisdiction within the local area;
- The federal and state requirements applicable to all fiscal agreements, including, but not limited to, limitations on use of program funds, cost allocation requirements, procurement requirements, reporting requirements, and audit requirements; and
- Other policy issues associated with the administration of WIOA program funds and other program funds, as identified in the local or regional plans.

Multi-function agreement

For situations in which the fiscal agent and the local WDB director are the same individual or from the same entity or organization, the local governance agreement shall include a clause to clarify how the entity will carry out each of its responsibilities, both as a fiscal agent and a local board director, while demonstrating compliance with WIOA and corresponding regulations, relevant OMB circulars, and the State's conflict of interest policy. Requirements of this clause are outlined in section IV. B. of this policy.

Dispute resolution process

Because of the different interests of the local elected officials within a local workforce development area, it is possible that disputes will occur. The agreement must include provisions for resolving disputes, should they arise.

Miscellaneous provisions

- Duration of the agreement
- Process for modification or termination of agreement

D. Procurement and Oversight

The local WDB shall not delegate its procurement responsibility. However, the local WDB and the WDB director may elect to competitively procure an independent third party or utilize the fiscal agent to assist as long as the third party or the fiscal agent have no conflict of interest and the local WDB retains authority and responsibility for the selection, oversight, and evaluation of the procured services.

Procurements must be designed to maximize competition and therefore may not be performed separately in each jurisdiction or multiple jurisdictions within the local workforce development
area. Bidders should be allowed to apply to deliver services throughout the local workforce development area without responding to multiple requests for proposal (RFP). Additionally, the local WDB may elect to conduct individual procurements, two procurements, or one procurement for the three (3) functions under WIOA:

- OhioMeansJobs center operator;
- Adult and Dislocated Worker career services; and
- Youth program services.

The local WDB and the local board director are responsible for the following activities pertaining to procurement, either by performing the tasks directly or by arranging for the deployment of staff, contractors, subcommittees of the local board, or other methods to ensure the tasks are performed:

- Procuring and selecting the OhioMeansJobs center operator, adult and dislocated worker career services provider, and the youth program services provider;
- Drafting and issuing the RFPs for each function or as a whole for all functions;
- Scoring the proposals, selecting the winning bid, and negotiating with the entity;
- Awarding the contract;
- Responding to any procurement appeal;
- Providing oversight and evaluation;
- Conducting program monitoring;
- Conducting fiscal monitoring (may be done by the fiscal agent on the local WDB’s behalf, if the fiscal agent is not the OhioMeansJobs center operator or provider of services); and
- Auditing (may be done by fiscal agent on the local WDB’s behalf, if the fiscal agent is not the OhioMeansJobs center operator or provider of services).

For situations in which the fiscal agent, OhioMeansJobs center operator and/or provider of career services and/or youth program services are the same entity or organization, the contracts shall include a clause to clarify how the entity will carry out each of its responsibilities, while demonstrating compliance with WIOA and corresponding regulations, relevant OMB circulars, and the State’s conflict of interest policy. Requirements of this clause are outlined in section IV. B. of this policy.

V. Monitoring

At the local level, the local WDB and its director or staff must conduct oversight of the procurement process and resulting contracts and agreements to ensure all aspects of written agreements and contracts are compliant with federal and state laws and regulations. Additionally, the local WDB and its director or staff must also ensure that governing agreements are upheld.

Through the state’s monitoring system, program and fiscal monitors will review the local area’s agreements and contracts during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VI. Technical Assistance

Ongoing support, guidance, training and technical assistance on development of intergovernmental agreement and local governance agreement as well as procurement processes are available to all local areas.
Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VII. References
Workforce Innovation and Opportunity Act, §§ 106 – 107, Public Law 113-128.


Rule 5101:9-4-07 of the Administrative Code

Rule 5101:9-4-07.1 of the Administrative Code

The Ohio Ethics Commission, Ohio Ethics Law and Related Statutes (October 2014).

August 6, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Rapid Response Program Requirements - Layoff Aversion

I. Purpose

Ohio is committed to providing workforce solutions throughout the business cycle to all of its customers and can do so when delivery of rapid response (RR) is intended to avert or mitigate employer layoffs and closure. The purpose of this policy is to outline RR program requirements when funding is being used to support layoff aversion activities.

II. Effective Date

July 1, 2015

III. Background

The Workforce Innovation and Opportunity Act (WIOA) RR program is designed to be proactive by providing layoff aversion services. Layoff aversion is one of the required early intervention services that the local area RR service delivery system must make available; and it is conducted during times when local businesses and economies are both contracting and expanding. Layoff aversion saves jobs, increases economic productivity, decreases negative impacts of unemployment, and ensures more resources are available to provide comprehensive services to those individuals with greater needs. This concept is critical in creating and sustaining high-performing RR systems. RR benefits employers by helping them prepare for and manage economic transition and related workforce challenges. Ohio's RR program is committed to the development of Ohio's workforce by investing resources in the continual development of employee skills.

The Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD) is the agency responsible for the administration of WIOA and RR programs. The OWD RR Unit will oversee Ohio's RR program to ensure compliance with federal and state requirements. Detailed operation descriptions and procedural guidelines are found in the Ohio Rapid Response Procedures Manual. This manual is updated as needed to reflect any necessary changes in implementation of the program. Copies are available online at http://www.ohiored.gov/misc/RRProcedureManual.pdf.

IV. Definitions

Early intervention services: Customized services provided in a rapid and efficient manner and delivered prior to or within a reasonable time of the layoff date.

Incumbent worker: Pursuant to the proposed final version of 20 C.F.R. 680.780, an employed individual who meets the Fair Labor Standards Act requirements for an employer-employee relationship and has an established employment history with the employer for six months or more.

Incumbent worker training (IWT): Training designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment. IWT is conducted with the commitment of the employer to retain or avert the layoffs of the incumbent workers trained. IWT may be funded with adult or dislocated worker formula dollars or with statewide rapid response funds.

Layoff aversion: A strategy that prevents and/or minimizes unemployment for employees of companies that have either announced layoffs, or are struggling and at risk of downsizing.
Local area rapid response coordinator (LC): An individual representing the local workforce development board (WDB), workforce development area, and OhioMeansJobs Centers on the RR team.

ODJFS regional rapid response coordinator (RC): An ODJFS staff member assigned to a specific area of Ohio representing ODJFS and leading the activities of the local RR team.

Ohio Rapid Event Data (OhioRED): An information tracking system that records all employer event information and data on the delivery of RR services.

Ohio Workforce Case Management System (OWCMS): A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

Rapid response (RR) team: Individuals from state and local workforce entities who respond collectively to layoffs and closures that occur in their area and assist in providing RR services to employers and affected workers.

V. Layoff Aversion Strategies

The U.S. Department of Labor (USDOL) Employment and Training Administration considers a layoff averted when:

1. A worker's job is saved with an existing employer that is at risk of downsizing or closing;
2. A worker at risk of dislocation transitions to a different job with the same employer; or
3. A worker at risk of dislocation transitions to a new job with a different employer and experiences no or a minimal period of unemployment.

The RC coordinates with community partners, in the local workforce development area and economic development area, to identify at-risk companies and develop a customized plan to address each company's unique set of circumstances. Layoff aversion strategies can be effective tools to assist employers in developing the skilled workforce necessary to adapt to the changing economy, to stay in business, and to retain employees.

Therefore, the benefits of layoff aversion include retaining jobs in the economy and critical industries in the region, promoting new industry-sector growth strategies and new jobs in the economy, and providing improved coordination between partners. These strategies, as outlined in the proposed final version of 20 CFR 682.320, include, but are not limited to:

1. Providing assistance to employers in managing reductions in force, which may include:
   a. Early identification of firms at risk of layoffs (e.g., early warning networks or trend monitoring);
   b. Assessment of the needs of and options for at-risk firms (e.g., asset mapping, employee buy-outs, or succession planning); and
   c. The delivery of services to address these needs, as provided by section 134(d)(1)(A)(ix)(II)(cc);
2. Ongoing engagement, partnership, and relationship building activities with businesses in the community, in order to create an environment for successful layoff aversion efforts and to enable the provision of assistance to dislocated workers in obtaining reemployment as soon as possible;
3. Funding feasibility studies to determine if a company's operations may be sustained through a buyout or other means to avoid or minimize layoffs;
4. Developing and managing rapid response incumbent worker training (RRIWT) programs or other worker skills upgrading approaches;
5. Connecting companies to:
   a. Short-time compensation (e.g., SharedWorks Ohio) or other programs designed to prevent layoffs or to quickly reemploy dislocated workers, available under Unemployment Insurance programs;
   b. Employer loan programs for employee skill upgrading; and
   c. Other Federal, State, or local resources as necessary to address other business needs that cannot be funded with resources provided under this title;

6. Establishing linkages with economic development activities at the Federal, State, and local levels, including Federal Department of Commerce programs and available State and local business retention and expansion activities;

7. Partnering or contracting with business-focused organizations to assess risks to companies, propose strategies to address those risks, implement services, and measure impacts of services delivered;

8. Conducting analyses of the suppliers of an affected company to assess their risks and vulnerabilities from a potential closing or shift in production of their major customer;

9. Engaging in proactive measures to identify opportunities for potential economic transition and training needs in growing industry sectors or expanding businesses; and

10. Connecting businesses and workers to short-term, on-the-job, or customized training programs and apprenticeships before or after layoff to help facilitate rapid reemployment.

Employers may benefit from the following types of training for incumbent workers:
1. Skills upgrade training;
2. Customized training;
3. Occupational skills training.

Detailed descriptions of allowable costs for IWTs as well as the listing of qualifying criteria for employers to participate in IWTs are found in the Ohio Rapid Response Procedures Manual.

Based upon a thorough assessment, it may be determined that an employer could be better served through a program not funded by RR. Therefore, it is important to gather sufficient information and work with the RC, LC, and OWD RR Unit to determine the appropriate mix of services to meet the employers’ needs. Furthermore, RR funds for layoff aversion activities should be used to establish or develop layoff aversion strategies; but the funds are not to be used for the maintenance of such strategies. The goal is to develop a layoff aversion strategy that will become self-sustaining. Therefore, RR layoff aversion dollars will not fund activities beyond initial development, such as ongoing staff costs or system enhancements.

VI. Requirements
   A. Identification, Roles and Expectations of the Rapid Response Team for Layoff Aversion Activities

   The local workforce development boards (WDB) have the unique opportunity to implement proactive programs, thereby saving jobs and helping their communities grow and prosper. Each workforce area must have an RR team consisting of the following partners and fulfilling the following roles when coordinating layoff aversion activities:

   1. **RC**: The RC will:
      a. Lead team members to effectively deliver services to employers throughout the business cycle (normal expansions and contractions of economic cycle);
      b. Direct team members in the development of an operations protocol;
c. Identify the opportunity to conduct layoff aversion activities to the local WDB;
d. Determine the layoff aversion strategy that best fits the opportunity;
e. Guide teams through employer and worker assessments in use of IWT for layoff aversion; and
f. Review the RR funding application prior to submission to ODJFS Rapid Response Unit and recommend revisions as necessary.

2. **LC:** The LC will coordinate and facilitate the following activities:
   a. Develop project plan and proposed funding needed;
   b. Guide the team through the funding application process, including applying for funds and submitting the form to RC for review;
   c. Assist in the implementation of the layoff aversion activity; and
   d. Capture the data associated with layoff aversion.

3. **Back-up LC:** The back-up LC is an individual serving back-up to the local area rapid response coordinator on the RR team to ensure responsibilities are fulfilled whenever the assigned LC is unable to fulfill duties.

The RC and the LC are in the best position to identify potential layoff situations and may establish and utilize additional indicators for identifying employers at risk of layoff.

**B. Reporting Requirements**

**Rapid Response Incumbent Worker Training**

Local WDBs are required to report RRIWT activities via the mini-incumbent worker registration in OWCMS. The reporting of outcomes is also required.

Each layoff aversion strategy must be entered into OhioRED, creating a rapid response identification (RRID) number for the employer, which will be used with every mini-incumbent worker registration when recorded in OWCMS. Detailed descriptions of required data elements, the type of training provided, and the worker outcomes are found in the Ohio Rapid Response Procedures Manual.

Local WDBs may choose to collect more information if necessary to conduct successful RRIWT programs. Local WDBs choosing to collect and document data elements over and beyond the requirements must ensure that every RRIWT program is compliant with reporting requirements. Given the sensitive nature of a layoff aversion activity for an employer, the local WDBs should be cognizant of what confidential information is gathered beyond the requirements of this policy.

**C. Funding for Rapid Response Layoff Aversion Strategies**

Rapid response emergency assistance funds (RREAF) are available to local areas allowing flexibility in serving potentially affected workers and at-risk employers. RREAF are intended to supplement the local Dislocated Worker formula-funded program, not to supplant these funds.

If the local RR team determines that RR funds are needed to conduct layoff aversion strategies, the local area WDBs must apply using the Application for Rapid Response Emergency Assistance Funds-Layoff Aversion, which is attached to this policy and is maintained on the ODJFS OWD website. The OWD Rapid Response Unit will review and determine whether or not to approve the application. Layoff aversion strategies will be funded incrementally based upon the project's budget, implementation, and need.

Applications and the approval of funds must be for a particular program year. If the development of a layoff aversion strategy or the continuation of RRIWT goes beyond the program year, a new application must be completed for the next program year and submitted for approval.
Upon receipt of RR funds for approved layoff aversion strategies, local WDBs must ensure that impacted workers are not turned away from services based upon residency.

Depending on the RR funded layoff aversion strategy, the local area may be required to enter information on individuals receiving layoff aversion services into OWCMS under Special Grants. By reporting information into OWCMS, the local area may report outcomes.

VII. Monitoring

Local area monitoring must include an evaluation of the effectiveness of the area's implementation of layoff aversion activities. This must include an assessment of collaboration among RR teams and members, the efficiency of service delivery to employers and affected workers, timeliness and completeness of data entry into OhioRED and/or OWCMS, and use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures.

Through the state's monitoring system, program and fiscal monitors will review the area's implementation of RR activities during the annual onsite monitoring review for compliance with local procedures, the funding application, as well as federal laws and regulations. Any issues will be handled through the state's resolution process.

VIII. Technical Assistance

The OWD Rapid Response Unit will identify best practices and document RR activity throughout the state. The OWD Rapid Response Unit will also provide oversight of the activities of the local RR teams. The unit will provide support, guidance, training, and technical assistance to local teams; review, manage, and report out on data deriving from local activity; and provide financial resources to the local RR teams and stakeholders. Ongoing technical assistance to local WDBs and OhioMeansJobs Centers is available through the OWD Rapid Response Unit.

For additional information, questions may be sent to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov.

IX. References


The Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96.

20 C.F.R. §§ 682.300-682.370.

USDOL, Training and Employment Guidance Letter WIOA N0. 3-15 Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services (July 1, 2015).

ETA, Unemployment Insurance Program Letter No. 03-13, Financing of Temporary Federal Short-Time Compensation Programs under Section 2163 of the Middle Class Tax Relief and Job Creation Act of 2012 (December 4, 2012).

Ohio Rev. Code §§ 4141.09, 4141.50, as amended by 130th General Assembly, Substitute H.B. 37.


Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-15.1

January 23, 2017

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDB), Fiscal Agents, ODJFS Program Delivery Managers, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Rapid Response Program Requirements -- Employer Mass Layoff, Employer Closure, and Trade Adjustment Assistance Events

I. Purpose

Ohio is committed to providing workforce solutions throughout the business cycle to all of its customers and can do so when delivery of rapid response (RR) is intended to avert or mitigate employer layoffs and closure events. The purpose of this policy is to outline the requirements for delivery of RR program services during an employer mass layoff, closure, and/or filing of a Trade Adjustment Assistance (TAA) petition event.

II. Effective Date

February 1, 2017

III. Background

Pursuant to section 134 (c)(1) of the Workforce Innovation and Opportunity Act (WIOA), funds allocated to the local workforce development area for dislocated workers shall be used to establish a workforce delivery system, to provide career services to dislocated workers, to provide training services to dislocated workers, to establish and develop relationships with large and small employers, and to develop, convene, or implement industry and sector partnerships. The local workforce development boards (WDBs) determine the most appropriate mix of these services, and both career and training services must be available to eligible dislocated workers. It is expected that local dislocated worker funds will be utilized to support the provision of services to individuals who have been terminated or laid off, or received a notice of termination or layoff from employment.

Rapid response (RR) is a series of activities provided by the State, to assist dislocated workers in obtaining reemployment as soon as possible, when one or more of the following circumstances occur:

1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
2. Announcement or notification of a mass layoff;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

RR may also be provided if multiple employers experience downsizing causing a significant impact on the community.

The objective of Ohio’s RR delivery system is to strengthen accountability, partnership, communication, professional development, and timely access to needed services for employers and impacted workers. Rapid reemployment is the central purpose of RR and is done by helping workers impacted by an employer mass layoff and/or closure event quickly transition to new employment, minimizing the duration of unemployment, or averting layoff when possible.
Under section 134(a)(2)(A)(i) of the Workforce Innovation and Opportunity Act (WIOA), each state is responsible for providing RR activities. Ohio will utilize a combination of state/local teams, as well as eligible service providers to be most effective in serving at-risk workers and employers.

Building and maintaining relationships with current and new employers can further local team effectiveness by understanding current and future workforce needs of local businesses and industry. With this knowledge, teams can strategically avert layoffs or minimize their impact, reduce the duration of unemployment, and positively affect the local economy. Ohio's RR program can, and should, bring together government, education and training resources to not only meet the needs of the business community, but to further it throughout all phases of the business cycle.

The Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD) is the agency responsible for the administration of WIOA and RR programs. The OWD RR Unit will oversee Ohio's RR program to ensure compliance with federal and state requirements. Detailed operation descriptions and procedural guidelines are found in the Ohio Rapid Response Operations Guidance. This manual is updated as needed to reflect any necessary changes in the implementation of the program. Copies are available online at [http://www.ohiored.gov/misc/forms.stm](http://www.ohiored.gov/misc/forms.stm).

IV. Definitions

Chief elected official(s): The chief elected executive officer(s) of a unit of general local government in a local workforce development area and, in a case in which a local workforce development area includes more than one unit of general local government, the individual(s) designated under the agreement that specifies the respective roles of the individual chief elected officials.

Employer: An individual, business, company, firm, agency, organization, etc. that employs one or more people.

Event: Any situation in which workers are at risk of layoff from a downsizing or closure of an employer’s Ohio business, facility, or agency.

Fiscal agent: The entity designated by the chief elected official(s) to perform accounting and funds management on behalf of the chief elected official(s). The fiscal agent coordinates with the local workforce development board regarding funding for the planned array of dislocated worker and rapid response services and ensures fiscal integrity and accountability for expenditure of these funds.

Layoff: A separation due to the lack of work or other factor(s) not related to the behavior or performance of the employee.

Local area rapid response coordinator (LC): An individual representing the local WDB, workforce development area, and OhioMeansJobs centers on the RR team.

Mass layoff: Any reduction in force that is not the result of a total plant/branch/office closing, but still results in the filing of a Worker Adjustment and Retraining Notification (WARN) Act notice, regardless of the number of workers affected by the layoff announced; or, if no WARN correspondence is issued, employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

Notification: The process by which an individual on the RR team is made aware of a possible layoff or employer closing. A notification can come from a variety of sources, including, but not limited to: a WARN letter, word of mouth, the media, local Chamber of Commerce, ODJFS Trade Unit, OhioMeansJobs Center, union officials, local government, etc.

ODJFS rapid response point of contact: The ODJFS workforce specialist who is stationed in an OhioMeansJobs center within the local workforce development area identified to maintain communication with the employer.
ODJFS rapid response coordinator (RRC): An ODJFS supervisory staff member assigned to a specific local workforce development area or planning region of Ohio and leading the activities of the local RR team.

OhioMeansJobs center operator: The entity which oversees and coordinates services amongst partners in the OhioMeansJobs center.

OhioMeansJobs.com: The statewide electronic system for labor exchange and job placement activity operated by the state.

Ohio Rapid Event Data (OhioRED): An information tracking system that records all employer event information and data on the delivery of RR services.

Ohio Rapid Response Workforce Survey (RRWS): The standardized survey, referred to as the Common Worker Survey, used in Ohio to identify demographics of the affected workforce and serve as a preliminary needs assessment.

Ohio Workforce Case Management System (OWCMS): A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

Permanent closure: The permanent shutdown of an Ohio business, facility or agency.

Planning region: Two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

Potentially affected workers (PAWs): Employees at risk of becoming unemployed due to an event.

Rapid response (RR) team: Individuals from state and local workforce entities that respond collectively to layoffs and closures that occur within their local area or planning region and assist in providing RR services to employers and affected workers.

Trade Adjustment Assistance (TAA): A program which provides assistance, including reemployment and training services, to workers whose jobs have been threatened or lost due to foreign imports, or shifts in production and/or services to a country outside the United States.

Worker Adjustment Retraining Notification (WARN) Act: The Act that protects workers, their families, and communities by requiring most employers with 100 or more employees to provide notification 60 calendar days in advance of plant closings and mass layoffs. General provisions of WARN covers employers with 100 or more employees, not counting those who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week; or at least 50 employees at a single site of employment. Additional material for compliance and assistance can be found at [http://www.doleta.gov/layoff/warn.cfm](http://www.doleta.gov/layoff/warn.cfm).

Workforce development board (WDB) director: The individual hired or designated by the local workforce development board to assist in completion of duties for the local board, including oversight of workforce development employment and training programs and development of the budget for the workforce development area.

V. Rapid Response Employer Event Determination

The classification of an event is without regard to the industry, size of the employer, the number of individuals potentially impacted, or the time between notification and layoff date. Pursuant to section 134(a)(2)(A)(II) of WIOA, RR activities provide additional assistance to local workforce development areas that experience disasters, mass layoffs, filing of TAA petitions, or employer closures, or other events that precipitate substantial increases in the number of unemployed individuals. RR processes and activities should be provided to all employers who experience a mass layoff regardless of how the RR team was notified.

There are two types of events:
1. WARN Event – Any employer that provides written notice of a layoff or closure with intent to meet the federal WARN requirements.

2. Non-WARN Event – Any employer that provides any form of notice of a layoff that does not meet the federal WARN requirements.

The local workforce development area will serve all other layoffs through local dislocated worker funds.

VI. **Requirements**

**A. The Rapid Response Team**

**Responsibility of the Rapid Response Team**

For employer closure, mass layoff, and TAA events that have occurred within the previous 6 months, the RR team will work collaboratively to:

1. Develop a process to address calls from employers and PAWs requesting information regarding federal and state programs and their requirements (e.g., WARN, Short-term Compensation, Unemployment Compensation, or TAA);

2. Identify the range of skills and abilities of the affected workforce and compare with local workforce needs to match the impacted workers with job vacancies for rapid reemployment;

3. Develop a service delivery plan that identifies the strategies to engage local employers in rapid reemployment activities and identifies the outreach strategies that highlight the skills of the PAWs. The plan must utilize resources, such as on-the-job training (OJT) and/or customized training, which will most effectively serve both the PAWs and the targeted employer's needs;

4. Examine the potential impact of layoffs on the affected company's upstream and downstream customers and suppliers to determine an appropriate course of action to connect impacted companies to RR early intervention services; and

5. Ensure PAWs register in OhioMeansJobs.com to increase reemployment opportunities.

**Identification of the Rapid Response Team**

Each workforce development area must have a state/local area RR team made up of the following partners and fulfilling the following roles when responding to an employer closure or layoff event:

1. **ODJFS Rapid Response point of contact**: It is important that employers experiencing a layoff or closure event have one individual with whom to communicate. The RR point of contact will:
   a. Make the initial contact and serve as the main communicator with the employer throughout RR activities.
   b. Disseminate information regarding the layoff or employer closing to the RR team; and
   c. Coordinate with the RRC.

2. **RRC**: The RRC will:
   a. Lead team members to effective delivery of the RR program and other services to employers and impacted workers;
   b. Direct team members in the development of the team protocol;
c. Assist in coordination of resources within the defined region, which includes coordination with other workforce areas and/or planning region(s) as necessary to ensure timely, effective, and consistent delivery of RR services;
d. Collaborate with other RRCs and other local RR teams for events and initiatives that are regional or statewide;
e. Collaborate with LC on the development of the reemployment strategy and service delivery plan; and
f. Instruct the team on the best course of action when other employers are at risk of downsizing or closing due to an event.

3. ODJFS Program Delivery Manager: The ODJFS Program Delivery Manager will coordinate RR events that cover more than one local workforce development area or planning region, including coordinating discussion between all local WDB directors of the affected local workforce development areas.

4. LC: The LC will coordinate and facilitate the following activities:
a. Collaborate among partners;
b. Determine the reemployment strategy that best fits the situation;
c. Develop a customized RR service delivery plan for every employer event;
d. Determine the need for Rapid Response Emergency Assistance Funds (RREAF) and collaborate with RRC in completing the application;
e. Guide the team through the funding application process, including applying for funds and submitting the form to the RRC for review;
f. Submit the application to the WDB director and/or staff; and
g. Assist in the implementation of the RR service delivery plan.

5. WDB Director: The WDB Director approves and submits the RREAF providing assurances that the local workforce development area:
a. Has met all minimum dislocated worker expenditure and obligation requirements;
b. Will provide timely and accurate financial reports to ODJFS; and
c. Will associate all participants to an OhioRED rapid response identification (RRID) number and will capture all services funded through RR in OWCMS.

In addition to the RR team members listed above, it is recommended that local RR teams also include the following members so that the team has quality representation in the delivery of RR services:
1. OhioMeansJobs center operator;
2. Local workforce development area fiscal agent;
3. Economic development agency;
4. Representative for TAA; and
5. Representative for Unemployment Compensation.

B. Rapid Response Team Protocol

The RR team, with the direction of the RRC, shall develop a protocol to ensure the team works together so services are provided to employers and affected workers in a timely, efficient and high quality manner. Establishing a protocol among all members results in a more effective local
team response to layoffs and closures, impacts the service delivery outcome, and creates an environment for proactive RR.

Team Protocol

The RACI (Responsible, Accountable, Consulted, Informed) is a responsibility assignment matrix which clearly describes the role(s) of each team member in the completion of RR tasks and activities. The RACI provides a clear depiction of each RR activity and associated tasks and the role each team member has to deliver workforce solutions effectively and efficiently to RR customers. The protocol should take into consideration the role of the TAA representative as it pertains to administration of RR activities when a TAA petition has been filed.

The RACI tool, when applied to the RR process, looks at each role and function of RR and helps local teams determine who is:

1. **Responsible** – the individual who actually does the job;
2. **Accountable** – the individual(s) who is/are ultimately accountable for the action, task, or function;
3. **Consulted** – the individual(s) who need(s) to be consulted prior to a final decision or action being taken; and
4. **Informed** – the individual(s) who need(s) to be informed after a final decision or action is taken.

The RR processes, which will be outlined using the RACI tool, include, but are not limited to, the following activities:

1. Notification.
2. Research early intervention services.
3. Initial contact – A standard rapid response initial contact checklist, developed by the ODJFS shall be used when gathering information from the employer.
4. RRWS – The RRWS provides local teams with demographics and characteristics of a workforce that is potentially affected by layoff or closure, and captures desired worker services and shall be used in the strategy for service delivery.
5. Strategy meeting – Development of a reemployment strategy, driven by talent needs of local workforce development area and regional employers for the affected workforce, to present at the initial employer meeting. State resources shall be used before outsourcing services that are being paid for through emergency RR funds.
6. Funding for layoff and closure events – To ensure greatest benefit of funds, RRCs should work with the local area fiscal agent and local workforce development board to mutually agree on funding amounts to support the plan for services.
7. Initial employer meeting – Establishment of rapport, collection of needed information, and development of a proposed plan of service.
8. Plan for services – A plan, approved by the employer, which details all RR services that will be provided to an affected workforce and a timeline of when the services will be delivered.
9. Rapid response worker orientation – Using standard, core presentation developed by ODJFS, the RR orientation session is the first opportunity to sell the affected workers on the benefits, services, and resources available to rapidly transition them before layoff date or/and during their layoff to new employment.
10. Additional rapid response services, including identification of the team member responsible for entering information in OhioRED and the Ohio Workforce Case Management System (OWCMS).

11. Transition to WIOA adult and dislocated worker employment and training services and/or TAA training services.

12. Post rapid response follow-up.

Local teams must use the RACI or another tool which delineates RR functions for each RR process or activity and the responsibility and accountability for completion of such functions to establish an RR team protocol. The protocol should be developed to ensure communication amongst the team members and to maintain the flexibility to customize for the needs of individual employers and employees impacted by an event.

If the RACI is not utilized, the tool must establish the primary and secondary RR team members, define the member roles for each process step, and describe the level of team member engagement by process function. The protocol defines who is responsible, accountable, consulted, and informed for every RR action step.

Collaboration and coordination by all RR team members is crucial to success of this program.

The operations guidance for local RR teams is found within the Ohio Rapid Response Operations Guidance available online at http://www.ohiored.gov/misc/forms.stm. The operations guidance should be used as a quick reference guide that also incorporates a recommendation for team member and partners roles for various process steps and functions of service delivery.

Current RR team protocols established by the local workforce development area must be reviewed based upon new roles of RR team members and the RACI tool (or similar tool, as appropriate) and appropriate modifications to the protocol must be made. Current RR teams may continue established protocols until such time the new or modified protocol has been created.

The ODJFS Program Delivery Manager will submit the RR team protocol for the local workforce development area to the OWD Rapid Response Unit at RAPDRESP@jfs.ohio.gov with the subject line of Rapid Response Team Protocol by June 30, 2017.

**RR and Planning Regions**

WIOA envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. It requires local WDBs and chief elected officials to design and govern the system regionally, aligning workforce policies and services with regional economies and supporting service delivery strategies tailored to these needs. As businesses pull resources and employees from various workforce development areas, it is important that planning regions address RR processes on a regional basis, ensuring that policies and procedures pertaining to the delivery of RR services are aligned to minimize confusion for the business community.

**Use of the RRWS**

Local RR teams must utilize the RRWS to identify demographics of an impacted workforce for a preliminary needs assessment that will be used by the RR team to develop a service delivery plan as described in Section VI. A. The RRWS is completed on the JFS 08124, Ohio Rapid Response Event Data.

All RR team members, service providers, and any contractors that receive or access personally identifiable information (PII) on impacted workers must safeguard the information from disclosure in accordance with federal and state confidentiality laws, rules, and policies.
However, de-identified data can be disclosed in aggregate to provide insight on workforce trends and labor availability.

C. **Provision of Required Rapid Response Activities for Employer Mass Layoff, Closure, and TAA Events**

As part of the local area RR service delivery system and pursuant to 20 C.F.R. § 682.330, the State, working in conjunction with the local WDBs and OhioMeansJobs Centers, must have the following array of services available, as needed, for local employers and impacted workers:

1. Layoff aversion, including the creation of early warning networks in each local workforce development area which provides early intervention services for employers and employees;

2. Immediate and on-site contact with the employer, representatives of the affected workers, and the local community, including an assessment of and plans to address the:
   a. Layoff plans and schedule of the employer;
   b. Background and probable assistance needs of the affected workers;
   c. Reemployment prospects for workers; and
   d. Available resources to meet the short and long-term assistance needs of the affected workers;

3. The provision of information about and access to unemployment compensation benefits and programs, such as short-time compensation (e.g., SharedWork Ohio), comprehensive OhioMeansJobs Center services, and employment and training activities, including information on the TAA program, Pell Grants, the GI Bill, and other resources;

4. The delivery of other available services and resources including workshops and classes, use of worker transition centers (which must complement, not replace, the OhioMeansJobs center), and job fairs, to support reemployment efforts of affected workers;

5. Partnership with the local WDBs and chief elected official(s) to ensure a coordinated response to the dislocation event and, as needed, obtain access to State and local economic development assistance. Such coordinated response may include the development of an application for a national dislocated worker grant;

6. The provision of emergency assistance adapted to the particular layoff;

7. As appropriate, develop systems and processes for:
   a. Identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion;
   b. Analyzing, and acting upon, data and information on dislocations and other economic activity in the State, region, or local area; and
   c. Tracking outcome and performance data and information related to the activities of the RR program;

8. Developing and maintaining partnerships with other appropriate Federal, State, and local agencies and officials, employer associations, technical councils, other industry business councils, labor organizations, and other public and private organizations, as applicable, in order to:
   a. Conduct strategic planning activities to develop strategies for addressing dislocation events and ensure timely access to a broad range of necessary assistance;
b. Develop mechanisms for gathering and exchanging information and data relating to potential dislocations, resources available, and customization of layoff aversion or RR activities, to ensure the ability to provide RR services as early as possible;

9. Delivery of services to worker groups for which a petition for TAA has been filed;

10. The provision of additional assistance to local areas that experience disasters, mass layoffs, and other dislocation events when such events exceed the capacity of the local area to respond with existing resources; and

11. Provision of guidance and financial assistance, as appropriate, in establishing a labor-management committee, if voluntarily agreed to by the employee's bargaining representatives and management. The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. The assistance to this committee may include:

   a. The provision of training and technical assistance to members of the committee; and

   b. Funding the operating costs of a committee to enable it to provide advice and assistance in carrying out RR activities and in the design and delivery of WIOA-authorized services to affected workers.

The above list represents the minimum services that must be readily available and should be offered with the end goal of rapid reemployment. Pursuant to 20 C.F.R. 682.340, a state or designated entity may devise RR strategies or conduct activities that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities, to ensure rapid reemployment for workers affected by layoffs and closures. When circumstances allow, RR may provide guidance and/or financial assistance to establish community transition teams to assist the impacted community in organizing support for dislocated workers and meeting the basic needs of their families, including heat, shelter, food, clothing, and other necessities and services that are beyond the resources and ability of the OhioMeansJobs Centers to provide.

**Activities for Unemployment Compensation Claimants**

Additionally, to assist workers impacted by employer layoff and closure events, House Bill 2 (130th General Assembly) made changes to Ohio Revised Code section 4141.29 of Ohio's Unemployment Compensation law by requiring claimants to connect with job opportunities and to participate in reemployment activities through the OhioMeansJobs.com system and/or OhioMeansJobs Centers. The JFS 55213, Worker's Guide to Unemployment Compensation, provides additional guidance on required reemployment activities and may be found at [http://www.odjfs.state.oh.us/forms/file.asp?id=2187&type=application/pdf](http://www.odjfs.state.oh.us/forms/file.asp?id=2187&type=application/pdf).

**Transitioning from Rapid Response Services to the Local Area WIOA Adult and Dislocated Worker Programs**

Local procedures should be in place to identify the workers served under the RR program and RR services received. All RR services that individuals receive prior to determination of WIOA eligibility must be considered when developing service delivery strategies for workers that receive additional services under WIOA. Such consideration will help prevent duplication of services and ensure that workers can quickly access needed services.

**Transitioning from Rapid Response Services to TAA Program**

Procedures must be in place to identify the workers served under the RR program and RR services received. If individuals who are potentially Trade eligible also received WIOA services prior to Trade certification, these services must also be identified. All RR and, possibly, WIOA services that individuals received must be considered when developing service strategies for workers that receive additional services under TAA. Such consideration will help prevent
duplication of services, will ease transition of services, and will ensure that workers can quickly access needed services.

D. **Reporting Requirements**

Ready access to accurate, up-to-date information for Ohio's employer closure and substantial layoff events is critical to many stakeholders within the state and local workforce development systems. This data is also a key factor in assessing the need for financial assistance at the state and federal levels.

There are two levels of reporting for employer closure and substantial layoff events:

1. Employer/event data tracking in OhioRED; and
2. Worker data in Ohio Workforce Case Management System.

**OhioRED**

ODJFS has implemented an RR information tracking system, OhioRED. This system records all of the significant information and data from each event beginning with notification and initial contact with the employer, through the transition of affected workers to the OhioMeansJobs Centers and the local workforce development system.

Based upon the RACI, the team member responsible for entering information into OhioRED must record WARN and Non-WARN events and any subsequent updates in OhioRED on a timely basis and in accordance with the Ohio Rapid Response Operations Guidance. At a minimum, a local RR team member must enter the following information into OhioRED prior to approval and receipt of RR funds:

1. On the company contact tab:
   a. Company name;
   b. Company street address, including city, state, and zip code;
   c. Company contact name;
   d. Name of team leader (e.g., rapid response coordinator);
   e. Notification source;
   f. Whether or not the event was triggered by a WARN letter;
   g. Whether or not the trade petition has been filed;
   h. Date of the event notification;
   i. WARN number, if applicable; and
   j. Whether or not the facility has been trade certified.

2. On the layoff information tab (if information is undetermined, "unknown" must be selected):
   a. Number of impacted workers, if known;
   b. Layoff date range, if known;
   c. Type of work performed at affected site, if known;
   d. Specific reasons for layoff or closing, if known;
   e. Timetable for expected layoffs, if known;
   f. Type of work remaining at affected location, if known;
   g. Determination if there are any activities already in place, if known; and
Determination if this is a union facility.

3. On the business and initial planning tab;
   a. Determination if layoff aversion is possible;
   b. Whether there are any assets for sale (plant, equipment, etc.); and
   c. Whether there are pending buy-outs or rescue plans.

Ohio Workforce Case Management System (OWCMS)

Based upon the RACI, the team member responsible for entering information into OWCMS must record all individual workers who attend a worker orientation session by direct entry or another system. Data for the OWCMS can be acquired, among other methods, by using the state's RRWS. The RRID number assigned at the point of data entry into OhioRED will be entered into OWCMS to track individual workers accessing services from each event. Although data elements are minimal for workers at this level of service, it is the beginning of a log of services that can then be used to ensure a smooth transition to WIOA program enrollment, should additional services be needed.

Depending on the RR funded activities associated with the substantial layoff or employer closure, the team member may be required to enter participant information into OWCMS under Special Grants. By reporting information into OWCMS, the local workforce development area may report outcomes.

E. Funding for Rapid Response Employer Layoff and Closure Events

Rapid response emergency assistance funds (RREAF) are available to local workforce development areas allowing flexibility in serving PAWs and employers who have been affected by an event within the last six months. The RR team must have conversations with the affected business and survey employees to determine which RR services must be provided.

RREAF is to be used to ensure the effective delivery of RR services and an efficient transition to any additional services needed for reemployment (e.g., referrals to WIOA formula-funded programs, Adult Basic and Literacy Education (ABLE) services, financial services, etc.). Upon receipt of RR funds for approved dislocation events, local WDBs must ensure that PAWs are not turned away from services based upon residency.

RREAF is intended to supplement the local Dislocated Worker formula-funded program, not to supplant these funds; RREAF must not replace dislocated worker formula funds when providing RR services. RREAF is available when the current dislocated worker funds are not sufficient to provide the necessary services during an RR event. RREAF is based on the need for additional financial resources to serve PAWs and employers during a mass layoff when there is a shortage of a local workforce development area's dislocated worker formula funds.

The process for requesting RREAF, as described below, allows for a quicker release of funds. However, the local workforce development area should be continuously assessing and creating a strategic plan for the use of dislocated worker formula funds. This is especially important as the request for RREAF may be made on behalf of a county or counties within a local area using the review of the individual county's expenditures to assist in the approval process of the RREAF. The local workforce development area must be aware that there is a potential adverse impact on making application for a National Dislocated Worker Grant if the local area's expenditure rate, as a whole, is significantly different (e.g., local area has a lower expenditure rate) than the individual county's expenditure rate.

Initial Request for RREAF

The WDB director, or designee, on behalf of a county or counties within their local workforce development area may request up to $10,000 to commence transition services by sending an e-
mail to RAPDRESP@jfs.ohio.gov. These transition services may include, but are not limited to, the following:

1. Transition centers;
2. Initial meetings/worker orientations;
3. Labor management committees; or
4. Costs to survey workers.

These funds should provide the RR team with emergency resources to immediately respond and begin generalized services and information gathering.

**Application for RREAF**

If the local RR team determines that RR funds are needed for a dislocation event, the local WDBs must apply using the JFS 18126, Application for Rapid Response Emergency Assistance Funds-Layoff or Closure Event Service Plan.

The application submitted by the local workforce development area for RREAF should only be completed once a survey of affected workers is completed, a strategy meeting has been conducted, and a plan for service has been developed, discussed, and approved.

If an RR event involves a planning region, an application for RREAF may be submitted on behalf of the affected planning region. RREAF will be available to all local workforce development areas in the planning region to assist in the delivery of RR services. The RREAF application will be approved and submitted by the WDB director of the local workforce development area in which the employer is headquartered.

The local workforce development area’s WDB director, or designee, on behalf of the local area or counties within an area, may apply for up to $4,200 per PAW registered in OWCMS. For example, company ABC issues a WARN impacting 100 PAWs; 40 PAWs complete surveys and are entered into OWCMS, the local workforce development area may request a maximum of $168,000.00 (40 X $4,200) to implement the plan of services as described in the application, with no more than 25% (or $42,000) budgeted for career services.

In addition to funds for implementing the plan of services to the PAWs, the application may also include the maintenance of a transition center, including the staff for the center, if established in the initial request for RREAF. If the application includes maintenance of a transition center, the application must include a description of how Wagner-Peyser program staff were considered and utilized within the plan for staffing and maintaining the transition center prior to submission of the request for RREAF.

The JFS 18126 must be e-mailed to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov.

**Review and Approval of RREAF**

Since RREAF is based on need and should not replace dislocated worker formula funds, the OWD RR Unit will review the following, in addition to the RREAF application to assist in making a funding determination:

1. The local workforce development area’s habits of transferring dislocated worker formula funds, including how the local area has strategized to respond to unforeseen events when they transferred funds.

2. The county’s spending levels of adult and dislocated worker formula funds. Spending rates will be reviewed to determine a financial need for RREAF. ODJFS requires the county to have spent 70 percent of carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of the current fiscal year. The target spending total
is based upon the quarter in which the RREAF is requested and is computed using the following formulas:

**Quarter 1 Target Spending Total for August – October applications:**

\[\text{Prior Year Adult/DW Allocations} \times [70\%]\]

**Quarter 2 Target Spending Total for November – January applications:**

\[\text{Prior Year Adult/DW Allocations} \times [70\%] + \text{Current Year PY Adult/DW Allocations} \times [17.5\%]\]

**Quarter 3 Target Spending Total for February – April applications:**

\[\text{Prior Year Adult/DW Allocations} \times [70\%] + \text{Current Year Adult/DW Allocations} \times [35\%]\]

**Quarter 4 Target Spending Total for May – July applications:**

\[\text{Prior Year Adult/DW Allocations} \times [70\%] + \text{Current Year Adult/DW Allocations} \times [52.5\%]\]

If the spending thresholds are not met, the local workforce development areas may submit further documentation of their spending as part of the application. Because the total spending formula is based upon expenditures, the local area may also provide information on the county's commitments through the end of the current fiscal year to demonstrate the county being "on track" to spend at least 70 percent of first year funds and to demonstrate a financial need for RREAF. For direct services to participants, the county's commitments shall be reported by the participant in the County Finance Information System (CFIS) Client Tracking System. To report additional commitments not tracked in CFIS, the JFS 18126 includes specific line items identifying the types of commitments that may be taken into consideration.

If the local workforce development area does not meet the spending criteria, the RREAF application will still be reviewed for potential partial funding.

3. Information entered into OhioRED and OWCMS. Specific layoff event(s) to be funded with RREAF must be entered into OhioRED with expected layoff dates and include the number of PAWs within six months before or after the initial RR request date. Basic information regarding the PAWs who attended a worker orientation session must be entered into OWCMS by direct entry or another system.

4. The level of partner collaboration. The local workforce development area through the RREAF application must demonstrate a streamlined service delivery model by reducing duplicative efforts and leveraging available resources, including Wagner-Peyser employment services and other workforce development system partner staff.

5. Funding career services. RREAF applications shall budget no more than 25 percent of the total requested budget for career services.

The OWD RR Unit will review and determine whether or not to approve the application. Applications and the approval of funds must be for a particular program year. If the delivery of RR services goes beyond the program year, the WDB director must e-mail the OWD RR Unit requesting that funding continue for the next program year.

**Incremental Funding**

Depending on its finances, ODJFS may fund large requests incrementally by calendar quarter. Local workforce development areas may request subsequent increments by e-mail to RAPDRESP@jfs.ohio.gov. Requests will be reviewed against the plan for services and outcomes, participant service data in OWCMS, and spending and obligation of the prior
increment(s). The outcomes will need to be on track according to the plan for services for incremental approval.

Also, if the local workforce development area or county expends at least 70 percent of the total requested funds according to the plan of services, the local area may submit a new application for additional funding to serve additional PAWs from the event.

VII. Monitoring

The local workforce development area's oversight and monitoring must include a review of the effectiveness of the area's response to the event. This includes:

1. An assessment of collaboration among RR teams and members;
2. The efficiency of service delivery to employers and PAWs;
3. Timeliness and completeness of data entry into OhioRED and/or OWCMS; and
4. Use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures.

Through the state's monitoring system, program and fiscal monitors will review the following during the annual onsite monitoring review:

1. The local area's implementation of RR activities, including results from local monitoring efforts;
2. The funding application, and
3. Compliance with federal laws and regulations and state and local policies.

Any compliance issues will be handled through the state's findings resolution process.

VIII. Technical Assistance

The OWD Rapid Response Unit will oversee Ohio's RR program to identify notable practices and document RR activity throughout the state. The OWD Rapid Response Unit will also provide oversight of the activities of the local RR teams.

The RR unit provides the following activities:

1. Technical assistance for the development of a RR team protocol;
2. Ongoing support, guidance, training, and technical assistance to local teams, local WDBs, and OhioMeansJobs centers;
3. Reviewing, managing, and reporting out on data derived from local activity; and
4. Providing financial resources to the local RR teams and stakeholders.

For additional information, questions may be sent to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov.

IX. References

20 C.F.R. §§ 682.300 - 682.370.


USDOL, Training and Employment Guidance Letter WIOA N0. 3-15 Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services, (July 1, 2015).


Rescission

I. Purpose

Ohio is committed to providing workforce solutions throughout the business cycle to all of its customers and can do so when delivery of rapid response (RR) is intended to avert or mitigate employer layoffs and closure events. The purpose of this policy is to outline the requirements for delivery of the RR program when funding is being used to support the needs of the employer and employees during an employer layoff and/or closure event.

II. Effective Date

July 1, 2015

III. Background

The objective of Ohio's RR delivery system is to strengthen accountability, partnership, communication, professional development, and timely access to needed services for employers and dislocated workers. Rapid re-employment is the central purpose of RR and is done by helping workers impacted by an employer layoff and/or closure event quickly transition to new employment, minimizing the duration of unemployment, or averting layoff when possible.

Under section 134(a)(2)(A)(i) of the Workforce Innovation and Opportunity Act (WIOA), each state is responsible for providing RR activities. Ohio will utilize a combination of state/local teams, as well as eligible service providers to be most effective in serving at-risk workers and employers.

The Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD) is the agency responsible for the administration of WIOA and RR programs. The OWD RR Unit will oversee Ohio's RR program to ensure compliance with federal and state requirements. Detailed operation descriptions and procedural guidelines are found in the Ohio Rapid Response Procedures Manual. This manual is updated as needed to reflect any necessary changes in implementation of the program. Copies are available online at [http://www.ohiored.gov/misc/RRProcedureManual.pdf](http://www.ohiored.gov/misc/RRProcedureManual.pdf).

IV. Definitions

**Employer:** An individual, business, company, firm, agency, organization, etc. that employs one or more people.

**Event:** Any situation in which workers are at risk of layoff from a downsizing or closure of an employer’s Ohio business, facility, or agency.

**Layoff:** A separation due to the lack of work or other factor(s) not related to the behavior of the employee.

**Local area rapid response coordinator (LC):** An individual representing the local workforce development board (WDB), workforce development area, and OhioMeansJobs Centers on the RR team.

**Notification:** The process by which an individual on the RR team is made aware of a possible layoff or employer closing. A notification can come from a variety of sources, including, but not limited to: a
ODJFS regional rapid response coordinator (RC): An ODJFS staff member assigned to a specific area of Ohio representing ODJFS and leading the activities of the local RR team.

OhioMeansJobs.com: An online job-matching tool created to assist job seekers in exploring careers and job opportunities and to connect employers with potential workers.

Ohio Rapid Event Data (OhioRED): An information tracking system that records all employer event information and data on the delivery of RR services.

Ohio Rapid Response Workforce Survey (RRWS): The standardized survey used in Ohio to identify demographics of the affected workforce and serve as a preliminary needs assessment.

Ohio Workforce Case Management System (OWCMS): A system used by workforce professionals to gather and report program data and information for the following programs: WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

Permanent closure: The permanent shutdown of an Ohio business, facility or agency.

Rapid response (RR) team: Individuals from state and local workforce entities that respond collectively to layoffs and closures that occur within their local area and assist in providing RR services to employers and affected workers.

Worker Adjustment Retraining Notification Act (WARN): An Act funded through the Department of Labor (DOL) that protects workers, their families, and communities by requiring most employers with 100 or more employees to provide notification 60 calendar days in advance of plant closings and mass layoffs. General provisions of WARN cover employers with 100 or more employees, not counting those who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week; or at least 50 employee at a single site of employment. Additional material for compliance and assistance can be found at [http://www.doleta.gov/layoff/warn.cfm](http://www.doleta.gov/layoff/warn.cfm).

V. Rapid Response Employer Event Determination

The classification of an event is without regard to the industry, size of the employer, the number of individuals potentially impacted, or the time between notification and layoff date. RR processes and activities should be provided to all employers regardless of the size of the event and how the RR team was notified. Employees at risk of becoming unemployed are considered to be Potentially Affected Workers (PAWs).

There are two types of events:

1. WARN Event – Any employer that provides written notice of a layoff or closure with intent to meet the federal WARN requirements.
2. Non-WARN Event – Any employer that provides any form of notice of a layoff that does not meet the federal WARN requirements.

VI. Requirements

A. Identification, Roles and Expectations of the Rapid Response Team for Employer Layoff and Closure Events

Each workforce development area must have a state/local area RR team made up of the following partners and fulfilling the following roles when responding to an employer closure or layoff event:

1. RC: The RC will:
   a. Lead team members to effective delivery of the RR program and other services to employers and impacted workers;
   b. Direct team members in the development of operations protocol;
c. Coordinate resources within the defined region, which includes coordination with other workforce areas as necessary to ensure timely, effective, and consistent delivery of RR services;

d. Collaborate with other RCs and other local WIOA RR teams for events and initiatives that are regional or statewide;

e. Review the RR funding application prior to submission and recommend revisions as necessary; and

f. Instruct the team on the best course of action when other employers are at risk of downsizing or closing due to an event.

2. **LC**: The LC will coordinate and facilitate the following activities:

   a. Collaborating among partners;
   
   b. Determining the re-employment strategy that best fits the opportunity;
   
   c. Developing a customized RR service delivery plan for every employer event;
   
   d. Guiding the team through the funding application process, including applying for funds and submitting the form to the RC for review;
   
   e. Assisting in the implementation of the RR service delivery plan; and
   
   f. Capturing the data associated with the event and service delivery plan.

3. **Back-up LC**: The back-up LC is an individual serving back-up to the local area rapid response coordinator on the RR team to ensure responsibilities are fulfilled whenever the assigned LC is unable to fulfill duties.

The RR team should develop protocol to ensure the team works together so services are provided to employers and affected workers in a timely, efficient and high quality manner. The RR team's protocol should not just address procedures for handling an event, but should also include protocol for reaching out to businesses experiencing growth. If reaching out to employers with job opportunities is not part of the protocol, it will be difficult to connect PAWs to re-employment opportunities. Additionally, the protocol should be developed to ensure communication amongst the team members and to maintain the flexibility to customize for the needs of individual employers and employees impacted by an event. Collaboration and coordination by all RR team members is crucial to success of this program.

For employer closures and layoff events that have occurred within the previous 6 months, the RR team will work collaboratively to:

1. Develop a process to address calls from employers and employees requesting information regarding federal and state programs and their requirements (e.g., WARN, Unemployment Compensation, or Trade Adjustment Assistance);

2. Identify the range of skills and abilities of the affected workforce and compare with local workforce needs to match the impacted workers with job vacancies for rapid re-employment;

3. Develop a service delivery plan that identifies the strategies to engage local employers in rapid re-employment activities and identifies the outreach strategies that highlight the skills of the impacted workers. The plan must utilize resources, such as on-the-job training (OJT) and/or customized training, which will most effectively serve both the impacted workers and the targeted employer's needs;

4. Examine the potential impact of layoffs on the affected company's upstream and downstream customers and suppliers to determine an appropriate course of action to connect impacted companies to RR early intervention services;

5. Ensure PAWs register in OhioMeansJobs.com to increase re-employment opportunities.
B. Rapid Response Information Tracking for Employer Layoff and Closure Events

ODJFS has implemented an RR information tracking system, OhioRED. This system records all of the significant information and data from each event beginning with notification and initial contact with the employer, through the transition of affected workers to the OhioMeansJobs Centers and the local workforce development system.

Local RR teams must record WARN and Non-WARN events and any subsequent updates in OhioRED on a timely basis and in accordance with the Ohio Rapid Response Procedures Manual. At a minimum, local RR teams must enter the following information into OhioRED prior to approval and receipt of RR funds:

1. On the company contact tab:
   a. Company name;
   b. Company street address, including city, state, and zip code;
   c. Company contact name;
   d. Name of rapid response team leader;
   e. Notification source;
   f. Whether or not event was triggered by a WARN notice;
   g. Whether or not the trade petition has been filed;
   h. Date of the event notification;
   i. WARN number, if applicable; and
   j. Whether or not facility has been trade certified.

2. On the layoff information tab (even if information is undetermined, "unknown" must be selected):
   a. Number of impacted workers, if known;
   b. Layoff date range, if known;
   c. Type of work performed at affected site, if known;
   d. Specific reasons for layoff or closing, if known;
   e. Timetable for expected layoffs, if known;
   f. Type of work remaining at affected location, if known;
   g. Determination if there are any activities already in place, if known; and
   h. Determination if this is a union facility.

3. On the business and initial planning tab:
   a. Determination if layoff aversion is possible;
   b. Whether there are any assets for sale (plant, equipment, etc.); and
   c. Whether there are an pending buy-out or rescue plans.

C. Rapid Response Workforce Data for Employer Layoff and Closure Events

Local RR teams must utilize the RRWS to identify demographics of an impacted workforce for a preliminary needs assessment that will be used by the RR team to develop a service delivery plan as described in Section VI. A. The RRWS is completed on the JFS 08124, Ohio Rapid Response Event Data, which is found at http://www.odjfs.state.oh.us/forms/inter.asp.
All RR team members, service providers, and any contractors that receive or access personally identifiable information (PII) on impacted workers must safeguard the information from disclosure in accordance with federal and state confidentiality laws, rules, and policies. The data can be disclosed in aggregate to provide insight on workforce trends and labor availability.

D. Rapid Response Process for Local RR Teams – Employer Layoff and Closure Events

The typical flow for responding to an employer layoff and/or closure includes, but is not limited to, the following elements:

1. Notification;
2. Research early intervention services;
3. Initial contact;
4. Strategy meeting;
5. Initial employer meeting;
6. Plan for services;
7. Rapid response worker orientation;
8. Additional rapid response services;
9. Transition to local OhioMeansJobs Center services; and
10. Post rapid response follow-up.

Because of the uniqueness of each event, variance in the delivery of the process flow may be necessary. However, when it is not feasible to incorporate all elements into the service delivery plan, the RC and LC must still follow required reporting criteria outlined in section F of this policy.

Transitioning from Rapid Response Services to the Local Area WIOA Program

Local procedures should be in place to identify the workers served under the RR system and RR services received. All RR services that individuals receive prior to determination of WIOA eligibility must be considered when developing service delivery strategies for workers that receive additional services under WIOA. Such consideration will help prevent duplication of services and ensure that workers can quickly access needed services.

E. Required Rapid Response Activities for Employer Layoff and Closure Events

As part of the local area RR service delivery system and pursuant to the proposed final version of 20 CFR 682.330, all local workforce development boards (WDB) and OhioMeansJobs Centers must have the following array of services available, as needed, for local employers and impacted workers:

1. Layoff aversion;
2. Immediate and on-site contact with the employer, representatives of the affected workers, and the local community, including an assessment of and plans to address the:
   a. Layoff plans and schedule of the employer;
   b. Background and probable assistance needs of the affected workers;
   c. Reemployment prospects for workers; and
   d. Available resources to meet the short and long-term assistance needs of the affected workers;
3. The provision of information about and access to unemployment compensation benefits and programs, such as short-time compensation (e.g., SharedWorks Ohio), comprehensive OhioMeansJobs Center services, and employment and training activities,
including information on the Trade Adjustment Assistance (TAA) program, Pell Grants, the GI Bill, and other resources;

4. The delivery of other available services and resources including workshops and classes, use of worker transition centers (which are complementary, not in replacement of the OhioMeansJobs center), and job fairs, to support reemployment efforts of affected workers;

5. Partnership with the local WDBs and chief elected official(s) to ensure a coordinated response to the dislocation event and, as needed, obtain access to State and local economic development assistance. Such coordinated response may include the development of an application for a national dislocated worker grant;

6. The provision of emergency assistance adapted to the particular layoff;

7. As appropriate, develop systems and processes for:
   a. Identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion;
   b. Analyzing, and acting upon, data and information on dislocations and other economic activity in the State, region, or local area; and
   c. Tracking outcome and performance data and information related to the activities of the rapid response program;

8. Developing and maintaining partnerships with other appropriate Federal, State, and local agencies and officials, employer associations, technical councils, other industry business councils, labor organizations, and other public and private organizations, as applicable, in order to:
   a. Conduct strategic planning activities to develop strategies for addressing dislocation events and ensure timely access to a broad range of necessary assistance;
   b. Develop mechanisms for gathering and exchanging information and data relating to potential dislocations, resources available, and customization of layoff aversion or rapid response activities, to ensure the ability to provide rapid response services as early as possible;

9. Delivery of services to worker groups for which a petition for Trade Adjustment Assistance has been filed;

10. The provision of additional assistance to local areas that experience disasters, layoffs, and other dislocation events when such events exceed the capacity of the local area to respond with existing resources; and

11. Provision of guidance and financial assistance, as appropriate, in establishing a labor-management committee, if voluntarily agreed to by the employee’s bargaining representatives and management. The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. The assistance to this committee may include:
   a. The provision of training and technical assistance to members of the committee; and
   b. Funding the operating costs of a committee to enable it to provide advice and assistance in carrying out rapid response activities and in the design and delivery of WIOA-authorized services to affected workers.
The above list represents the minimum services that must be readily available and should be offered with the end goal of rapid reemployment. Pursuant to the proposed final version of 20 CFR 682.340, a state or designated entity may devise rapid response strategies or conduct activities that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities, to ensure rapid reemployment for workers affected by layoffs. When circumstances allow, rapid response may provide guidance and/or financial assistance to establish community transition teams to assist the impacted community in organizing support for dislocated workers and in meeting the basic needs of their families, including heat, shelter, food, clothing, and other necessities and services that are beyond the resources and ability of the OhioMeansJobs Centers to provide.

Additionally, to assist workers impacted by employer layoff and closure events, House Bill 2 (130th General Assembly) made changes to Ohio Revised Code section 4141.29 of Ohio's Unemployment Compensation law by requiring claimants to connect with job opportunities and to participate in re-employment activities through the OhioMeansJobs.com system and/or OhioMeansJobs Centers. The Worker's Guide to Unemployment Compensation provides additional guidance on required re-employment activities.

F. Reporting Requirements

Ready access to accurate, up-to-date information for Ohio's dislocation events is critical to many stakeholders within the state and local workforce development systems. This data is also a key factor in assessing the need for financial assistance at the state and federal levels.

There are two levels of reporting for dislocation events:

1. Employer/event data tracking in OhioRED;
2. Worker data.

All individual workers who attend a worker orientation session must be entered into OWCMS mini-registration. Data for the OWCMS mini-registration can be acquired, among other methods, by using the state's RRWS. The rapid response identification (RRID) number assigned at the point of data entry into OhioRED will be entered into OWMCS mini-registration in order to track individual workers accessing services from each event. Although data elements are minimal for workers at this level of service, it is the beginning of a log of services that can then be used to ensure a smooth transition to WIOA program enrollment, should additional services be needed.

G. Funding for Rapid Response Employer Layoff and Closure Events

Rapid response emergency assistance funds (RREAF) are available to local areas allowing flexibility in serving affected workers and employers. The RR team must have conversations with the affected business and survey employees to determine which RR services must be provided.

RREAF are intended to supplement the local Dislocated Worker formula-funded program, not to supplant these funds. These funds are to be used to ensure the effective delivery of RR services and an efficient transition to any additional services needed for re-employment (e.g., referrals to WIOA formula-funded programs, Adult Basic and Literacy Education (ABLE) services, financial services, etc.).

If the local RR team determines that RR funds are needed for a dislocation event, the local WDBs must apply using the Application for Rapid Response Emergency Assistance Funds-Layoff or Closure Event Service Plan, which is attached to this policy and is maintained on the ODJFS OWD website. The OWD RR Unit will review and determine whether or not to approve the application. RR services will be funded incrementally based upon the project's budget, implementation, and need.

Applications and the approval of funds must be for a particular program year. If the delivery of RR services go beyond the program year, a new application must be completed for the next program year and submitted for approval.
Upon receipt of RR funds for approved dislocation events, local WDBs must ensure that impacted workers are not turned away from services based upon residency.

Depending on the RR funded activities associated with the dislocation event, the local area may be required to enter participant information into OWCMS under Special Grants. By reporting information into OWCMS, the local area may report outcomes.

VII. Monitoring

Local area monitoring must include an evaluation of the effectiveness of the area's response to the event. This must include an assessment of collaboration among RR teams and members, the efficiency of service delivery to employers and affected workers, timeliness and completeness of data entry into OhioRED and/or OWCMS, and use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures.

Through the state's monitoring system, program and fiscal monitors will review the local area's implementation of RR activities during the annual onsite monitoring review for compliance with local policy, the funding application, and federal laws and regulations. Any compliance issues will be handled through the state's findings resolution process.

VIII. Technical Assistance

The OWD Rapid Response Unit will oversee Ohio's RR program to identify notable practices and document RR activity throughout the state. The OWD Rapid Response Unit will also provide oversight of the activities of the local RR teams. The unit will provide support, guidance, training, and technical assistance to local teams; review, manage, and report out on data deriving from local activity; and provide financial resources to the local RR teams and stakeholders. Ongoing technical assistance to local WDBs and OhioMeansJobs Centers is available through the OWD Rapid Response Unit.

For additional information, questions may be sent to the OWD Rapid Response Unit: RAPDRESP@jfs.ohio.gov.

IX. References


20 C.F.R. §§ 682.300 - 682.370.

USDOL, Training and Employment Guidance Letter WIOA No. 3-15 Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services (July 1, 2015).


Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-14
July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Needs-Related Payments (NRPs) Using Adult and Dislocated Worker Formula Funds

I. Purpose
The purpose of this policy is to provide guidance on formula funded NRPs to be provided to eligible adult and dislocated workers. This policy applies to all eligible individuals served with formula funds by the local areas.

II. Effective Date
July 1, 2015

III. Background
NRPs provide financial assistance to participants for the purpose of enabling individuals to participate in training programs, and are one of the supportive services authorized by section 134 (d)(3) of the WIOA. Federal regulations require that payments must be based on financial need.

IV. Requirements
A. Eligibility for Needs-Related Payments

Receiving NRPs is not an entitlement for eligible participants.

Adult Eligibility
To be eligible for NRPs, an adult must:

- Be unemployed;
- Be qualified for or ceased to qualify for Unemployment Compensation (UC); and
- Be enrolled in a program of training services under section 134 (c)(3) of the WIOA.

Dislocated Worker Eligibility

Eligibility is based upon the family's financial need, as well as the participant's enrollment into training and ineligibility for Unemployment Compensation (UC) and Trade ReAdjustment Allowance (TRA) assistance. This two-part determination is described below.

Part 1 – Financial Need

1. Individuals must have a three-month family income of less than the lower living standard income level (LLSIL).

2. Determination of financial need may be determined up to 90 days prior to the start of training. This initial determination of eligibility is based on family income from the prior three (3) months.

AND

Part 2 – Training and UC/TRA Status

1. Be unemployed, and:
   
a. Have ceased to qualify for UC or TRA; and
b. Be enrolled in a program of training services under WIOA by the end of the 13th week after the most recent layoff that resulted in a determination of the worker’s eligibility as a dislocated worker, or, if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed six (6) months.

If, due to the lack of funds in the State or local area at the time of a dislocation, unemployed individuals served by a project are not able to meet the 13th or 8th week deadline for enrollment in training, as set forth in section 134 (d)(3)(B) of the WIOA, then such individuals may be eligible for needs-related payments if they are enrolled in training by the end of the 6th week following the date of the funds award.

2. Be unemployed and did not qualify for UC or TRA.

If the participant is not initially eligible and his or her financial situation changes during the course of training, eligibility may be re-determined throughout the course of participation. However, the timeframe requirements for beginning training (if applicable) and the family income requirements must be met in order to begin issuing NRPs.

If these eligibility requirements are met, individuals may be awarded NRPs from WIOA funding prior to the start date of training classes for the purpose of enabling the individual to participate employment and training services that begin within thirty (30) calendar days.

Note: Verification demonstrating proof of UC payments, amounts paid, and the fact that the participant is no longer receiving benefits, all need to be part of the participant’s file.

B. Level of Payments and Conditions

Adults

The level of NRP made to adults may not exceed the equivalent weekly amount of the local area’s annual 100 percent LLSIL for a family of one.

Dislocated Workers

The level of NRPs for participants may not exceed the following:

1. For participants who were eligible for unemployment compensation (UC) as a result of the qualifying dislocation, and who are no longer receiving benefits, the weekly payment may not exceed the applicable weekly level of the unemployment compensation benefits; or

2. For participants who did not qualify for unemployment compensation as a result of the qualifying layoff, the weekly payment will be equal to the poverty level based on family size and income for an equivalent period.

C. Participant Training Requirements

Weekly payments may begin on the Monday after both eligibility and training enrollment criteria have been met.

If the participant has been accepted into a training program that will begin within 30 calendar days of the determination of NRP eligibility, payments may be awarded prior to the start date of the training classes for the purpose of enabling the participant to enroll in the program. All training participants must be enrolled and attending full-time training as defined by the school, and maintain a minimum grade point average (GPA) of 2.0 to continue receiving NRPs.

When a participant has a break in training of less than 30 business days (not counting weekends or holidays), the participant is still eligible for NRPs and will receive the weekly NRP.
If the break in training is greater than 30 business days, the participant will not receive the NRPs for that period until the participant's training program begins.

In the event that training is delayed, NRPs may be paid while a participant is waiting to start training classes provided the participant has been accepted in a training program that will begin within 30 calendar days.

In the event the participants' circumstances prevent them from beginning training, or the training is further delayed (over 30 days), the case manager must make the participant aware of the need to disclose this information to avoid disallowed costs. The provider must also inform the case manager of delays to their training program.

NRPs must be immediately terminated for any participant who fails to meet one of these training requirements.

D. Training Services

Program training services are a structured regimen leading to recognized post-secondary credentials, industry-recognized credentials, employment, and measurable skill gains toward credentials or employment.

Types of training may include:

- Occupational skills training, including training for nontraditional employment;
- Programs that combine workplace training with related instruction, which may include cooperative education programs;
- Training programs operated by the private sector;
- Skills upgrading and retraining;
- Entrepreneurial training;
- Job readiness skills;
- Adult education and literacy activities provided in combination with any other training service listed above; and
- Customized training with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

E. Continuing Eligibility to Receive NRPs

Participants receiving NRPs must re-qualify for these benefits during the period of the training program every ninety days from the date of the original determination. This re-determination shall be based on the family income for the previous ninety day period. Any income from NRPs will not be included. The total revised family income so determined shall continue to be annualized to determine the participant's current eligibility for NRPs. Where the revised family income exceeds the LLSIL, the eligible participants shall not be eligible for NRPs. Where the revised family income does not exceed the LLSIL, the eligible participant shall continue to receive NRPs. NRPs are not allowable for participants receiving UC, TRA, OJT, and relocation assistance.

F. WDB Policy Requirements

Adult and dislocated worker formula funded NRPs are an allowable support service where authorized by the local workforce development boards. It is a local WDB decision to allow or prohibit the payment of NRPs. The local WDB supportive service policy must indicate whether or not NRPs are available to eligible participants.
Additionally, local WDBs offering NRPs must develop a NRP policy to include language requiring the participant to report the inability to participate due to unforeseen circumstances. Also, the policy must include the payment level determined for adults and dislocated workers.

V. Monitoring

Through the state’s monitoring system, program monitors will review the area’s documentation of disclosing whether or not a NRPs will provided within the guidelines of this policy and within federal laws and regulations during the annual onsite monitoring review. Any issues will be handled through the state’s monitoring resolution process.

VI. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VII. References

Workforce Innovation and Opportunity Act, Public Law 113-128


Rescission

ODJFS, Workforce Investment Act Policy Letter No. 08-14, Needs-Related Payments (NRPs) - WIA Adult/Dislocated Worker Formula Funds, (August 10, 2009).
Workforce Innovation and Opportunity Act Policy Letter No. 15-11

July 15, 2015

To: Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Use of Individual Training Accounts (ITA)

I. Purpose

The purpose of this policy is to identify the parameters for development of a local area ITA policy and to standardize the delivery of ITAs so local areas consistently provide training opportunities to participants leading to employment in an in-demand occupation.

II. Effective Date

July 1, 2015

III. Background

Program training services are a structured regimen leading to recognized post-secondary credentials, industry-recognized credentials, employment, and measurable skill gains toward credentials or employment.

To be eligible for training services, the local area must determine whether or not adult or dislocated worker participants, or out-of-school youth participants ages 18-24 are appropriate for training services. Determination of appropriateness should be done by completion of an interview, evaluation or assessment, and career planning. Assessment may include, among other things, a combination of standardized tests, inventory of participants’ interests, skills assessment, career exploration, and available labor market information. Eligibility information, combined with assessment information, help determine the need for training assistance. Additionally, local areas must review family self-sufficiency if the ITA is provided to an adult participant ages 18-24 or an out-of-school youth participant. Workforce Innovation and Opportunity Act (WIOA) Policy Letter No. 15-09, Training Services for Adults and Dislocated Workers, and WIOA Policy Letter No. 15-10, Youth Program Services, provide further direction for determining appropriateness for training services for adults, dislocated workers, and out-of-school youth ages 18-24.

An ITA is one of the primary methods through which training is financed and provided for unemployed or underemployed participants. ITAs are established on behalf of the WIOA participant to purchase a program of training services from eligible providers selected in consultation with the case manager. Additionally, the cost of training, time commitment of the participant, fees and books, tuition, and other associated costs should be considered when conducting a cost benefit analysis for the ITA.

IV. Requirements

To ensure training is in high demand occupations, and there is consistent service throughout OhioMeansJobs Centers, this policy must be adhered to by Ohio’s local workforce development areas.

A. Development of a Local ITA Policy

Each local area is required to develop an ITA policy that includes, but is not limited to, the following criteria:

- Maximum duration of an ITA;
- Maximum funding for training financed through ITAs;
- Allowable costs to complete training financed through ITAs;
- Other locally defined considerations.
There may be instances where dislocated workers from multiple workforce investment areas are impacted from one business downsizing or one dislocation event. Local areas are encouraged to work with contiguous workforce investment areas to develop consistent eligibility requirements and delivery of services for ITAs. Consistency between contiguous areas is particularly crucial if the ITAs are funded through the rapid response program as a result of a mass lay-off or plant closing or through a national dislocated worker grant.

**Maximum Duration of an ITA**

The duration of an ITA is determined by a participant’s course of study. Realistic and attainable training plans must be considered. Generally, training is either short-term or long-term. Short-term training is training which is completed in 12 months or less. Short-term training is the preferred method since the goal is to attain employment quickly. However, the local areas must keep in mind the participant's career pathway and the training and services necessary to meet the participant's goal. Long-term training is training whose length does not exceed 24 months. Four-year degree programs may be funded when the customer can document that he or she is in the last two years of the program (e.g., remaining hours are equal to or less than 50 percent of the total credit hours required for the degree) and is in an in-demand occupation.

There may be instances where a participant is unable to complete the training program within the time frame outlined in the ITA, and the ITA may be extended. These circumstances include, but are not limited to:
- Military service or leave time;
- Lack of availability of classes;
- Cancellations of classes;
- Unforeseen illness (of the participant or an immediate family member of the participant).

For the purposes of this policy, immediate family members include the participant's parents (including step-parents), spouse, domestic partner, and children (including step-children or children who the participant has been awarded custody of through a court).

**Maximum Funding for Training**

When local areas determine the maximum amount for an ITA, the cost must be determined by the average cost of training for specific in-demand occupations within the local area as well as the following criteria:
- The training investment should be in line with the future wages earned by the participant;
- The full cost of participating in training services, including the cost of dependent care and transportation, and other appropriate costs; and
- Factors, such as the cost of training, fees and books, tuition, and other associated costs, should be considered.

**Allowable ITA Costs**

ITA expenditures are costs required by the training institution to complete the training. ITA costs required to complete the training may include, but are not limited to:
- Tuition and fees;
- Books;
- Tools;
- Uniforms;
- Tests;
- Medical immunizations/tests.

ITA costs do not include any supportive services’ costs related to the ITA (e.g. transportation or child care).
Costs must be reasonable and necessary and must represent a sound investment of public funds.

**Other Considerations for Inclusion in Local ITA Policies**

Training services must be provided in a manner which maximizes informed consumer choice in selecting an eligible provider. When participants and local areas select an eligible training provider, they should consider providers who are eligible for financial aid to ensure best utilization of WIOA funds.

In relation to training, it is the intent that the WIOA funding is the payer of last resort. A comprehensive assessment of the cost of the ITA, which involves accessing other grants or funding, including Federal Pell Grants, Trade Adjustment Assistance (TAA), and scholarships, must be conducted to ensure best utilization of WIOA funds. The local area should utilize all financial aid resources available to minimize any out-of-pocket expense to the participant. The local ITA policy should not be so limited that a participant cannot be served because the training in an in-demand occupation exceeds the maximum ITA funding limit.

Local areas may implement evaluation and performance requirements for those training providers and programs, which the local area has approved to be on the statewide Eligible Training Provider (ETP) list. Areas may want to review the performance of a provider to determine whether or not the training provider meets established local program and cost requirements. If a training provider does not meet the performance requirements, local areas may choose not to use the provider. Criteria to be considered for evaluation may include, but is not limited to, ability to accept financial aid and grants, availability of student support, graduation rates, placement rates, and wage rates of the graduates from the institution.

**B. In-Demand Occupations**

To receive an ITA, a participant must select a training program that is directly linked to employment that is in high demand.

**State In-Demand Occupations (85 Percent)**

"In-demand" occupations were chosen using various industry- and occupation-focused measures. These measures include: projected openings; projected growth; select JobsOhio industry cluster occupations; and historic job posting data. The list of in-demand occupations will be validated or further enhanced using business data from the online Workforce Information Exchange job forecasts on a monthly basis.

Each program year, at least 85 percent of new ITA enrollments for the local area must be in an "in-demand" occupation as defined by the state of Ohio. Participants, who have a current program year training service start date and whose ITA will carry into the next program year, will not be counted in the next program year’s percentage.

The link below provides access to in-demand occupation data:

[http://jfs.ohio.gov/owd/OMJResources/In-DemandOccupations.stm](http://jfs.ohio.gov/owd/OMJResources/In-DemandOccupations.stm)

**Local Area In-Demand Occupations (15 Percent)**

The remaining 15 percent of ITA enrollments for the local area may be for occupations defined as in-demand within the local area. Some examples of local area in-demand occupations (15 percent) may include, but are not limited to:

- An occupation in a geographic area in which the participant is willing to work or relocate;
- Employment associated with regional industry sector or career pathway consortium for workforce development;
- A written guarantee of a bona fide job upon completion of training.
Appropriate documentation must be maintained in the case files. Ohio Department of Job and Family Services will review adherence to this policy and the federal law during comprehensive monitoring visits.

C. Waiver Request
Waivers may be requested to exceed the 15 percent enrollment requirement. Waivers will be approved on a case by case basis. The waiver template must be completed providing the appropriate justification for the waiver and be submitted to WIAQNA@JFS.OHIO.GOV. The subject of the email should read, "ITA Waiver Request".

V. Reporting Requirements
Pursuant to rule 5101:9-30-04 of the Administrative Code, the local board shall ensure the timely and accurate reporting of WIOA participants, activities, and performance information by using the Ohio Workforce Case Management System (OWCMS).

VI. Monitoring
At the local level, the local area must conduct oversight of the implementation of the WIOA programs to ensure that participants are enrolled in the programs and have been provided identified services. Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA programs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VII. Technical Assistance
For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VIII. References
Workforce Innovation and Opportunity Act, Pub. L. 113-128
20 C.F.R. Parts 603 et al.
29 U.S.C. 3101 et seq.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-09, Training Services for Adults and Dislocated Workers, (July 1, 2015).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-10, Youth Program Services, (July 1, 2015).

Rescission
Workforce Innovation and Opportunity Act Policy Letter No. 15-09

July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Training Services for Adults and Dislocated Workers

I. Purpose

The purpose of this policy is to provide direction to the local workforce development boards (WDB) in the provision of training services to adults and dislocated workers.

II. Effective Date

July 1, 2015

III. Background

The Workforce Innovation and Opportunity Act (WIOA) program is designed to provide employment and training opportunities to those who can benefit from, and who are in need of such opportunities. However, WIOA is not an entitlement program. This requires local WDBs to ensure that eligible individuals are determined to be appropriate for program enrollment based upon a consistent equitable assessment that is relevant to the level of services for which the individuals are applying. WIOA services for adults and dislocated workers are grouped into two categories: career services and training services. Workforce Innovation and Opportunity Act Policy Letter (WIOPL) No. 15-08, Career Services for Adults and Dislocated Workers, provides guidance to the provision of career services.

IV. Definitions

Appropriateness: the possession of qualities which are right, needed, or suitable for training services.

Basic skills deficient: an individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Customized training: training that is designed to meet the specific requirements of an employer (including a group of employers), that is conducted with the commitment by the employer to employ an individual upon successful completion; and for which the employer pays:

- A significant portion of the cost of training, as determined by the local board involved taking into account the size of the employer and such other factors as the local board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees, relation of the training to the competitiveness of the participant, and other employer-provided training and advancement opportunities; and
- In the case of customized training involving an employer located in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor of the State, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.

Extenuating circumstances: an economic hardship that is beyond the reasonable control of the person(s) responsible for providing financial assistance to the WIOA participant for training.

Family: two or more persons related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

- Two spouses and dependent children.
- A parent or guardian and dependent children.
- Two spouses.
Family self-sufficiency: the use of the combination of family members' incomes to determine whether or not the participant has the means to fund training services.

Incumbent worker training: training to employed workers who are in need of additional skills to support job retention and career development.

In-demand industry sector: an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, and local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors as as listed on the State In-Demand Occupations list or as defined by the local area per the Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts (ITA).

In-demand occupation: an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy as listed on the State In-Demand Occupations list or as defined by the local area per WIOAPL No. 15-11.

Interim employment (also known as stop-gap employment): Employment that has been accepted for the purpose of income maintenance prior to, and/or during, participation in career or training services with the intention of ending such employment at the completion of the career or training services and entry into permanent, unsubsidized employment as a result of the services. Interim employment is accepted because the affected workers have lost the primary occupation for which their training, experience, or work history qualifies them. Interim employment can be part-time or full-time and must not be with the same employer from which the affected workers were dislocated.

Occupational skill training: an organized program of study that provides specific vocational skills that lead to proficiency in performing actual task and technical functions required by certain occupational fields at entry, intermediate, or advance levels and results in attainment of a recognized postsecondary credential.

On-the-job training (OJT): training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- Provides knowledge or skills essential to the full and adequate performance of the job;
- Is made available through a program that provides reimbursement to the employer a percentage of the wage rate of the participant; and
- Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, prior work experience of the participant, and the service strategy for the participant.

Program of training services: a structured regimen leading to recognized post-secondary credentials, industry-recognized credentials, employment, and measurable skill gains toward credentials or employment.

Pay-for-performance contract strategy: a procurement strategy that uses pay-for-performance contracts in the provision of training services and includes:

- Contracts, each of which shall specify a fixed amount that will be paid to an eligible service provider based on the achievement of specified levels of performance on primary indicators of performance for target populations within a defined timetable, and which may provide for bonus payment to such service provider to expand capacity to provide effective training;
- A strategy for independently validating the achievement of the performance; and
- A description of how the State or local board will reallocate funds not paid to the provider because the achievement of performance did not occur for further activities related to such a procurement strategy.
Primary occupation: the customary work for which the dislocated worker’s training, experience, or work history qualifies them.

Public assistance: as defined in section (3)(50) of WIOA, federal, state, or local government cash payments for which eligibility is determined by a needs or income test. This includes temporary assistance for needy families (TANF), supplemental nutrition assistance program (SNAP), or supplemental security income (SSI).

Transitional jobs: subsidized work experiences that are time-limited and designed to assist individuals to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.

V. Requirements

A. Eligibility for Training Services

Pursuant to section 134 (b)(3)(A) of the WIOA, training services may be provided to adults or dislocated workers who:

1. After an interview, evaluation, or assessment and career planning, have been determined by OhioMeansJobs staff or OhioMeansJobs center partner staff to be:
   - Unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;
   - In need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
   - Have the skills and qualifications to successfully participate in the selected program of training services.

2. Selects a program of training services that are directly linked to the employment opportunities in the local area or the planning region, or in another area to which the adults or dislocated workers are willing to commute or relocate; and

3. Are unable to obtain other grant assistance for training or require assistance beyond the assistance made available under other grant assistance programs, including Pell Grant funds.

Under WIOA, an individual may receive training services after an interview, evaluation or assessment, and career planning if the WIOA staff or the OhioMeansJobs partner determines the individual is unlikely or unable, by only receiving career services, to retain employment that leads to self-sufficiency or wages comparable to or higher than wages from previous employment.

Individual employment plans (IEP) are one of the most effective ways to serve individuals with barriers to employment and to coordinate the various services, including training services they may need to overcome these barriers. Therefore, all participants who receive an individualized career service per WIOAPL No. 15-08 or a training service must receive an IEP.

There is no requirement that career services be provided as a condition of receipt of training services; however, if career services are not provided before training, the local board must document the circumstances that justified its determination to provide training without first providing an interview, evaluation or assessment, and career planning.

Additionally, staff or the partner must determine that the training the individual receives would result in employment leading to self-sufficiency or wages comparable to or higher than wages from previous employment. A determination that the individual has the skills and qualifications to successfully participate in and complete training must be made. Upon a determination that career services are unlikely to obtain these employment outcomes, the individual may be enrolled in training services.
The case files for adult and dislocated worker participants must contain a determination of need for training service as determined through the interview, evaluation, or assessment, and career planning informed by State and local in-demand occupation lists and training provider performance information, or through any other career service received. It is important that WIOA staff gather enough information, by whatever means, to justify the need for training services.

Use of Previous Assessments

When determining the services needed for an individual to obtain or retain employment, the local area or an OhioMeansJobs center partner shall not be required to complete a new interview, evaluation, or assessment of a participant if the local area or OhioMeansJobs partner determines it is appropriate to use a recent interview, evaluation, or assessment (within six (6) months) of the participant conducted pursuant to another education or training program. This may include evaluations completed by a secondary school, Vocational Rehabilitation, Adult Basic and Literacy Education (ABLE), Veteran Program, or other education or training providers.

Priority for Adult Program

Priority for training services funded by and provided through the adult program shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of training services determined appropriate to obtain or retain employment. The emphasis in WIOA is to prioritize services to those individuals who have the most barriers to employment and to provide those individual with the opportunity to benefit from employment and training services.

Priority for Veterans and Eligible Spouses

Additionally, the Jobs for Veterans Act, Public Law 107-288 establishes priority of service for veterans and eligible spouses. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority of receipt of services. Priority means that veterans and eligible spouses take precedence, with all other qualifying eligibility requirements being equal, over non-veteran and eligible spouses in obtaining services and program enrollment.

B. Training Services

Training Services may include:

- Occupational skills training, including training for nontraditional employment;
- On-the-job training;
- Incumbent worker training;
- Programs that combine workplace training with related instruction, which may include cooperative education programs;
- Training programs operated by the private sector;
- Skill upgrading and retraining;
- Entrepreneurial training;
- Transitional jobs;
- Job readiness training;
- Adult education and literacy activities;
- Customized training.

Linkage to Occupations in Demand

Training services provided shall be directly linked to an in-demand industry sector or occupation or a high potential for sustained growth in the local area or planning region, or in another area to which an adult or dislocated worker receiving such services is willing to relocate. Refer to WIOPL No. 15-11, Use
of Individual Training Accounts (ITA), for the guidelines on the selection of State In-Demand Occupations and Local In-Demand Occupations.

**Eligible Training Providers**

Training services shall only be provided by providers who have met the criteria to be eligible and have been identified as being on the list of eligible providers of training services pursuant to section 122 of the WIOA. Pursuant to 20 CFR 680.530, providers of OJT, customized training, incumbent worker training, internships, paid or unpaid work experiences, or transitional jobs are not subject to the eligibility requirements outlined in section 122 (a)-(f) of WIOA, but are required to provide performance information established by the State.

**Informed Customer Choice**

Training services shall be provided in a manner which maximizes consumer choice in the selection of an eligible provider of such services. Each local board, through the OhioMeansJobs centers, shall make available the list of eligible providers of training services and accompanying performance information. Based upon the available information, participants, with the assistance of the local area, are able to make informed customer choices. Refer to WIOPL No. 15-11 for more guidance on informed customer choice.

**Individual Training Accounts (ITA)**

An ITA is one of the primary methods through which training is financed and provided for adults and dislocated workers. ITAs are established on behalf of a WIOA participant to purchase a program of training services from eligible training providers. WIOAPL No. 15-11 provides guidance for the use of ITAs.

Training contracts may be provided pursuant to a contract in lieu of an ITA if consumer choice requirements and one of the following exceptions are met:

- If such training services are on-the-job training (including placing participants in a registered apprenticeship), customized training, incumbent worker training, or transitional jobs;
- Where a local board determines there are an insufficient number of eligible providers of training services in the local area to accomplish the purposes of a system of individual training accounts as described in the local plan;
- If the local board determines that there is a training services program of demonstrated effectiveness, through criteria developed by the local board, offered in the local area by a community-based organization or another private organization to serve individuals with barriers to employment;
- If the training is for multiple individuals in in-demand industry sectors or occupations, as long as the contract does not limit the individual's customer choice; or
- The contract is a pay-for-performance contract.

**Needs-Related Payments**

The WIOA fund may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services. Guidance regarding needs-related payments is found in WIOAPL No. 15-14, *Needs-Related Payments Using Adult and Dislocated Worker Funds*.

**C. Determination of Self-Sufficiency**

Pursuant to section 134 (b)(3)(A)(i)(I) of the WIOA, for adults and dislocated workers to receive training services, they must be in need of such service to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than wages from previous employment. The local areas must determine criteria for self-sufficiency. Level of self-sufficiency may vary by local area and the local
economy; this flexibility allows local areas to tailor their services in a way that works in their local economy.

For working dislocated workers, determination of self-sufficiency status requires a two-step assessment of the worker’s employment:

1. Determine if the employment is “interim employment.”
2. If the employment is not “interim,” determine if the wage is at least the locally defined level of self-sufficiency or if the hourly wage is comparable to or higher than wages from previous employment.

It should be noted that workers who have received notice of layoff, but have not yet been laid off and who do not have any other sources of employment are not subject to review of self-sufficiency.

Interim Employment for Dislocated Workers

Typically, employment is considered to be interim if the salary is below the salary of the dislocated worker’s primary occupation and/or if the dislocated worker is working under the skill level of his or her customary occupation. There may be circumstances where interim employment does provide a sufficient wage temporarily but is not considered permanent employment that leads to self-sufficiency (e.g., working through a temporary agency). The determination about whether or not a dislocated worker’s employment is interim employment must be made on a case by case basis and take into consideration dislocated worker’s personal, family, financial, and employment situation.

A dislocated worker who is in interim employment is not considered to be self-sufficient even if the hourly wage exceeds the lower living standard income or if the hourly wage is comparable to or higher than the wages from previous employment.

If a dislocated worker has interim employment, this participant is considered to be unemployed at participation and information should be entered into the Ohio Workforce Case Management System (OWCMS) as such.

Wage Standard for Non-Interim Employment for Dislocated Workers

Employed dislocated workers whose wages are over locally defined self-sufficiency standard or comparable or higher than the wages from previous employment are considered to be “self-sufficient,” unless the employment is considered to be “interim employment.” Dislocated workers who are determined to be “self-sufficient” may receive career services only.

D. Determination of Appropriateness for Training Services

As the WIOA program is designed to provide employment and training opportunities to those who can benefit from, and who are in need of such opportunities, the local WDBs must ensure that eligible individuals are determined to be appropriate for training services based upon a consistent and equitable assessment that is relevant to the type of training for which the individuals are applying.

WIOA staff must gather information and assess appropriateness in a timely manner. Local WDBs should strive to establish a customer flow that allows an expedited path to needed services.

Pursuant to section 134 (b)(3)(A) of the WIOA, training services may be provided to adults or dislocated workers who after an interview, evaluation, or assessment and career planning, have been determined by OhioMeansJobs staff or OhioMeansJobs center partner staff to be:

- Unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;
- In need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
- Have the skills and qualifications to successfully participate in the selected program of training services.
The process to obtain this information is a local decision. However, this information should be a combination of among other things standardized tests, interviews, inventory of applicants’ fields of interests, skills assessments, career exploration, and available labor market, as well as other data which may have been collected through the provision of a career service.

**Additional Requirements for Adult-Funded ITAs**

As part of the determination of the appropriateness for training services, the local area must review "family self-sufficiency" for participants seeking a WIOA adult-funded ITA. WIOA adult-funded may only be approved for those who have been determined to be below a locally defined standard of "family self-sufficiency." This requirement is intended to ensure that adult participants seeking adult-funded ITAs are those whose families lack or have limited ability to pay for training and supportive services needed in order to obtain or retain employment.

Additionally, all young adults, ages 18-24, who are seeking WIOA adult-funded ITAs, must also be screened for dependency status. Refer to WIOAPL No. 15-06, Determination of Dependent Status, for guidance on determining dependency status. If an adult, ages 18-24, is determined to be dependent, "family self-sufficiency" would include the income(s) of all family members, including the young adult's parent(s).

WIOA eligible adults who are over the local standard for "family self-sufficiency" are not eligible for adult-funded ITAs. Other WIOA services may be provided, as appropriate. They may also be served using other WIOA funds, if eligible.

WDBs are required to develop the criteria for "family self-sufficiency." The new local definition of family self-sufficiency should not be confused with the "self-sufficiency" definition.

**Extenuating Circumstances for WIOA Adult-Funded ITAs**

If a family income exceeds the "family self-sufficiency" standard, a participant may still receive an adult-funded ITA if extenuating circumstances exist. When evaluating extenuating circumstances, the costs related to the economic hardship must be the responsibility of that person or for his or her legal dependent, spouse, or parent. Those costs must be ongoing and expected to cause a financial hardship for the duration of the ITA.

Economic hardships include, but are not limited to:

- The portion of medical procedure or prescription medication costs that are not covered by insurance and are ongoing and determined to be medically essential;
- Health insurance premium payments that are not paid for by private or public sources;
- Payments on past due or back mortgage, rent, or essential services (e.g., electric, water, natural gas, propane, and other utility arrearages) that accumulated because of involuntary unemployment or underemployment;
- Court-ordered child support or spousal payments;
- Ongoing payments to a nursing home, home health care provider, elder care provider, or assisted living provider;
- Payments toward debt that accumulated as a result of a natural disaster, severe illness, or disability.

Extenuating circumstances do not include normal rent, mortgage, utility, automobile, fuel, grocery, credit card, or "pay-day loan," payments.

Exceptions may be approved on a case by case basis for individuals whose family incomes exceeds the family self-sufficiency standard. Documentation explaining the extenuating circumstances must be maintained in the participant file, along with the signature approval of the local WDB Fiscal Agent and WDB Director or designee.

**VI. Reporting Requirements**
Program participation begins when the participant is determined eligible, receives the staff-assisted basic career service, individualized career service, or training service which is funded by the adult or dislocated worker program. Pursuant to rule 5101:9-30-04 of the Administrative Code, the local board shall ensure the timely and accurate reporting of WIOA participants, activities, and performance information by using the Ohio Workforce Case Management System (OWCMS).

VII. Monitoring

At the local level, the local area must conduct oversight of the implementation of the WIOA adult and dislocated worker programs to ensure that participants are enrolled in the programs and have been provided identified services.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA youth program, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VIII. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

IX. References

Workforce Innovation and Opportunity Act, Pub. L. 113-128.
20 CFR Parts 603 et al.
29 U.S.C. 3101 et seq.
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-14, Needs-Related Payments Using Adult and Dislocated Worker Funds
ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08, Career Services for Adults and Dislocated Workers, (July 1, 2015).

Rescission

ODJFS, Workforce Investment Act Policy Letter No. 08-12.3, Adult and Dislocated Worker Suitability Requirements for Intensive and Training Services in Workforce Investment Act (WIA) Programs, (May 27, 2011).
Workforce Innovation and Opportunity Act Policy Letter No. 15-08  
July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Career Services for Adults and Dislocated Workers

I. Purpose
This purpose of this policy is to communicate guidance in the provision of career services to adults and dislocated workers.

II. Effective Date
July 1, 2015

III. Background
The OhioMeansJobs delivery system is the foundation of the workforce system. Pursuant to section 134 (c)(1) of the Workforce Innovation and Opportunity Act (WIOA), funds allocated to the local area for adults and dislocated workers shall be used to establish an OhioMeansJobs delivery system, to provide career services to adults and dislocated workers, to provide training services to adults and dislocated workers, to establish and develop relationships with large and small employers and their intermediaries, and to develop, convene, or implement industry and sector partnerships. Local workforce development boards (WDB) determine the most appropriate mix of these services, but both career and training services must be available for eligible adults and dislocated workers.

Career and training services, tailored to the individual needs of jobseekers, form the backbone of the OhioMeansJobs delivery system. While some jobseekers may only need self-service or other basic career services, others will need services that are more comprehensive and tailored to their individual career needs.

The WIOA adult and dislocated worker programs are designed to provide services, employment, and training opportunities to those who can benefit from, and who are in need, of such services. A wide range of activities and services must be available to assist individuals in obtaining the skills and credentials necessary to secure and advance in employment.

IV. Definitions
Appropriateness: the possession of qualities that is right, needed, or suitable for career services.

Basic skills deficient: an individual who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Career counseling: facilitated exploration of occupational and industry information that will lead to a first, new, or better job for the job seeker.

Career planning: the provision of client-centered approach in the delivery of services designed to:

- Prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, where feasible, computer-based technologies; and
- Provide job, education, and career counseling, as appropriate during program participation and after job placement.

Financial literacy services: activities provided to gain an understanding of basic financial information which is necessary to become self-sufficient, and includes the following:
• Supporting the ability of participants to create household budgets, initiate savings plans, and make informed financial decisions about education, retirement, home ownership, wealth building, or other savings goals;
• Supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;
• Increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, including determining their accuracy;
• Supporting the ability to understand evaluate, and compare financial products, services, and opportunities; and
• Supporting activities that address the particular financial literacy needs of non-English speakers.

**Follow-up services:** activities to monitor adults or dislocated workers' success during their transition to employment and further education and to provide assistance as needed for a successful transition.

**In-demand occupation:** an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the State, regional, or local economy as listed on the State In-Demand Occupations list or as defined by the local area per the Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts (ITA).

**In-demand industry sector:** an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the State, regional, and local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors as listed on the State In-Demand Occupations list or as defined by the local area per the WIOAPL No. 15-11.

**Individual employment plan:** an individualized career service joint development by the participant and staff that includes an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for the participant to obtain these goals and objectives.

**Integrated education and training:** a service approach that provides adult education and literacy activities concurrently and contextually with workforce preparation activities and workforce training for a specific occupation or occupational cluster for the purpose of educational and career advancement.

**Internship:** a system of gaining on-the-job experience by placement in a work environment for a period of time with the goal to build technical and job awareness skills. Internships may be paid or unpaid.

**Job club:** group of job seekers who meet for mutual support and networking while looking for employment.

**Lower living standard income level:** As defined in section 3 (36)(b) of WIOA, income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Department of Labor based on the most recent lower living family budget issued by the Secretary.

**Low-income individual:** As defined in section 3 (36)(a) of WIOA, an individual who –

a. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or the supplemental security income (SSI) or local income-based public assistance;

b. Is in a family with total family income that does not exceed the higher of –

   • The poverty line; or
   • 70% of the lower living standard income level.

c. Is a homeless individual;

d. Receives or is eligible to receive a free or reduced price lunch;
e. Is a foster child on behalf of whom the State or local government payments are made; or
f. Is an individual with a disability whose own income meets the eligibility income requirement of clause (b) but who is a member of a family whose income does not meet this requirement.

Meaningful assistance: providing assistance on-site using staff who are well-trained in unemployment compensation claims filing and the rights and responsibilities of claimants or providing assistance by phone or other technology, as long as the assistance is provided by trained and available staff and within a reasonable time.

Participation: the point at which the individual has been determined eligible for program services and has received or is receiving a career or training service, other than basic career services and is the point at which an individual is to be included in calculations for performance measures.

Public assistance: as defined in section (3)(50) of WIOA, federal, state, or local government cash payments for which eligibility is determined by a needs or income test. This includes temporary assistance for needy families (TANF), supplemental nutrition assistance program (SNAP), or supplemental security income (SSI).

Registration: the process of collecting information to support determination of eligibility for the WIOA adult and dislocated worker programs. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application.

Supportive services: services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under WIOA.

Underemployed individual: an individual who is one of the following:

- Employed less than full-time who are seeking full-time employment;
- Employed in a position that is inadequate with respect to their skills and training;
- Employed and meet the definition of a low-income individual; or
- Employed, but whose current job's earning are not sufficient compared to their previous job's earning from their previous employment per local policy.

Work experience: a planned, structured learning activity that takes place in a workplace setting for a limited period of time (refer to Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-12, Work Experience for Adults and Dislocated Workers).

V. Requirements

Career Services

Career services must be made available through the OhioMeansJobs delivery system to individuals who are adults or dislocated workers. Career services may be broken into three sets of activities: basic career services available to all individuals seeking services served in the OhioMeansJobs delivery system; individualized career services deemed necessary for an adult or dislocated worker to obtain or retain employment; and follow-up services available for an adult or dislocated worker after unsubsidized employment is obtained. There is no order in which services are provided; service delivery is based on the individual needs of the participant. Therefore, an individual does not need to attempt a career service to demonstrate a failure to secure employment prior to receiving training services.

Career services must be provided by the OhioMeansJobs center operator or through contracts with service providers procured through and approved by the local WDB. The WDB and the OhioMeansJobs center operator should review career services to determine if any of these services are being provided or may be provided by a partner (i.e., Wagner-Peyser program) at the OhioMeansJobs center. The local WDB, OhioMeansJobs center operator, and the partner program should discuss strategies to reduce duplication and to appropriately utilize resources when providing
services to universal customers. The memorandum of understanding should address how WIOA self-service or informational career services will be coordinated with other partner programs.

**Basic Career Services**

Basic career services are available to the universal customer, who is anyone coming to an OhioMeansJobs center seeking assistance. These services are informational services and may require limited to no assistance for OhioMeansJobs center staff. Provision of these services does not require registration into the WIOA adult or dislocated worker programs. Those services available to the universal customer include:

1. Determinations of whether the individual is eligible to receive WIOA services;
2. Outreach, intake (which may include worker profiling), and orientation to the information and other services available through the workforce development delivery system;
3. Initial assessment of skill levels, including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs;
4. Labor exchange services, including:
   - Job search and placement assistance, and when needed by an individual, career counseling, including:
     - Provision of information on in-demand industry sectors and occupations; and
     - Provision of information on nontraditional employment
5. Provision of workforce and labor market employment statistical information, which may be found on OhioMeansJobs.com. This service includes the provision of accurate information relating to local, regional, and national labor market areas, including:
   - Job vacancy listings in such labor market areas;
   - Information on job skills necessary to obtain the vacant jobs; and
   - Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations;
6. Provision of performance information and program cost information on the eligible providers of training services by program and type of providers;
7. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the OhioMeansJobs delivery system and, in appropriate cases, other workforce development programs;
8. Provision of information regarding how the local is performing on the local performance accountability measures and any additional performance information with respect to the OhioMeansJobs delivery system in the local area;
9. Provision of information relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including:
   - Child care;
   - Child support;
   - Medical or child health assistance available through the State's Medicaid program and Children's Health Insurance Program;
   - Supplemental Nutrition Assistance Program (SNAP);
   - Assistance through the earned income tax credit;
• Temporary Assistance to Needy Families (TANF);
• Other supportive services and transportation available in the local area;

10. Provision of information and assistance regarding filing claims for unemployment compensation, by which the OhioMeansJobs center must provide meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation;

11. Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not funded through WIOA; and

12. Group workshops (e.g., interviewing, job search, and resume writing).

**Individualized Career Services**

Per section 134 (c)(2)(A)(xii) of WIOA, some career services are available to adults and dislocated workers if determined to be appropriate in order obtain or retain employment. These career services involve staff making a determination on needs of an individual and arranging those services to be provided to the participant. Individualized career services require enrollment in the WIOA program and include short-term pre-vocational services. These career services include:

1. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include:
   • Diagnostic testing and use of other assessment tools; and
   • In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

2. Development of an individual employment plan (IEP) to identify all of the following:
   • Employment goals;
   • Appropriate achievement objectives;
   • Appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible training providers and career pathways to attain career objectives.

IEPs are one of the most effective ways to serve individuals with barriers to employment and to coordinate the various services, including training services they may need to overcome these barriers. Therefore, all participants who receive an individualized career service or a training service pursuant to WIOAPL No. 15-09, Training Services for Adults and Dislocated Workers, must receive an IEP.

3. Group counseling;
4. Individual counseling;
5. Career planning;
6. Short-term prevocational services to prepare individuals for unsubsidized employment or training, which include:
   • Development of learning skills;
   • Communication skills;
   • Interviewing skills;
   • Punctuality;
   • Personal maintenance skills;
   • Professional conduct.
7. Internships and work experiences that are linked to careers;
8. Workforce preparation activities;
9. Financial literacy services;
10. Out-of-area job search assistance and relocation assistance;
11. English language acquisition and integrated education and training programs; and
12. Provision of job club activities.

**Follow-Up Services**

Appropriate follow-up services must be made available to a participant placed in unsubsidized employment for a minimum of 12 months following the participant's first date of employment. Follow-up services can be useful for participants in order to maintain employment. WIOA staff can provide workplace information and tips for success in the workplace environment.

Additionally, follow-up services provide the continuing link between the participant and workforce system. These services allow the WIOA staff to assist with other services the participant may need once he or she obtains employment. Examples may include assistance with employer benefits, health insurance, and financial literacy and budgeting assistance.

**Supportive Services**

Supportive services are services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in career and training services. Referral to supportive services is a career services that may be available to adults and dislocated workers through the workforce development system.

Supportive services may only be provided to participants who are in career or trainings services, unable to obtain supportive services through other programs providing supportive services, and that they must be provided in a manner necessary to enable individuals to participate in career and/or training services.

To provide supportive services, the local workforce development board (WDB), in consultation with the OhioMeansJobs partners and other community service providers, must develop a policy on supportive services that ensures resources and service coordination in the local area. The policy must address procedures for referral to such services, including how such service will be funded when they are not otherwise available from other sources.

**Use of Previous Assessments**

When determining the services needed for an individual to obtain or retain employment, the local area or an OhioMeansJobs center partner shall not be required to complete a new interview, evaluation, or assessment of a participant if the local area or OhioMeansJobs center partner determines it is appropriate to use a recent interview, evaluation, or assessment (within six (6) months) of the participant conducted pursuant to another education or training program. This may include evaluations completed by a secondary school, Vocational Rehabilitation, ABLE, Veteran program, or other education or training providers.

**Priority for the Adult Program**

Priority for career services funded by and provided through the adult program shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of those career services determined appropriate to obtain or retain employment. Individuals who are underemployed and meet the definition of a low-income individual may receive career services under the Adult program on a priority basis.
The emphasis in WIOA is to prioritize services to those individuals who have the most barriers to employment and to provide those individual with the opportunity to benefit from employment and training services.

**Priority for Veterans and Eligible Spouses**

Additionally, the Jobs for Veterans Act, Public Law 107-288 establishes priority of service for veterans and eligible spouses. Veterans and eligible spouses must first meet any and all of the statutory eligibility criteria in order to be considered for: a) enrollment in the program; b) receipt of priority for enrollment in the program; and c) priority of receipt of services. Priority means that veterans and eligible spouses take precedence, with all other qualifying eligibility requirements being equal, over non-veteran and eligible spouses in obtaining services and program enrollment.

**VI. Reporting Requirements**

Registration is the process for collecting information to support a determination of eligibility. Program participation begins after the registration process of collecting information to support an eligibility determination and begins when the individual receives an individualized career service or training service which is funded by the adult or dislocated worker program. Pursuant to rule 5101:9-30-04 of the Administrative Code, the local board shall ensure the timely and accurate reporting of WIOA participants, activities, and performance information by using the Ohio Workforce Case Management System (OWCMS).

**VII. Monitoring**

At the local level, the local area must conduct oversight of the implementation of the WIOA adult and dislocated worker programs to ensure that participants are enrolled in the programs and have been provided identified services.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA adult and dislocated worker programs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

**VIII. Technical Assistance**

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

**IX. References**

Workforce Innovation and Opportunity Act, Pub. L. 113-128

20 C.F.R. Parts 603 et al.

29 U.S.C. 3101 et seq.

USDOL, Training and Employment Guidance Letter WIOA N0. 3-15 Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services Provider through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) and Wagner-Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services, (July 1, 2015).


ODJFS, Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-12, Work Experience for Adults and Dislocated Workers, (July 1, 2015).
ODJFS, Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-11, Use of Individual Training Accounts (ITAs), (July 1, 2015).

**Rescission**

Workforce Innovation and Opportunity Act Policy Letter No. 15-07.1

June 25, 2018

To: Workforce Innovation and Opportunity Act Local Workforce Development Boards, Fiscal Agents, CCMEP Lead Agencies, OhioMeansJobs Center Operators, and Providers of Career and Youth Services

From: Cynthia C. Dungey, Director

Subject: Source Documentation for Workforce Innovation and Opportunity Act Title I Program Eligibility

I. **Purpose**

The purpose of this policy is to communicate the documentation requirements necessary to support eligibility determinations in the Workforce Innovation and Opportunity Act (WIOA) adult, dislocated worker, and youth programs.

II. **Effective Date**

Immediately

III. **Rescission**


IV. **Background**

WIOA establishes general and specific program eligibility criteria. As recipients of WIOA Title I, Subtitle B funds, the ODJFS Office of Workforce Development (OWD), the local workforce development areas (local areas), and Comprehensive Case Management and Employment Program (CCMEP) lead agencies are required to maintain and report accurate program and financial information.

V. **Definitions**

**Comprehensive Case Management and Employment Program (CCMEP):** An integrated intervention program that combines Temporary Assistance for Needy Families (TANF) and the WIOA youth program to provide employment and training services to individuals ages 14 through 24 years.

**Lead agency:** The local participating agency designated by the board of county commissioners to administer CCMEP.

**Ohio Workforce Case Management System (OWCMS):** A system used by workforce professionals to gather and report WIOA and CCMEP participant and program data and information.

**Personal information and personally identifiable information (PII):** Any information describing anything about a person, indicating actions done by or to a person, or indicating a person’s personal characteristics, which can be retrieved from a system by a name, identifying number, symbol, or other identifier assigned to a person. This information can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

**Registration:** The process of collecting information to support a determination of eligibility for the WIOA adult, dislocated worker, and youth programs. This information may be collected through methods, including electronic data transfer, personal interview, or an individual's application.

**Workforce service providers (WSPs):** Local areas, career services providers, youth program providers, and CCMEP lead agencies that carry out a workforce development activity or program.

VI. **Workforce Service Provider Requirements**
Workforce service providers (WSPs) Local areas, career services providers, youth program providers, and CCMEP lead agencies must verify or confirm eligibility requirements through an examination of documents or by using one or more of the additional methods of source documentation described below.

Documentation requirements to support WIOA adult and dislocated worker eligibility are tied to the level of services provided to the participant. For adults and dislocated workers receiving only basic career services which do not trigger participation in the WIOA program, the local area may accept information provided by these reportable individuals at face value to complete the basic intake process without requiring source documentation.

Documentation requirements increase for participants who receive basic career services triggering participation, individualized career services, or training services. Definitions and examples of basic career services and individualized career services are contained in Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-08.1, Career Services for Adults and Dislocated Workers.

CCMEP WIOA youth program eligibility documentation does not vary between types of services or program elements received.

Attachment A provides guidance for the specific types of source documents that may be used to verify participant eligibility at each level of service.

A. Electronic Files

Eligibility documentation may be stored electronically. However, the documentation requirements remain unchanged. If WSPs use electronic files, the documents must be available to the program and fiscal monitors and auditors for monitoring purposes.

The Ohio Workforce Case Management System (OWCMS) is the system of record for all WIOA workforce activities. Per rule 5101:9-30-04 of the Administrative Code, local areas must use OWCMS to accurately report the following:

1. WIOA participant information, including eligibility criteria and barriers to employment;
2. Services provided to the participant;
3. Case management activities, including case notes; and

Information must be placed into OWCMS within 30 days of obtaining the information. No other system of case management shall be maintained.

B. Electronic Signatures

WSPs may have an electronic WIOA adult and dislocated worker programs eligibility form. In these instances, the electronic form must capture the electronic signatures of the applicants.

For the CCMEP WIOA youth program, WSPs must use the JFS 03002, WIOA Youth Program Eligibility Application. This form must be used to determine eligibility for all WIOA youth program participants per rule 5101:14-1-02 of the Administrative Code. WSPs making this form electronic must capture all required electronic signatures.

C. Additional methods of Source Documentation

For documentation of eligibility for WIOA adult, dislocated worker, and youth programs, there are multiple forms of acceptable source documentation. In most instances, one of the source documents listed in Attachment A, Allowable Source Documentation for WIOA Program Eligibility, should be used to verify the eligibility of a participant. Below are additional methods that WSPs may use if, per Attachment A of this policy letter, the method is permissible for the eligibility criteria or data element being verified.
1. Telephone or Electronic Communication

In instances where telephone or electronic communication is acceptable and used, the case file must contain the name of the agency representative, the date of the conversation, and the result of the eligibility verification.

WSPs must use the JFS 13188, WIOA Telephone Eligibility Verification, to document telephone communication. If a telephone communication is used to verify dislocation, the case file must contain the date and reason for termination, and a possible recall date if applicable.

2. Self-Attestation

Self-Attestation occurs when a participant states his or her status for an eligibility criterion or set of eligibility criteria, and then signs and dates a form acknowledging this status. The key elements for self-attestation are:

a. The participant identifying his or her status for permitted eligibility criteria; and
b. Signing and dating the form attesting to this self-identification.

WSPs must use the JFS 13186, Self-Attestation, or the JFS 13187, Citizenship Status/Authorization to Work Self-Attestation.

Local areas may add the JFS 13186 to a local area WIOA Adult and Dislocated Worker eligibility determination form if all the components of the form, including language, remain intact. The self-attestation is not a blanket verification for all eligibility components as noted in Attachment A. Within this self-attestation, the individual must document which specific elements of eligibility he or she is attesting (e.g., authorization to work, proof of termination or layoff, etc.) and how he or she meets the eligibility criteria.

WSPs must be cognizant that not all eligibility source documentation may be verified with self-attestation. Therefore, self-attestation does not alleviate or replace the need to collect documentation of some eligibility elements from the individual.

3. Case Notes

Case notes refer to statements placed in OWCMS by the case manager and identify, at a minimum, the following:

a. A participant's status for a specific eligibility criterion or set of eligibility criteria;
b. The date on which the information was obtained; and
c. The case manager who obtained the information.

4. Cross-Match

A cross-match requires the WSP staff to acquire detailed supporting evidence for the eligibility criteria in another database (e.g., public assistance records). An indicator or presence of a social security number in a database alone is not sufficient evidence to document WIOA eligibility; additional details such as the date of the eligibility determination, date of participation, and services rendered should be obtained from the cross-match to confirm the accuracy and currency of the information.

5. State Management Information System (MIS)

State MIS refers to specific, detailed information that is stored in OWCMS and supports eligibility criteria. An indicator such as a checkmark or date on a computer screen is not acceptable source documentation.

D Handling and Protecting Personally Identifiable Information (PII)
Identifying information collected about adult, dislocated worker, and youth workforce program participants is not considered a public record, should only be used for workforce program administrative purposes, and should not be disclosed to the general public or to unauthorized individuals. Identifying information includes, but is not limited to, names, home and email addresses, phone numbers, social security numbers, dates of birth, and other identifying information collected or maintained about individual job-seekers, those seeking education or training, and those seeking assistance in overcoming their barriers to employment.

Moreover, certain types of personally identifiable information (PII) about workforce participants are more sensitive and confidential than others, because the disclosure of such information could result in financial or other harm to the individual whose name or identity is linked to that information. Such information requires a higher level of security — including staff training — to prevent unauthorized access, use and disclosure. Examples of the types of PII that are more sensitive, and therefore subject to a higher level of security, include, but are not limited to, social security numbers (SSN), state and federal tax identification numbers, driver’s license numbers, state identification numbers, credit and debit card numbers, bank and financial account numbers, student educational records (including transcripts, and information about current or prior enrollment, course progress, or graduation), medical history and information about an individual’s current or prior physical or mental status, financial information, and information identifying the individual as an applicant for or recipient of unemployment compensation benefits, or food or cash assistance.

Any WSP staff who work directly with job-seekers and other workforce program participants, or who handle or process PII about workforce participants, must take steps to ensure that PII is processed in a manner that will protect the confidentiality of the records/documents, and that PII is not accessed, viewed, or used by either the general public, or unauthorized staff at OMJ Center partner organizations.

Federal law, OMB Guidance, and United States Department of Labor (USDOL) policies require that PII and other sensitive information be protected. To ensure that PII and sensitive information is handled appropriately, WSPs must:

a. Ensure PII is not transmitted to unauthorized users and all PII transmitted through e-mail or stored electronically (e.g., DVD or thumb drive) is encrypted.

b. Take necessary steps to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure.

c. Ensure that any PII used as part of the WIOA grant has been obtained in conformity with applicable Federal and state laws governing confidentiality of information. PII shall not be stored on personally owned equipment, at off-site locations (e.g., employee’s home), and on personal e-mail accounts.

d. Ensure that all PII obtained through the WIOA grant is stored in an area that is physically safe from access by unauthorized persons at all times.

e. Store PII only on secure work servers and equipment that are approved by ODJFS or the local board. Storing PII on personally owned equipment, at off-site locations (e.g., employee’s home), and on personal e-mail accounts is prohibited.

f. Advise all local area and/or provider staff who have access to sensitive/confidential/proprietary/private data of the confidential nature of the information, the safeguards required to protect the information, and the civil and criminal sanctions for noncompliance with such safeguards.
Implement policies and procedures regarding the handling of PII, including staff acknowledgement of their understanding of the confidential nature of the data and the safeguards with which they must comply in their handling of such data.

E Outlined below are requirements to protect PII:

1. Before obtaining a participant’s SSN, the WSP should have the participant sign a release acknowledging the use of social security numbers for eligibility determination and federal grant purposes only.

2. WSPs should use unique identifiers for participant tracking instead of the SSN. If SSNs are to be used for tracking purposes, they must be stored or displayed in a way that is not attributable to an individual, such as using a truncated or masked SSN (e.g., last 4 digits only).

3. WSPs using an electronic system in addition to OWCMS for basic career services tracking or other registration processes must truncate or mask an individual's SSN in such systems.

4. WSPs using paper applications containing SSNs must, at a minimum, enter the basic intake information and the SSN in OWCMS the day the information is received and destroy the paper application if feasible. If all eligibility information is not placed in OWCMS that day, staff must mask the SSN on the paper application and store in a secure manner.

5. Documentation of SSNs (e.g., physical copy of social security card) shall not be obtained until such time WIOA eligibility is determined, the individual receives a WIOA adult, dislocated worker, or WIOA CCMEP youth program service which triggers participation in the program, and the individual becomes a participant.

6. When an individual becomes a participant, the WSP must attempt to obtain and verify the SSN for performance reporting purposes but shall not deny access to the American Job Center’s (in Ohio, called OhioMeansJobs center) resource room or to WIOA program services if the individual does not disclose his or her SSN. If the individual refuses to provide an SSN, the local area will assign a temporary alternative identifying number. The individual will use this number for identification during subsequent visits to the OhioMeansJobs center or for program-funded activity tracking.

7. WSPs should keep SSNs electronically in OWCMS minimizing the use of paper files. If paper files are used or if the participant’s SSN is listed on other forms of source documentation listed in Attachment A, the WSP must ensure that the SSN on the paper document has been masked.

8. WSPs must use appropriate methods for destroying sensitive PII in paper files and securely deleting sensitive electronic PII.

9. WSP staff at the OhioMeansJobs center or other service delivery location shall not leave records containing PII open and unattended.

10. WSPs shall store documents containing PII in locked cabinets when not in use.

11. Local workforce development board directors shall report within 24 hours any breach or suspected breach of PII by the area or its subrecipient to the Deputy Director at OWD, ODJFS and to Ohio’s assigned Federal Project Officer at the Department of Labor (DOL), Region 5, and follow any instructions provided by ODJFS or DOL.

F. Retention of Records
Per rule 5101:9-9-21 of the Administrative Code, ODJFS and local areas are to retain records for a period of at least three (3) years after submittal of the final closeout expenditure report for that funding period.

VII. **Monitoring**

At the local level, the local area must conduct oversight of the implementation of the WIOA adult, dislocated worker, and youth programs to ensure that participants are eligible for enrolled programs and documentation supporting the eligibility are contained in the case files. The procedures for protecting PII must also be monitored by the local area.

Through the state’s monitoring system, program monitors will review the local area’s implementation of the WIOA adult, dislocated worker, and youth programs, including a participant file review during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

VIII. **Technical Assistance**

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

IX. **References**

Workforce Innovation and Opportunity Act, Pub. L. 113-128.

29 U.S.C. 3101 et seq.


ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers, (June 6, 2017).

Attachment A, Allowable Source Documentation for WIOA Program Eligibility

JFS 13188, WIOA Telephone Eligibility Verification

JFS 13186, Self-Attestation

JFS 13187, Citizenship Status/Authorization to Work Self-Attestation
Workforce Innovation and Opportunity Act Policy Letter No. 15-07  
July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Source Documentation for WIOA Eligibility

I. Purpose

The purpose of this policy is to communicate the documentation requirements necessary to support eligibility in the WIOA adult, dislocated worker, and youth programs.

II. Effective Date

July 1, 2015

III. Background

The WIOA establishes general and specific program eligibility criteria. As recipients of WIOA Title I, Subtitle B funds, the Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development (OWD) and the local workforce development areas are required to maintain and report accurate program and financial information. This policy lists the types of acceptable documentation to verify eligibility for the WIOA adult, dislocated worker, and youth programs.

IV. Requirements

Local areas must verify or confirm eligibility requirements through an examination of documents. Documentation requirements to support WIOA adult and dislocated worker eligibility are tied to the level of services provided to the participant. While documentation is minimal for adults and dislocated workers registered in basic career services, the documentation requirements increase for participants who receive career services to obtain or retain employment or who receive training services (refer to Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-08, Career Services for Adults and Dislocated Workers). WIOA youth program eligibility documentation does vary between types of services or program elements received.

Attachment A to this policy letter, Allowable Source Documentation for WIOA Program Eligibility, provides guidance for the specific types of source documents that may be used to verify participant eligibility at each level of service.

A. Electronic Files

Documentation may be stored electronically. However, the documentation requirements remain unchanged and the documents must be available to the program and fiscal monitors and auditors for monitoring purposes.

B. Types of Source Documentation

For documentation of eligibility for adult, dislocated worker, and youth programs, there are multiple forms of acceptable source documentation. In many cases, a copy of a source document listed in Attachment A will be used to verify eligibility of a participant. Below are additional methods local areas may use if, according to Attachment A of this policy letter, the method is permissible for the particular eligibility criteria or data element being verified.

Telephone or Electronic Communication
In instances where telephone or electronic communication is acceptable and used by the local area, the case file must contain the name of the agency representative, the date of the conversation, and the result of the eligibility verification.

Local areas must use the JFS 13188, WIOA Telephone Eligibility Verification, to document telephone communication. If a telephone communication is used to verify dislocation, the case file must contain the date and reason for termination, and a possible recall date if applicable.

**Self-Attestation**

Self-Attestation occurs when a participant states his or her status for a particular eligibility criteria and then signs and dates a form acknowledging this status. The key elements for self-attestation are:

- The participant identifying his or her status for permitted eligibility criteria; and
- Signing and dating the form attesting to this self-identification.

Local areas must use the JFS 13186, Self-Attestation, or the JFS 13187, Citizenship Status/Authorization to Work Self-Attestation.

**Case Notes**

Case notes refer to either paper or electronic statements by the case manager that identifies, at a minimum, the following:

- A participant's status for a specific eligibility criteria;
- The date on which the information was obtained; and
- The case manager who obtained the information.

**Cross-Match**

A cross-match requires WIOA staff to acquire detailed supporting evidence for the eligibility criteria in another database (e.g., public assistance records). An indicator or presence of a social security number in a non-WIOA database is not sufficient evidence to document WIOA eligibility. Detailed supporting evidence may include the date of eligibility determination, date of participation, and services rendered.

**State Management Information System (MIS)**

State MIS refers to specific, detailed information that is stored in Ohio's Workforce Case Management System (OWCMS) and supports eligibility criteria. An indicator such as a checkmark or date on a computer screen is not acceptable source documentation.

**C. Retention of Records**

Per rule 5101:9-9-21 of the Administrative Code, ODJFS and local workforce development areas are to retain records for a period of at least three (3) years after submittal of the final closeout expenditure report for that funding period.

**V. Monitoring**

At the local level, the local area must conduct oversight of the implementation of the WIOA adult, dislocated worker, and youth programs to ensure that participants are eligible for enrolled programs and documentation supporting the eligibility are contained in the case files.

Through the state's monitoring system, program monitors will review the local area's implementation of the WIOA adult, dislocated worker, and youth programs, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

**VI. Technical Assistance**
For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

VII. References

Workforce Innovation and Opportunity Act, Pub. L. 113-128
29 U.S.C. 3101 et seq.

Rule 5101:9-9-21 of the Administrative Code

ODJFS, Workforce Innovation and Opportunity Act Policy Letter (WIOAPL) No. 15-08, Career Services for Adults and Dislocated Workers, (July 1, 2015).

Attachment A, Allowable Source Documentation for WIOA Program Eligibility

JFS 13188, WIOA Telephone Eligibility Verification

JFS 13186, Self-Attestation

JFS 13187, Citizenship Status/Authorization to Work Self-Attestation

Rescission

Workforce Innovation and Opportunity Act Policy Letter No. 15-03
July 15, 2015

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: Youth Program Eligibility

I. Purpose

The purpose of this policy is to communicate guidance and parameters when determining eligibility requirements of individuals for Workforce Innovation and Opportunity Act (WIOA)-funded youth employment and training programs.

II. Effective Date

July 1, 2015

III. Background

The WIOA requires States to assist local workforce development areas with the implementation of programs and activities to youth participants. The WIOA affirms the commitment to provide high quality services for youth and young adults beginning with career exploration and guidance, continued support for educational attainment, opportunities for skills training in in-demand industries and occupations, and culminating with a good job along a career pathway or enrollment in post-secondary education.

The WIOA youth program is designed to provide services, employment, and training opportunities to those who can benefit from, and who are in need of such opportunities. Meeting the eligibility criteria for a WIOA-funded program does not entitle a youth to receive certain program elements and services. Local decisions on whether to provide specific services must be based upon local policy considerations.

IV. Definitions

Age of compulsory school age: a child who is between 6 and 18 years of age.

Alternative school: schools which offer specialized, structured curriculum inside or outside of the public school system which may provide work/study and/or academic intervention for students with behavior problems, physical/mental disabilities, who are at-risk of dropping out, who are institutionalized or adjudicated youth and/or youth who are in the legal custody of the Ohio Department of Youth Services and are residing in an institution. An alternative school must be approved by the local education agency.

Attending school: an individual who is enrolled and/or attending secondary or postsecondary school.

Basic skills deficient: a youth who has English reading, writing, or computing skills at or below the 8th grade on a generally accepted standardized test or who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Charter school: public, nonprofit, nonsectarian, tuition-free schools operating independently of a school district, but under contract with a Sponsor that has been approved by the Ohio Department of Education.

Chronic truant: any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is suppose to attend for 7 or more consecutive school days, 10 or more school days in one month, or 15 or more school days in a school year.
Covered individual: an eligible in-school youth, or an eligible out-of-school youth who is low income and meets one of the following criteria:

a. Has a secondary school diploma or its recognized equivalent and is basic skills deficient or an English language learner; or
b. Requires additional assistance to enter or complete an educational program or to secure or hold employment.

Disability: Any person who has a physical, sensory, or mental impairment, which substantially limits one or more major life activities per the American Disabilities Act of 1990 (42 U.S.C. 12102) and has record of such impairment or is regarded as having such impairment.

Enrollment: the collection of information to support eligibility determination and participation in any one of the 14 program elements.

Family: two or more persons related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

a. Two spouses and dependent children.
b. A parent or guardian and dependent children.
c. Two spouses.

Habitual truant: any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is suppose to attend for 5 or more consecutive days, 7 or more school days in one school month, or 12 or more school days in a school year.

Homeless children and youth (section 725 (2) of the McKinney-Vento Homeless Assistance Act): An individual who lacks a fixed, regular, and adequate nighttime residence and includes the following:

a. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
b. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
c. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
d. Migratory children who qualify as homeless for the purpose because the children are living in one of the previously mentioned circumstances.

Homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)): An individual who lacks a fixed, regular, and adequate nighttime residence and includes:

a. An individual who:
   • Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason:
   • Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
   • Is living in an emergency or transitional shelter;
   • Is abandoned in a hospital; or
Is awaiting foster care placement.

b. An individual who has a primary nighttime residence that is a public or private place not
designed for or ordinarily used as a regular sleeping accommodation for human beings; or

c. Migratory children who qualify as homeless because the children are living in
circumstances listed above.

Individual with a disability: an individual with a disability as defined in section 3 of the Americans with

Lower living standard income level: As defined in section 3 (36)(b) of WIOA, income level (adjusted for
regional, metropolitan, urban, and rural differences and family size) determined annually by the
Department of Labor based on the most recent lower living family budget issued by the Secretary.

Low-income individual: As defined in section 3 (36)(a) of WIOA, an individual who –

a. Receives, or in the past 6 months has received, or is a member of a family that is
receiving or in the past 6 months has received, assistance through the supplemental
nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or
the supplemental security income (SSI) or local income-based public assistance;

b. Is in a family with total family income that does not exceed the higher of –

- The poverty line; or
- 70% of the lower living standard income level.

c. Is a homeless individual;

d. Receives or is eligible to receive a free or reduced price lunch;

e. Is a foster child on behalf of whom the State or local government payments are made; or

f. Is an individual with a disability whose own income meets the eligibility income
requirement of clause (b) but who is a member of a family whose income does not meet
this requirement.

Participation: the point at which the individual has been determined eligible for youth program services,
has received an assessment, and has received or is receiving at least one program element and is the
point at which the individual is to be included in calculations for performance measures.

Postsecondary school: any schooling that follows graduation from high school or completion of high
school equivalency, including community colleges, four-year colleges and universities, and technical
and trade schools.

Runaway: a young person who has run away from home.

Secondary school: a nonprofit institutional day or residential school, including a public secondary
charter school, that provides secondary education as determined under State law, except that the term
does not include any education beyond grade 12.

School: any school operated by a board of education, any community school established under
Chapter 3314. of the Revised Code, or any nonpublic school for which the state board of education
prescribes minimum standards under section 3301.07 of the Revised Code.

School dropout: an individual who is no longer attending any school and has not received a secondary
school diploma or its recognized equivalent.

V. Requirements

In-School Youth Eligibility Requirements

Eligibility for in-school youth, who at the time of enrollment, is:
a. Attending school;
b. Not younger than 14 or (unless an individual with a disability who is attending school under state law) older than age 21;
c. Is a low-income individual; and
d. Has one or more of the following barriers:
   • Basic skills deficient;
   • An English language learner;
   • An offender;
   • A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under the John H.Chafee Foster Care Independence Program, or in an out-of-home placement;
   • Pregnant or parenting;
   • An individual with a disability; or
   • An individual who requires additional assistance to complete an education program or to secure or hold employment as defined by the local area.

Out-of-School Youth Eligibility Requirements

Eligibility for out-of-school youth, who at the time of enrollment, is:
a. Not attending any school;
b. Not younger than 16 or older than age 24; and
c. Has one or more of the following barriers:
   • A school dropout;
   • A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter;
   • A recipient of a secondary school diploma or its recognized equivalent who is a low income individual and is basic skills deficient or an English language learner;
   • An individual who is subject to the juvenile or adult justice system;
   • A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under the John H.Chafee Foster Care Independence Program, or in an out-of-home placement;
   • An individual who is pregnant or parenting;
   • A youth who is an individual with a disability; or
   • A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment as defined by the local area.
For the purposes of youth eligibility, school includes secondary and post-secondary schools. It does not include attending classes with Adult Basic and Literacy Education (ABLE), YouthBuild, or JobCorps.

**Compulsory School Attendance**

Children of certain age range are required to receive some type of formal education whether it be through public, private, or home schooling. In Ohio, compulsory education laws require children between the ages of six (6) and 18 to attend school. The laws make some exception, including if the child:

a. Received a high school diploma before the age of 18;

b. Is over the age of 14 years old, lawfully employed, and it is necessary that he or she work;

c. Has a physical or mental condition that does not allow for school attendance; or

d. Is homeschooled.

For the purposes of this policy, if a child is being homeschooled, the child would be considered to be an in-school youth as long as all other eligibility criteria have been met.

**Most Recent Complete School Year Calendar Quarter**

Because school districts differ in what they use for school year quarters, the time period of a school year quarter is based on how the local school district or the charter school defines its school year quarters.

**Dropout Status**

Local areas must verify a youth's dropout status at the time of enrollment into the youth program. A youth attending an alternative school at the time of enrollment is not a dropout. A youth who is out-of-school at the time of enrollment and subsequently placed in an alternative school or any school, is an out-of-school youth.

**Basic Skills Deficient**

In assessing basic skills, local programs must use assessment instruments that are valid and appropriate for the target population. The local program must also provide reasonable accommodation in the assessment process, if necessary, for people with disabilities.

**Additional Criteria for Low Income**

The term, low income, used to determine youth program eligibility includes a youth living in a high-poverty area. Census data is available to the local areas to assist in determining poverty rates for particular communities. If the poverty rate for a particular community is at least 30%, a youth living in that community may be considered low income.

The website containing this information is [http://development.ohio.gov/reports/reports_am_com_survey.htm](http://development.ohio.gov/reports/reports_am_com_survey.htm). Information is contained under "Selected Socio-economic Measures" and is broken down by county and within the county, by city or village. The spreadsheet will show the "Ratio of Income to Poverty Level." If the percentage for the "0% to 99%" is at least 30%, the high-poverty area criterion is met.

**5% Exception of Youth Eligibility**

Up to 5% of in-school and out-of-school youth participants served by youth programs in a local area may be individuals who would be covered individuals except that the persons are not low-income.

**5% Limitation of In-School Youth Eligibility**

Not more than 5% of in-school youth may be eligible based upon being an individual who requires additional assistance to complete an educational program or to secure or hold employment.
Selective Service Eligibility

Male youth participants who are 18 years of age and older and have fulfilled registration requirements of the Military Selective Service Act (MSSA) are eligible to participate in WIOA-funded programs and services. Workforce Innovation and Opportunity Act Policy Letter No. 15-04, Selective Service Registration, provides guidelines for selective service registration requirements.

A male youth applicant, age 18 years old and older, who has not registered for the selective service or who is unwilling to register, will be denied any WIOA program services.

Co-Enrollment with other Programs

Youth may participate in both the WIOA youth program and the adult program at the same time if they are eligible for both, and it is appropriate. The determination of the appropriateness of co-enrollment is based on the service needs of the participant and if the participant is career-ready based on an objective assessment of their occupational skills, prior work experience, employability, and participant's needs.

If such concurrent enrollment occurs, the local area must track expenditures separately by program.

Youth may not be co-enrolled in the WIOA dislocated worker program, because any youth meeting the eligibility for the dislocated worker program would have already successfully attained a job and would most likely be more appropriately served under the dislocated worker program.

Youth who are eligible under both programs may enroll concurrently in the WIOA youth program and the Adult Basic and Literacy Education (ABLE) under WIOA Title II.

VI. Out-of School Priority

For any program year, not less than 75% of the funds available to local areas shall be used to provide youth workforce investment activities for out-of-school youth.

VII. Reporting and Monitoring

As recipients of WIOA youth program funds, the Ohio Department of Job and Family Services (ODJFS), Office of Workforce Development and the local workforce development areas are required to maintain and report accurate program and financial information. Pursuant to rule 5101:9-30-04 of the Ohio Administrative Code, information regarding WIOA youth participants and their activities and performance must be entered into the Ohio Workforce Case Management System (OWCMS) accurately and timely. OWCMS may be used to assist in the determination of eligibility. However, OWCMS cannot be used as verification of youth eligibility. WIOAPL No. 15-07, Source Documentation for WIOA Eligibility, lists the type of acceptable documentation to verify eligibility for the WIOA youth program.

At the local level, the area must conduct oversight of the implementation of the WIOA youth program to ensure that participants enrolled in the program are eligible and that eligibility has been properly documented.

Through the state’s monitoring system, program monitors will review the local area’s determination of eligibility for youths, including a participant file review, during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state’s monitoring resolution process.

VIII. Technical Assistance

For additional information, you may send your questions to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov.

For technical assistance, you may send your request to the Office of Workforce Development: WIAQNA@jfs.ohio.gov.

IX. References
Workforce Innovation and Opportunity Act, Pub. L. 113-128
20 CFR 603 et seq
29 U.S.C. 3101 et seq.
Ohio Rev. Code 2925.01
Ohio Rev. Code 3321.01

**Rescission**
Workforce Innovation and Opportunity Act Policy Letter No. 15-01

July 1, 2015

To: Chief Elected Officials and Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Board Chairmen

From: Cynthia C. Dungey, Director

Subject: Local Workforce Development Area Designation

I. **Purpose**

The purpose of this policy is to establish the procedures for designating local workforce development areas.

II. **Effective Date**

Immediately

III. **Background**

The Workforce Innovation and Opportunity Act (WIOA) envisions a workforce development system that is customer-focused on both the job seeker and business, and is able to anticipate and respond to the needs of regional economies. The purpose of a local workforce development area (called local area) is to serve as a jurisdiction for the administration of workforce development activities and execution of adult, dislocated worker, and youth funds allocated by the State. Such areas may be aligned with a region identified in Section 106 (a)(1) of WIOA or may be components of a planning region, each with its own local workforce development board.

Local areas are the areas within which local workforce development boards oversee their functions, including strategic planning, operational alignment and service delivery design, and a jurisdiction where partners aligned resources at a sub-State level to design and implement overall service delivery strategies.

The State must designate local workforce development areas in order for the State to receive adult, dislocated worker, and youth funding under Title I, Subtitle B of WIOA.

IV. **Definitions**

**Initial designation:** a request for designation if the local area meets all of the following criteria as outlined in section 106(b)(2) of WIOA:

- The local area was designated as a local area for purposes of the Workforce Investment Act (WIA);
- The local area performed successfully; and
- The local area sustained fiscal integrity.

**Labor market area:** an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence.

**Performed successfully (for initial designation):** pursuant to section 106 (e)(1) of WIOA, the local area met or exceeded the levels of performance for each of the last 2 consecutive years.

**Performed successfully (for subsequent designation):** pursuant to section 106 (e)(1) of WIOA and 20 C.F.R 679.260 (b), the local area met or exceeded all performance levels for core indicators of performance.

**Sustained fiscal integrity:** the Secretary has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the
requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two year period preceding the determination.

V. **Requirements**

A. **Consultation with Stakeholders**

As part of the process of designating or redesignating a local workforce development area, the State consults with the State Board and chief elected officials, and considers public comments from a wide range of stakeholders. This ensures the State is able to consider all relevant information, data, and opinions before making the decision to designate or redesignate a local area.

B. **Considerations for Designation**

The WIOA law provides the substantive requirements that the State must use for designation or redesignation of local workforce development areas. The law requires the State to designate local areas using the following criteria:

1. **Consistent with local labor market areas**

   This criterion includes an analysis of labor market data for the county and a comparison with surrounding counties and regions. Information such as metropolitan statistical areas (MSA), combined statistical areas (CSA), and workforce commuting patterns provide a snapshot of the labor market. Counties who are within the same MSA and CSA or whose residents' commuting patterns are similar should be reviewed for possible inclusion as a local workforce development area.

   Data to be used to assess the labor market can be found at the following websites:

   - MSA – [http://ohiolmi.com](http://ohiolmi.com) under "Maps"
   - Workforce Commuting Patterns – [http://ohiolmi.com/census/commuting.htm](http://ohiolmi.com/census/commuting.htm)
   - Census Information - [http://development.ohio.gov/reports/reports_am_com_survey.htm](http://development.ohio.gov/reports/reports_am_com_survey.htm)

2. **Common economic development areas**

   Various aspects of regional economic development are considered for this criterion. A review of the JobsOhio regions as well as the unemployment rate, the number of businesses, the types of businesses, and the number of job openings in the county and surrounding counties should be completed. Counties with similar economies and economic development should be considered for possible inclusion as a local workforce development area.

   Data to be used to assess regional economic development can be found at the following websites:

   - Unemployment Rate – [http://ohiolmi.com](http://ohiolmi.com) under "Data"
   - JobsOhio Region – [http://ohiolmi.com](http://ohiolmi.com) under "Maps"
   - Number and type of Businesses in the Area – [http://ohiolmi.com](http://ohiolmi.com) under "Data" (see Employment and Wages tab)
   - Number of Job Openings in the Area – [http://jfs.ohio.gov/owd/omjresources/jobpostingstrends.stm](http://jfs.ohio.gov/owd/omjresources/jobpostingstrends.stm)

3. **Federal and non-Federal resources**
This criterion not only includes available financial funding but also resources that will assist in the delivery of services. A review of this criterion should include where training providers, including 2-year and 4-year schools, Adult Basic and Literacy Education (ABLE) providers, and Ohio technical centers are located. A review of resources should also include how much Workforce Investment Act (WIA) funding is available currently and how this amount affects the delivery of services to adults, dislocated workers, and youth. The local workforce development area should have available services and funding to support the workforce development system and services.

Data to be used to assess resources can be found at the following websites:

- Historical and Current WIA Funding in the Area
- Higher Education Centers in the Area – [https://www.ohiohighered.org/campuses](https://www.ohiohighered.org/campuses)
- ABLE Providers in the Area – [https://www.ohiohighered.org/able/locations](https://www.ohiohighered.org/able/locations)
- Ohio Vocational Technical Centers in the Area – [https://www.ohiohighered.org/students/find-a-career/career-technical-professional-and-vocational-schools](https://www.ohiohighered.org/students/find-a-career/career-technical-professional-and-vocational-schools)

Other considerations to determine local workforce development area composition includes the existing partnerships between neighboring local areas or between counties belonging to separate areas. Working together as a single area, these partnerships could prosper and become stronger. Also, better integration between the workforce and economic development systems best connect employer needs of workers with the skilled workforce needs of employers.

C. Requesting Local Workforce Development Area Designation

The chief elected official has the responsibility to partner and form local areas. This is done by reviewing and considering how a local area composition would be beneficial using the criteria established under WIOA law and the accompanying labor market and economic development data.

The chief elected official also has the responsibility for requesting local workforce development area designation. This is done by completing and submitting the JFS 00512, Workforce Development Area Designation Application, and including all of the following information:

- Evidence supporting how the local workforce development area meets designation criteria; and
- Board or council resolution approving the proposed workforce development area.

Designation applications and supporting documents shall be submitted to the Office of Workforce Development: OWDPOLICY@jfs.ohio.gov. The subject of the email should read, “WDA Designation.”

The State will review the packet and notify the chief elected official within 45 calendar days after the initial submission of the designation or the denial of proposed local area.

With the cooperation and consent of the chief elected official and the local workforce development board, the State may designate local areas at any time.

VI. Subsequent Designation Requirements

Local workforce development areas previously designated by the State under WIOA's initial designation criteria must be subsequently designated by June 30, 2017.

Approval of subsequent designation is based upon the following:

- Performed successfully;
- Sustained fiscal integrity; and
Met the planning region requirements during the 2 year period of initial designation.

Local areas designated under WIOA initial designation will be considered to have requested continued designation unless the chief elected official and the local board directly notifies the State that they no longer wish to operate as a local area.

Local areas that are able to demonstrate successful performance and fiscal integrity will be permitted to continue to operate and may not be redesignated without the consent of the local board and the chief elected official in the local area.

The State may evaluate the local area at any time to ensure the local area continues to meet the requirements for subsequent eligibility. However, a review of the requirements of subsequent eligibility must be completed by the State as part of each 4 year State planning cycle.

If the local area fails to meet its negotiated levels of performance or does not comply with administrative requirements, the State retains the authority to take corrective action in light of failure of performance or fiscal management short of redesignation and does not have to redesignate a local area that has failed to maintain the redesignation requirements.

VII. Appeals

Pursuant to section 106 (b)(5) of WIOA and 20 CFR 683.630, if the State denies initial or subsequent designation of an area as a local area, the chief elected official(s) may appeal the decision through the following appeals process:

- Within 14 days from the date of receipt of the notice of denial, the chief elected official(s) may file an appeal to the State Board by submitting in writing all of the following information: a statement that the chief elected official(s) is appealing the denial of initial or subsequent designation; the reason(s) why the local area should be designated; and signature of the chief elected official(s).
- The written appeal shall be submitted by e-mail to: OWDPOLICY@jfs.ohio.gov.
- Pursuant to 20 CFR 679.290 (b) and 20 CFR 683.630 (a), the State Board will provide the parties with the opportunity for a hearing, review the appeal, and make a ruling on the appeal within 60 days after the submission of the appeal.

The State Board shall notify the chief elected official(s) in writing, of its decision on whether or not to approve initial or subsequent designation of an area as a local area under section 106 (b)(2) or (b)(3) of WIOA and 20 C.F.R. 679.250.

In the event the State Board denies the appeal or fails to issue a decision within 60 days of the date the appeal is submitted, the chief elected official(s) may further appeal the State Board's decision or lack thereof to the U.S. Department of Labor (USDOL). Pursuant to 20 CFR 683.640, appeals made to USDOL, must be filed no later than 30 days after receipt of written notification of the denial from the State. The appeal must be submitted by certified mail, with return receipt requested, to the following address:

Secretary, U.S. Department of Labor
200 Constitution Ave. N.W.
Washington, D.C. 20210
Attention: ASET

The appellant must establish in its appeal to USDOL that the appellant was not accorded procedural rights under Ohio's appeal process, or that it meets the requirements for designation in section 106 (b)(2) or (b)(3) of WIOA and 20 CFR 679.250.
The appellant must provide a copy of the appeal to the State Board at the same time that the appellant sends the appeal to USDOL.

VIII. **Technical Assistance**
Ongoing support, guidance, training and technical assistance on workforce development area designation, subsequent designation, or redesignation requirements, including stakeholder consultation, are available to all local areas.

Requests for technical assistance may be sent to ODJFS, Office of Workforce Development: WIAQNA@jfs.ohio.gov.

IX. **References**
Workforce Innovation and Opportunity Act, Public Law 113-128.
20 C.F.R. 603, et seq.