

New Jersey

Workforce Innovation Notice 3-17 (Y)

TO: Workforce Development System

FROM: John Bicica, Chief
WDB Coordination and Support

DATE: August 11, 2017

Purpose: To provide the federal guidance related to the provision of WIOA Title I Youth services. Specifically, as it pertains to Youth Eligibility, Program Design, and Competitive Procurement.

Background: The United States Department of Labor (DOL) issued Training and Employment Guidance Letter (TEGL) 21-16, which provides guidance and planning information to states, local workforce areas, and other recipients of WIOA Title I youth formula funds on the activities associated with the implementation of the Workforce Innovation and Opportunity Act (WIOA). Below are key provisions of this guidance.

ELIGIBILITY

Determining School Status

School status is determined at the time of program enrollment. 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*. This distinction is drawn for purposes of reporting against the OSY expenditure requirement.

Non-credit-bearing postsecondary classes. If the youth participant is enrolled in any credit-bearing postsecondary education classes, including credit-bearing community college classes and credit-bearing continuing education classes, then they are considered attending postsecondary education, and, therefore, an ISY.

Individuals 22 and older attending postsecondary education. A youth attending postsecondary education, who is 22 at time of eligibility determination would not be eligible for the WIOA youth program because they are in school and over the age of 21. That individual could be served through the WIOA Adult program.

High school equivalency programs and dropout re-engagement programs. Youth attending high school equivalency (HSE) programs, including those considered to be dropout re-engagement programs, funded by the public K–12 school system that are classified by the school system as still enrolled in school **are** considered ISY.

Homeschooling. WIOA youth programs must classify homeschooled youth as ISY or OSY based on their state education agency (or local education agency, if relevant) policy.

Eligibility Barriers

To be eligible for the WIOA youth program, individuals must meet one or more conditions listed in WIOA Section 129(a)(1)(B)(iii) for OSY and (a)(1)(C)(iv) for ISY. This guidance refers to these conditions as eligibility barriers.

Further explanation of some of the eligibility barriers:

Dropout. A dropout **only** includes an individual who is currently a secondary school dropout and does not include a youth who previously dropped out of secondary school but subsequently returned. For example, a youth who dropped out of high school in 2015 and returned to high school in 2016 prior to enrollment in WIOA is not considered a dropout.

An offender. The WIOA statute uses slightly different wording to describe the criteria for ISY and OSY who are eligible because they have been subject to any stage of the criminal justice process. The intent of the OSY eligibility criterion is not to treat youth who were subject to the juvenile or adult system differently, but rather to call attention to the fact that both the juvenile and adult justice systems may include OSY. Therefore, to be clear that the same eligibility criteria apply to both OSY and ISY, both 20 CFR § 681.210, which provides the eligibility criteria for OSY, and 20 CFR § 681.220, which provides the eligibility criteria for ISY, use the term “offender.”

Homeless and foster care youth. DOL separated foster care youth and homeless and runaway youth into two separate eligibility barrier categories in the Final Rule. In addition, the Final Rule also includes “an individual who has attained 16 years of age and left foster care for kinship guardianship or adoption” in the foster care eligibility barrier in 20 CFR §§ 681.210 and 681.220 to encompass youth who were formerly in foster care, but may have returned to their families before turning 18.

An individual who is pregnant or parenting. An individual who is parenting can be a mother or father, custodial or non-custodial. A pregnant individual can only be the expectant mother.

Additional assistance barrier. Policies established at the state or local level should be reasonable, quantifiable, and based on evidence that the specific characteristic of the youth identified in the policy objectively requires additional assistance.

Low-Income Determination

Low income is defined in WIOA Section 3(36) and Section 129(a)(2). For both ISY and OSY, a youth qualifies as low income if:

- Youth lives in a high-poverty area. Attachment II regarding additional information on determining if a youth is living in a high-poverty area [https://wdr.doleta.gov/directives/attach/TEGL/TEGL_21-16 Attachment 2.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_21-16_Attachment_2.pdf)
- An ISY who receives or is eligible to receive free or reduced price lunch would meet the low income requirement. Note that some school districts subsidize all student meals from the Community Eligibility Provision (CEP) Healthy, Hunger-Free Kids Act of 2010. When a school does not use individual eligibility criteria to determine who is eligible for free or reduced price lunch, whole school receipt of free or reduced price lunch cannot be used to determine WIOA low-income status for ISY. In schools where the whole school automatically receives free or reduced price lunch, WIOA programs must base low-income status on an individual student's eligibility to receive free or reduced price lunch or on meeting one of the other low-income categories under WIOA. Local programs can check with their local school districts for determining whether individual students are eligible to receive free or reduced price lunch.
- While the free/reduced lunch low-income category primarily applies to ISY, there is one *exception* where it could apply to an OSY. If an OSY is a parent living in the same household as a child who receives or is eligible to receive free or reduced price lunch based on their income level, then such an OSY would meet the low-income criteria based on his/her child's qualification.
- WIOA allows a low-income exception where five percent of WIOA youth may be participants who ordinarily would be required to be low income for eligibility purposes and meet all other eligibility criteria for WIOA youth except the low-income criteria.
- *Lower Living Standard Income Level (LLSIL)* based on family income. A youth is considered low income if the youth is in a family with a total family income that does not exceed the higher of the poverty line or 70 percent of the LLSIL, except in cases where only the youth's income is considered as discussed below.

Income Definition

- WIOA youth programs **must** include Unemployment Insurance and child support payments as income when determining a youth's eligibility based on low-income status.
- A youth's income is considered *only* when determining whether the youth satisfies WIOA income limits for the program such as an ISY with a disability.
- If an individual is not living in a single residence with other family members, that individual is not a member of a family for the purpose of WIOA income calculations. 20 CFR § 675.300 provides a definition for family.

Note: DOL will address self-attestation as part of data validation guidance, which is due to be published later in 2017.

Program Design

Program Expenditures Prior to Participation

There are limited instances where WIOA youth funds may be expended on costs related to individuals who are not yet participants in the WIOA youth program. Youth funds can be expended on outreach and recruitment or assessment for eligibility determination (such as assessing basic skills level) prior to eligibility determination, but they cannot be spent on youth program services, such as the 14 program elements, prior to eligibility determination.

Assessment Requirements

The WIOA youth program design *requires* an objective assessment of academic levels, skill levels, and service needs of each participant, which includes a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes, supportive service needs, and developmental needs. Assessments must also consider a youth's strengths rather than just focusing on areas that need improvement.

Basic Skills-For purposes of the basic skills assessment portion of the objective assessment, local programs are not required to use assessments approved for use in the Department of Education's National Reporting System (NRS), nor are they required to determine an individual's grade level equivalent or educational functioning level (EFL), although use of these tools is permitted. Rather, local programs may use other formalized testing instruments designed to measure skills-related gains. It is important that, in addition to being valid and reliable, any formalized testing used be appropriate, fair, cost effective, well-matched to the test administrator's qualifications, and easy to administer and interpret results. Alternatively, skills related gains may also be determined through less formal alternative assessment techniques such as observation, folder reviews, or interviews. The latter may be particularly appropriate for youth with disabilities given accessibility issues related to formalized instruments. Local programs may use previous basic skills assessment results if such previous assessments have been conducted within the past six months.

In contrast to the initial assessment described above, if measuring EFL gains *after* program enrollment under the measurable skill gains indicator, local programs must use an NRS approved assessment for both the EFL pre- and post-test to determine an individual's educational functioning level.

Career-Related Assessments-All youth, including youth with disabilities, can benefit from participation in career assessment activities, including, but not limited to, assessments of prior work experience, employability, interests, and aptitudes. Multiple assessment tools may be necessary since there is no standard approach that will work for all youth, including youth with disabilities. Career assessments help youth, including those with disabilities, understand how a variety of their personal attributes (e.g., interests, values, preferences, motivations, aptitudes, and skills) affect their potential success and satisfaction with different career options and work environments. Youth also need access to reliable information about career opportunities (based on labor market information) that provide a living wage, including information about education, entry requirements, and income potential. Youth with disabilities also may need information on benefits planning, work place supports (e.g., assistive technology), and accommodations, and also may benefit from less formalized career-related assessments such as discovery techniques. These assessments may be

provided directly through WIOA youth program staff, and/or through referrals to national and community-based partners and resources.

- Serving 18 to 24-year-old youth

As discussed in 20 CFR 681.430, “individuals who meet the respective program eligibility requirements may participate in WIOA Title I adult and youth programs concurrently.”

School status at time of enrollment may determine which program options are appropriate for this population because young adults who are in school are only eligible for the Title I youth program if they are 21 or younger at the time of enrollment.

Some 18 to 24 year olds may be ready for adult services due to life experiences such as having gained occupational skills through education or training, prior work experiences, adult schedules, family responsibilities, and the participant’s needs. Others need specific youth services covered in the 14 WIOA youth program elements based on characteristics such as maturity, drug and alcohol abuse, homelessness, foster care status, family abuse/neglect, literacy challenges, pregnancy, and lack of employability skills. Assessments of their skills, career-readiness, literacy, and supportive service needs should be taken into consideration when determining the appropriate program(s) for young adults.

Braiding Funds

WIOA does not prohibit the braiding of funds. This resource allocation strategy occurs when different funding streams are used together to support ***different needs*** for the same customer while maintaining documentation to support the charging and allocation of costs to multiple separate funding streams or programs. As specified in the Uniform Guidance at 2 CFR 405(d), if a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the programs or activities based on the proportional benefit. In addition, each funding stream maintains its statutory requirements, including eligibility criteria and scope of authorized activities.

Braiding funds allows a WIOA youth program to provide more comprehensive services to participants while ***maximizing*** partner resources available to assist youth. For example, the Title I WIOA Youth program and the WIOA Title II Adult Education program can provide complementary services to youth and can be used together (braided) to serve eligible youth ages 16-24 where each program’s age eligibility overlaps. When used together, these two funding sources can increase the capacity of programs to help young adults meet their employment and educational goals. An organization that receives both Title I Youth funding and Title II Adult Education funding or partners with a program that receives Title II funding may braid these funds and enroll eligible youth into both programs. Title I resources can be utilized to provide youth with such services as career guidance, exploration, and planning; work experience; and leadership development; Title II resources support adult education and literacy activities, including preparation for obtaining a recognized high school equivalency, or workplace adult education and literacy activities, family literacy activities, English language acquisition activities, integrated English literacy and civics education, workforce preparation activities, or integrated education and training. WIOA sec. 203(2). Please note that in this example, the WIOA Title I Youth funds are used to pay for services not available under the partner program.

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, is particularly well-suited to a braided funding model. WIOA sec. 203(11).

Competitive Procurement

Local Workforce Development Boards (Local WDBs) are responsible for the selection of providers of youth workforce investment activities through competitive grants or contracts.

Exception to the requirement of competitive procurement--a Local WDB may award sole-source contracts if it determines an insufficient number of providers exist in the local area.

A Local WDB may determine that the grant recipient or designated fiscal agent may “provide directly some or all of the youth workforce investment activities.” DOL intends for the flexibility provided by 20 CFR 681.400 to allow Local WDBs to determine whether to directly provide the WIOA youth program elements that they can most efficiently and cost effectively provide, such as labor market and employment information and services that are part of program design including assessment, supportive services and follow-up services.

Requirements Related to Direct Provision of Services

In situations where a local WDB allows for direct provision of youth services, there may be situations where an entity performs multiple roles, such as operator and service provider. In these cases, 20 CFR 679.430 requires “a written agreement with the Local WDB and Chief Elected Official (CEO) to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant Office of Management and Budget circulars, and the State’s conflict of interest policy.”

Furthermore, separation of roles for staff to the Local WDB and the role of the fiscal agent described in 20 CFR 679.400 and 679.420, respectively, provide more clarity on the distinct functions of these entities. When youth services are provided by an entity that fulfills another role in the local area, the agreement with the Local WDB and CEO must provide clarity on the expectations for those roles and clear methods of tracking effective execution and accountability for the distinct roles.

State Authority

If a State chooses to do so, it has the authority to set policy requiring local WDBs to competitively select some or all youth services. The State as grant recipient has the ultimate accountability to DOL for the performance of the Youth program, including outcomes and fiscal integrity. States, therefore, have the authority to establish statewide policies regarding the provision of youth activities that the State determines are likely to enhance the performance of the youth program.

High Poverty Areas

WIOA states that youth living in a high-poverty area are considered to be low-income for the purposes of Title I youth program eligibility for in-school and two categories of out-of-school youth. The WIOA regulations at 20 CFR 681.260 define high poverty areas as a Census tract, or a

set of contiguous Census tracts, or county that has a poverty rate of at least 25 percent as set every five years using American Community Survey 5-year data. Please note, there are no counties with poverty rates of 25 percent or greater in New Jersey.

The Youth Eligibility Guidelines provide guidance on determining if a youth is living in a census tract that is considered to be a high poverty area TEGL 21-16 includes as attachment “Determining Whether Youth are Living in a High Poverty Area.” It describes the process for determining if a youth is living in a high poverty area the poverty rate of a county, a census tract, or a contiguous set of census tracts.

Mapping Out a Set of Contiguous Census Tracts-Each local workforce development board may determine sets of contiguous census tracts in their local area **once** for each time the five-year community survey is conducted. The most current set of data is from the 2015 survey. The Office of WDB Coordination and Support will provide technical assistance on mapping out contiguous census tracts.

Action Required

Local workforce development boards should share these guidelines with all partners and contracted providers of WIOA youth services. In local areas where youth services are directly provided, the local board must ensure that they develop and enter into a written agreement which clarifies the local functions and roles with the local CEO. This agreement must specify methods of tracking effective execution and accountability for the distinct roles.

Rescissions

None

References and Links

TEGL 21-16 https://wdr.doleta.gov/directives/attach/TEGL/TEGL_21-16_Acc.pdf

Authority

| | |
|--|----------|
| New Jersey Department of Labor and Workforce Development | X |
| State Employment And Training Commission | |

Questions For questions regarding this guidance, contact John Bicica, Chief, Office of WDB Coordination and Support, at john.bicica@dol.nj.gov