

	New Jersey Workforce Innovation Notice		WD-PY26-2
	Issued By:	Workforce Development, Division of Career Services	
	Approved By:	Dr. Yolanda Allen, Assistant Commissioner Workforce Development	
	Issued Date:	September 1, 2026	

SUBJECT: Local Workforce Development Area (LWDA) Performance for WIOA Title I and Title III Programs

PURPOSE: This document provides guidance related to the Workforce Innovation and Opportunity Act (WIOA) performance requirements as promulgated in WIOA and in [Training and Employment Guidance Letter \(TEGL\) 11-19 Change 2](#), as well as State policies, including [WD-PY24-1](#) (issued 7/16/2024). This guidance details implementation of performance expectations, corrective actions, and penalties for local areas, pursuant to New Jersey’s Administrative Code at [N.J.A.C 12:42-3](#), which is pending a proposed amendment, as well as WIOA regulations.

EFFECTIVE DATE: Immediately.

GUIDANCE RESCISSIONS: New Jersey Workforce Innovation Notice (NJWIN) 15-16

FOR MORE INFORMATION: Questions about this guidance may be directed to WIOAPOLICY@dol.nj.gov.

OVERVIEW: Common performance measures include WIOA Titles I, II, III and IV. This guidance is specifically related to Title I and Title III.

NJDOL and the SETC recognize a broad array of Local Workforce Development Board activities and requirements as areas of performance applicable to this guidance. This includes meeting or exceeding formal performance measures related to individual workforce investments and programs, usually related to educational attainment and employment placement. Other areas of performance include, but are not limited to, local governance requirements, service integration and delivery requirements, and allocation and grant management requirements.

BACKGROUND:

WIOA Program Year - Quarter Dates

- Quarter 1: July 1 to September 30
- Quarter 2: October 1 to December 31
- Quarter 3: January 1 to March 31
- Quarter 4: April 1 to June 30

Primary Indicators of Performance

WIOA section 116(b)(2)(A) established Primary Indicators of Performance for Title I Adult, Dislocated Worker and Youth (ADWY) and Title III Wagner-Peyser (WP) programs.

The indicators (1-3) provided below are established for Title I (ADWY) and Title III (WP) programs:

- 1) Employment Rate -- 2nd Quarter After Exit (ERQ2):** The percentage of participants who are in unsubsidized employment during the second quarter after exit from the program (for Title I Youth, the indicator is the percentage of participants in education or training activities or in unsubsidized employment during the 2nd quarter after exit).
- 2) Employment Rate--4th Quarter After Exit (ERQ4):** The percentage of participants who are in unsubsidized employment during the fourth quarter after exit from the program (for Title I Youth the indicator is the percentage of participants in education or training activities or in unsubsidized employment during the fourth quarter after exit).
- 3) Median Earnings – 2nd Quarter After Exit (MEQ2):** The median earnings of participants who are in unsubsidized employment during the second quarter after exit from the program.

The indicators (4-5) provided below are established for Title I (ADWY) programs:

- 4) Credential Attainment (CRED):** The percentage of those participants enrolled in an education or training program (excluding those in on-the-job training (OJT) and customized training who attain 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. A participant who has attained a secondary school diploma or its recognized equivalent is included in the percentage of participants who have attained a secondary school diploma or its recognized equivalent only if the participant also is employed or is enrolled in an education or training program leading to a recognized postsecondary credential within one year after exit from the program. See page 12 of [TEGL 10-16, Change 3](#) for the definition of “recognized postsecondary credential.”
- 5) Measurable Skills Gains (MSG):** The percentage of program participants who, during a program year, are in an education or training program that leads 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. (20 CFR § 677.155(a)(1)(v). MSG 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 a program.)

Depending on the type of education or training program, documented progress is defined as one of the following:

- a) Documented achievement of at least one education functioning level of a participant who is receiving instruction below the postsecondary education level;
- b) Documented attainment of a secondary school diploma or its recognized equivalent
- c) Secondary or post-secondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the State unit's academic standards
- d) Satisfactory or better progress report, towards 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 who is providing training; or
- 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.
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Individuals subject to MSG indicator measure:

- 1. Participant enrolled in secondary education at program entry.
- 2. Participant in postsecondary education or training program at program entry.
- 3. Participant in an education or training program at least one day in the program year.

The indicator below (6) is established for the six core programs under WIOA Titles I, II, III, and IV:

- 6) Effectiveness in Serving Employers (ESE):** The percentage of program participants in unsubsidized employment during the second quarter after exit from the program who were employed by the same employer in the second and fourth quarters after exit. For the six core programs, this indicator is a statewide indicator reported by one core program on behalf of all six core programs in the state. In addition, USDOL requires states to report local area performance for this indicator, for Title I programs only.

Performance

USDOL issued [TEGL 11-19, Change 2](#) which provides the following terms related to the establishment of State and local levels of performance.

- Expected levels of performance are the levels of performance proposed by the state prior to negotiations for each primary indicator of performance for each core program;
- Negotiated levels of performance are the levels of performance mutually agreed to by the state and the Departments for each respective program;
- Adjusted levels of performance are levels of performance determined by adjusting the negotiated levels of performance at the end of the program year to reflect actual characteristics of participants served and the actual economic conditions experienced using the objective regression statistical adjustment model (SAM);

- Actual level of performance is the outcome reported by a state for each primary indicator of performance for each core program. The US Departments of Labor and Education will compare actual levels of performance to the adjusted levels of performance at the close of the program year to determine the state's performance success or failure.

Defining Performance Indicators

Performance goals for the Primary Indicators of Performance are established for the State and at the local level through negotiation with the US Departments of Labor and Education ("the Departments"). The negotiated levels should promote continuous improvement in performance based on the primary indicators and ensure optimal return on investment of Federal funds.

- An adjustment factor is developed for all performance indicators in each state based on the difference between what the model predicted for service and outcomes, and what the actual levels of service and outcomes were in a given program year. This leads to a positive or negative adjustment factor that then determines whether the initial targets for the state need to be lowered or increased.
- Individual indicator score is the proportion the actual level of performance represents of the adjusted level of performance for a single performance indicator for a single program. It is calculated by dividing the actual level of performance achieved by the adjusted level of performance. (20 CFR § 677.190(c)(5) and 34 CFR §§ 361.190(c)(5) and 463.190(c)(5)).
- Overall state program score is the average of the individual indicator scores for a single WIOA core program across performance indicators. (20 CFR § 677.190(c)(1) and 34 CFR §§ 361.190(c)(1) and 463.190(c)(1)).
- Overall state indicator score is the average of the individual indicator scores for a single performance indicator across WIOA core programs. (20 CFR § 677.190(c)(3) and 34 CFR §§ 361.190(c)(3) and 463.190(c)(3)).

Negotiating Levels of Performance and the WIOA State Plan

Before the start of the first Program Year, the Negotiated and Expected Levels of Performance for the first and second years of the WIOA State Plan must be established and included in the State Plan for approval by the US Departments of Labor and Education ("the Departments").

Before the start of the third Program Year, the Negotiated and Expected Levels of Performance for the third and fourth years of the required two-year State Plan Modification must be established.

Negotiation Factors

In reaching agreement on the negotiated levels of performance, the Departments and NJDOL must apply the following factors pursuant to section 116(b)(3)(A)(v) of WIOA. Note that WIOA does not specify more or less weight on any specific negotiation factor.

1. Take into account how the levels involved compare with the negotiated levels of performance established for other states. The Departments will provide the most recent performance data for all states, including previous actual, negotiated, and adjusted levels of performance, and will use this information throughout the negotiations process.
2. Ensure that the levels involved are adjusted using an objective SAM provided by the Departments. The Departments will provide the estimated performance outcomes produced by the SAM, including the coefficients and state specific values for each variable. This information will include levels of performance gathered by New Jersey and other states' data, with a goal of continuous improvement. State agencies and their respective Federal agencies must negotiate using the levels of performance estimated by the model for each primary indicator of performance.
3. Take into account the extent to which the levels involved promote continuous improvement in performance accountability measures by the State and ensure optimal return on the investment of Federal funds. The Departments consider continuous improvement to be a critical factor in the negotiations process. The Departments will consider continuous improvement factors that ensure optimal return on investment of Federal funds.
4. Take into account the alignment of negotiated State targets with federal performance goals established under the Government Performance and Results Act (GPRA).

Continuous Improvement

The Departments acknowledge that there are many ways to define continuous improvement as related to state or national program circumstances. For example, continuous improvement may reflect:

- An increase from the levels of performance previously attained;
- Increases in percentile rankings of levels of performance either nationally or among similar states;
- A change in service strategy and delivery, including more progressive or innovative approaches designed to better meet participants' needs;
- A change in the intensity or comprehensiveness with which individuals are served; or
- A maintenance of previous performance for the top performing states.

The Departments acknowledge that changes to service strategy or individuals served do not always lead to increases in performance levels. States and local areas must adhere to the priority of service requirements of WIOA title I programs as established in WIOA. Additionally, the Departments encourage all other WIOA programs to maximize service to individuals with barriers to employment who may need more intensive services to achieve a positive outcome. The effect of serving more

of these individuals will be accounted for in the adjusted levels of performance calculated after the program year.

Use of the Statistical Adjustment Model (SAM) in the Negotiations and State Performance Assessment Processes

The SAM, which was developed pursuant to section 116(b)(3)(A)(viii) of WIOA, is used to estimate levels of performance and derive the adjusted levels of performance based on participant characteristics and economic conditions. The Departments will use the SAM to ensure that the impact of participant characteristics and economic conditions in the State are accounted for in determining the negotiated levels of performance.

This approach ensures that estimates produced before the program year begins are based on historical data and estimates produced after the program year ends are based on actual economic conditions and participant characteristics. The addition of these data will strengthen the SAM's estimates and help produce estimates that yield accurate adjusted levels of performance and objective state performance assessments.

The objective of the SAM is to adjust performance goals to account for changes in:

- Participant characteristics (indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency, etc.)
- Economic conditions (differences in unemployment rates and job losses or gains in particular industries)

The model quantifies how, and to what extent, these factors affect levels of performance. The goal of the approach is to account for these factors and separate them from other factors that program administrators are able to control.

Under WIOA law and consistent with the WIOA Joint Final Rule requirements, the Departments may determine appropriate and reasonable measures for performance accountability assessment for states in specific program years. See [TEN 01-25](#), WIOA Core Program Performance Assessment for Program Year (PY) 2024.

The Local SAM

USDOL has developed the framework for an objective SAM that satisfies the WIOA requirements at the state level. States must use this framework and develop a model that satisfies their needs at the local level, both in the performance negotiations and year-end adjustment of local levels of performance. (20 CFR §677.210 and WIOA 116(c)(3).)

The local board, the Chief Elected Official, and the Governor must negotiate and reach agreement on local levels of performance for WIOA Title I-B programs for two program years at a time, based on the state's negotiated levels of performance, no later than September 30 in each year in which

state negotiations occur. NJDOL must notify its DOL-ETA Regional Office that negotiations are complete and include in the notification the agreed-upon levels of performance for each local area. As described above, the state levels of performance are included in the WIOA State Plan and the two-year Modification. The goal of the local SAM is to set performance measures for WIOA Title I-B programs for each LWDA.

NJDOL will utilize the local SAM to set WIOA Title I-B performance goals every two years, at the beginning of the new program year cycle; this results in negotiated local area performance goals for Year 1 and Year 2 of the cycle. (N.J.A.C. 12:42-3.3 (b). When setting local performance measures for a particular local area, local conditions may be taken into consideration including, but not limited to, specific economic conditions and demographic characteristics of the local area.)

In addition, the SAM is used for post-Program Year Assessment, to adjust performance goals after the closeout of a program year, based on actual economic conditions and participants served across the state and in local areas.

Local Area Performance Thresholds for New Jersey

Threshold for Technical Assistance in Year 1: Local areas with performance below **90 percent** of the negotiated and/or adjusted goal for any individual indicator score of the Adult, Dislocated Worker and Youth primary indicators of performance in Year 1 will receive interventions and technical assistance to help improve their outcomes for that program, as outlined in N.J.A.C. 12:42-3.4.

Threshold for Corrective Actions and/or Penalties in Year 2: The State will issue corrective actions and/or penalties if a local area's performance falls below **80 percent** of the negotiated and/or adjusted goal for the same individual indicator score of the Adult, Dislocated Worker, and Youth primary indicators of performance in Year 2, as outlined in N.J.A.C. 12:42-3.5

Technical Assistance and Corrective Action/Penalty Procedures

Notification of Failure to Meet Local Performance Measures: NJDOL shall offer a series of interventions including basic technical assistance and development of performance improvement plan, which is jointly developed between NJDOL and the LWDA. The objective of the performance improvement plan is to assist the LWDA with improving compliance or performance through specific technical assistance or training. (N.J.A.C. 12:42-3.4)

Follow-Up Notification: If deadlines are missed or communication lapses, NJDOL will issue a formal letter indicating non-compliance and the potential initiation of corrective actions and/or penalties if there is no progress two quarters after initial notification. This notice will be sent to the Chief Elected Official and include the LWDB Director and Chair.

Formal Initiation of Corrective Actions and Penalties: Because most performance measures are exit-based, NJDOL will re-evaluate the LWDA's levels of performance after the final quarterly report has been certified. This evaluation will include the post-Program Year Assessment of each LWDA's performance for WIOA Title I-B programs; the local SAM will be utilized to produce adjusted performance goals for the local area after the program year ends, based on actual economic conditions and participant characteristics. The evaluation of the LWDA's performance will also consider whether levels of service are appropriate based on funding and demographics, and if Federal and State spending targets are being met.

As the Measurable Skills Gain (MSG) measure is a real-time indicator, progress of this measure will be evaluated quarterly throughout the current program year.

Should NJDOL determine that the LWDA is not making continued progress towards improvement, NJDOL will initiate corrective actions and/or penalties by submitting a plan to the SETC for review. The SETC will provide feedback within 60 days, after which NJDOL will finalize corrective actions and/or penalties based on this input.

As outlined in [N.J.A.C. 12:42-3.8](#), NJDOL may require the local area and/or the local board to engage in any or all of the following corrective actions:

1. Participation in technical and quality assurance activities;
2. Participation in training;
3. On-site visits by NJDOL to monitor and assist with daily operations of the local area and/or the local board;
4. Cooperation with NJDOL in the Department's development of a corrective action plan for the local area;
5. Timely implementation of a corrective action plan;
6. Submission to NJDOL of additional and/or more detailed financial and/or performance reports;
7. Department-directed meetings between NJDOL officials, the local board chair, local board members, the local board's Executive Director and/or the local area's elected officials;
8. Formal Department presentation to the local area's elected officials and/or local board members; or
9. Any other corrective action deemed appropriate by NJDOL.

As further outlined in [N.J.A.C. 12:42-3.9](#), NJDOL may impose any or all of the following penalties on the local area and/or the local board:

1. Require payment by reimbursement only, with required supporting documentation;
2. Delay, suspend or deny contract payments;
3. Reduce or deobligate local area funds;
4. Find local area ineligible for additional discretionary funds;
5. Terminate a contract between NJDOL and the local area and/or the local board;
6. Restructure the local board, including decertification of the current local board and appointment and certification of a new local board;

7. Merge the local area into one or more other local areas;
8. Prohibit the use of particular service providers or One-Stop partners that have been identified as achieving poor levels of performance; or
9. Any other penalty deemed appropriate by NJDOL.

Formal Board-Level Corrective Actions and Penalties:

NJDOL will notify the Chief Elected Official of the corrective action plan and penalty determinations. (N.J.A.C. 12:42-3.10.) Corrective action determinations shall contain the cause for corrective action, corrective action required including timeline for completion, and appeal rights. Penalty determinations shall contain the cause for penalty, effective date of penalty, and appeal rights. (N.J.A.C. 12:42-3.11.)

Contact us: For any questions regarding this guidance, please contact WIOAPolicy@dol.nj.gov.

References and Links:

- [Code of Federal Regulations-Sanctions\(20 CFR 677.190\(c\)\)](#)
- [Code of Federal Regulations-DVRS\(34 CFR §361.190\(c\)\)](#)
- [Code of Federal Regulations-Adult Education\(34 CFR §463.190\(c\)\)](#)
- [ETA-9169 OMB No. 1205-0526](#): WIOA Statewide and Local Performance Report Template
- [N.J.A.C. 12:42-3](#): Local Workforce Investment Areas and Local Workforce Investment Boards: Performance, Technical Assistance, Corrective Actions and Penalties
- [NJWIN WD-PY21-6](#): NJ Workforce Local Governance Policy
- [NJWIN WD-PY22-4.2](#): NJ Workforce MOU and IFA Policy
- [NJWIN WD-PY22-5.1](#): NJ Workforce Competitive Procurement Policy
- [NJ WIN WD-PY24-1](#): NJ Workforce Sanctions Procedures – Corrective Actions, Penalties, and Appeals
- [TEN 04-24](#): WIOA Core Program Performance Assessment for Program Year (PY) 2023
- [TEN 01-25](#): WIOA Core Program Performance Assessment for Program Year (PY) 2024
- [TEGL 10-16, Change 3](#): Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Core Programs
- [TEGL 11-19, Change 2](#): Negotiations and Sanctions Guidance for the Workforce Innovation and Opportunity Act (WIOA) Core Programs
- [WIOA 2014](#): Section 116 - Performance Accountability System
- [NJ Office of Administrative Law](#): Public Access to NJ Administrative Code and NJ Register