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SUBJECT: Technical Eligibility Assistance Guide (TAG)

## OPERATIONAL DIRECTIVE

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# Workforce Innovation Opportunity Act

## Eligibility Technical Assistance Guide (TAG)

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TEGLS AD-DW/Youth/Performance attached

## WIOA Eligibility Technical Assistance Guide

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**Disclaimer - This policy is based on DOL’s initial reading of the statute without any interpretive guidance from USDOL. This policy may be subject to change as additional federal regulations and TEGs are released that are contrary to or otherwise different from DOL’s interpretation of WIOA. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations and guidelines are established.**

## INTRODUCTION

The Workforce Innovation and Opportunity Act (WIOA) offers an integrated and comprehensive range of services consisting of workforce development activities benefiting employers, job seekers, and communities.

The purpose of the WIOA Eligibility Technical Assistance Guide (TAG) is to provide the policies and procedures regarding criteria and documentation sources for establishing WIOA Title I program eligibility for adults and dislocated workers. This policy guidance is based on [Workforce Innovation and Opportunity Act; Final Rule](#), which were made publicly available in late June 2016 and became effective on October 18, 2016. This TAG will be updated as further guidance is issued by DOL and/or EDD.

The purposes of WIOA services are to:

1. increase, particularly for individuals with barriers to employment, access to and opportunities for the employment, education, training, and support services needed to succeed in the labor market;
2. support the alignment of workforce investment, education, and economic development systems for a comprehensive, accessible, and high-quality workforce development system;
3. improve the quality and labor market relevance of workforce investment, education, and economic development efforts to provide individuals with the skills and credentials necessary to secure and advance in employment with family-sustaining wages, and to provide employers with the skilled workers needed to succeed in a global economy;
4. promote improvement in the structure and delivery of services through the workforce development system to better address the educational and training needs of workers, job seekers, and employers;
5. increase the prosperity of workers and employers; the economic growth of communities, regions, and states; and the global competitiveness of the United States; and
6. provide workforce investment activities, through state and local workforce development systems, that increase participants' employment, retention, earnings, and attainment of recognized postsecondary credentials, and as a result, improve the quality of the

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workforce, reduce dependency on public assistance, increase economic self-sufficiency, meet the skills requirements of employers, and enhance the productivity and competitiveness of the nation.

**The WIOA Eligibility Technical Assistance Guide (TAG) is provided by the work2future Workforce Development Board. The TAG was created to assist staff in establishing participant eligibility for WIOA programs and maintaining adequate documentation for monitoring reviews.**

## **I. LOCAL FLEXIBILITY**

The WIOA provides Local Workforce Investment Areas (local areas) flexibility to implement systems that best suit the needs of their local communities. As part of this flexibility, the WIOA allows local workforce development boards (local boards) to develop a number of their own eligibility policies, procedures and definitions. The Technical Assistance Guide (TAG) clarifies these areas of flexibility, and provides local boards opportunities to enter their eligibility guidance in indicated areas.

Local guidance must be consistent with Federal and State law and policy. Additionally, it must be consistently applied by front line staff. Federal and State monitors and auditors will verify that local eligibility policies, procedures and definitions have been communicated and implemented within the local area. **Local guidance that does not correctly reflect Federal and State requirements may result in disallowed costs.**

WIOA describes a more robust role for Local Boards and partners to jointly develop local plans and one-stop Memorandums of Understanding (MOU), and the Department of Labor and Employment Development Department strongly recommend that Local Boards align these activities with the one-stop operator function and competitive process.

## II. ELIGIBILITY DETERMINATION AND REGISTRATION

### ELIGIBILITY FOR SERVICES

**For work2future, all individuals interested in the services described below will be registered and eligibility will be determined.**

All individuals taking advantage of WIOA services must be registered and eligibility must be determined. To register, as defined in § 675.300, is the point at which information that is used in performance indicators begins to be collected.

Participation is the point at which the individual has been determined eligible for program services and has received or is receiving a WIOA service and is at the point at which an individual is to be included in performance calculations for the primary indicators.

### REGISTRATION

- A. Registration is the process for collecting information to support a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application.
- B. Participation occurs after the registration process of collecting information to support an eligibility determination and begins when the individual receives a **WIOA SERVICE**, which does not include self-service or informational activities.
- C. Adults, Dislocated Workers and Youth who receive services funded under Title I other informational activities must be registered and must be a participant.
- D. Employment Opportunity data must be collected on every individual who is interested in being considered for WIOA Title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from the grant recipient or designated service provider.

### CONCURRENT ENROLLMENT

Under WIOA Section 3, eligible adults are defined as individuals age 18 or older. WIOA defines eligible youth as 14 through 21 years of age, if in-school youth, and 16 through 24, if out-of-school youth. Thus, individuals between the ages of 18 through 24 [at registration] may be eligible for both adult and youth programs.

- Eligible individuals who are 18 through 24 years old [at registration] may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth and adult/dislocated worker eligibility criteria applicable to the services received. Local program operators should determine the appropriate use of co-enrollment for individuals in this age group. This determination should be driven by program design and services provided.
- Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult/dislocated worker programs concurrently, and ensure that services

are not duplicated.

## **NONDISCRIMINATION**

WIOA Section 188 provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

Participation in programs and activities must also be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.

## **EXITED PARTICIPANTS**

Once a participant is exited from a WIOA program, the application, documentation, and verification process must be repeated before the individual can be re-registered into the WIOA program.



### III. GENERAL ELIGIBILITY CRITERIA

The general eligibility criteria apply to the Workforce Innovation Opportunity Act (WIOA) Adult, Dislocated Worker, and Youth programs.

#### AUTHORIZATION TO WORK

**California law requires that an individual have authorization to work in the United States to be eligible to receive WIOA funded services.** Specifically, the California Unemployment Insurance Code Section 9601.5 states:

“Each state or local government agency or community action agency, or any private organization contracting with a state or local government agency, that provides employment services, including, but not limited to, job training, retraining, or placement, shall verify an individual's legal status or authorization to work prior to providing services to that individual in accordance with procedures established under federal law.”

#### VERIFICATION OF LAWFUL PRESENCE

Each agency responsible for determining eligibility for WIOA benefits is required to:

1. Have each applicant for WIOA services provide documentation that he or she is a U.S. Citizen or a qualified alien.

**Local Workforce Investment Areas (local areas) must verify an individual's authorization to work in accordance with Title 8 Code of Federal Regulations Section 274a.2.** This section specifies that the requirements published in the U.S. Citizenship and Immigration Services [Form I-9](#), are to be used in verifying and documenting that an individual is authorized to work in the United States. As specified in the Form I-9, staff must accept as evidence of employment authorization, any of the documents listed on the last page of Form I-9. Individuals may present any List A document **or** a combination of a List B and a List C document. For additional guidance regarding the Form I-9, see the U.S. Citizenship and Immigration Services website at [www.uscis.gov](http://www.uscis.gov).

Staff must verify an individual's authorization to work no later than time of application for a WIOA funded program. Verification is not required for [self-service or informational activities](#) (i.e., services an individual can access in an America's Job Center of California<sup>SM</sup> with minimal or no staff assistance); however, local workforce development boards (local boards) have the discretion to establish policies and procedures requesting authorization to work documents prior to the time of application (e.g., at time of intake, or any point in the customer flow up until the time of application). **Local areas must keep either hard copies or scanned copies of the individual's Form I-9 documents for State monitoring purposes.**

<p><b>Local policy and procedures for verifying an individual's authorization to work:</b> work2future uses the I-9 process/list of documents to establish an individual's right to work. Staff will upload the eligibility documentation into the client's virtual file at registration/enrollment.</p>
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***Citizenship is a demographic reporting element required from time to time by the State for research and analysis. It is not necessary to document and verify citizenship, in addition to documenting an individual's employability.***

## **ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT**

### **Selective Service Registration**

The WIOA requires males to comply with Selective Service registration requirements prior to participation in WIOA funded programs. Local areas must ensure that each applicable male that participates in any local program or activity established under WIOA, or receives any assistance or benefit under WIOA, has not knowingly and willfully violated Section 3 of the Military Selective Service Act (MSSA).

Males born on or after January 1, 1960, and at least 18 years of age, who are not in the armed services on active duty, must be registered for the Selective Service. A youth who becomes 18 years of age while participating in a WIOA program must register within 30 days of his 18th birthday.

Occasionally, males who were subject to Selective Service registration, but did not register and are now beyond their 26th birth date, apply for assistance from the WIOA program. The MSSA requires that services must be denied to a male applicant 26 years or older, if it is determined that he knowingly and willfully failed to register. However, when it can be determined that the applicant did not knowingly or willfully fail to register, he can be considered for participation. Local boards must develop policy and procedures for determining whether an individual knowingly and willfully failed to register.

For detailed guidance regarding Selective Service registration requirements, and model questions to help determine whether a potential WIOA participant's failure to register with Selective Service was knowing and willful, please see Workforce Services Directive WSD12-8, Selective Service Registration.

**Local policy and procedures for determining whether an individual knowingly and willfully failed to register:** For work2future, if the individual was required 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 establishes by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, sub grantee or contractor that enrolls individuals in WIOA-funded activities, and is thereby authorized to approve the use of WIOA grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was knowing and willful.

Documentation evidence presented may include the individual's written explanation and supporting documentation of his circumstances at the time of the required registration and the reason(s) 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. The following are examples of documentation that may be of assistance in making a determination in these cases:

1. Service in Armed Forces. Evidence that a male has served honorably in the U.S. Armed Forces such as a Form DD-214 or his Honorable Discharge Certificate. These documents serve as evidence that his failure to register was not knowing and willful.

2. Third Party Affidavits. Affidavits from parents, teachers, employers, doctors and others concerning reasons for not registering may help grantees in making determinations in cases regarding willful and knowing failure to register.

**Model Questions** - In order to establish consistency regarding the implementation of the requirement, local areas should consider the following questions as a model when determining whether a failure to register is knowing and willful. In determining whether the failure was “knowing,” authorized organizations should ask:

- 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 (e.g. veterans who were discharged before their 26th birthday and were occasionally told that they did not need to register)?
- 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?
- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?
- In determining whether the failure was “willful,” authorized organizations should ask:
  - Was the failure to register done deliberately and intentionally?
  - Did the individual have the mental capacity to choose whether or not to register and decided not to register?
  - What actions, if any, did the individual take when he learned of the requirement to register?

Finally, a participant’s claim of ignorance (e.g. “I did not know...”) regarding Selective Service registration requirements should not suffice as enough evidence to make a determination if his failure was knowing and willful. Ask him for more evidence to support his claim.

**Results of Findings** - If an authorized work2future staff person determines that an individual’s failure to register with the Selective Service was not knowing and willful and the individual is otherwise eligible, services may be provided. However, if work2future determines that evidence shows that the individual’s failure to register was knowing and willful, WIOA services must be denied. Individuals denied services must be advised of available WIOA grievance procedures. work2future keeps documentation related to evidence presented in determinations on Selective service.

## **AGE**

The following chart displays the age criteria for participation in the WIOA adult, dislocated worker, and youth programs.

<b>WIOA PROGRAM</b>	<b>AGE</b>	<b>REFERENCE</b>
<b>Adult</b>	<b>18 or older</b>	<b>Sec. 680.120</b>
<b>Dislocated Worker</b>	<b>18 or older</b>	<b>Sec. 680.130</b>
<b>Youth (Out-of-School)</b>	<b>16 - 24</b>	<b>Sec. 681.210</b>
<b>Youth (In-School)</b>	<b>14 - 21</b>	<b>Sec. 681.220</b>

## **IV. PRIORITY OF WIOA SERVICES**

### **PRIORITY OF SERVICES**

Generally, there are no special eligibility requirements for participation by adults in career services under WIOA Section 134(c)(2). However, if the career services provided include services under WIOA Section 134(c)(2)(A)(xii) – Individualized career services, priority must be given to recipients of – in the following order:

1. Veterans and eligible spouses who are also recipients of public assistance, other low- income individuals, or individuals who are basic skills deficient.
2. Individuals who are the recipient of public assistance, other low income individuals, or individuals who are basic skills deficient.
3. Veterans and eligible spouses who are not included in WIOA’s priority groups.
4. Other individuals not included in WIOA’s priority groups.

For additional guidance on providing priority of service to veterans through the one-stop system, please reference Workforce Services Directive [WSD08-10](#).

Local Workforce Development Boards (Local Boards) may establish additional priority groups for their Local Area (e.g., residents of the Local Area, individuals with disabilities, ex-offenders, etc.). If any additional priority groups are established, they should be identified in the local policy.

**The statutory priority applies only to adult funds for individualized career services, as described in § 680.150(b), and training services. Funds allocated for dislocated workers are not subject to this requirement.**

**LOW INCOME INDIVIDUAL** – WIOA Section 3(36) defines a "low income individual" as one whom:

- 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 established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the Supplemental Security Income established under Title XVI of the Social Security Act (42U.S.C. 1381 et seq.) or State or local income-based public assistance;
- Is in a family with total family income that does not exceed the higher of:
  - The poverty line; or
  - Seventy percent of the lower living standard income level.
- Is a homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
- 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.);
- Is a foster child on behalf of whom state or local government payments are made; or
- Is an individual with a disability whose income meets the income requirement of (2), but who is a member of a family whose income does not meet this requirement.

**BASIC SKILLS DEFICIENT** – An individual that 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 (WIOA Section 3[5]). **Criteria used to determine whether an individual is basic skills deficient includes the following:**

- Lacks a high school diploma or high school equivalency and is not enrolled in post-secondary education.
- Enrolled in a Title II Adult Education/Literacy program.
- English, reading, writing, or computing skills at an 8.9 or below grade level.
- Determined to be Limited English Skills proficient through staff-documented observations.
- Other objective criteria determined to be appropriate by the Local Area and documented in its required policy.

**Case Notes** – Paper or electronic statements by the case manager that identifies, at a minimum, (1) a participant's status for a specific data element, (2) the date on which the information was obtained, and (3) the case manager who obtained the information. If case notes are used as a documentation source, the case notes must provide an auditable trail back to the source of information verified. The case manager does not need to keep a hard copy of the information verified in the participant's case file.

Example: A case manager verifies an individual is basic skills deficient by viewing school records, specifically, enrollment in a Title II Adult Education/Literacy program. The case notes must include auditable information, such as the name of the school and the date of enrollment, which could allow an auditor/monitor to later retrieve this information. The case manager would not need to keep a hard copy of the school record in the participant's file (TEGL 06-14, Attachment A).

## TRAINING PRIORITY

For the receipt of training services, local areas must give priority to recipients of:

1. Veterans and eligible spouses who are also recipients of public assistance, other low income individuals, or individuals who are basic skills deficient.
2. Individuals who are the recipient of public assistance, other low income individuals, or individuals who are basic skills deficient.
3. Veterans and eligible spouses who are not included in WIOA's priority groups.
4. Other individuals not included in WIOA's priority groups.

[Reference – [TEGL 3-15](#) *Guidance on Services Provided through the Adult and Dislocated under the Workforce Innovation and Opportunity Act and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services*]

## **VETERANS PRIORITY**

Pursuant to Section 2(a) of the Jobs for Veterans Act [38 U.S.C. 4215(a)], veterans and eligible spouses of veterans who otherwise meet the eligibility requirements adult worker programs must receive the highest priority for receipt of services. For example, in determining the priority of participants in training services, the order of priority is as follows:

- Veterans or eligible spouses who receive public assistance, are low-income individuals, or are basic skills deficient.
- Individuals who are not veterans or eligible spouse who receive public assistance, are low-income individuals, or are basic skills deficient.
- Veterans or eligible spouses who do NOT fall in any of the previous categories.
- Individuals who are not veterans or eligible spouses who do not fall in any of the previous categories.

## **VETERANS – Additional Information**

On November 7, 2002, President Bush signed the Jobs for Veterans Act (JFVA) in order to revise and improve employment, training, and placement services provided to veterans. Section 2(a) of the act mandates priority of service for veterans and eligible spouses "who otherwise meet the eligibility requirements for participation" in U.S. Department of Labor (DOL) programs.

Verification of status for veterans and eligible spouses is not required until the veteran or eligible spouse undergoes eligibility determination and is registered in a Workforce Innovative Opportunity Act (WIOA) program. Until the point at which the participant is registered, a participant who states they meet the veterans' priority eligibility criteria must be accorded veterans priority of service on the basis of self-attestation.

### **Related Definitions**

The definitions listed below are for the purpose of implementing priority of service only. The definitions of "veteran" and "eligible spouse" applicable to the priority of service requirement are different from, and more broad than, the definitions of "veteran" and "other eligible persons" applicable to services provided by the Disabled Veterans' Outreach Program and Local Veterans' Employment Representative staff.

**VETERAN** - a 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, as specified in Title 38 United States Code (USC) 101(2).

**ACTIVE SERVICE** - includes full-time federal service in the National Guard, Coast Guard, or a Reserve component. This definition does not include full-time duty performed strictly for training purposes (i.e., that which often is referred to as "weekend" or "annual" training), nor does it include full-time active duty performed by National Guard personnel who are mobilized by state rather than federal authorities (state mobilizations usually occur in response to events such as natural disasters).

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**ELIGIBLE SPOUSE** - The spouse (including the same-sex 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:
  - (a) Missing in action;
  - (b) Captured in the line of duty by a hostile force; or
  - (c) Forcibly detained or interned in the line of duty by a foreign power;
- (3) Any veteran who has a total disability resulting from a service-connected disability, as evaluated by the U.S. Department of Veterans 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 or 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 rating 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 [Title 38 USC 4215(a)].

(Note: Consistent with Training and Employment Guidance Letter (TEGL) [26-13](#), the definition of “eligible spouse” includes same-sex spouses.)

**NON-COVERED PERSON** – persons not eligible for priority of service.



**Applying Priority of Services (TEGL) 7-20**

WIOA emphasizes providing services to individuals with barriers to employment, as defined in WIOA sec. 3(24), including some of the same populations that are to receive priority in the WIOA Adult program. Recipients of public assistance, individuals who are basic skills deficient, or those identified as being low-income represent some of the workforce system's most in need participants and are the three priority groups that WIOA specifically mandates are entitled to receive priority of service (in addition to veterans and eligible spouses) for individualized career or training services under the WIOA Adult program.

Local Workforce Development Boards must establish policy and procedures for implementing the priority of service requirement for adult, veterans and eligible spouses. Local policies must ensure that adults, veterans and eligible spouses are identified at the point of entry and given an opportunity to take full advantage of priority of service. These policies must ensure that adults, veterans and eligible spouses are aware of: their entitlement to priority of service; the full array of employment, training, and placement services available under priority of service; and any applicable eligibility requirements for those programs and/or services.

1. Veterans and eligible spouses who are also recipients of public assistance, other low-income individuals, or individuals who are basic skills deficient.
2. Individuals who are the recipient of public assistance, other low income individuals, or individuals who are basic skills deficient.
3. Veterans and eligible spouses who are not included in WIOA's priority groups.
4. Other individuals not included in WIOA's priority groups.

[Reference – [TEGL 3-15](#) *Guidance on Services Provided through the Adult and Dislocated under the Workforce Innovation and Opportunity Act and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services*]

## **V. CAREER SERVICES**

The proposed regulation respectively designates these categories as: basic career services; individualized career services; and follow-up services. The activities included under these categories are identified in §§ 678.430(a), 678.430(b), and 678.430(c), respectively.

### **Career and Training Services**

Under WIOA, the WIA core and intensive services are merged into a new category entitled “career services.” The career services category includes basic career services, found at WIOA Section 134(c)(2)(A)(i)-(xi), and individualized career services, found at WIOA Section 134(c)(2)(A)(xii). Basic career services are not subject to the priority of service requirement. However, individualized career services and training services are subject to the requirement (Title 20 CFR NPRM Section 680.150).

## **BASIC CAREER SERVICES**

WIOA Section 134(c)(2)(A) requires that local areas provide services that include, at a minimum:

Basic career services must be made available to all individuals seeking services offered by the one-stop delivery system, and include the following:

- Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs.
- 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 information and other services available through the one-stop delivery system.
- Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs.
- Labor exchange services, including the following:
  - Job search and placement assistance, and, when needed by an individual, career counseling, including the following:
    - Provision of information on in-demand industry sectors and occupations [as defined in WIOA Section 3(23)].
    - Provision of information on nontraditional employment [as defined in WIOA Section 3(37) of].
- Provision of referrals to and coordination of activities with other programs and services, including those within the one-stop delivery system and, when appropriate, other workforce development programs.
- Provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including the following:
  - Job vacancy listings in labor market areas.
  - Information on job skills necessary to obtain the vacant jobs listed.
  - Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for those jobs.
- Provision of performance information and program cost information on eligible providers of training services by program and type of providers.
- Provision of information about how the Local Area is performing on local performance accountability measures, as well as any additional performance information relating to the area's one-stop delivery system.
- Provision of information relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including (1) child care, (2) child support, (3) medical or child health assistance available through the state's Medicaid program and Children's Health Insurance Program, (4) benefits under the SNAP, (5) assistance through the earned income tax credit, (6) housing counseling and assistance services sponsored through the U.S. Department of Housing and Urban Development, (7) and assistance under a state TANF program, and other supportive services and transportation provided through that program.

## **WIOA Eligibility Technical Assistance Guide**

- Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA.
- Provision of information and assistance regarding filing claims under UI programs, including meaningful assistance to individuals seeking assistance in filing a claim:
  - Meaningful assistance means providing assistance as follows:
    - On-site using staff who are properly trained in UI claims, filing, and/or the acceptance of information necessary to file a claim (note that, staff providing UI assistance may be UI, Wagner-Peyser, or other America's Job Center of California<sup>SM</sup> (AJCC) partner staff members who have been properly trained to provide this type of assistance and service. Note that, questions, advice, or decisions that could affect a claimant's eligibility should only be handled by UI program staff).
    - By phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time.
      - The costs associated in providing meaningful assistance may be paid for by the state's UI program, the WIOA adult or dislocated worker programs, the Wagner-Peyser Employment Service, or some combination thereof these funding sources.

## **INDIVIDUALIZED CAREER SERVICES**

Individualized career services are subject to priority of service, and consist of the following:

- Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include the following:
  - Diagnostic testing and use of other assessment tools.
  - In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.
- Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the list of, and information about, eligible training providers.
- Group and/or individual counseling and mentoring.
- Career planning (e.g. case management).
- Short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for unsubsidized employment or training, in some instances pre- apprenticeship programs may be considered as short-term pre-vocational services.
- Internships and work experiences that are linked to careers.
- Workforce preparation activities that 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, and obtaining skills necessary for successful transition into and completion of postsecondary education, or training, or employment.
- Financial literacy services.
- Out-of-area job search assistance and relocation assistance.
- English language acquisition and integrated education and training programs.

## **TRAINING SERVICES**

Training services are subject to priority of service, and consist of the following:

- 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 provided in combination with another training service.
- Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with another training service.
- Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

## **ELIGIBILITY FOR TRAINING SERVICES**

Funds for adult training services under WIOA 134(c)(3) must be used to provide training to adults who:

1. After an interview, evaluation, or assessment, and career planning, have been determined by a one-stop operator or one-stop partner, as appropriate, to:
  - a. 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 the career services;
  - b. Be 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
  - c. Have the skills and qualifications to successfully participate in the selected program of training services;

## **USE OF PREVIOUS ASSESSMENT**

A one-stop operator or one-stop partner is not required to conduct a new interview, evaluation, or assessment of a participant if it determines that it is appropriate to use a recent interview, evaluation, or assessment of the participant conducted pursuant to another education or training program.

1. Select programs 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

2. Are unable to obtain other grant assistance for such services, including Federal Pell Grants or require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

### **REQUIRES ASSISTANCE**

When making the determination about whether an Individual requires assistance, a one-stop operator may take into consideration the full cost of participating in training services, including the costs of dependent care and transportation, and other appropriate costs.

### **LINKAGE TO OCCUPATIONS IN DEMAND**

Training services provided must be directly linked to an in-demand industry sector or occupation in the local area or the planning region, or in another area to which an adult receiving such services is willing to relocate, except that a local board may approve training series for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

### **EMPLOYMENT AND TRAINING SERVICES**

In addition to the required career and training activities, local areas may provide:

1. Customized screening and referral of qualified participants in training services to employers;
2. Customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis;
3. Implementation of a pay-for-performance contract strategy for training services, for which the local board may reserve and use not more than 10 percent of the total adult or dislocated worker funds allocated to the local area;
4. Customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities for such populations;
5. Technical assistance for one-stop operators, one-stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures;

6. Employment and training activities provided in coordination with:
  - a. Child support enforcement activities of the State and Local agencies carrying out Part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);
  - b. Child support services, and assistance, provided by State and local agencies carrying out Part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);
  - c. Cooperative extension programs carried out by the Department of Agriculture; and
  - d. Activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;
7. Activities:
  - a. To improve coordination between workforce investment activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;
  - b. To improve services and linkages between the local workforce investment system (including the local one-stop delivery system) and employers, including small employers, in the local area, through services described in this section; and;
  - c. To strengthen linkages between the one-stop delivery system and unemployment insurance programs;
8. Training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;
9. Activities to provide business services and strategies that meet the workforce investment needs of area employers, as determined by the local board, consistent with the local plan, which services:
  - a. May be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the leveraging of economic development, philanthropic, and other public and private resources in a manner determined appropriate by the local board; and
  - b. May include:
    - i. Developing and implementing industry sector strategies (including strategies involving industry partnerships, regional skills alliances, industry skill panels, and sectoral skills partnerships);
    - ii. 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, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;



- iii. Assistance to area employers in managing reductions in force in coordination with rapid response activities and with strategies for the aversion of layoffs, which strategies may include early identification of firms at risk of layoffs, use of feasibility studies to assess the needs of and options for at-risk firms, and the delivery of employment and training activities to address risk factors; and
  - iv. The marketing of business services offered under this title, to appropriate area employers, including small and mid-sized employers;
10. Activities to adjust the economic self-sufficiency standards for local factors, or activities to adopt, calculate, or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and sub state geographical considerations;
11. Improved coordination between employment and training activities and programs carried out in the local area for individuals with disabilities, including programs carried out by state agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under Section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under Part B of Chapter 1 of Title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in Section 702 of such Act (29 U.S.C. 796a); and
12. Implementation of promising services to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising.

## **FOLLOW-UP SERVICES**

Including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle that are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

**DELIVERY OF SERVICES** - The career services described shall be provided through the one-stop delivery system:

1. Directly through one-stop operators identified pursuant to Section 121(d);or
2. Through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

## VI. ELIGIBILITY FOR DISLOCATED WORKERS

To be eligible to receive dislocated worker services, an individual must meet the general WIOA eligibility criteria listed in **Table A** and an individual must meet one of the eight criteria listed below:

Category	Definition	Prompt
1	(i) Has been terminated or laid off, or who has received a notice of termination or layoff, from employment; and (ii)(I) Is eligible for or has exhausted entitlement to unemployment compensation; and (iii) is unlikely to return to a previous industry or occupation	Category 1: Individual is: <ul style="list-style-type: none"> <li>Terminated or Laid off, or has received notice of termination or layoff, <b>and</b></li> <li>Is eligible for or has exhausted entitlements to UC, <b>and</b></li> <li>Is unlikely to return to previous industry or occupation.</li> </ul>
2	(i) Has been terminated or laid off, or who has received a notice of termination or layoff, from employment; and (ii) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 121(e), 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 (iii) is unlikely to return to a previous industry or occupation	Category 2: Individual is: <ul style="list-style-type: none"> <li>Terminated or Laid off, or has received notice of termination or layoff, <b>and</b></li> <li>Has been employed for sufficient duration (based on state policy) to demonstrate workforce attachment, but is not eligible for UC due to insufficient earnings, or the employer is not covered under the state UC law, <b>and</b></li> <li>Is unlikely to return to previous industry or occupation.</li> </ul>
3	(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any <b>permanent closure of, or any substantial layoff</b> at, a plant, facility, or enterprise	Category 3: Terminated or Laid off, or has received notice of termination or layoff, from employment as result of permanent closure of, or substantial layoff at a plant, facility or enterprise
4	(ii) is employed at a facility at which the employer has made a <b>general announcement that such facility will close within 180 days</b> ; or (iii) for purposes of eligibility <b>to receive services other than training services</b> described in section 134(c)(3), career services described in section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close	Category 4: Individual is employed at a facility at which the employer has made a general announcement that the facility will close. Enter the date the facility will close (if known) in the Projected Layoff Date field.
5	Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;	Category 5: Previously Self-employed (including farmers, ranchers and fisherman) but is unemployed due to general economic conditions in the community to residence or because of natural disaster.
6	Is a displaced Homemaker.	Category 6: Displaced Homemaker An individual who has been providing unpaid services to family members in the home <b>AND</b> <ul style="list-style-type: none"> <li>Has been dependent on the income of another family member but is no longer supported by that income;</li> </ul> <b>or</b> <ul style="list-style-type: none"> <li>Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of <ul style="list-style-type: none"> <li>a deployment,</li> <li>a call or order to active duty,</li> <li>a permanent change of station, or</li> <li>the service-connected death or disability of the member; <b>AND</b></li> </ul> </li> </ul> is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
7	(i) 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 <i>has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member</i> ; or	Category 7: Spouse of a member of the Armed Forces on active duty, and who has experienced a <b>loss of employment as a direct result of relocation to accommodate a permanent change in duty station</b> of such member
8	(ii) is the spouse of a member of the Armed Forces on active duty and who meets the criteria described in paragraph (16)(B). <i>(16)(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.)</i>	Category 8: Spouse of a member of the Armed Forces on active duty and who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
9		None of the above: Termination/layoff does not qualify individual for Dislocated Worker Program

## **LOCAL DEFINITIONS AND ELIGIBILITY CRITERIA**

### **Attachment to the Workforce**

“Attachment to the workforce” is not defined in the WIOA or the regulations. Local boards may define this term to assist staff in identifying those dislocated workers who are not eligible for unemployment compensation but have been employed for duration sufficient to demonstrate an attachment to the workforce (e.g., someone who has worked at least 3 consecutive months during the last 12 months).

**Local definition of attachment to the workforce:** For work2future, an individual who, at the time of application has a) been employed 15 out of the last 26 weeks, or b) if as seasonal worker, have been employed 30 out of the last 52 weeks.

### **Unlikely to Return**

“Unlikely to return” is not defined in the WIOA or the regulations. Local boards may define this term to assist staff in identifying dislocated workers. Any of the following considerations may be helpful in defining “unlikely to return.”

- Worked in a declining industry/occupation, as documented on State or locally-developed lists of such industries/occupations. State lists are available from the Employment Development Department’s (EDD) Labor Market Information Division. Local lists must be developed by an appropriate entity, such as the Chamber of Commerce, the local board, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information.
- Has had a lack of job offers as documented by local EDD Workforce Services or Unemployment Insurance staff, rejection letters from employers in the area, or other documentation of unsuccessful efforts to obtain employment in the prior industry/occupation.
- Worked in an industry/occupation job for which there are limited job orders in the EDD CalJOBS<sup>SM</sup> system at the time of eligibility determination, as certified by EDD or America’s Job Center of California<sup>SM</sup> staff with access to the CalJOBS<sup>SM</sup> database.
- Is insufficiently educated and/or does not have the necessary skills for re-entry into the former industry/occupation, as documented through the assessment of the individual’s educational achievement, testing, or other suitable means.
- Have physical or other problems which would preclude re-entry into the former industry/occupation, as documented by a physician or other professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.).

## **UNLIKELY TO RETURN STANDARD - FARMWORKERS**

The inherently seasonal nature of farm worker occupations has been incorrectly perceived by some practitioners as disqualifying under the “unlikely to return” to work standard. In fact, individuals that may have worked seasonally can be considered “unlikely to return” to work in a previous industry or occupation for a variety of reasons such as:

- (1) Change in family situation that requires higher income;
- (2) Disability that precludes returning to the same occupation;
- (3) Natural disaster that results in lost wages;
- (4) Loss of agricultural land;
- (5) Mechanization; or
- (6) Any significant variance to normal seasonal employment patterns resulting in uncertain return-to-work dates.

Additionally, permanent closures or a substantial layoff from agricultural enterprises and facilities such as packaging, canneries, or farming are not excluded regarding those that were self-employed (including employment as a farmer, a rancher, or a fisherman) and are unemployed due to economic conditions that resulted from extreme or unusual weather patterns and agricultural market downturns can also apply to farm workers.

“Unlikely to return” may be defined in terms of family, personal, or financial circumstances that may affect the likelihood of the individual’s returning to his or her previous occupation or industry for employment. Local definitions need not be based solely on economic conditions and job availability.

### **Local definition of unlikely to return:**

For WORK2FUTURE , Unlikely to return shall be defined as:

1. An individual who, at the time of application, a) is determined to be working in a declining industry or occupation, or b) has a lack of job offers, or c) has worked in an industry or occupation for which there are limited job orders posted as certified by local EDD field office personnel; or
2. An individual who has physical or other problems which would preclude reentry into the former industry or occupation, as documented by a physician or other applicable professional; or
3. An individual who has been referred through the Worker Profiling and Reemployment Services System; or
4. Worked in a declining industry/occupation, (for which there are limited job orders) as documented on State or locally-developed lists of such industries/occupations. State lists are available from the Employment Development Department’s (EDD) Labor Market Information Division. Local lists must be developed by an appropriate entity, such as the Chamber of Commerce, the local board, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information; or
5. Has had a lack of job offers as documented by the local Job Service/ Unemployment Insurance (UI) office, rejection letters from employers in the

area, or other documentation of unsuccessful efforts to obtain employment in the prior industry/occupation; or

6. Is insufficiently educated and/or does not have the necessary skills for reentry into the former industry/occupation, as documented through the assessment of the client's educational achievement levels, testing, or other suitable means; or

7. Has physical or other problems, which would preclude reentry into the former industry/occupation, as documented by a physician or other applicable professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.) or

8. Family, personal, or financial circumstances that may affect the likelihood of the individual's returning to his or her previous occupation or industry for employment

9. Military Wife; or

10. Farm workers:

- Change in family situation that requires higher income;
- Disability that precludes returning to the same occupation;
- Natural disaster that results in lost wages;
- Loss of agricultural land;
- Mechanization; or
- Any significant variance to normal seasonal employment patterns, resulting in uncertain return-to-work dates.

Additionally, permanent closures or a substantial layoff from agricultural enterprises and facilities such as packaging, canneries, or farming are not excluded from the standard regarding those that were self-employed (including employment as a farmer, a rancher, or a fisherman) and are unemployed due to economic conditions that resulted from extreme or unusual weather patterns and agricultural market downturns can also apply to farm workers.

### **Substantial Layoff**

“Substantial layoff” is not defined in the WIOA or the regulations. Local boards may define this term to assist staff in identifying individuals who are unemployed due to a substantial layoff (e.g., a substantial layoff may be one which affects at least 50 employees who worked 20 or more hours per week, and comprise at least one third of the lay-off employer's local workforce).

#### **Local definition of Substantial Layoff:**

*For work2future, Substantial Layoff* at a plant, facility, or enterprise shall be defined as:

- Any layoff which a) constitutes a reduction of 50% or more of the permanent employees; or  
b) 50% of a work group of no less than 50 employees at a single site; or  
c) the layoff of 150 or more employees at a single site.

**General Announcement**

“General Announcement” is not defined in the WIOA or the regulations. Local boards may establish criteria for this term. Local criteria must require a credible source of information, or a documented confirmation from the employer (e.g., a newspaper article or public notice).

**Local criteria for General Announcement:**

*For work2future a General Announcement shall be defined as:*

A Documented confirmation from the employer or a recognized media or public notice documenting an employer's intent to close.

**General Economic Conditions**

“General Economic Conditions” is not defined in the WIOA or the regulations. Local boards may establish criteria for this term. Local criteria may include, among other conditions, self-employment which locally has little demand or has been declining, or the local economy is declining.

**Local criteria for General Economic Conditions:**

For work2future , General Economic Conditions shall be defined as:

Conditions in which a) the local unemployment rate has exceeded 6%, or b) a decline in occupational demand in which the self-employed person generated his/her historical revenue, as certified by local EDD personnel.

**Difficulty in Obtaining or Upgrading Employment**

The “difficulty in obtaining or upgrading employment” criterion is used as part of the displaced homemaker criteria but is not defined in the WIOA or regulations. Local boards may define this term in order to assist staff in identifying displaced homemakers.

**Local definition for Difficulty in Obtaining or Upgrading Employment:**

For work2future, Difficulty in Obtaining or Upgrading Employment shall be defined as: A displaced homemaker is one who:

- a) Underemployed - 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 attainment or
- b) Is underemployed in a part-time job or one which does not allow for self-sufficiency, or
- c) Has held only short-term (less than 4 months) jobs during the previous year, or
- d) Is unemployed with one or more substantial barriers to employment.

## **Profiled and Referred Unemployment Insurance Claimants**

Unemployment Insurance (UI) profiling refers to a process which uses an automated system to identify claimants likely to exhaust regular UI benefits. After a UI claim is filed and a first payment is made, an automated system identifies claimants likely to exhaust their benefits and refers those claimants to a mandatory subsequent reemployment service.

***The Governor has determined that the UI profiling methodology and referral process meets the dislocated worker eligibility criteria in WIOA Section 101(9).*** In such instances, no further documentation is needed to establish the “unlikely to return” criterion at WIOA Section 101(9)(A)(iii). [Reference: Title 20 Code of Federal Regulations Preamble, Subpart A — One-Stop System, p.49316]

## **LAYOFFS, FURLOUGHES, TEMPORARY LAYOFFS, AND LOCKOUTS**

**LAYOFF** - The permanent or temporary termination of employment of an employee due to a position being abolished, insufficient funds, lack of work, or any other reason not reflecting discredit on the employee (such as dismissal for inadequate performance, violation of workplace rules, cause, etc.).

**FURLOUGH** - The placing of an employee in a temporary status without duties and pay because of lack of work or funds or other non-disciplinary reasons [Title 5 U.S. Code 7511(a)(5)]. As such, it is a temporary termination of employment or layoff.

Individuals that are furloughed are laid off. Depending on the local definition of “unlikely to return”, the circumstances of the applicant, and local economic conditions, furloughed individuals may or may not be likely to return to their previous industry or occupation. Local Workforce Investment Areas are in the best position to make this determination. If these individuals are likely to return to their previous industry or occupation and need more than core services, they may be served as adults. In some cases, a business, company or corporation’s furloughs are in fact substantial layoffs and the “unlikely to return” provision does not apply. Local boards have the discretion to define substantial layoff since the definition depends on local economic conditions.

**LOCKOUT** - Any refusal by an employer to permit any group of five or more employees to work as a result of a dispute with such employees affecting wages, hours or other terms or conditions of employment of such employees (California Labor Code Section 1132.8). A lockout does not terminate the employer-employee relationship, so locked out employees are not eligible dislocated workers since they have not been terminated or laid off, are not eligible for unemployment compensation, and are likely to return to the same industry or occupation once the dispute is resolved. The same guidance applies to employees that are on strike. There may be locked out employees who for financial reasons seek other employment. These individuals may be served as adults.



## **VETERANS AND MILITARY SPOUSES**

### **Veterans**

One of the criteria used to establish eligibility for a dislocated worker is determining that the worker was terminated or laid-off. The term “terminated” is not defined in the WIOA law or the regulations. However, per U.S. Department of Labor policy, if a veteran is discharged under honorable circumstances (voluntarily or involuntarily), the employment relationship between the individual and the military is terminated, and the individual meets the criteria of being “terminated” for establishing dislocated worker eligibility. In order to receive services as a dislocated worker, the veteran would also have to satisfy the other criteria for dislocated worker eligibility as outlined in Section VI of this TAG, including the “unlikely to return” standard and the general WIOA eligibility criteria.

### **Military Spouses**

**MILITARY SPOUSE** – An individual who is married to an active duty service member, including National Guard or Reserve personnel on active duty. The surviving spouse of an active duty service member who lost his/her life while on active duty service in Afghanistan, Iraq, or other combat-related areas is considered to be a military spouse.

[Note: Consistent with Training and Employment Guidance Letter (TEGL) [26-13](#), the definition of “military spouse” includes same-sex spouses.]

A military spouse who leaves a job to follow his/her spouse can be served as a dislocated worker in certain circumstances. When the spouse is unable to continue an employment relationship because of the service member’s duty reassignment or discharge from the military, then the cessation of employment can be considered to meet the criteria of being “terminated” for purposes of establishing dislocated worker eligibility. This cessation of employment can also be considered to meet the “unlikely to return” standard because in the majority of cases, the circumstances in which military spouses are required to leave a job do not position them to return immediately to their previous occupations, particularly at the same level. In order to receive services as a dislocated worker, military spouses would also have to satisfy the other criteria for dislocated worker eligibility as outlined in Section VI of this TAG, including the general WIOA eligibility criteria.

Additionally, a military spouse may be eligible to be served as a dislocated worker if he/she meets the definition of a [displaced homemaker](#).

[References: [TEGL 22-04](#), Serving Military Service Members and Military Spouses under the WIOA Dislocated Worker Formula Grant; [TEGL 22-04, Change 1](#), Serving Military Spouses as Dislocated Workers under the WIOA Dislocated Worker Formula Grant].

## **RELATED DEFINITIONS**

**EMPLOYED** – An individual employed at the date of participation is one who:

- (1) Did any work at all as a paid employee on the date participation occurs [except the individual is not considered employed if he/she: (a) has received a notice of termination of employment or the employer has issued a Worker Adjustment and Retraining Notification (WARN) or other notice that the facility or enterprise will close, or (b) is a transitioning service member];
- (2) Did any work at all in his/her own business, profession, or farm;
- (3) Worked 15 hours or more as an unpaid worker in an enterprise operated by a member of the family;
- (4) Was not working, but has a job or business from which he/she was temporarily absent because of illness, bad weather, vacation, labor-management dispute, or personal reasons, regardless of whether paid by the employer for time off, and regardless of whether seeking another job (TEGL 17-05, [Attachment B](#)).

This information is to be collected from the individual at registration, not from wage records.

**NOT EMPLOYED** - An individual is considered not employed at the date of participation when he/she:

- (1) Did no work at all as a paid employee on the date participation occurs;
- (2) Has received a notice of termination of employment or the employer has issued a WARN or other notice that the facility or enterprise will close; or
- (3) Is a transitioning service member (TEGL 17-05, [Attachment B](#))

This information is to be collected from the registrant at registration, not from wage records.

**UNDEREMPLOYED** - 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 attainment (TEGL [14-00, Change 1](#)).

## **VII. ELIGIBILITY CRITERIA FOR YOUTH**

To be eligible to receive youth services, an individual must meet the general Workforce Innovation Opportunity Act (WIOA) eligibility criteria listed below in addition to the authorization to work and Selective Service registration, Local policy, procedures and definitions may be established wherever there is flexibility authorized by the WIOA and regulations.

In order to receive youth services, an individual must meet the definition of eligible youth as provided below:

### **ELIGIBILITY FOR YOUTH SERVICES**

IN GENERAL — to be eligible to participate in activities an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

**OUT-OF-SCHOOL YOUTH** - the term “out-of-school youth” means an individual who is:

- A. Not attending any school (as defined by State Law);
- B. Not younger than 18 or older than age 24 at the time of enrollment because age eligibility is based on age at enrollment, participants may continue to receive services beyond the age of 24 once they are enrolled in the program; and
- C. One or more of the following:
  - 1. A school dropout; (An individual who has dropped out of high school and not completed their high school diploma or equivalent - The term “school dropout” does not include individuals who have dropped out of postsecondary education)
  - 2. 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;
  - 3. A recipient of secondary school or diploma or its recognized equivalent who is a low income individual and is (a) basic skills deficient or an English Language learner;
  - 4. An individual who is subject to the juvenile or adult justice system;
  - 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 runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under Section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;
  - 6. An individual who is pregnant or parenting;
  - 7. A youth who is an individual with a disability;
  - 8. A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

**IN-SCHOOL YOUTH** — the term “in-school youth” means an individual who is:

- A. Attending school (as defined by State law); including secondary and post- secondary school;
- B. Not younger than age 14 or (unless an individual with a disability who is attending school under State law) older than age 21; a low-income individual; and one or more of the following: because age eligibility is based on age at enrollment, participants may continue to receive services beyond the age of 21 once they are enrolled in the program;
- C. A low income individual; and
- D. One of more of the following:
  - 1. Basic Skills deficient;
  - 2. An English language learner;
  - 3. An offender;
  - 4. A homeless individual (as defined in sec. 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 sec. 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 Sec. 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;
  - 5. An individual who is pregnant or parenting;
  - 6. An individual with a disability;
  - 7. An individual who requires additional assistance to enter or complete an educational program or to secure or hold employment. (WIOA Sec. 3(27) and 129(a)(1)(C)).

**SPECIAL RULE** — for the purpose of this subsection, the term “low-income” used with respect to an individual, also includes a youth living in a high-poverty area.

**HIGH POVERTY AREA** — a youth who lives in a high poverty area is automatically considered to be a low-income individual. A high-poverty area is a Census tract, a set of contiguous Census tracts, Indian Reservation, tribal land, or Native Alaskan Village or county that has a poverty rate of at least 30 percent as set every 5 years using American Community Survey 5-Year data.

**EXCEPTION AND LIMITATION** — **EXCEPTION FOR PERSONS WHO ARE NOT LOW-INCOME INDIVIDUALS**

**DEFINITION** — in this subparagraph, the term “covered individual” means an in-school youth, or an out-of-school youth who is described above.

**EXCEPTION** — in each local area, not more than 5 percent of the individuals assisted under this section may be persons who would be covered individuals, except that the persons are not low-income individuals. **LOW INCOME EXCEPTION** - WIOA, like WIA, maintains a 5 percent low-income eligibility exception where 5 percent of local area participants who ordinarily would need to be low-income do not need to meet the low-income provision. Under WIA, the 5 percent low-income exception was calculated based on 5 percent of all youth participants enrolled in a given program year. However, because not all OSY are required to be low-income, the 5 percent low-income exception under WIOA is calculated based on the 5 percent of youth

enrolled in a given program year who would ordinarily be required to meet the low-income criteria. For example, a local area enrolled 200 youth and 100 of those youth were OSY who were not required to meet the low-income criteria, 50 were OSY who were required to meet the low-income criteria, and 50 were ISY. In this example, the 50 OSY required to be low income and the 50 ISY are the only youth factored into the 5 percent low-income exception calculation. Therefore, in this example 5 of the 100 youth who ordinarily would be required to be low-income do not have to meet the low-income criteria based on the low-income exception.

**LIMITATION** — in each local area, not more than 5 percent of the in-school youth assisted under this section may be eligible under Paragraph (1) because the youth are in-school youth described in Paragraph (1)(C)(iv)(VII).

## LOCAL DEFINITIONS AND ELIGIBILITY CRITERIA

**Basic Skills Deficient** – An individual that 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 (WIOA Section 3[5]). **Criteria used to determine whether an individual is basic skills deficient includes the following:**

- **Lacks a high school diploma or high school equivalency and is not enrolled in post-secondary education.**
- **Enrolled in a Title II Adult Education/Literacy program.**
- **English, reading, writing, or computing skills at an 8.9 or below grade level.**
- **Determined to be Limited English Skills proficient through staff-documented observations.**
- **Other objective criteria determined to be appropriate by the Local Area and documented in its required policy.**

(WIOA Sec. 3(5)) (b) The State or Local Board must establish its policy on paragraph (a)(2) of this section in its respective State or Local Plan. (c) In assessing basic skills, local programs must use assessment instruments that are valid and appropriate for the target population, and must provide reasonable accommodation in the assessment process, if necessary, for people with disabilities.

### **Local definition of deficient in basic literacy skills:**

For work2future, *deficient in basic literacy skills* shall be defined as:

- **Lacks a high school diploma or high school equivalency and is not enrolled in post-secondary education.**
- **Enrolled in a Title II Adult Education/Literacy program.**
- **English, reading, writing, or computing skills at an 8.9 or below grade level.**
- **Determined to be Limited English Skills proficient through staff-documented observations.**
- **Other objective criteria determined to be appropriate by the local area and documented in its required policy.**

**REQUIRES ADDITIONAL ASSISTANCE TO COMPLETE AN EDUCATIONAL PROGRAM OR TO SECURE AND HOLD EMPLOYMENT**

This proposed section allows States and/or local areas to define the “requires additional assistance . . .” criterion that is part of the OSY and ISY eligibility. It clarifies that if this criterion is not defined at the State level and a local area uses this criterion in their OSY or ISY eligibility, the local area must define this criterion in their local plan.

- Have repeated at least one secondary grade level or are one year over age for grade;
- Have a core grade point average (GPA) of less than 1.5;
- For each year of secondary education, are at least two semester credits behind the rate required to graduate from high school;
- Are emancipated youth;
- Have aged out of foster care;
- Are previous dropouts or have been suspended five or more times or have been expelled;
- Are court/agency referrals mandating school attendance;
- Are deemed at risk of dropping out of school by a school official;
- Have been referred to or are being treated by an agency for a substance abuse related problem;
- Have experienced recent traumatic events, are victims of abuse, or reside in an abusive environment as documented by a school official or other qualified professional;
- Have serious emotional, medical or psychological problems as documented by a qualified professional;
- Have never held a job (applies to older youth);
- Have been fired from a job within the 12 months prior to application (applies to older youth); and
- Have never held a full-time job for more than 13 consecutive weeks (applies to older youth).

**The local definition of “requires additional assistance” below:**

For work2future, an individual who requires additional assistance to complete an educational program, or to secure and hold employment shall be defined as an individual who:

- Have repeated at least one secondary grade level or are one year over age for grade;
- Have a core grade point average (GPA) of less than 1.5;
- For each year of secondary education, are at least two semester credits behind the rate required to graduate from high school;
- Are emancipated youth;
- Have aged out of foster care;
- Are previous dropouts or have been suspended five or more times or have been expelled;
- Are court/agency referrals mandating school attendance;

- Are deemed at risk of dropping out of school by a school official;
- Have been referred to or are being treated by an agency for a substance abuse related problem;
- Have experienced recent traumatic events, are victims of abuse, or reside in an abusive environment as documented by a school official or other qualified professional;
- Have serious emotional, medical or psychological problems as documented by a qualified professional;
- Have never held a job (applies to older youth);
- Have been fired from a job within the 12 months prior to application (applies to older youth); and
- Have never held a full-time job for more than 13 consecutive weeks (applies to older youth).

Include the local definition of “Individual with a barrier to employment” below:

**INDIVIDUAL WITH A BARRIER TO EMPLOYMENT** — the term “individual with a barrier to employment” means a member of 1 or more of the following populations:

- Displaced homemakers;
- Low-income individuals;  
Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in Section 166;
- Individuals with disabilities, including youth who are individuals with disabilities;
- Older individuals;
- Ex-offenders;
- Homeless individuals (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42a U.S.C. 14043e–2(6))), or homeless children and youths (as defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
- 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 facing substantial cultural barriers;
- Eligible migrant and seasonal farm workers, as defined in Section 167(i)
- Individuals within 2 years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.);
- Single parents (including single pregnant women);
- Long-term unemployed individuals;
- Such other groups as the Governor involved determines to have barriers to employment.

## VIII. LOW-INCOME INDIVIDUAL DETERMINATION

The determination of low-income status applies to the Workforce Innovative Opportunity Act (WIOA) youth and adult programs. An individual must be low-income to be eligible to receive youth services. If the Local Workforce Investment Board (local board) determines that funds are limited in the Local Workforce Investment Area (local area) for the adult program, priority must be given to recipients of public assistance and other low-income individuals for intensive and training services.

### LOW-INCOME INDIVIDUAL

**LOW-INCOME INDIVIDUAL** — IN GENERAL — the term “low-income individual” means 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 established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the Supplemental Security Income program established under Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;
2. 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;
3. Is a homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6))), or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
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.);
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 (ii), but who is a member of a family whose income does not meet this requirement.

### LOW-INCOME RELATED DEFINITIONS

**LOW-INCOME LEVEL** — the term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

**POVERTY LEVEL** – the income level at which families are considered to live in poverty, as annually determined by the U.S. Department of Health and Human Services. The poverty level is published annually in the Federal Register.



**PUBLIC ASSISTANCE** – Federal, state, or local government cash payments for which eligibility is determined by a needs or income test. The statutory definition of public assistance contains a two-part test:

- (1) The program must provide cash payments; and
- (2) Eligibility for the program must be determined by a needs or income test

**INDIVIDUAL WITH A DISABILITY** - the term disability 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 an individual [For definitions and examples of “physical or mental impairment” and “major life activities,” see the definition of “disability” in Title 29 Code of Federal Regulations (CFR) 37.4.];
- (2) A record of such an impairment; or
- (3) Being regarded as having such impairment.

**EMANCIPATED MINOR** - any person under the age of 18 whom:

- (1) Has entered into a valid marriage, whether or not such marriage was terminated by dissolution;
- (2) Is on active duty with any of the Armed Forces of the United States of America; or
- (3) Has received a Declaration of Emancipation pursuant to California Family Code 7122.

[Reference: The California Family Code, Section 7002]

**RUNAWAY YOUTH** – Is a person under 18 years of age who absents himself or herself from home or place of legal residence without the permission of his or her family.

***OUT-OF-FAMILY YOUTH - court adjudicated youth separated from the family (including incarcerated youth), homeless, runaway, and emancipated youth. For purposes of determining income eligibility, out-of-family youth are considered a “family of one.”***

**FAMILY** – Two or more persons related by blood, marriage (including same-sex marriages), or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- (1) A husband, wife, (including same-sex spouses) and dependent children.
- (2) A parent or guardian and dependent children.
- (3) A husband and wife (including same-sex spouses).

[Reference: WIOA Section 101(15)]

(Note: Consistent with Training and Employment Guidance Letter [26-13](#), the definition of “marriage” includes same-sex spouses, and the terms “husband” and “wife” are to be interpreted in a gender neutral manner to include same-sex spouses.)

**HOMELESS**

<p style="text-align: center;"><b>From WIOA Definition</b> Section 3 (36)(iii) <b>Low Income Individual</b></p> <p style="text-align: center;">Section 3 (24)(G) <b>Individual with Barriers to Employment</b></p>	<p style="text-align: center;"><b>WIOA Definition</b> <b>Homeless Youth Barrier</b> Section 129(a)(1)(B)(iii)(V) <i>Out-of-school Youth</i></p>
<p>Is a homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (<a href="#">42 U.S.C. 14043e- 2(6)</a>)), - <b>(6)</b> the terms “homeless”, “homeless individual”, and “homeless person”—</p> <p><b>(A)</b> mean an individual who lacks a fixed, regular, and adequate nighttime residence; and</p> <p><b>(B)</b> includes—</p> <p><b>(i)</b> an individual who—</p> <p><b>(I)</b> is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;</p> <p><b>(II)</b> is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;</p> <p><b>(II)</b> is living in an emergency or transitional shelter;</p> <p><b>(IV)</b> is abandoned in a hospital; or</p> <p><b>(V)</b> is awaiting foster care placement;</p> <p><b>(ii)</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</p> <p><b>(iii)</b> migratory children (as defined in Section <a href="#">6399</a> of Title <a href="#">20</a>) who qualify as homeless under this section because the children are living in circumstances described in this paragraph;</p> <p>or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (<a href="#">42 U.S.C. 11434a(2)</a>));</p> <p><i>Self-Attestation</i> – When a participant states his or her status for a particular data element, such as low income, and then signs and dates a form acknowledging this status. The key elements for self-attestation are (1) the participant identifying his or her status for permitted elements, and (2) signing and dating a form attesting to this self- identification. The form and signature can be</p>	<p>A homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (<a href="#">42 U.S.C. 14043e-2(6)</a>)),</p> <p>A homeless child or youth (as defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (<a href="#">42 U.S.C. 11434a(2)</a>)), - <b>(2)</b> The term “homeless children and youths”—</p> <p><b>(A)</b> means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section <a href="#">11302 (a)(1)</a> of this title); and</p> <p><b>(B)</b> includes—</p> <p><b>(i)</b> 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;</p> <p><b>(ii)</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 (within the meaning of Section <a href="#">11302 (a)(2)(C)</a> <sup>[1]</sup> of this title);</p> <p><b>(iii)</b> children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and</p> <p><b>(iv)</b> migratory children (as such term is defined in Section <a href="#">6399</a> of Title <a href="#">20</a>) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).</p>

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<p>on paper or in the Local Area management information system, with an electronic signature (TEGL 06-14, Attachment A).          *Note that self-attestation is not to be used as the primary method of gathering documentation to verify data elements. Self-attestation as a documentation source is only to be used when the preferred options of paper documentation or third party corroboration are not available.</p>	
	<p>A runaway, in foster care or has aged out of the foster care system, (<i>NOTE: reportable in current file</i>)</p>
	<p>a child eligible for assistance under section 477 of the Social Security Act (<a href="#">42 U.S.C. 677</a>), -</p> <ul style="list-style-type: none"> <li>(1) To identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);</li> <li>(2) To help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment;</li> <li>(3) To help children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions;</li> <li>(4) To provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults;</li> <li>(5) To provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood;</li> <li>(6) To make available vouchers for education</li> </ul>

	<p>and training, including postsecondary training and education, to youths who have aged out of foster care; and</p> <p><b>(7)</b> To provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption.</p> <p>or in an out-of-home placement. – placed with a relative or extended family member as applicable.</p>
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## **DEPENDENT CHILDREN**

### ***DEPENDENT CHILDREN - Individuals who are:***

- (1) Claimed as a dependent on their parent’s income tax; AND**
- (2) (a) Under 18, not an emancipated minor, and living in a single residence with their parent(s) or guardian(s); or**
  - (b) Ages 18 – 21 and living in single residence with their parent(s) or guardian(s).**

Local boards may establish policy and procedures for determining the dependency of youth who do not fall into one of the defined categories above, or for whom income tax information is not available. As it is not possible to develop policy that will cover every situation, local boards should establish policy that allows for common sense, humanity, and good case records. Please include these local policy and procedures below.

### **Local Dependency Policy and Procedures**

For work2future, the local dependency policy and procedures shall be:  
For youth age 18-24, who are not full-time students in a secondary school or equivalent, and are living in a single residence with their parent(s) or guardian(s), the youth’s eligibility shall be based upon the individual youth’s income if the following criteria are met:

- i. The youth is not claimed as a dependent on the parent or guardian’s income tax; and
- ii. The youth meets the work2future policy of *serious barriers to employment*.

## **DETERMINING LOW-INCOME STATUS**

### Income Sources

The following income sources should be included in an individual's income calculation:

- Monetary compensation for services, including wages, tips, salary, commissions, or fees before any deductions;
- Net receipts from non-farm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expense);
- Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses);
- Regular payments from railroad retirement, strike benefits from union funds, worker's compensation, and training stipends (e.g., wages from the California Conservation Corp);
- Alimony, military family allotments, or other regular support from an absent family member or someone not living in the household;
  
- Private pensions, government employee pensions (including military retirement pay);
- Regular insurance or annuity payments (including state disability insurance);
- College or university scholarships (not needs-based), grants, fellowships, and assistantships;
- Net gambling or lottery winnings;
- Severance payments;
- Terminal leave pay; and
- Social Security Disability Insurance payments

The following income sources should not be included in an individual's income calculation:

- Unemployment insurance;
- Child support payments (including foster care child payments);
- Need-based public assistance payments (including Temporary Assistance for Needy Families, supplemental security income, emergency assistance money payments, and non-federally-funded general assistance or general relief money payments);
- Social Security old age and survivors' insurance benefit payments;
- Financial assistance under Title IV of the Higher Education Act, i.e., Pell Grants;
- Supplemental Educational Opportunity Grants and Federal Work Study;
- Needs-based scholarship assistance;

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- Loans;
- Veterans benefits;
- Income earned while the veteran was on active military duty and certain other veterans' benefits, i.e., compensation for service-connected disability, compensation for service-connected death, vocational rehabilitation, and education assistance;
- Capital gains;
- Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car;
- Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury;
- Non-cash benefits such as employer paid or union-paid portion of health insurance or other fringe benefits, food or housing received in lieu of wages;
- The value of food and fuel produced and consumed on farms;
- The imputed value of rent from owner occupied nonfarm or farm housing;
- Medicare, Medicaid, food stamps, school meals, and housing assistance; and
- Allowances, earnings and payments to individuals participating in programs under WIOA (except on-the-job training wages).

When a federal statute excludes income received under that statute in determining eligibility for programs operated under other federal laws, such income is *excluded* in WIOA eligibility determination as well.

### **The Lower Living Standard Income Level and Poverty Guidelines**

**LOWER LIVING STANDARD INCOME LEVEL** — the term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary.

**POVERTY LINE** — the term “poverty line” means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

**IN GENERAL** — the term “low-income individual” means 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 established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance; 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; is a homeless

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individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6))), or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

2. Receives or is eligible to receive a free or reduced priced lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
3. Is a foster child on behalf of whom State or local government payments are made; or
4. Is an individual with a disability whose own income meets the income requirement of clause (ii) but who is a member of a family whose income does not meet this requirement.

The LLSIL and poverty guidelines are used to establish low-income status for WIOA Title I programs. Local areas use the LLSIL and poverty guidelines to determine eligibility for adults and youth. The LLSIL and poverty guidelines are published each year for the Workforce Development Community in a [Workforce Services Directive](#).

The LLSIL and poverty guidelines are included in a table according to family size. To use the table, local areas should compare the applicant's actual individual or family income during the six-month income determination period with the six-month figures on the table. If complete information is not available, local areas may take the available information and calculate the income for a six-month or annual time period. ***If multiplying the six-month income by two overstates the actual annual income, the actual annual income should be used.***

Below is a sample LLSIL and poverty guidelines table for illustrative purposes only:

### SAMPLE LLSIL AND POVERTY GUIDELINES TABLE

Family Size							
	1	2	3	4	5	6	For each add'l - add
<b>70% Lower Living Standard Income Level</b>							
Annual	\$7,400	\$12,110	\$16,630	\$20,530	\$24,220	\$28,330	\$4,110
6 Months	\$3,700	\$6,055	\$8,315	\$10,265	\$12,110	\$14,165	\$2,055
100%	\$10,560	\$17,300	\$23,750	\$29,320	\$34,600	\$40,470	\$5,870
<b>Poverty Guidelines</b>							
<b>Annual</b>	\$8,350	\$11,250	\$14,150	\$17,050	\$19,950	\$22,850	\$2,900
<b>6 Months</b>	\$4,175	\$5,625	\$7,075	\$8,525	\$9,975	\$11,425	\$1,450

**Calculating Income**



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Individuals normally receive income as salary, varying, or intermittent payments. Local areas may calculate an individual's income using the following methods:

### (1) Salary

Salary is income received without variation in gross pay from pay period to pay period. Salary information may be provided in a series of pay stubs or one, cumulative pay stub.

To determine an individual's gross income for the most recent six-month time period, multiply the individual's weekly gross pay by 26, bi-weekly pay by 13, bi-monthly pay by 12, or monthly pay by 6.

Example: Bi-weekly pay stubs indicate a gross amount of \$548.

$\$548 \times 13 = \$7,124$ , the income for the most recent six-month time period

To determine the individual's annual gross income, multiply their weekly gross pay by 52, bi-weekly pay by 26, bi-monthly pay by 24, or monthly pay by 12.

Example: Year-to-date earnings of \$16,812 with bi-monthly payments. There were 18 bi-monthly payments of \$934.

$\$16,812 \div 18 = \$934$ , the bi-monthly payment amount

$\$934 \times 24 = \$22,416$ , the annual gross income

### (2) Varying

When reported earnings vary from pay period to pay period, annualize the average of the earnings submitted. The earnings may be submitted on a number of pay stubs or on one cumulative pay stub.

Example: Six weekly pay stubs report the following gross earnings: \$534, \$475, \$398, \$534, \$498, and \$534.

Add:  $\$534 + \$475 + \$398 + \$534 + \$498 + \$534 = \$2,973$

Divide:  $\$2,973 \div 6 = \$495.50$ , the average gross weekly earnings

Multiply:  $\$495.50 \times 52 = \$25,766$ , the annual gross income

### (3) Intermittent

Earnings are varied and include periods of unemployment. With as much data as possible, determine the annual gross income by adding the reported earnings.

## **IX. ELIGIBILITY DOCUMENTATION AND VERIFICATION**

The following guidance is intended to assist Local Workforce Investment Areas (local areas) in maintaining adequate documentation for monitoring reviews.

### **DOCUMENTATION AND VERIFICATION RELATED DEFINITIONS**

**DOCUMENTATION** – To maintain either hard copy or electronic on-file evidence obtained during the verification process. Evidence includes hard or scanned copies of documents, completed telephone/document inspection forms, hard copy or electronic signed applicant statements, local area Management Information System (MIS), and case notes.

**VERIFICATION** – To confirm an eligibility requirement through examination of official documents, (e.g., birth certificates, public assistance records, etc.), speaking with official representatives of cognizant agencies, observation (e.g., pregnancy status), examination of department records (e.g., cross match), and review of unofficial documents (e.g., written statement from an individual providing residence to a homeless individual, doctor's note confirming pregnancy, etc.).

**PAPERLESS** – A scanned document that is maintained, a cross match with a non-Workforce Innovative Opportunity Act (WIOA) system, or the local area's Management Information System. [U.S. Department of Labor (DOL) interpretation]

### **TYPES OF DOCUMENTATION**

- (1) Hard copies of evidence kept in a participant's file
- (2) Scanned documents stored electronically
- (3) Cross-Match

A cross-match requires validators to find detailed supporting evidence for the data element in a database. An indicator or presence of a Social Security Number (SSN) in a non-WIOA database is not sufficient evidence.

Example: Temporary Assistance for Needy Families participation can be determined by a cross-match with the State's public assistance database. It is not sufficient to find that the sampled SSN is present in the public assistance database; validators must also find supporting information such as dates of participation and services rendered.

- (4) Local Area MIS

Specific, detailed information that is stored in the local area's MIS that supports an element. An indicator, such as a checkmark on a computer screen, is not sufficient for source documentation.

Example: Local area MIS is an acceptable source of documentation for the date of first training service. To be an acceptable source to validate the date of first training service, the local area MIS should have the date of the first training, and information about the type of training and the organization that provided the training.

### (5) Self-Attestation

Self-attestation (also referred to as an applicant statement) occurs when a participant states his or her status for a particular data element, such as pregnant or parenting youth, 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 elements, and (b) signing and dating a form attesting to this self-identification. The form and signature can be on paper or in the local area MIS with an electronic signature.

### (6) Case Notes

Paper or electronic statements by the case manager that identifies, at a minimum: (a) a participant's status for a specific data element, (b) the date on which the information was obtained, and (c) the case manager who obtained the information. If case notes are used as a documentation source, the case notes must provide an auditable trail back to the source of information verified. The case manager does not need to keep a hard copy of the information verified in the participant's case file.

Example: If a case manager verifies the status of a youth as a foster child by viewing court records, the case notes must include auditable information, such as a court document number, that could allow an auditor/monitor to later retrieve this information. The case manager would not need to keep a hard copy of the court document in the participant's file.

[Reference: [Training and Employment Guidance Letter 28-11, Attachment A](#), Source Documentation Requirements for Program Year 2011 WIOA Data Element Validation]

## LOCAL POLICY AND PROCEDURES

### Documentation and Verification

The WIOA does not address the issues of eligibility documentation and verification; however, the DOL has implemented source documentation requirements for data validation to ensure local areas maintain and report accurate program information. These source documentation requirements are listed in [Section X](#) of this Technical Assistance Guide (TAG), and are the only documentation sources local areas may accept in establishing WIOA program eligibility.

Local Workforce Development Boards (local boards) may adopt policy and procedures for documenting and verifying eligibility for WIOA-funded programs, using the acceptable source documentation. These policies and procedures should be customer friendly and not add to the frustrations already experienced by individuals who are out of work. It is the purpose of WIOA programs to assist people who are having difficulty finding employment. It is not the intention of this program to discourage participation by imposing difficult documentation and verification requirements.

**Local areas must make reasonable efforts to document eligibility for WIOA- funded programs. While an applicant statement is not considered a primary documentation source, applicant statements may be used when an item is unverifiable or it is unreasonably difficult to obtain, as allowed in Section X of the TAG. The applicant’s difficulty in obtaining documentation does not need to entail hardship or suffering to justify using an applicant statement. In taking an applicant’s statement, it is not necessary to obtain corroboration unless there is reason not to believe the applicant.** Local areas may develop applicant statement forms or provide guidance to case managers about how to take acceptable applicant statements.

**For cases where documentation cannot or may not be copied, and/or is not readily obtainable, documents may be inspected or information verified by telephone. Telephone verification must be documented in the case notes and must include contact information and specific details.** For example, “August 15, 2013. Called Dept. of Corrections, spoke with Sgt. X who verified that Mr. Y was incarcerated between January 25 and March 16, 2013.” Local areas may develop documentation inspection and telephone verification forms or provide guidance to case managers regarding what information must be included in a participant’s case notes.

**Local areas must document an applicant’s birth date/age, authorization to work, and compliance with Selective Service as specified in Section X, Table A of the TAG.**

Local areas are responsible for ensuring that adequate documentation (i.e., one documentation source from each applicable eligibility criterion) is contained in the participant’s hard copy or electronic file to minimize the risk of disallowed costs. Local boards should develop a balanced local verification and documentation policy that is not excessively intrusive and burdensome and is, at the same time, a good faith and reasonable effort to establish WIOA eligibility.

**Local eligibility documentation and verification policy and procedures:**

It shall be the policy of the work2future to conduct eligibility documentation and verification in accordance with the Federal, State and work2future policies as contained in this document, the Workforce Innovative Opportunity Act Eligibility Technical Assistance Guide, dated May 2015, and as revised by future Federal, State and work2future policy modifications.

**Case Files**

The WIOA distinguishes between general program eligibility and eligibility for services. General program eligibility includes criteria such as authorization to work, compliance with Selective Service, and age. Eligibility for services is related to local determinations regarding the individual’s need for and ability to benefit from services. Adult and dislocated worker case files must contain determinations for, general program eligibility and the need for staff-assisted core, intensive and training services. These may be hard copy or electronic case files [Title 20 Code of Federal Regulations (CFR) Sections 663.160(b) and 663.240(b)].

## 1. General Program Eligibility

- For adults receiving career services, local areas must record equal opportunity information, authorization to work, age, and compliance with Selective Service registration. If an adult is unable to obtain or retain employment through staff-assisted core services and requires intensive services, local areas must record the remaining federal, State, and local documentation and verification requirements before providing intensive services [Title 20 CFR Section 663.105].
- For dislocated workers receiving staff-assisted core services, local areas must record equal opportunity information, authorization to work, age, compliance with Selective Service registration, and a determination that the individual meets the definition of “dislocated worker” [Title 20 CFR Section 663.105].
- For individuals receiving youth services, local areas must record equal opportunity information, authorization to work, age, compliance with Selective Service registration (when applicable), and a determination that the individual meets the definition of “eligible youth” [Title 20 CFR Sections 664.200 and 664.215].

Include local policy and procedures for maintaining participant case files below.

**Maintaining participant case files:**

For work2future, eligibility for WIOA Title I Services and Maintenance of Case Records shall be in accordance with the WIOA guidelines

**Maintenance of Case Records** All applicant and client hard copy and electronic case records shall be maintained in accordance with work2future's Client Record procedures as reflected in the work2future File Procedures.

## X. WORK SUPPORT ACTIVITIES FOR LOW WAGE WORKERS

Funds for adults may be used to provide work support activities designed to assist low-wage workers in retaining and enhancing employment. The one-stop partners of the system shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under this subparagraph.

These activities may include the provision of activities in a manner that enhances the opportunities of such worker to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.

### SUPPORTIVE SERVICES

Funds for adults may be used to provide supportive services to adults who:

1. Are participating in programs with career or training activities; and
2. Are unable to obtain such supportive services through other programs providing such services

## XI. ACCEPTABLE DOCUMENTATION SOURCES

The following tables are designed to assist Local Workforce Investment Areas (local areas) in documenting participant eligibility for WIOA programs. Only the documentation sources included in these tables are acceptable for establishing WIOA eligibility. **PLEASE NOTE STAFF SHOULD USE DUE DILIGENCE WHEN ACQUIRING THE DOCUMENTATION LISTED BELOW – FOR ACCEPTABLE DOCUMENTATION STAFF WILL ATTEMPT TO OBTAIN INFO IN THE ORDER LISTED BELOW – PLEASE CASE NOTE DUE DILLIGENCE.**

**Table A – General Eligibility**

GENERAL ELIGIBILITY	
The three general eligibility criteria apply to all WIOA Title I Programs	
Eligibility Criteria (Verify each eligibility criterion)	Acceptable Documentation (One document per eligibility criterion is required. Only the documentation sources listed below may be used.)
1. <b>Birth date/age</b>	<ul style="list-style-type: none"> <li>• Baptismal record</li> <li>• Birth certificate</li> <li>• Form DD-214 “Report of Separation”</li> <li>• Driver's license</li> <li>• Federal, state or local government issued identification card</li> <li>• Hospital record of birth</li> <li>• Passport</li> <li>• Public assistance/social service records</li> <li>• School records or identification card</li> <li>• Work permit</li> <li>• Cross match with Department of Public Health vital records</li> <li>• Tribal records</li> </ul>
2. <b>U.S. work authorization</b>  Note: For the list of acceptable verification documents included in the Form I-9, go to <a href="http://www.uscis.gov">www.uscis.gov</a> .	<ul style="list-style-type: none"> <li>• Verification document(s) that satisfy List A of the Form I-9</li> <li>• Verification document(s) that satisfy List B and C of the Form I-9</li> </ul>
3. <b>Selective Service registration</b>	<ul style="list-style-type: none"> <li>• Selective Service acknowledgement letter</li> <li>• Form DD-214 “Report of Separation”</li> <li>• Screen printout of the Selective Service verification internet site: <a href="https://www.sss.gov/RegVer/wfVerification.aspx">https://www.sss.gov/RegVer/wfVerification.aspx</a></li> <li>• Selective Service registration card</li> <li>• Selective Service verification form (Form 3A)</li> <li>• Stamped post office receipt of registration</li> <li>• Selective Service status information letter</li> <li>• Evidence presented by an individual that his failure to register with the Selective Service was not knowing and willful (e.g., a written explanation accompanied by supporting documentation such as a third party affidavit)</li> </ul>

**Table 1 – Adult Eligibility**

<b>ADULT ELIGIBILITY FOR INDIVIDUALIZED CAREER SERVICES</b> (An Adult must meet the WIOA general eligibility criteria and one of the (3) three eligibility criteria below)	
<b>Eligibility Criteria</b> (Verify one of the seven eligibility criteria)	<b>Acceptable Documentation</b> (One document per eligibility criterion is required)
1. Public Assistance	<ul style="list-style-type: none"> <li>• See Low Income Table</li> </ul>
2. Other Low Income Individual	<ul style="list-style-type: none"> <li>• See Low Income Table</li> </ul>
3. Individuals who are basic skills deficient	<ul style="list-style-type: none"> <li>• Standardized assessment test</li> </ul>

**Table 2 – Dislocated Worker Eligibility**

<b>DISLOCATED WORKER ELIGIBILITY</b> - (A dislocated worker must meet the WIOA general eligibility criteria and one of the eligibility criteria below)	
<b>Eligibility Criteria</b> <small>(Verify one of the eligibility criteria below)</small>	<b>Acceptable Documentation</b> <small>(One document per eligibility criterion is required)</small>
<p>1 - Individual is:                      Terminated or Laid off, or has received notice of termination or layoff, <b>AND</b></p>	<ul style="list-style-type: none"> <li>• Worker Adjustment and Retraining Notification Act (WARN) notice</li> <li>• Photocopy of a printed media article or announcement describing the layoff. The photocopy must include the name of the medium in which published and the date of publication</li> <li>• Employer or union representative letter or statement</li> <li>• DE 8406 Personalized Job Search Assistance (PJSA) appointment notice form</li> <li>• DE 8530 Reemployment Eligibility Assistance (REA) letter</li> <li>• DE 1106/Z Appointment notice of referral to an Initial Assistance Workshop (IAW)</li> <li>• Screen print of IAW schedule</li> <li>• Reemployment plan generated from IAW</li> <li>• Invitation letter to Self-Employment Assistance (SEA) orientation</li> <li>• Screen print of SEA schedule.</li> <li>• Self-attestation – Please use Applicant Statement Form</li> </ul>
<p>(B) Is eligible for or has exhausted entitlement to unemployment compensation;</p> <p><b>AND</b></p> <p>(C) Is unlikely to return to previous industry or occupation</p>	<ul style="list-style-type: none"> <li>• Statement by an Unemployment Insurance (UI) representative</li> <li>• UI records, including the DE 1180PH Claim Status and History form, DE 4581 Continued Claim Paper form, DE 8406 PJSA appointment notice form, DE 8530 REA letter, and Employment Development Department (EDD) Web-Cert<sup>SM</sup> printout</li> <li>• DE 1106/Z Appointment notice of referral to an IAW</li> <li>• Screen print of IAW schedule</li> <li>• Reemployment plan generated from IAW</li> <li>• Invitation letter to SEA orientation</li> <li>• Screen print of SEA schedule.</li> <li>• DE 1106/Z Appointment notice of referral to an IAW</li> <li>• Screen print of IAW schedule</li> <li>• Reemployment plan generated from IAW</li> <li>• Invitation letter to SEA orientation</li> <li>• Screen print of SEA schedule</li> <li>• DE 8406 PJSA appointment notice form</li> </ul> <p><b>Note: If one of the above is not available, documented telephone verification from the EDD field office will suffice.</b></p> <ul style="list-style-type: none"> <li>• Internet site, such as CalJOBS<sup>SM</sup> that indicates lack of industry/occupation availability</li> <li>• Screen print of Labor Market Information Division screens that indicates lack of industry/occupation availability</li> <li>• Doctor statement indicating applicant's inability to return to previous industry/occupation due to physical limitations</li> <li>• Vocational rehabilitation counselor's statement indicating applicant's inability to return to previous industry/occupation due to physical limitations</li> <li>• Employment Specialist's determination</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>



**Table 2 – Dislocated Worker Eligibility Continued**

<p>2 - Individual is:</p> <ul style="list-style-type: none"> <li>• Terminated or Laid off, or has received notice of termination or layoff, <u>and</u></li> <li>• Has been employed for sufficient duration (based on state policy) to demonstrate workforce attachment, but is not eligible for UC due to insufficient earnings, or the employer is not covered under the state UC law, <u>and</u></li> <li>• Is unlikely to return to previous industry or occupation.</li> </ul>	<ul style="list-style-type: none"> <li>• WARN notice</li> <li>• Copy of other specific notice to employee of intent to layoff</li> <li>• UI Form 501 (Separation Statement), when completed on both sides and signed by an employer representative</li> <li>• Employer or union representative letter or statement</li> <li>• Telephone verification</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>
<p>3 - Terminated or Laid off, or has received notice of termination or layoff, from employment as result of permanent closure of, or substantial layoff at a plant, facility or enterprise</p>	<ul style="list-style-type: none"> <li>• Bankruptcy documents, if declared under Chapter 7, Title 11, U.S.C.</li> <li>• Notice of foreclosure or a similar document provided by a financial institution when such document clearly shows that a closure or mass layoff will occur as a result of its issuance</li> <li>• Copy of a printed media article/announcement describing the closure/mass layoff; the copy must include the name of the medium in which published and the date of publication</li> <li>• Statement from the employer or union representative</li> <li>• Statement from the employer's bank official, attorney, supplier, accountant, or another knowledgeable individual</li> </ul>
<p>4 - Individual is employed at a facility at which the employer has made a general announcement that the facility will close. Enter the date the facility will close (if known) in the Projected Layoff Date field.</p>	<ul style="list-style-type: none"> <li>• Bankruptcy documents, if declared under Chapter 7, Title 11, U.S.C.</li> <li>• Notice of foreclosure or a similar document provided by a financial institution when such document clearly shows that a closure or mass layoff will occur as a result of its issuance</li> <li>• Copy of a printed media article/announcement describing the closure/mass layoff; the copy must include the name of the medium in which published and the date of publication</li> <li>• Statement from the employer or union representative</li> <li>• Statement from the employer's bank official, attorney, supplier, accountant, or another knowledgeable individual</li> </ul>
<p>5 - Previously Self-employed (including farmers, ranchers and fisherman) but is unemployed due to general economic conditions in the community fo residence or because of natural disaster.</p>	<ul style="list-style-type: none"> <li>• Bankruptcy documents listing both the name of the business and the applicant's name</li> <li>• Business license</li> <li>• Copy of a completed federal income tax return (Schedule SE) for the most recent tax year</li> <li>• Copy of a printed media article/announcement describing the closure/mass layoff; the copy must include the name of the medium in which published and the date of publication</li> <li>• Copy of articles of incorporation for the business listing the applicant as a principal</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>

**Table 2 – Dislocated Worker Eligibility Continued**

<p>6 - Displaced Homemaker - An individual who has been providing unpaid services to family members in the home <b>AND</b></p> <ul style="list-style-type: none"> <li>• Has been dependent on the income of another family member but is no longer supported by that income;</li> </ul> <p><u>or</u></p> <ul style="list-style-type: none"> <li>• Is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of</li> <li>• a deployment,</li> <li>• a call or order to active duty,</li> <li>• a permanent change of station, or</li> <li>• the service-connected death or disability of the member; <b>AND</b></li> </ul> <p>Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.</p>	<ul style="list-style-type: none"> <li>• Public assistance records</li> <li>• Court records</li> <li>• Divorce papers</li> <li>• Bank records</li> <li>• Spouse's member's layoff notice</li> <li>• Deployment notice</li> <li>• Call to duty notice</li> <li>• Relocation/Change in station/duty notice</li> <li>• Spouse's death record</li> <li>• Spouse's disability record</li> <li>• Paycheck stub</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>
<p>7 - Spouse of a member of the Armed Forces on active duty, and who has experienced a <b>loss of employment as a direct result of relocation to accommodate a permanent change in duty station</b> of such member</p>	<ul style="list-style-type: none"> <li>• Relocation/Change in station/duty notice</li> </ul>
<p>8 -Spouse of a member of the Armed Forces on active duty and who is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.</p>	<ul style="list-style-type: none"> <li>• Paycheck stub</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>
<p>9 - None of the above: Termination/layoff does not qualify individual for Dislocated Worker Program</p>	

**Table 3 – Youth Eligibility (Out-of-School)**

<b>YOUTH ELIGIBILITY - In General to be eligible to participate in activities an individual shall, at the time the eligibility determination is made, be an Out-of-School Youth or an In-School Youth</b>	
<b>Eligibility Criteria</b> (Verify each eligibility criterion)	<b>Acceptable Documentation</b> (One document per eligibility criterion is required.)
<b>OUT OF SCHOOL YOUTH</b> <b>Not attending any school (as defined under state law)</b> <b>Age 16 - 24</b>	<ul style="list-style-type: none"> <li>• School records</li> <li>• Self-attestation - Please use Applicant Statement Form</li> <li>• See Table 1 – General Eligibility</li> </ul>
<b>One of more of the following</b>	
(1) A school dropout (Refers to an individual who has dropped out of high school and not completed their high school diploma or equivalent)	<ul style="list-style-type: none"> <li>• School documentation/statement/records</li> <li>• Drop out letter</li> <li>• WIOA application</li> <li>• Local area Management Information System</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>
(2) 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.	<ul style="list-style-type: none"> <li>• Telephone verification with the school</li> <li>• Statement from school</li> <li>• Report card</li> <li>• School records</li> </ul>
(3) A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is—  <b>(A) Basic skills deficient; or</b>  <b>(B) An English language learner</b>	<ul style="list-style-type: none"> <li>• High School Diploma</li> <li>• GED certificate</li> <li>• School records</li> <li>• Standardized assessment test</li> <li>• School records</li> <li>• Case notes</li> <li>• Standardized assessment test</li> <li>• School records</li> <li>• Case notes</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>
(4) An individual who is subject to the juvenile or adult justice system (offender)	<ul style="list-style-type: none"> <li>• Documentation from juvenile or adult criminal justice system</li> <li>• Documented phone call with court or probation representatives</li> <li>• WIOA application</li> </ul>

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<p>(5) Homeless</p>	<ul style="list-style-type: none"> <li>• Written statement from an individual providing temporary residence</li> <li>• Written statement from social service agency</li> <li>• Written statement from a shelter</li> <li>• WIOA application</li> <li>• Self-attestation</li> </ul>
<p>(6) An Individual who is pregnant or parenting</p>	<ul style="list-style-type: none"> <li>• Copy of child's birth certificate</li> <li>• Baptismal record</li> <li>• Observation of pregnancy status</li> <li>• Doctor's note confirming pregnancy</li> </ul>
<p>(7) A Youth who is an individual with a disability, including learning disability</p>	<ul style="list-style-type: none"> <li>• Medical records</li> <li>• Physician's statement</li> <li>• Psychiatrist or psychologist diagnosis/statement</li> <li>• Social Security administration disability records</li> <li>• Letter from drug or alcohol rehabilitation agency</li> <li>• School record/official statement</li> <li>• Observable condition (self-attestation with the interviewer serving as the corroborating witness)</li> <li>• Rehabilitation evaluation</li> <li>• Sheltered workshop certification</li> <li>• Social service records/referral</li> <li>• Veterans administration letter/records</li> <li>• Vocational rehabilitation letter/statement</li> <li>• Workers compensation records/statement</li> <li>• Telephone verification</li> <li>• Other applicable, verifiable, documentation</li> <li>• Self-attestation</li> </ul>
<p>(8) A low income individual who requires additional assistance to enter or complete an education program or to secure or hold employment</p>	<ul style="list-style-type: none"> <li>• See Table 4 – Low Income</li> <li>• See Definition “requires additional assistance (RAA)”</li> <li>• School records</li> <li>• Court records</li> <li>• Written confirmation from social service agency</li> <li>• Case notes</li> <li>• Agency referrals mandating school attendance</li> <li>• Agency confirmation – treatment for substance abuse related problems</li> <li>• Qualified professional documentation</li> <li>• Self Attestation – dependant see definition RAA.</li> </ul>

**Table 4 – Youth Eligibility (In-School)**

<b>YOUTH ELIGIBILITY - In General to be eligible to participate in activities an individual shall, at the time the eligibility determination is made, be an Out-of-School Youth or an In-School Youth</b>	
<b>Eligibility Criteria</b> (Verify each eligibility criterion)	<b>Acceptable Documentation</b> (One document per eligibility criterion is required.)
<b>IN-SCHOOL YOUTH</b>  <b>Attending school (as defined under state law) including secondary and post secondary school</b>  <b>Age 14-21</b>	<ul style="list-style-type: none"> <li>• School records</li> <li>• See Table 1 – General Eligibility</li> </ul>
<b>Low Income Individual</b>	<ul style="list-style-type: none"> <li>• See Low Income Table 5</li> </ul>
<b>One of more of the following</b>	
(1) Basic Skills Deficient	<ul style="list-style-type: none"> <li>• School documentation/statement/records</li> <li>• Standardized assessment test</li> </ul>
(2) An English Language Learner	<ul style="list-style-type: none"> <li>• School documentation/statement/records</li> <li>• Standardized assessment test</li> </ul>
(3) An offender	<ul style="list-style-type: none"> <li>• Documentation from juvenile or adult criminal justice system</li> <li>• Documented phone call with court or probation representatives</li> <li>• WIOA application</li> <li>• Self-attestation</li> </ul>
(4) Homeless	<ul style="list-style-type: none"> <li>• Written statement from an individual providing temporary residence</li> <li>• Written statement from social service agency</li> <li>• Written statement from a shelter</li> <li>• WIOA application</li> <li>• Self-attestation</li> </ul>
(5) An Individual who is pregnant or parenting	<ul style="list-style-type: none"> <li>• Copy of child’s birth certificate</li> <li>• Baptismal record</li> <li>• Observation of pregnancy status</li> <li>• Doctor’s note confirming pregnancy</li> <li>• Self-attestation</li> </ul>
(6) An individual with a disability, including learning disability	<ul style="list-style-type: none"> <li>• Medical records</li> <li>• Physician's statement</li> <li>• Psychiatrist or psychologist diagnosis/statement</li> <li>• Social Security administration disability records</li> <li>• Letter from drug or alcohol rehabilitation</li> </ul>

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	<ul style="list-style-type: none"> <li>agency</li> <li>• School record/official statement</li> <li>• Observable condition (self-attestation with the interviewer serving as the corroborating witness)</li> <li>• Rehabilitation evaluation</li> <li>• Sheltered workshop certification</li> <li>• Social service records/referral</li> <li>• Veterans administration letter/records</li> <li>• Vocational rehabilitation letter/statement</li> <li>• Workers compensation records/statement</li> <li>• Telephone verification</li> <li>• Other applicable, verifiable, documentation</li> <li>• Self-attestation</li> </ul>
<p>(7) A low income individual who requires additional assistance to enter or complete an education program or to secure or hold employment</p>	<ul style="list-style-type: none"> <li>• See Table 4 – Low Income</li> <li>• See Definition “Requires Additional Assistance (RAA)”</li> <li>• School records</li> <li>• Court records</li> <li>• Written confirmation from social service agency</li> <li>• Case notes</li> <li>• Agency referrals mandating school attendance</li> <li>• Agency confirmation – treatment for substance abuse related problems</li> <li>• Qualified professional documentation</li> <li>• Self-Attestation: for dependants’ see RAA definition.</li> </ul>

**Table 5 – Low-Income**

<b>LOW-INCOME</b> (A low-income individual must meet one of the criteria below.)	
<b>Eligibility Criteria</b> (Verify one of the seven eligibility criteria)	<b>Acceptable Documentation</b> (One document per eligibility criterion is required)
<p><b>1.</b> Receives, or is a member of a that receives, cash payments under a federal, state, or local income-based public assistance program.</p>	<ul style="list-style-type: none"> <li>• Authorization to receive cash public assistance</li> <li>• Public assistance check</li> <li>• Medical card showing cash grant status</li> <li>• Public assistance records</li> <li>• Refugee assistance records</li> <li>• Cross-match with public assistance database</li> </ul>
<p><b>2.</b> Received an income, or is a member of a family that received a total family income, for the six-month period prior to application for the program that, in relation to family size, does not exceed the higher of:</p> <p>(A) The poverty line for an equivalent period; or</p> <p>(B) 70 percent of the Lower Living Standard Income Level for an equivalent period.</p> <p>Note: Documentation should be provided for each applicable inclusive income source received by the applicant and each family member for the six-month income period immediately preceding the determination date.</p> <p>It is necessary to verify family size when utilizing family income eligibility.</p> <p>An applicant who claims little or no income must submit a statement that little or no income was received during the past six months, and that he/she was not employed for that period.</p>	<ul style="list-style-type: none"> <li>• Alimony agreement</li> <li>• Award letter from Veterans Administration</li> <li>• Bank statements (direct deposit)</li> <li>• Compensation award letter</li> <li>• Court award letter</li> <li>• Employer statement/contact</li> <li>• Family or business financial records</li> <li>• Housing authority verification</li> <li>• Pay stubs</li> <li>• Pension statement</li> <li>• Public assistance records</li> <li>• Quarterly estimated tax for self-employed persons (Schedule C)</li> <li>• Social Security benefits records</li> <li>• UI documents and/or printout</li> <li>• Low Income Self Attestation – to be used by an applicant who claims little or no income – the applicant must submit a statement that little or no income was received during the past six months, and that he/she was not employed for that period.</li> </ul>
<p><b>3.</b> The applicant is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).</p>	<ul style="list-style-type: none"> <li>• Current authorization to obtain food stamps</li> <li>• Food stamp card with current date</li> <li>• Current food stamp receipt</li> <li>• Postmarked food stamp mailer with applicable name and address</li> <li>• Statement from County Welfare Office</li> <li>• Public assistance records</li> </ul>
<p><b>4.</b> Qualifies as a homeless individual, as defined in subsections (a) and (c) of Section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).</p>	<ul style="list-style-type: none"> <li>• Written statement from an individual providing temporary residence</li> <li>• Written statement from social service agency</li> <li>• Written statement from a shelter</li> <li>• WIOA application</li> <li>• Self-attestation - Please use Homeless Applicant Statement Form</li> </ul>

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<p><b>5.</b> Foster child for which state or local government payments are made on his/her behalf.</p>	<ul style="list-style-type: none"> <li>• Written confirmation from social services agency</li> <li>• Case notes</li> </ul>
<p><b>6.</b> An individual with a disability whose own income meets the low-income requirements of #1 and #2 listed above, but is a member of a family whose income does not meet such requirements.</p> <p>Note: Disability status as well as income must be verified. An individual with a disability shall be considered a family of one for eligibility purposes.</p>	<ul style="list-style-type: none"> <li>• Medical records</li> <li>• Physician's statement</li> <li>• Psychiatrist or psychologist diagnosis/statement</li> <li>• Social Security Administration disability records</li> <li>• Letter from drug or alcohol rehabilitation agency</li> <li>• School record/official statement</li> <li>• Observable condition (self-attestation with the interviewer serving as the corroborating witness)</li> <li>• Rehabilitation evaluation</li> <li>• Sheltered workshop certification</li> <li>• Social Service records/referral</li> <li>• Veterans Administration letter/records</li> <li>• Vocational rehabilitation letter/statement</li> <li>• Workers compensation records/statement</li> <li>• Telephone verification</li> <li>• Other applicable, verifiable, documentation</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>



**Table 6 – Priority of WIOA Services**

<b>PRIORITY OF SERVICE</b>	
<b>Priority of Service Criteria</b>	<b>Acceptable Documentation</b> (Only the documentation sources listed below may be used.)
<b>1. Recipient of Public Assistance</b>	<ul style="list-style-type: none"> <li>▪ Cross-match with public assistance database</li> <li>▪ Copy of authorization to receive cash public assistance</li> <li>▪ Copy of public assistance check</li> <li>▪ Medical card showing cash grant status</li> <li>▪ Public assistance records</li> <li>▪ Refugee assistance records</li> </ul>
<b>2. Low Income</b>	<ul style="list-style-type: none"> <li>▪ Alimony agreement</li> <li>▪ Award letter from veteran’s administration</li> <li>▪ Bank statements</li> <li>▪ Compensation award letter</li> <li>▪ Court award letter</li> <li>▪ Pension statement</li> <li>▪ Employer statement/contact</li> <li>▪ Family or business financial records</li> <li>▪ Housing authority verification</li> <li>▪ Pay stubs</li> <li>▪ Public assistance records</li> <li>▪ Quarterly estimated tax for self-employed persons</li> <li>▪ Social Security benefits</li> <li>▪ Unemployment Insurance documents</li> <li>▪ Self-Attestation* - Use Applicant Statement Form</li> </ul>
<b>3. Basic Skills Deficient</b>	<ul style="list-style-type: none"> <li>▪ School Records                             <ul style="list-style-type: none"> <li>- A referral or records from a Title II Basic Adult Education program or English Language Learner Program</li> </ul> </li> <li>▪ Results of academic assessment</li> <li>▪ Case Notes</li> <li>▪ Self-Attestation*</li> </ul>
<p><i>*Self-Attestation</i> - When a participant states his or her status for a particular data element, such as low income, and then signs and dates a form acknowledging this status. The key elements for self-attestation are (1) the participant identifying his or her status for permitted elements and (2) signing and dating a form attesting to this self-identification. The form and signature can be on paper or in the local area management information system, with an electronic signature (TEGL 06-14, Attachment A).</p> <p>Note that, self-attestation is not to be used as the primary method of gathering documentation to verify data elements. Self-attestation as a documentation source is only to be used when the preferred options of paper documentation or third-party corroboration are not available.</p>	

**For reporting and statistical purposes, the EDD recommends Local Areas document all barriers of employment in order to accurately measure populations served within the one-stop system.**

**Table 7 – Employment Status at Participation**

<b>EMPLOYMENT STATUS AT PARTICIPATION</b>	
<b>Eligibility Criteria</b>	<b>Acceptable Documentation</b>
<b>Employed</b>	<ul style="list-style-type: none"> <li>• Pay stub</li> <li>• Case notes showing information collected from participant</li> </ul>
<b>Not employed</b>	<ul style="list-style-type: none"> <li>• Case notes showing information collected from participant</li> </ul>
<b>Underemployed</b>	<ul style="list-style-type: none"> <li>• Employment specialist or case manager’s determination</li> <li>• Telephone verification</li> <li>• Self-attestation - Please use Applicant Statement Form</li> </ul>

## **XII. ACRONYMS**

AEFLA	Adult Education and Family Literacy Act
CBO	Community-based organization
CEO	Chief elected official
CFR	Code of Federal Regulations
CSBG	Community Services Block Grant
DINAP	Division of Indian and Native American Programs
DOL	U.S. Department of Labor
ED	U.S. Department of Education
EO	Executive Order
ESL	English-as-a-second-language
ETA	Employment and Training Administration
ETP	Eligible training provider
FEIN	Federal employer identification number
FR	Federal Register
HHS	Department of Health and Human Services
INA	Indian and Native American
INAP	Indian and Native American Programs
IT	Information technology
JTPA	Job Training Partnership Act
JVSG	Jobs for Veterans State Grants
LMI	Labor market information
MOU	Memorandum of Understanding
NACTP	Native American Career and Technical Education Program
NPRM	Notice of Proposed Rulemaking
OJT	On-the-job training

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OMB	Office of Management and Budget
OPRD	Office of Policy and Research
PRA	Paperwork Reduction Act of 1995
Pub. L	Public Law
PY	Program Year
RFA	Regulatory Flexibility Act
RFI	Requests for Information
RFP	Request for Proposals
RIN	Regulatory Information Number
ROI	Requests of Information
SBA	Small Business Administration
SBREFA	Small Business Regulatory Enforcement Fairness Act of 1996
SEC.	Section of a Public Law or the United States Code
SNAP	Supplemental Nutrition Assistance Program
SSA	Social Security Administration
TANF	Temporary Assistance for Needy Families
TEGL	Training and Employment Guidance Letter
UC	Unemployment Compensation
UI	Unemployment Insurance
U.S.C.	United States Code
VETS	Veterans' Employment and Training Service
VR	Vocational Rehabilitation
WIOA	Workforce Innovation and Opportunity Act
WISPR	Workforce Investment Streamlined Performance Reporting
WRIS	Wage Record Interchange System

## **XIII. DEFINITIONS**

Below is a list of terms defined throughout the Technical Assistance Guide (TAG). Clicking on a term will take you to the section in the TAG where it is defined or discussed.

**ADULT** — except as otherwise specified in Section 132, the term “adult” means an individual who is age 18 or older.

**ADULT EDUCATION** — the term “adult education” means academic instruction and education services below the postsecondary level that increase an individual’s ability to— read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent; transition to post-secondary education and training;

**ADULT SCHOOL** Adult School is Out of school Youth – An older youth over 18 and is attending below - the individual would be considered Out of School.

Section 681.230 What does “school” refer to in the “not attending or attending any school” in the out-of-school and in-school definitions,

The term school refers to both secondary and post-secondary school as defined by the applicable State law for secondary and post-secondary institutions.

This proposed section provides that for purposes of Title I of WIOA, the Department does not consider providers of adult education under Title II of WIOA, Youth Build programs, or Job Corps programs as schools. **Therefore, if the only “school” the youth attends is adult education provided under Title II of WIOA, Youth Build, or Job Corps, the Department will consider the individual an OSY youth for purposes of Title I of WIOA youth program eligibility.**

WIOA emphasizes the importance of coordination among Federally-Funded Employment and Training Programs, including those authorized under Titles I and II. Many disconnected youth age 16 to 24 meet eligibility requirements for both WIOA Title I youth activities and WIOA Title II adult education.

Co-enrollment between these two programs can be very beneficial to disconnected youth as they can receive work experience and occupational skills through Title I funding and literacy skills through Title II funding. Because the eligibility for Title II is similar to that for an OSY under Title I, an individual who is not enrolled or required to be enrolled in secondary school under State law, it is consistent to consider such youth already enrolled in Title II as an OSY for purposes of Title I WIOA youth eligibility.

### **Adult Education – State Program**

The California Adult Education Program serves state and national interests by providing life-long educational opportunities and support services to all adults. The Adult Education programs address the unique and evolving needs of individuals and communities by providing adults with the knowledge and skills necessary to participate effectively as productive citizens, workers, and family members.

#### **Program Description**

The California *Education Code (EC)* Sections 52501, 52502, 52503 and California *Code of Regulations*, Title 5 Section 10560 allows unified or high school districts to establish separate adult schools. The state budget supports these adult schools based on average daily attendance (ADA), which equals to 525 hours per unit of ADA. Courses under the following program areas can be funded by state apportionment:

- Adult Literacy/High School Diploma
- English as a Second Language/Citizenship
- Adults with Disabilities
- Career Technical Education/Apprenticeships
- Parenting, Family, and Consumer Awareness
- Older Adults

**ADULT EDUCATION AND LITERACY ACTIVITIES** — the term “adult education and literacy activities” means programs, activities, and services that include adult education, literacy, work- place 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.

**AREA CAREER AND TECHNICAL EDUCATION SCHOOL** — The term “area career and technical education.

(A) a specialized public secondary school used exclusively or principally for the provision of career and technical education to individuals who are available for study in preparation for entering the labor market;

(B) the department of a public secondary school exclusively or principally used for providing career and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a public or nonprofit technical institution or career and technical education school used exclusively or principally for the provision of career and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits, as regular students, individuals who have completed secondary school and individuals who have left secondary school; or

(D) the department or division of an institution of higher education, that operates under the policies of the eligible agency and that provides career and technical education in not fewer than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits, as regular students, both individuals who have completed secondary school and individuals who have left secondary school.”

**BASIC SKILLS DEFICIENT** — the term “basic skills deficient” means, with respect to an individual:

1. Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
2. Who is a youth or adult that the individual 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 AND TECHNICAL EDUCATION** — the term “career and technical education” (A) offer a sequence of courses that--

- (i) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;
- (ii) Provides technical skill proficiency, an industry- recognized credential, a certificate, or an associate degree; and
- (iii) May include prerequisite courses (other than a remedial course) that meet the requirements of this subparagraph; and

(B) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation- specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.”

**CAREER PATHWAY** — the term “career pathway” means 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 apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, Chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an “apprenticeship”, except in Section 171);
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;

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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** — the term “career planning” means the provision of a client-centered approach in the delivery of services, designed:

1. To prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary WIOA activities and supportive services, using, where feasible, computer-based technologies; and
2. To provide job, education, and career counseling, as appropriate during program participation and after job placement.

**CHIEF ELECTED OFFICIAL** — the term “chief elected official” means:

1. The chief elected executive officer of a unit of general local government in a local area; and
2. In a case in which a local area includes more than 1 unit of general local government, the individuals designated under the agreement described in Section 107(c)(1)(B).

**COMMUNITY-BASED ORGANIZATION** — the term “community-based organization” means 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.

**COMPETITIVE INTEGRATED EMPLOYMENT** — the term “competitive integrated employment” - People with disabilities have the same right to work at a job that pays them minimum wage or more, in a place that has people with and without disabilities working together, and provides chances to get raises and promotions, as people without disabilities.

**CORE PROGRAM** — the term “Core programs” means a program authorized under a core program provision.



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**CORE PROGRAM PROVISION** — the term “core program provision” means:

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
4. Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than Section 112 or Part C of that Title (29 U.S.C. 732, 741) (relating to vocational rehabilitation services).

**CUSTOMIZED TRAINING** — the term “customized training” means training:

1. that is designed to meet the specific requirements of an employer (including a group of employers);
2. that is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and
3. for which the employer pays—
  - a. 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
  - b. in the case of customized training (as defined in S subparagraphs (A) and (B)) 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.

**ECONOMIC DEVELOPMENT AGENCY** — the term “economic development agency” includes 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.

**ELIGIBLE YOUTH** — except as provided in Subtitles C and D of Title I, the term “eligible youth” means an in-school youth or out-of-school youth.

**EMPLOYMENT AND TRAINING ACTIVITY** — the term “employment and training activity” means an activity described in Section 134 that is carried out for an adult or dislocated worker.

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**ENGLISH LANGUAGE ACQUISITION PROGRAM** — the term “English language acquisition program” means a program of instruction designed to help eligible individuals who are English language learners achieve competence in reading, writing, speaking, and comprehension of the English language; and that leads to attainment of a secondary school diploma or its recognized equivalent; and transition to postsecondary education and training; or employment.

**ENGLISH LANGUAGE LEARNER** — the term “English language learner” when used with respect to an eligible individual, means an eligible 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.

**FIVE PERCENT ELIGIBILITY EXCEPTIONS** — in each local area, not more than 5 percent of the individuals assisted under WIOA may be persons who would be covered individuals, except that the persons are not low-income individuals.

**HIGH POVERTY AREA** — a youth who lives in a high poverty area is automatically considered to be a low-income individual. A high-poverty area is a Census tract, a set of contiguous Census tracts, Indian Reservation, tribal land, or Native Alaskan Village or county that has a poverty rate of at least 30 percent as set every 5 years using American Community Survey 5-Year data.

### **IN-DEMAND INDUSTRY SECTOR OR OCCUPATION —**

**(A) IN GENERAL** — the term “in-demand industry sector or occupation” means:

1. 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, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or
2. 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.

**(B) DETERMINATION** — the determination of whether an industry sector or occupation is in-demand under this paragraph shall be made by the State board or local board, as appropriate, using State and regional business and labor market projections, including the use of labor market information.

**INDIVIDUAL WITH A BARRIER TO EMPLOYMENT** — the term “individual with a barrier to employment” means a member of 1 or more of the following populations:

- a. Displaced homemakers;
- b. Low-income individuals;
- c. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in Section 166;
- d. Individuals with disabilities, including youth who are individuals with disabilities;
- e. Older individuals;
- f. Ex-offenders;
- g. Homeless individuals (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42U.S.C. 14043e–2(6))), or
1. Homeless children and youths (as defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)))
- h. Youth who are in or have aged out of the foster care system;
- i. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
- j. Eligible migrant and seasonal farm workers, as defined in Section 167(i);
- k. Individuals within 2 years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.);
- l. Single parents (including single pregnant women);
- m. Long-term unemployed individuals;
- n. Such other groups as the Governor involved determines to have barriers to employment.

**INDIVIDUAL WITH A DISABILITY** — The term “disability” means, with respect to an individual—

(A) A physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) A record of such an impairment; or

(C) Being regarded as having such an impairment (as described in paragraph (3)).

**(3) Regarded as having such an impairment**

For purposes of paragraph (1)(C):

(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

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**INDIVIDUALS WITH DISABILITIES** — the term “individuals with disabilities” means more than 1 individual with a disability.

**INDUSTRY OR SECTOR PARTNERSHIP** — the term “industry or sector partnership” means a workforce collaborative, convened by or acting in partnership with a State Board or Local Board, that:

- a. Organizes key stakeholders in an industry cluster into a working group that focuses on the shared goals and human resources needs of the industry cluster and that includes, at the appropriate stage of development of the partnership:
  1. Representatives of multiple businesses or other employers in the industry cluster, including small and medium-sized employers when practicable;
  2. 1 or more representatives of a recognized State labor organization or central labor council, or another labor representative, as appropriate; and
  3. 1 or more representatives of an institution of higher education with, or another provider of, education or training programs that support the industry cluster; and
- b. May include representatives of:
  1. State or local government;
  2. State or local economic development agencies;
  3. State boards or local boards, as appropriate;
  4. A State workforce agency or other entity providing employment services;
  5. Other State or local agencies;
  6. Business or trade associations;
  7. Economic development organizations;
  8. Nonprofit organizations, community-based organizations, or intermediaries;
  9. Philanthropic organizations;
  10. Industry associations; and
  11. Other organizations, as determined to be necessary by the members comprising the industry or sector partnership.

**INSTITUTION OF HIGHER EDUCATION** — For purposes of this chapter, other than subchapter IV, the term “institution of higher education” means an educational institution in any State that—

- (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of Section [1091 \(d\)](#) of this Title;
- (2) is legally authorized within such State to provide a program of education beyond secondary education;
- (3) provides an educational program for which the institution awards a Bachelors’ Degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a

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graduate or professional degree program, subject to review and approval by the Secretary;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

### **(b) Additional institutions included**

For purposes of this chapter, other than Subchapter IV, the term “institution of higher education” also includes—

(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of Paragraphs (1), (2), (4), and (5) of Subsection (a) of this section; and

(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

### **(c) List of accrediting agencies**

For purposes of this section and Section [1002](#) of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to Subpart 2 of Part G of Subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

**INTEGRATED EDUCATION AND TRAINING** — the term “integrated education and training” means 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.

**LABOR MARKET AREA** — the term “labor market area” means 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. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

**LITERACY** — the term “literacy” means an individual’s ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

**LOCAL AREA** — the term “local area” means a local workforce investment area designated under Section 106, subject to Sections 106(c)(3)(A), 107(c)(4)(B)(i), and 189(i).

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**LOCAL BOARD** — the term “local board” means a local workforce development board established under Section 107, subject to Section 107(c)(4)(B)(i).

**LOCAL EDUCATIONAL AGENCY** - According to 20 USCS § 7801(26)(A), the term “local educational agency” means “a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.”

**LOW-INCOME INDIVIDUAL — IN GENERAL** — the term “low-income individual” means 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 established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the Supplemental Security Income program established under Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;
2. 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;
3. Is a homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or a homeless child or youth (as defined under Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
4. Receives or is eligible to receive a free or reduced priced lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)
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 income meets the income requirement of clause (ii) but who is a member of a family whose income does not meet this requirement.

**LOWER LIVING STANDARD INCOME LEVEL** — the term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary.

**NONTRADITIONAL EMPLOYMENT** — the term “nontraditional employment” refers to occupations or fields of work, for which individuals from the gender involved comprise less than 25 percent of the individuals employed in each such occupation or field of work.

## **WIOA Eligibility Technical Assistance Guide**

**OFFENDER** — the term “offender” means an adult or juvenile:

- (A) who is or has been subject to any stage of the criminal justice process, and for whom services under this Act may be beneficial; or
- (B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

**OLDER INDIVIDUAL** — the term “older individual” means an individual age 55 or older.

**ONE-STOP OPERATOR** — the term “one-stop operator” means 1 or more entities designated or certified under Section 121(d).

**ONE-STOP PARTNER** — the term “one-stop partner” means:

- A. an entity described in Section 121(b)(1); and
- B. an entity described in Section 121(b)(2) that is participating, with the approval of the local board and chief elected official, in the operation of a one-stop delivery system.

### **ONE-STOP PARTNER PROGRAM AND ACTIVITIES —**

1. Programs authorized under WIOA;
2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);
3. Adult Education and Literacy Activities authorized under Title II;
4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. 20 et seq.) (other than section 112 or part C of Title I of such Act (29 U.S.C. 732, 741));
5. Activities authorized under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);
6. Career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.);
7. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);
8. Activities authorized under Chapter 41 of Title 38, United States Code;
9. Employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);
10. Employment and training activities carried out by the Department of Housing and Urban Development;
11. Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law);
12. Programs authorized under Section 212 of the Second Chance Act of 2007 (42 U.S.C. 17532); and
13. Programs authorized under [Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C).

## **WIOA Eligibility Technical Assistance Guide**

**ON-THE-JOB TRAINING** — the term “on-the-job training” means training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- A. 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 up to 50 percent of the wage rate of the participant, except as provided in Section 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and
- B. 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.

***OTHER RESPONSIBLE ADULT - For purposes of authorizing a minor to participate in WIOA programs, the signature of a parent, guardian, or other responsible adult is required. This provision allows the local areas to enroll minors with the authorization of individuals other than a parent or legal guardian.***

***The definition of "other responsible adult" includes:***

- (1) A relative with whom the individual resides;***
- (2) An adult who has been delegated custodial or administrative responsibilities in writing, either temporarily or permanently, by parents or by an appropriate agency;***
- (3) An agency or organization representative who is in a position to know the individual's circumstances (i.e., that they could not get a parent's or guardian's signature authorizing participation), for example, a clergy person, a school teacher or other school official, a probation or other officer of the court, a foster parent;***
- (4) A representative of an agency which provided support services to the individual and who is aware of the individual's circumstances (i.e., that they cannot get a parent's or guardian's signature authorizing participation) for example, a social worker, a homeless shelter official, a child protective worker, a health clinic official; and***
- (5) Other responsible adults determined by the local area as appropriate to authorize the individual's participation.***

**OUTLYING AREA** — the term “outlying area” means:

- A. American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands; and
- B. The Republic of Palau, except during any period for which the Secretary of Labor and the Secretary of Education determine that a Compact of Free Association is in effect and contains provisions for training and education assistance prohibiting the assistance provided under this Act.



## **WIOA Eligibility Technical Assistance Guide**

**PAY-FOR-PERFORMANCE CONTRACT STRATEGY** — the term “pay-for-performance contract strategy” means a procurement strategy that uses pay-for-performance contracts in the provision of training services described in Section 134(c)(3) or activities described in Section 129(c)(2), and includes:

- A. Contracts, each of which shall specify a fixed amount that will be paid to an eligible service provider (which may include a local or national community-based organization or intermediary, community college, or other training provider, that is eligible under Section 122 or 123, as appropriate) based on the achievement of specified levels of performance on the primary indicators of performance described in Section 116(b)(2)(A) for target populations as identified by the local board (including individuals with barriers to employment), within a defined timetable, and which may provide for bonus payments to such service provider to expand capacity to provide effective training;
- B. A strategy for independently validating the achievement of the performance described in Subparagraph (A); and
- C. A description of how the State or local area will reallocate funds not paid to a provider because the achievement of the performance described in subparagraph (A) did not occur, for further activities related to such a procurement strategy, subject to Section 189(g)(4).

**POVERTY LINE** — the term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

**PREGNANT or PARENTING YOUTH** — An individual who is 24 (OSY) / 21 (ISY) years or younger and who is pregnant, or a youth (male or female) who is providing custodial care for one or more dependents under the age of 18.

**PUBLIC ASSISTANCE** — the term “public assistance” means Federal, State, or Local government cash payments for which eligibility is determined by a needs or income test.

## **WIOA Eligibility Technical Assistance Guide**

**RAPID RESPONSE ACTIVITY** — the term “rapid response activity” means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under Section 134(a)(1)(A), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including:

- A. the establishment of onsite contact with employers and employee representatives:
  - i. immediately after the State is notified of a current or projected permanent closure or mass layoff; or
  - ii. in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;
- B. the provision of information on and access to available employment and training activities;
- C. assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs; the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and
- D. the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

**RECOGNIZED POSTSECONDARY CREDENTIAL** — the term “recognized postsecondary credential” means 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.

**REGION** — the term “region”, used without further description, means a region identified under Section 106(a), subject to Section 107(c)(4)(B)(i) and except as provided in Section 106(b)(1)(B)(ii).

**SCHOOL** — what does “school” refer to in the “not attending or attending any school” in the out-of school and in-school definitions?

- The term school refers to both secondary and post-secondary school as defined by the applicable State law for secondary and post-secondary institutions. This proposed section provides that for purposes of Title I of WIOA, the Department does not consider providers of adult education under title II of WIOA, Youth Build programs, or Job Corps programs as schools. Therefore, if the only “school” the youth attends is adult education provided under Title II of WIOA, Youth Build, or Job Corps, the Department will consider the individual an OSY youth for purposes of Title I of WIOA youth program eligibility.

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**SCHOOL DROPOUT** — the term “school dropout” means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. The term “school dropout” refers to an individual who has dropped out of high school and not completed their high school diploma or equivalent. The term “school dropout” does not include individuals who have dropped out of postsecondary education.

**SECONDARY SCHOOL** — the term “secondary school” has the meaning given the term in Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

**STATE** — the term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**STATE BOARD** — the term “State board” means a State workforce development board established under Section 101.

**STATE PLAN** — the term “State plan”, used without further description, means a unified State plan under Section 102 or a combined State plan under Section 103.

**SUPPORTIVE SERVICES** — the term “supportive services” means 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 this Act.

**TRAINING SERVICES** — the term “training services” means services described in WIOA Section 134(c)(3).

**TRUANCY** — a truant/dropout is in violation of California’s compulsory school attendance laws and a school district is not permitted to sanction violation of those laws by issuing a permit to work. A truant/dropout is subject to arrest, and the parents are subject to infraction fines if the minor is found working without a work permit (California Department of Education website, [Frequently Asked Questions: Work Permits](#)).

**UNEMPLOYED INDIVIDUAL** — the term “unemployed individual” means an individual who is without a job and who wants and is available for work. The determination of whether an individual is without a job, for purposes of this paragraph, shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

**UNIT OF GENERAL LOCAL GOVERNMENT** — the term “unit of general local government” means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

## ***WIOA Eligibility Technical Assistance Guide***

**RECENTLY SEPARATED VETERAN** — the term “recently separated veteran” means any veteran who applies for participation under this Act within 48 months after the discharge or release from active military, naval, or air service.

**WORKFORCE DEVELOPMENT ACTIVITY** — the term “workforce development activity” means an activity carried out through a workforce development program.

**WORKFORCE DEVELOPMENT PROGRAM** — the term “workforce development program” means a program made available through a workforce development system.

**WORKFORCE DEVELOPMENT SYSTEM** — the term “workforce development system” means a system that makes available the core programs, the other one-stop partner programs, and any other programs providing employment and training services as identified by a State board or local board.

**WORKFORCE INVESTMENT ACTIVITY** — the term “workforce investment activity” means an employment and training activity, and a youth workforce investment activity.

**WORKFORCE PREPARATION ACTIVITIES** — The term “workforce preparation activities” means 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, and obtaining skills necessary for successful transition into and completion of postsecondary education or training, or employment.

**WORKPLACE LEARNING ADVISOR** — the term “workplace learning advisor” means 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.

**YOUTH FOSTER CHILD/ CARE** — Youth in foster care means youth currently in foster care or youth who have ever been in foster care.

**YOUTH WORKFORCE INVESTMENT ACTIVITY** — the term “youth workforce investment activity” means an activity described in Section 129 that is carried out for eligible youth (or as described in Section 129(a)(3)(A)); other organizations, as determined to be necessary by the members comprising the industry or sector partnership.

## **XIV. Summary of Comments**

### Summary of Comments WSD14-15

Commenter #1 asked how the Employment Development Department (EDD) expects Local Workforce Development Boards (Local Boards) to monitor enrollments in order to meet the 51 percent priority of service prior to enrolling other eligible adults.

Response – The EDD removed the 51 percent Priority of Service requirement from the directive. Local Workforce Development Areas (Local Areas) are not required to meet a certain percentage as long as individuals are served in accordance with the priority of service policy established in this directive. Upon the release of Training and Employment Guidance Letter (TEGL) 03-15 *Guidance on Services Provided through the Adult and Dislocated under the Workforce Innovation and Opportunity Act (WIOA) and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services*, the EDD revised the policy to align the Department of Labor’s (DOL) priority of service guidance described in TEGL 03-15.

Commenter #2 inquired if a Local Board establishes additional priority groups, such as ex-offenders and homeless, could these groups be included in the 51 percent priority of service required if the individuals are deemed basic skills deficient?

Response – The EDD removed the 51 percent priority of service requirement from the directive. Local Boards may establish additional priority groups to meet the needs of the Local Area. However, in accordance with the priority of service policy established in this directive, if an individual falls within a locally defined priority group but is not a recipient of public assistance, low income, or basic skills deficient, they cannot be served prior to those who are.

Commenter #3 asked if the EDD could provide a list of additional priority groups that may be established by the Local Board.

Response – Local Boards may establish additional priority groups to meet the needs of the Local Area. Examples of additional groups could include, but are not limited to, individuals who are homeless, individuals with disabilities, and ex-offenders. If a participant has multiple barriers (e.g. ex-offender and basic skills deficient), each barrier should be properly documented.

Commenter #4 asked if the EDD will evaluate staff time and dollars spent on serving 51 percent priority individuals cumulatively.

Response – The EDD removed the 51 percent priority of service requirement from the directive. As it relates to the priority of service policy, Local Areas will not be evaluated on the staffing time or funds spent per participant in the WIOA adult program.

Commenter #5 expressed concerns that the 51 percent priority of service requirement would limit Local Areas from serving other local board defined priority groups are served with non-WIOA funding.

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Response – The EDD removed the 51 percent priority of service requirement from the directive. Local Boards may establish additional priority groups to meet the needs of the Local Area. Local Areas may serve participants with non-WIOA funding. However, if any of the participant’s individualized career and/or training services are funded through WIOA adult funds then the priority of service policy established in this directive would apply.

Commenter #6 asked if Local Areas could add a local policy definition of self-sufficiency to the low-income criteria for adult priority of service eligibility. The commenter recommended increasing the percentage of the Lower Living Standard Income Level (LLSIL) (defined under the WIOA as 70 percent) or using the U.S. Department of Housing and Urban Development median income guidelines.

Response – According to the WIOA Section 3(26)(A)(ii), low-income includes an individual who 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. The EDD does not have the ability to modify the definition found in federal statute.

Commenter #7 suggested revising the 51 percent priority of service requirement to also include veterans and eligible spouses. The policy places veterans and eligible spouses as a lower priority compared to individuals who meet the priority of service criteria.

Response – The EDD removed the 51 percent priority of service requirement from the directive. Veterans and eligible spouses continue to receive priority of service among all eligible individuals. However, they must meet the WIOA adult program eligibility criteria and meet the criteria under the WIOA Section 124 (c)(3)(e).

Commenter #8 asked if the Women, Infants and Children program, Medi-Cal, and General Relief could be considered as state or local income-based public assistance.

Response – According to the WIOA Section 3(50), public assistance is federal, state, or local government *cash payments* for which eligibility is determined by a needs or income test. Local Area should research each of these programs in order to determine whether they align with the definition above.

Commenter #9 inquired if Social Security Disability Insurance (SSDI) recipients could be considered low-income and be given priority of service?

Response – Local Areas should look at the eligibility criteria for the SSDI program in order to determine whether it aligns with the definition of low income found in the WIOA.

Commenter #10 inquired about the inclusion of the Board of Governor’s (BOG) fee waiver under the low-income definition.

Response – Reference to the BOG fee waiver was removed from the directive due to the fact that the eligibility criteria for receiving a BOG fee waiver does not align with the eligibility criteria for being determined low income under the WIOA.

Commenter #11-12 asked if the BOG fee waiver could be used document an in-school youth as low-income?

Response – No, the BOG fee waiver was removed from the directive and cannot be used to document low-income status for in-school youth.

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Commenter #13 sought clarification on the EDD's definition of priority. Does an individual have to all three criteria of the WIOA's priority of service?

Response – To receive priority of service, the individual needs to meet at least one of the three criteria: recipient of public assistance, low income, or basic skills deficient. Local Areas are reminded that veterans and eligible spouses who meet the WIOA's priority of service definition must be served first before other eligible individuals.

Commenter #14 asked why the criterion to determine whether an individual is basic skills deficient is not specific about the “generally accepted standardized test.”

Response – The “generally accepted standardized test” provision under WIOA Section 3(5)(a) is specific to establishing an eligible youth as basic skills deficient. Rather than limit assessment to formal testing, the policy provides flexibility to assess individuals who may be basic skills deficient through staff observation, enrollment in Title II Adult Education/Literacy programs, lack of a secondary school credential or its equivalent, or other objective criteria as defined by local policy. Local Areas must ensure there is sufficient documentation of basic skills deficiency in the case file for monitoring and auditing purposes.

Commenter #15 asked if the EDD requires a specific tool to be used in order to evaluate clients for basic skills deficiency.

Response – The policy does not require or recommend a formal testing tool to determine if an individual is basic skills deficient. Local Areas have may use Tests of Adult Basic Education or other assessments that have established benchmarks for assessing the results to determine basic skills deficiency. The type of assessment and results must be documented in the participant's case management file for monitoring and auditing purposes.

Commenter #16 asked if Title II Adult Education is considered secondary education. If so, the first two bullets of the state-imposed criteria under the definition of basic skills deficient are inconsistent.

Response – Yes, Title II Adult Education is considered secondary education. Section 203(1) of the WIOA defines adult education as academic instruction and education services below the postsecondary level that increases an individual's ability to read, write, and speak in English and perform mathematics or other activities necessary for the attainment of a secondary school diploma or its recognized equivalent; transition to postsecondary education and training; and obtain employment.

The EDD corrected the language in the first bullet from “is not enrolled in secondary education” to “is not enrolled in post-secondary education.” This correction demonstrates two scenarios of an individual who may be basic skills deficient and who is enrolled in post-secondary or enrolled in Title II Adult Education. The purpose of the list of state-imposed criteria under the definition of basic skills deficiency is to provide objective standards for making a determination.

Commenter #17 stated that the *California Unemployment Insurance Code* Section 14230(a)(3) requires that universal access to career services must be available to adults. This provision may be inconsistent with the requirement of priority of service [WIOA Section 134(c)(3)(E)].

Response – Priority of service does not impact universal access to WIOA adult services. An AJCC customer may continue to access basic career services at any

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AJCC location. If a participant requires individualized or training services using WIOA adult funds, then priority of service would apply.

Commenter #18 sought clarification regarding the definition of the draft directive's statement "served with WIOA adult funds." Does the 51 percent priority of service apply to all enrolled adult participants or only individuals provided individualized and/or training services?

Response – The EDD removed the 51 percent priority of service requirement. Basic career services are not subject to priority of service. However, individualized and career services are.

Commenter #19 asked if a Local Area could purchase testing tools using WIOA funds.

Response – The EDD is the process of updating fiscal guidance to reflect WIOA and Title 2 *Code of Federal Regulations* (CFR) Part 200 and 2900. In the interim, purchases that are \$5,000 or more must follow the policies and procedures established Workforce Services Directive [WSD14-13](#) *Property—Prior Approval, Purchasing, and Inventory, and Disposal*.

Commenter #20 asked if an individual may receive supportive services while receiving basic career services.

Response – Yes, Section 134(d)(2) of the WIOA allows Local Areas to use WIOA adult funding to provide supportive services for participants participating in career services or training services, unable to obtain supportive services through other programs providing such services, and only when they are necessary to enable individuals to participate in career service or training activities. Although career services are not separated by basic and career services, Local Areas should make every attempt to obtain supportive resources through other programs prior to utilizing WIOA adult funds. In addition, Local Boards may establish policies on limitations of supportive services when participants are unable to obtain services through other programs.

Commenter #22-23 requested for the EDD to add the BOG fee waiver to the Public Assistance tab in the CalJOBS<sup>SM</sup> system to verify an individual's low-income status.

Response – The BOG fee waiver was removed from the list of acceptable documentation for low-income eligibility.

Commenter #24 indicated that the BOG fee waiver income table is higher than the LLSIL and is not considered low-income in CalJOBS<sup>SM</sup>. Can CalJOBS<sup>SM</sup> be updated to make the participant low-income?

Response – Reference to the BOG fee waiver was removed from the directive and will not be added to CalJOBS<sup>SM</sup> due to the fact that the eligibility criteria for receiving a BOG fee waiver does not align with the eligibility criteria for being determined low income under the WIOA.

Commenter #25 recommended adding direct deposits from public assistance programs to the acceptable documentation lists because most recipients of public assistance no longer receive checks. This would allow more flexibility for collecting acceptable documentation.

Response – The DOL has not yet issued Data Element Validation guidance on acceptable documentation under the WIOA. Although many public assistance programs now utilize electronic benefit transfer cards to deliver benefits to eligible recipients, a



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document showing a direct deposit from a public assistance program is insufficient to document the individual as a recipient of public assistance. This is due to the fact that a direct deposit does not include information such as the name of social service/public assistance agency, date of eligibility, pay period, or award amount.

Commenter #26 voiced concern regarding the acceptable documentation requirements for basic skills deficiency. The commenter stated that Local Areas may not be structured to perform basic skills assessments prior to enrollment and the difficulty of obtaining school records due to a gap in school attendance and the cost to obtain a transcript. Case notes and self-attestation are usually used as the last option. However, in this instance using these would better the options to establish eligibility.

Response – Although self-attestation should not to be the primary method for gathering documentation to verify data elements, the policy does not require formal assessment for an individual to be determined basic skills deficient. Local Areas may determine basic skills deficiency through methods such as, but not limited to, staff observation (e.g., individual is unable to read or fill out an application, basic computer literacy, etc) or a referral, or records from a Title II Adult Basic Education program, or an English Language Learner program. Local Areas should note that if an assessment is used to assess basic skills deficiency, the test should include reading, writing, or computerized skills. Case managers should thoroughly document the results or areas of basic skills deficiency in the case notes.

Local Areas may establish a policy to further define the criteria to identify and document individuals who are basic skills deficient.

Commenter #27 stated that the timeline to implement the WIOA priority of service provision is inconsistent with the WIOA. Under the WIOA, adult priority of service was effective July 1, 2015, however the draft directive was issued on June 30, 2015. How does the state expect Local Areas to implement these policies by September 1, 2015 when guidance is issued after the effective date?

Response – The DOL has referred to the first year after enactment of the WIOA (July 1, 2015- June 30, 2015) as a transitional year during which the state and Local Boards begin to implement the many changes that have taken place under the new law. Due to the delay in issuance of federal and state guidance, the EDD extended the local policy and procedures deadline to January 1, 2016.

<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WIOA – Adult, Dislocated Worker, ES
	<b>CORRESPONDENCE SYMBOL</b> OWI
	<b>DATE</b> March 1, 2017

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER WIOA NO. 19-16 OPERATING GUIDANCE for the WORKFORCE INNOVATION AND OPPORTUNITY ACT**

**TO:** STATE WORKFORCE AGENCIES  
STATE WORKFORCE ADMINISTRATORS  
STATE WORKFORCE LIAISONS  
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS  
LABOR COMMISSIONERS  
AMERICAN JOB CENTERS

**FROM:** BYRON ZUIDEMA /s/  
Deputy Assistant Secretary

**SUBJECT:** 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

- 1. Purpose.** To provide guidance to the workforce system on delivering services under the Adult and Dislocated Worker programs under WIOA Title I, and individuals served by the ES program, as amended by WIOA Title III, under the WIOA Final Rule.

WIOA, signed into law on July 22, 2014, supersedes titles I and II of the Workforce Investment Act of 1998 (WIA) and amends the Wagner-Peyser Act of 1933 and the Rehabilitation Act of 1973. In general, WIOA took effect on July 1, 2015, the first full program year after enactment, unless otherwise noted. On August 19, 2016, the Departments of Labor (DOL) and Education published the WIOA Final Rules in the Federal Register. The DOL-only rule became fully effective on October 18, 2016, 60 days after it was published on the Federal Register.

In order to continue implementation of WIOA prior to publication of the final rule, DOL issued a Training and Employment Guidance Letter (TEGL) 3-15, on July 1, 2015, which provided guidance to the public workforce system on delivering services to adults and dislocated workers under WIOA. This TEGL rescinds TEGL 3-15, and provides updated guidance to the public workforce system on service delivery to adults and dislocated workers, consistent with WIOA and the WIOA Final Rules. The section of the final rule pertaining to services for adults and dislocated workers under WIOA title I can be found at 20 CFR part

<b>RESCISSIONS</b> TEGL 3-15	<b>EXPIRATION DATE</b> Continuing
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680. The sections of the final rule pertaining to individuals served under the Wagner-Peyser Act programs, as revised, can be found at 20 CFR parts 651, 652, 653 and 658.

2. **References.** See Attachment I.
3. **Background.** WIOA provides for a workforce system that is accessible to all job seekers, customer centered, and training that is job-driven. The workforce system delivers career and training services at the nation’s nearly 2,500 American Job Centers. The Adult, Dislocated Worker, and ES programs provide training and employment services in the American Job Center network, and are required partners under the law. Under WIOA, partner programs and entities that are jointly responsible for workforce and economic development, educational, and other human resource programs, collaborate to create a seamless customer-focused American Job Center network that integrates service delivery across all programs to make it easier for workers to access the services they need to obtain skills and employment.

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4. **Career Services.** WIOA authorizes career services for adults and dislocated workers. There are three types of career services: basic career services, individualized career services, and follow-up services. The provision of individualized career services must be based on the employment needs of the individual as determined jointly by the individual and the career planner (case manager) and maybe identified through an individual employment plan (IEP). Although WIOA distinguishes levels of service, this distinction is not intended to imply that there is a sequence of services. These services can be provided in any order. Careerservices

under this approach provide local areas and service providers with flexibility to target services that meet the needs of the customer, while still allowing for tracking of outcomes for reporting purposes. Career Services are defined in 20 CFR 678.430, and rules governing their provision to adults and dislocated workers are discussed in 20 CFR 680.100 through 195.

The three categories of career services are as follows, and are further defined in TEGL 16-16 “One-Stop Operations Guidance for the American Job Center Network”.

### Basic Career Services

Basic career services are universally accessible and must be made available to all individuals seeking employment and training services in at least one comprehensive American Job Center per local area. Generally, these services involve less staff time and involvement and include services such as: eligibility determinations, initial skill assessments, labor exchange services, provision of information on programs and services, and program referrals. These services may be provided by both the Adult and Dislocated Worker programs, as well as by the Employment Service.

### Individualized Career Services

Individualized career services must be provided to participants after American Job Center staff determine that such services are required to retain or obtain employment, consistent with any applicable statutory priorities. Generally, these services involve significant staff time and customization to each individual’s need. Individualized career services include services such as: specialized assessments, developing an individual employment plan, counseling, work experiences (including transitional jobs), etc.

Local Workforce Development Boards (WDBs) must identify the assessments to be used to determine eligibility, and ensure eligibility determination procedures are consistent with state policies. American Job Center staff may use recent previous interviews, evaluations, or assessments by partner programs to determine if individualized career services would be appropriate. These services generally will be provided by the Adult and Dislocated Worker programs, although it may be appropriate for the Employment Service to provide some of these services.

### Follow-up Services

States and local areas must provide follow-up services for adults and dislocated worker participants who are placed in unsubsidized employment, for up to 12 months after the first day of employment. States and local areas must establish policies that define what are considered to be appropriate follow-up services, as well as policies for identifying when to provide follow-up services to participants. One type of follow-up service highlighted in WIOA is to provide individuals counseling about the work place. Follow-up services do not extend the date of exit in performance reporting; for more information on performance reporting see TEGL 10-16.

5. **Transitional Jobs.** Transitional jobs are a type of work-experience Local WDBs may provide under WIOA and are considered an individualized career service. Transitional jobs 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 WDB. Transitional jobs provide an individual with work experience that takes place within the context of an employee-employer relationship, in which the program provider generally acts as the employer, and with an opportunity to develop important workplace skills. The WIOA Final Rule governs the requirements for transitional jobs at 20 CFR 680.190 and .195.

This service must be combined with career and supportive services. These jobs must be designed to establish a work history for the individual, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment. Unlike on-the-job training (OJT), there is no requirement that the employer retains the individual upon completion of the transitional job; however, retention, where appropriate, is preferred for the benefit of the worker and employer. Under section 134(d)(5) of WIOA and 20 CFR 680.195 of the Final Rule, Local WDBs may use up to 10 percent of their combined total of adult and dislocated worker funds to provide transitional jobs to individuals. For example, if a local area receives \$1.5 million in adult funds and \$1.0 million in DW funds, the Local WDB may use up to \$250,000 (10% of the total) for transitional jobs.

If the Local WDB uses transitional jobs as part of its service delivery strategy, it must adopt policies and identify appropriate employers (public, private, or nonprofit). Additionally, these policies must include plans on the amount of reimbursements for the jobs (up to 100 percent of the wage), what supportive services must be included, and the limits on the duration of the transitional job. If states and Local WDBs choose to use transitional jobs as a strategy, they must develop policies for defining and identifying individuals who are “chronically unemployed” or “have an inconsistent work history”. The Department encourages targeting individuals who are long-term unemployed, ex-offenders, and individuals who are currently receiving or have exhausted TANF benefits when developing these policies. Additionally, the Department encourages utilizing job readiness training in combination with transitional jobs if determined appropriate by the Local WDB.

6. **Career Services provided by ES staff.** Labor exchange services, which are the primary services provided by ES staff, fall under the basic career services discussed in Section 4 of this TEGL. Additionally, all of the basic career services must be made available by ES staff in coordination with other American Job Center partners. ES staff may also make available the individualized career services discussed in Section 4 of this TEGL, and the Department encourages states to make these services available, particularly for those individuals with barriers to employment, such as the long-term unemployed, as defined in WIOA sec. 3(24). The WIOA Final Rules discuss career services provided by the ES program in 20 CFR 652.206 and 208.

ES staff members also have specific obligations in serving unemployment insurance (UI)

claimants and carrying out components of the state's UI program, which include:

- Coordination of basic career services, particularly labor exchange services;
- Targeting UI claimants for job search assistance and referrals to employment;
- Administering state UI work test requirements, including, obtaining/documenting relevant information for eligibility assessments and providing job search assistance and referrals to employment;
- Provision of referrals to and application assistance to UI claimants for training and education resources and programs, including but not limited to Pell Grants, GI Bill, Post 9/11 Veterans Educational Assistance, WIOA, higher education assistance, and Vocational Rehabilitation;
- Outreach, intake (including identification through the state's Worker Profiling and Reemployment Services system of UI claimants likely to exhaust benefits and related programs, such as the Reemployment Services and Eligibility Assessment program), and orientation to information and other services available through the American Job Center network;
- Provision of information and assistance regarding filing claims under UI programs, including meaningful assistance to individuals (including individuals with language or other program access barriers) seeking assistance in filing a claim—
  - Meaningful assistance means providing assistance:
    - In the American Job Center(s), using staff who are well trained in UI claims filing activities and on-the-rights and responsibilities of claimants, and information necessary to file a claim, or
    - By phone or via other technology, such as live web chat and video conference, as long as the assistance is provided by appropriately-trained and available staff and within a reasonable time;
  - Technology-based approaches to providing meaningful assistance must ensure American Job Center customers have access to appropriately trained staff within a reasonable time. The referral of American Job Center customers to the state UI agency's self-service website or public phone line where the individual is placed into a queue with all other claimants is not meaningful assistance;
  - The cost associated in providing meaningful assistance may be paid for by the State's UI administrative funding, the WIOA Adult or Dislocated Worker programs, the ES program, or some combination of these funding sources.

7. **Training Services.** Training services can be critical to the employment success of many adults and dislocated workers. Training services are governed by sections 20 CFR 680.200 through .230 and 20 CFR 680.300 through .350 of the WIOA Final Rule. American Job Center staff may determine training services are appropriate, regardless of whether the individual has received basic or individualized career services first, and there is no sequence of service requirement.

Under WIOA, training services may be provided if the American Job Center staff, including partner programs' staff, determines after conducting an interview, an evaluation, or assessment, and career planning, that the individual:

- Is 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 alone;
- Is 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;
- Has the skills and qualifications to successfully participate in the selected program of training services;
- Is unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as State-funded training funds or Federal Pell Grants established under title IV of the Higher Education Act of 1965, or requires WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants (20 CFR 680.230 and WIOA sec. 134(c)(3)(B) contain provisions relating to fund coordination.);
- Is a member of a worker group covered under a petition filed for Trade Adjustment Assistance (TAA) and is awaiting a determination. If the petition is certified, the worker may then transition to TAA approved training. If the petition is denied, the worker will continue training under WIOA;
- Is determined eligible in accordance with the State and local priority system in effect for adults under WIOA sec. 134(c)(3)(E) if training services are provided through the adult funding stream; and
- Selected a program of training services that is directly linked to the employment opportunities in the local area or the planning region, or in another area to which the individual is willing to commute or relocate.

Training services, when determined appropriate, must be provided either through an Individual Training Account (ITA) or through a training contract discussed in Section 8 of this TEGL. Except in certain instances listed in WIOA sec. 122(h) and 20 CFR sec. 680.320, training services must be provided by an Eligible Training Provider (ETP) in accordance with WIOA sec. 122(d). Training is available through a State Eligible Training Provider and Program List (ETPL), comprised of entities determined eligible to receive funds through WIOA title I, subtitle B, according to the Governor's eligibility criteria and procedure. As described in TEGL 41-14 ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5816](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5816)), the State ETPL ensures the accountability, quality and labor-market relevance of programs, and ensures informed customer choice for individuals eligible for training. WIOA also provides enhanced access and flexibility for work-based training options, such as Registered Apprenticeship (RA), on-the-job training, customized training, and incumbent worker training.

The list of ETPs must be made available to the Local WDB within the state by the State Workforce Agency (SWA), and to the participant by the Local WDB, in order to maximize consumer choice. The selection of training services should be conducted in a manner that maximizes customer choice, is linked to in-demand occupations, is informed by the performance of relevant training providers, and is coordinated to the extent possible with other sources of assistance, including Pell Grants (see WIOA sec. 134(c)(3)).

DOL encourages States and Local WDBs, where appropriate, to utilize previous assessments when making training determinations to reduce duplicate assessments and develop enhanced alignment across partner programs. This could include common intake forms across partner programs to encourage system alignment, reduce individual burden, and ensure customers greater access to programs based on their need. The provision of training services necessary to assist a participant in achieving his/her employment and/or training goals may be reflected in the IEP.

Types of training services that may be provided include:

- (a) Occupational skills training, including training for nontraditional employment;
- (b) On-the-job training;
- (c) Incumbent worker training (see Section 13 of this TEGL);
- (d) Programs that combine workplace training with related instruction, which may include cooperative education programs;
- (e) Training programs operated by the private sector;
- (f) Skill upgrading and retraining;
- (g) Entrepreneurial training;
- (h) Job readiness training provided in combination with the training services described in any of clauses (a) through (g) or transitional jobs;
- (i) Adult education and literacy activities, including activities of English Language acquisition and integrated education and training programs, provided concurrently or in combination with services provided in any of clauses (a) through (g); and
- (j) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

**8. Training Contracts.** Individual Training Accounts (ITAs) are the primary method to be used for procuring training services under WIOA, similar to the provision of training services under WIA. 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 listed below applies and the process for their use is described in the Local Plan. Additionally, the Local WDB must have fulfilled the consumer choice requirements of 20 CFR 680.340. Under section 134(c)(3)(G)(ii) of WIOA and consistent with 20 CFR 680.320, 680.340, and 680.530, states may use the contract exceptions as described below:

- On-the-job training, which may include paying for the on-the-job training portion of an RA program, customized training, incumbent worker training, or transitional jobs;
- If the Local WDB determines that there are an insufficient number of Eligible Training Providers in the local area to accomplish the purpose of a system of ITAs. 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;
- To use a training services program of demonstrated effectiveness offered in a local area by a community-based organization or other private organization to serve individuals with barriers to employment. The Local WDB must develop criteria to be used in



determining demonstrated effectiveness, particularly as it applies to individuals with barriers to employment to be served. The criteria may include:

- Financial stability of the organization;
  - Demonstrated performance in the delivery of services to individuals with barriers to employment through such means as program completion rate; attainment of the skills, certificates, or degrees the program is designed to provide; placement after training in unsubsidized employment, and retention in employment; and
  - How the specific program relates to the workforce investment needs identified in the local plan;
- 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 in order to facilitate the training of a cohort of multiple individuals for jobs in-demand sectors or occupations, provided that the contract does not limit consumer choice; and
  - If the Local WDB determines, a pay-for-performance contract is suitable consistent with 683.500 (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, and be consistent with 20 CFR 683.510).

Additionally, a Local WDB may determine that providing training through a combination of ITAs and contracts is the most effective approach. This approach could be used to support placing participants in programs such as Registered Apprenticeships and other similar types of training.

9. **Priority Populations under WIOA.** Services provided to adults and dislocated workers under title I of WIOA can be a pathway to the middle class and to maintain and build skills to remain in the middle class. Across all titles, WIOA focuses on serving “individuals with barriers to employment”, defined in WIOA section 3(24) and seeks to ensure access to quality services for these populations. The WIOA Final Rules discuss priority and special populations for the Adult and Dislocated Worker programs at 20 CFR 680.600 through .660. These populations are discussed below:

#### Individuals with Barriers to Employment

The populations included in the “individuals with barriers to employment” in WIOA sec. 3(24) include:

- (a) Displaced homemakers (as defined in WIOA sec. 3(16));
- (b) Low-income individuals (as defined in WIOA sec. 3(36));
- (c) Indians, Alaska Natives, and Native Hawaiians (as defined in WIOA sec. 166(b));
- (d) Individuals with disabilities, including youth who are individuals with disabilities (as defined in WIOA sec. 3(25) (includes individuals who are in receipt of Social Security Disability Insurance);
- (e) Older individuals (age 55 and older) (as defined in WIOA sec. 3(39));
- (f) Ex-offenders (“offender” as defined in WIOA sec. 3(38));
- (g) Homeless individuals or homeless children and youths (see Attachment III);

- (h) Youth who are in or have aged out of the foster care system;
- (i) Individuals who are:
  - (1) English language learners (WIOA sec. 203(7)),
  - (2) Individuals who have low levels of literacy (an individual is unable to compute or solve programs, or read, write, or speak English at a level necessary to function on the job, or in the individual's family, or in society); and
  - (3) Individuals facing substantial cultural barriers;
- (j) Eligible migrant and seasonal farmworkers (as defined in WIOA sec. 167(i)(1-3));
- (k) Individuals within two years of exhausting lifetime TANF eligibility;
- (l) Single parents (including single pregnant women);
- (m) Long-term unemployed individuals (unemployed for 27 or more consecutive weeks); and
- (n) Such other groups as the Governor involved determines to have barriers to employment

#### Statutory Priority for Adult Funds

Section 134(c)(3)(E) of WIOA establishes a priority requirement with respect to funds allocated to a local area for adult employment and training activities. Under this section, American Job Center staff when using WIOA Adult funds to provide individualized career services, as described in Section 4 of this TEG, training services, or both, as described in Section 7, must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. WIOA sec. 3(36) defines "low-income individual" and WIOA sec. 3(5) defines "basic skills deficient" (see Appendix IV for full definition). ETA notes that individuals who are English language learners meet the criteria for "basic skills deficient" and must be included in the priority populations for the title I Adult program. Under WIOA, priority must be implemented regardless of the amount of funds available to provide services in the local area. States are required to develop policies and procedures for applying this priority, including monitoring local areas' compliance with this priority.

Under WIOA, there is no exclusion of payments for unemployment compensation, child support payments, and old-age survivors insurance benefits from the income calculations for determining if an individual is low-income. These exclusions that were previously provided under WIA sec. 101(25) no longer apply.

The priority established in the previous paragraph 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. The Local WDB and the Governor may establish a process that also gives priority to other individuals eligible to receive such services, provided that it is consistent with priority of service for veterans (see 20 CFR 680.650) and the priority provisions of WIOA sec. 134(c)(3)(E) and §680.600. Any additional priority populations identified by the State and Local WDB should be reflected in the State's WIOA Unified or Combined Plan, as well as the local area plan(s). Additionally,

the priority is to be applied for the provision of individualized career services and training services. There are no restrictions to providing basic career services; they may be provided to any eligible adult.

### Veterans and Adult Priority

Veterans and eligible spouses continue to receive priority of service for all DOL-funded job training programs, which include WIOA programs. However, as described in TEGL 10-09, when programs are statutorily required to provide priority for a particular group of individuals, such as the WIOA priority for Adult funds described above, priority must be provided in the order described below. A veteran must meet each program's eligibility criteria to receive services under the respective employment and training program. For income-based eligibility determinations and for determining priority of service, military pay or allowances paid while on active duty or paid by the Department of Veterans Affairs (VA) for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income, in accordance with 38 U.S.C. 4213 and 20 CFR 683.230.

Priority must be provided in the following order:

- i. First, 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, or individuals who are basic skills deficient would receive first priority for services with WIOA Adult formula funds for individualized career services and training services.
- ii. Second, to non-covered persons (that is, individuals who are not veterans or eligible spouses) who are included in the groups given priority for WIOA adult formula funds.
- iii. Third, to veterans and eligible spouses who are not included in WIOA's priority groups.
- iv. Fourth, priority populations established by the Governor and/or Local WDB.
- v. Last, to non-covered persons outside the groups given priority under WIOA.

Note: When past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded for the veteran and for other individuals for whom those amounts would normally be applied in making an eligibility determination. Military earnings are not to be included when calculating income for veterans or transitioning service members for this priority, in accordance with 38 U.S.C. 4213.

Additionally, the WIOA Final Rule at 20 CFR 680.230, require coordinating WIOA funded training with "other grant assistance", such as Federal Pell Grants. Some service providers have interpreted these provisions to mean that veterans or spouses who are eligible for the GI Bill or other forms of VA funded education or training are required to coordinate their entitlement to those benefits with their eligibility for WIOA funded training. Some have further interpreted the coordination requirement to mean that the VA funded training

entitlement must be exhausted before the veteran or eligible spouse can be enrolled in WIOA funded training. However, VA benefits for education and training services do not constitute “other grant assistance” under WIOA’s eligibility requirements. Therefore, eligibility for VA benefits for education or training services do not preclude a veteran or the veteran’s eligible spouse from receiving WIOA funded services, including training funds. Similarly, WIOA program operators may not require veterans or spouses to exhaust their entitlement to VA funded training benefits prior to allowing them to enroll in WIOA funded training.

**10. Dislocated Worker Eligibility.** WIOA sec. (3)(15) defines the term dislocated worker, see Attachment III for the complete definition.

In order to further clarify the definition of a dislocated worker, the WIOA Final Rule at 20 CFR 680.130(b) allows for Governors and Local WDBs to create policies to define terms such as a “general announcement” of a plant closing consistent with WIOA sec. 3(15)(B)(ii) or (iii), “unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters,” and “unlikely to return to a previous industry or occupation” under WIOA sec. 3(15)(A)(iii) consistent with 20 CFR 680.660. Governors and Local WDBs may also develop policies for determining the eligibility of self-employed individuals, including family members and farm workers or ranch hands under WIOA sec. 3(15)(C). Additionally, States and Local WDBs should note that the definition of dislocated workers must include separating service members, as further described below.

Serving Separating Service Members and Military Spouses with Dislocated Worker Funds

Under 20 CFR 680.660, service members exiting the military, including, but not limited to, those who receive or are eligible for Unemployment Compensation for Ex-service members (UCX), generally qualify as dislocated workers. Dislocated Worker funds under title I can help separating service members to enter or reenter the civilian labor force. Generally a separating service member needs a notice of separation, either a DD-214 from the Department of Defense, or other appropriate documentation that shows a separation or imminent separation from the Armed Forces. These documents meet the requirement that the individual has received a notice of termination or layoff, to meet the required dislocated worker definition. In the case of separating service members, because they may be on a terminal leave from the military, it may make sense to begin providing career services while the service member may still be part of the Active Duty military, but has an imminent separation date. It is appropriate to provide career services to separating service members who will be imminently separating from the military, provided that their discharge will be anything other than dishonorable. Lastly, ETA policy generally dictates that a separating service member meets the dislocated worker requirement that an individual is unlikely to return to his or her previous industry or occupation in the military.

Regarding military spouses, 20 CFR 680.630 expands the definition of dislocated workers to include military spouses who have experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of the spouse. Military spouses also can qualify if they are unemployed or underemployed and are experiencing

difficulty in obtaining or upgrading employment (see WIOA secs. 3(15)(E) and 3(16)(A) and (B)) and 20 CFR 680.630 of the DOL-only Final Regulations). Military spouses may also qualify if they are a dependent spouse of a member of the Armed Forces on active duty whose family income is significantly reduced, as determined by the State or local area, because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the service member. See Attachment III for definitions of these terms.

**11. Employment Status Clarification.** In addition to providing career and training services to individuals who are unemployed, a significant number of job seekers are underemployed. State and local policy should be developed for serving individuals that are underemployed. Examples of underemployed individuals that the policies may include are:

- Individuals employed less than full-time who are seeking full-time employment;
- Individuals who are employed in a position that is inadequate with respect to their skills and training;
- Individuals who are employed who meet the definition of a low-income individual in WIOA sec. 3(36); and
- Individuals who are employed, but whose current job's earnings are not sufficient compared to their previous job's earnings from their previous employment.

Individuals who are underemployed and meet the definition of a low-income individual may receive career and training services under the Adult program on a priority basis per Section 10 of this TEGL. Individuals who meet the definition of an individual with a barrier to employment (see WIOA sec. 3(24)) who are underemployed may also be served in the Adult program; however, unless they are a recipient of public assistance, a low-income individual, or are basic skills deficient, they are not eligible for service on a priority basis. Individuals who were determined eligible for the Dislocated Worker program who are determined by State and/or local policies to be underemployed, may still be considered eligible to receive services under the Dislocated Worker program depending on State and/or local policies. For instance, an individual who is dislocated from a full time job who has found part-time employment may still be considered a dislocated worker by State and/or local policies. We encourage states and local areas to develop policies and procedures for determining underemployment for both the adult and dislocated worker programs.

**12. Work-Based Training.** Under WIOA, there are additional work-based training options and flexibilities for adults and dislocated workers. 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 continuing to be productive members of the workforce. This section covers allowed types of work-based training including: registered apprenticeships, on-the-job training (OJT), and customized training. Sections 20 CFR 680.700 through .840 govern Work-Based Training.

Registered Apprenticeship (RA)

RA is an important component of potential training and employment services that the workforce system can provide to its customers. We encourage Local WDBs to partner with the RA system and use RA opportunities as a career pathway for job seekers and as a job-driven strategy for employers and industries. RA can be funded through several mechanisms. Section 122(a)(3) of WIOA also provides a new opportunity for RA programs to be more directly connected to the public workforce system. As RA programs, they are automatically eligible for inclusion on the State and local WDB's ETPL, if they choose to be, allowing ITAs to support participants in RA programs, and more directly connect those programs to the American Job Center network.

Every State has either a federal DOL Office of Apprenticeship (OA) or a State Apprenticeship Agency (SAA). Local WDBs and American Job Centers should work with the offices in their State to implement registered apprenticeships, (Federal OA and SAA State contact information is available at <http://www.doleta.gov/oa/contactlist.cfm>).

RA Program sponsors can be Eligible Training Providers (ETPs). Some examples of typical RA Program sponsors are:

- **Employers who provide related instruction:** A number of employers with RA programs provide formal in-house instruction as well as on-the-job training (OJT) at the work site.
- **Employers who use an outside educational provider:** Under this model, RA program sponsors do not provide the related instruction or educational portion of the apprenticeship but rely upon an outside educational entity to deliver instruction. Employers can use two- or four-year post-secondary institutions, technical training schools or on-line courses for related instruction. Under this formulation, the employer is the ETP and must identify their instructional provider.
- **Joint Apprenticeship Training Programs:** These programs are made up of employers and unions. They have an apprenticeship training school where the instructional portion of the apprenticeship program is delivered. The training schools are usually administered by the union, in which case the union would be the ETP. Multiple employers can be a part of the same Joint Apprenticeship Training Program.
- **Intermediaries:** Intermediaries can serve as program sponsors when they take responsibility for the administration of the apprenticeship program. They also can provide expertise such as curriculum development, classroom instruction and supportive services, as appropriate. The intermediary is the ETP and must identify the instructional provider if an outside organization is providing the educational portion of the apprenticeship. Intermediaries include:
  - Educational institutions including two- and four-year post-secondary institutions or technical schools. In this model, the educational institution administers the program, works with employers to hire apprentices and provides classroom or on-line instruction for the apprenticeship program;
  - Industry associations that administer the program and work with employer/members and educational entities to implement the apprenticeship program; and

- Community-based organizations that administer the program and work with employers, educational entities and the community to implement the apprenticeship program.

ETA is committed to fully integrating RA programs as an employment and training solution for American Job Center centers. American Job Center centers may make arrangements with RA programs to initiate applications to RA programs on behalf of participants. ETA wants to ensure that local areas have maximum flexibility to serve participants and support their placement into RA programs. Given the unique nature of RA, there are several ways in which training services may be used in conjunction with these programs:

- An ITA may be developed for a participant to receive RA training;
- An OJT contract may be developed with a RA program for training participants. OJT contracts are made with the employer or RA program sponsor, and RAs generally involve both classroom and on-the-job instruction. The OJT contract may be made to support some or all of the OJT portion of the RA program;
- A combination of an ITA to cover the classroom instruction along with an OJT contract to cover on-the-job portions of the RA is allowed; and
- Incumbent worker training may be used for upskilling apprentices or journey workers who already have an established working/training relationship with the RA program.

Local areas may also include supportive services, in coordination with career and/or training services, to participants in a RA program. These supportive services must be consistent with WIOA section 134(d)(2), Section 14 of this TEGL, and state and local policies.

#### *Reporting on Registered Apprenticeship Participation under WIOA*

As states and local areas increasingly adopt RA programs as part of their sector strategies and career pathways approaches, complete and accurate reporting of the workforce system's investments in these programs is vital. Under WIOA, data on program participants and program outcomes is reported by states through the Participant Individual Record Layout (PIRL). Participants who are placed into a registered apprenticeship with WIOA funds or individuals in a registered apprenticeship at the time of program entry must be identified in PIRL element 931. In addition to the other required reporting elements, individuals who receive RA training services funded in whole or in part from WIOA under either an Individual Training Account (ITA) or through a contract (e.g. OJT) must be reported under code value 09 on PIRL element number 1303 (or elements 1310 or 1315 if the participant is in receipt of multiple types of training). If the RA program is funded using an ITA, PIRL elements 1301, 1304 (code value "2"), and 1305 must also be reported.

#### On-the-Job Training

OJT continues to be a key method of delivering training services to adults and dislocated workers. WIOA provides for State and Local WDB to provide up to 50 percent of the wage rate of the participant to employers for the costs of training while the participant is in the

program. OJT contracts may also be entered into with RA program sponsors or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program consistent with 20 CFR 680.700. Depending on the length of the registered apprenticeship and State and Local WDB OJT policies, these funds may cover some or all of the duration of the registered apprenticeship. Additionally, the Governor and Local WDBs have the flexibility under WIOA to increase the reimbursement level to up to 75 percent of the total wage taking into account the following factors:

- The characteristics of the participants taking into consideration whether they are “individuals with barriers to employment” as defined in WIOA sec. 3(24);
- The size of the employer, with an emphasis on small businesses;
- The quality of 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
- Other factors the Governor or Local WDB may determine appropriate (e.g. the number of employees participating in the training, wage and benefit levels of the employees (both pre and post participation earnings), and relation of the training to the competitiveness of the participant).

Governors or Local WDBs must document the factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent.

### Customized Training

Customized training is designed to meet the specific requirements of an employer or group of employers with the commitment that the employer(s) hire an individual upon successful completion of the training. The Final Rules provide Local WDBs with flexibility to ensure that customized training meets the unique needs of the job seekers and employer(s). The employer must pay for a significant portion of the cost of training, as determined by the Local WDB. Local WDBs must identify policies for determining what constitutes employer’s payment of “a significant portion of the cost of training” taking into account: the size of the employer and other factors the Local WDB determines are 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.

### *Reporting On-the-Job Training and Customized Training Participation under WIOA*

It is important to note that OJT and customized training are excluded from the credential attainment performance indicator because although they often provide employment benefits to recipients of these services, they rarely result in a credential. However, ETA encourages Local WDBs to consider OJT and customized training programs that do result in a credential.

- 13. Incumbent Worker Training (IWT).** IWT provides both workers and employers with the opportunity to build and maintain a quality workforce and is governed by sections 20 CFR



680.780 through .820 of the Final Rule. IWT is designed to meet the needs of an employer or group of employers to retain a skilled workforce or avert layoffs. IWT is not permitted to be used to provide the occupational training a new hire needs. IWT can be used to either:

- Help avert potential layoffs of employees, or
- Obtain the skills necessary to retain employment, such as increasing the skill levels of employees so they can be promoted within the company and create backfill opportunities for less-skilled employees.

Under section 134(d)(4) of WIOA and 20 CFR 680.800, a Local WDB can use up to 20 percent of their Adult and Dislocated Worker funds to provide for the federal share of the cost of providing IWT. For example, if a Local WDB receives \$1.5 million in Adult funds and \$1.0 million in DW funds; it may use up to \$500,000 (20 percent of the total) for IWT. This 20 percent can be used for IWT activities that are programmatic in nature, as administrative activities must be paid out of the Board's administrative funds. The Local WDB must determine an employer's eligibility for participating in IWT based on the following factors which help to evaluate whether training would increase the competitiveness of the employees or both the employees and the employer:

- The characteristics of the individuals in the program (e.g. individuals with barriers to employment);
- Whether the training improves the labor market competitiveness of the employees or both the employees and the employer; and
- Other factors the Local WDB may consider appropriate, including:
  - the number of employees participating in the training;
  - wage and benefit levels of those employees (both pre- and post-training earnings);
  - the existence of other training and advancement opportunities provided by the employer;
  - credentials and skills gained as a result of the training;
  - layoffs averted as a result of the training;
  - utilization as part of a larger sector and/or career pathway strategy; or
  - employer size

For an employer to receive IWT funds, the individual(s) receiving training must be:

- Employed;
- Meet the Fair Labor Standards Act requirements for an employer-employee relationship; and
- Employment history requirement - Have an established employment history with the employer for 6 months or more (which may include time spent as a temporary or contract worker performing work for the employer receiving IWT funds).

There is one exception to the six month requirement, which is that in the event that incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for six months or more as long as a majority of those employees being trained meet the employment history requirement.

An incumbent worker does not have to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA, unless they are also enrolled as a participant in the WIOA adult or dislocated worker program.

The Governor or the State WDB may make recommendations to the Local WDBs for providing incumbent worker training that has a statewide impact. ETA encourages States and Local WDBs to cultivate opportunities and develop policies that can appropriately support employers in their efforts to develop a more competitive workforce or avert potential layoffs and that provide incumbent workers with opportunities for advancement and wage gains within their company.

States may also provide IWT with Rapid Response funds for statewide incumbent worker training activities as part of a broader layoff aversion strategy, as described in section 18 of this TEGL. IWT policies must be consistent with State and Local Plans, as well as with career pathway and sector strategy approaches for in-demand occupations. Generally, IWT should be provided to private sector employers; however, there may be instances where non-profit and local government entities may be the recipients of IWT funds. For example, IWT may be used in the health care industry where hospitals are operated by non-profit or local government entities and a nursing upskilling opportunity is available.

IWT can also be used for underemployed workers—e.g. workers who would prefer full-time work but are working part-time for economic reasons. While these workers are employed, they may have accepted reduced hours to gain or maintain employment or a previous dislocation has led them to accept reduced employment and often lower wages that may have a permanent effect on their careers. The use of these strategies may focus on increasing skills for underemployed frontline workers in an effort to advance these workers to more skilled positions with the same employer or industry sector leading to an increase in earnings through more work hours or an increase in pay. As part of an incumbent worker upskilling strategy, State and Local WDBs are also encouraged to develop an upskill/backfill strategy which involves filling jobs vacated by workers who are moving into more advanced positions in the company with other WIOA participants. State and Local WDBs are encouraged to develop contracts such that once incumbent workers advance with the employer; the employer then provides an opportunity to the State or Local WDBs to fill this now vacant position with a local WIOA participant.

State and Local WDBs must develop a process for documenting the six month work-history requirement for IWT recipients with the employer. The contract between the Local WDB and the employer must include this as a term of the contract.

#### Employer Payment Requirement

Employers are required to pay the non-Federal share of the cost of providing incumbent worker training. WIOA sec. 134(d)(4)(D) requires Local WDBs to establish policies regarding the non-federal share of the cost of IWT. Employers are required to pay a portion of the training for those individuals in incumbent worker training and this may be done

through both cash payments and fairly evaluated in-kind contributions. The employer contribution may include the wages the employer pays to the incumbent worker trainee while the worker is attending training. Under section 134(d)(4)(D) of WIOA, in establishing the employer share of the cost, the Local WDB must consider the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated upon completion of the training), 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 employer's payment for the non-federal share can be cash payments, fairly evaluated in-kind contributions, or both. The minimum amount of employer share in the IWT depends on the size of the employer and may not be less than:

- 10 percent of the cost, for employers with 50 or fewer employees;
- 25 percent of the cost, for employers with between 51 to 100 employees; and
- 50 percent of the cost, for employers with more than 100 employees.

Employer share must be reported on the quarterly ETA-9130 financial report. States may also create policies establishing minimum amounts of employer share for IWT conducted using statewide funds, including rapid response funds.

- 14. Supportive Services and Needs-Related Payments.** A key principle in WIOA is to provide local areas with the authority to make policy and administrative decisions, and the flexibility to tailor the workforce system to the needs of the local community. To ensure maximum flexibility, this guidance provides local areas the discretion to provide the supportive services they deem appropriate, subject to WIOA's limitations. Supportive services are designed to provide a participant with the resources necessary to enable their participation in career and training services, and are governed by the DOL-only Final Rule at 20 CFR 680.900 through .970.

Local WDBs must develop policies and procedures governed by 20 CFR 680.900 through .970 of the Final Rule. Local WDBs, in consultation with the American Job Center partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area. The policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise available from other sources. These policies may establish limits on the provision of supportive services or provide the one-stop center with the authority to establish such limits, including a maximum amount of funding and maximum length of time for supportive services to be available to a participant. These policies may also allow American Job Centers to grant exceptions to these limits. Local WDBs must develop policies and procedures that ensure that supportive services are WIOA-funded only when these services are not available through other agencies and that the services are necessary for the individual to participate in title I activities. These policies include establishing limits on the provision of supportive services and any exceptions to those limits, as described in 20 CFR 680.920.

Supportive services may be made available to any adult or dislocated worker participating in title I career services or training activities that is unable to obtain supportive services through other programs providing such services. Additionally, the supportive services must be necessary to enable the individual to participate in career services or training activities. Note that follow-up career services are not a qualifying service for the receipt of supportive services; therefore, an individual who is only receiving “follow-up” services may not receive supportive services. Individuals identified as needing ongoing supportive services must still be participating in career services (other than follow-up), training activities, or both to continue to receive supportive services. Supportive services also may not be used to extend the date of exit for performance accountability purposes. Supportive services, like follow-up services, do not make an individual a participant or extend participation.

Supportive services may include, but are not limited to:

- Assistance with transportation;
- Assistance with child care and dependent care;
- Linkages to community services;
- Assistance with housing;
- Needs-Related Payments (available only to individuals enrolled in training services and must be consistent with 20 CFR 680.930, 680.940, 680.950, 680.960, and 680.970)
- Assistance with educational testing;
- Reasonable accommodations for individuals with disabilities;
- Referrals to health care;
- Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eye glasses and protective eye gear;
- Assistance with books, fees, school supplies, and other necessary items for students enrolled in post-secondary education classes;
- Payments and fees for employment and training-related applications, tests, and certifications; and
- Legal aid services.

Needs-related payments are designed to provide a participant with financial assistance for the purpose of enabling them to participate in training services. ETA recognizes that many individuals in need of training services may not have the resources available to participate in the training. Needs-related payments can help individuals meet their non-training expenses and help them to complete training successfully. The maximum level of needs-related payments must be established by the Local WDB and must follow criteria at 20 CFR 680.970. According to sec. 134(d)(3)(B) of WIOA, a participant must be enrolled in a training program described in sec. 134(c)(3) of WIOA in order to receive needs-related payments. Specific criteria for Adult and Dislocated Worker eligibility may be found in 20 CFR 680.940 and 680.950.

- 15. Transfer of Funds.** WIOA sec. 133(b)(4) provides the authority for Local WDBs, with the written approval of the Governor, to expend up to 100 percent of the Adult activities funds on Dislocated Worker activities, and up to 100 percent of Dislocated Worker activities funds on Adult activities. Governors must have a written policy in place to evaluate transfer requests

from local workforce areas which is documented in the State Plan or another written policy. ETA encourages the Governor's policy to take into account the employment and service needs of the local area (both job seekers and employers), current labor market information and demographics, consistency with broader strategies in the local plan, meeting the Local Area's negotiated levels of performance, and any other considerations the Governor considers necessary to determine the appropriateness of a transfer. Expenditures of monies transferred between the local dislocated workers and adult programs are reported on the ETA-9130 reports. ETA notes when considering such transfers that career and training services must continue to be made available to both adults and dislocated workers in the American Job Centers (see WIOA sec. 134(c)(1)).

- 16. Performance Accountability: Career and Training Services.** In order to achieve the vision of WIOA, align service delivery across the core WIOA programs, and ensure a comprehensive approach across all partners, the Departments of Labor and Education have developed common performance measures and reporting elements, see TEGL 10-16 ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8226](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8226)). This includes common definitions of the terms "reportable individual", "participant", and "exit" for performance accountability purposes. These terms distinguish which individuals are included in performance accountability calculations, while also ensuring the Department tracks the other important self-service and information-only services or activities provided by the Adult, Dislocated Worker, and ES programs.

In the WIOA title I Adult and Dislocated Worker programs, in order to become a participant, an individual must meet all applicable program requirements to receive services, such as being determined eligible and have received a service other than self-service or accessed information-only services or activities. For the ES program, which provides access to all job seekers and does not have an eligibility component, to be considered a participant, an individual must receive a service other than self-service and information-only services or activities to be considered a participant. A chart that details which services go beyond self-service or information-only service and therefore trigger participation is included as Attachment II. It is important to note that the receipt of one or more services that would trigger participation means that a person is considered a participant and therefore should be included in the performance accountability measures reported through the Annual Statewide Performance Reports. The WIOA Final Rules discuss performance accountability at Part 677 of the Joint Regulations. 20 CFR 677.150 defines "participant", "reportable individual", and "exit" and for the purposes of the WIOA Adult, Dislocated Worker, and ES programs, and the definitions of these terms are included in III of this TEGL.

State and Local WDBs should also note that unlike the WIOA Youth program, in the WIOA Adult, Dislocated Worker, and the ES programs, an assessment (other than an eligibility assessment) is considered to be a type of basic career service that does trigger participation. A referral to employment (when a specific individual or group of individuals is referred to a specific job or jobs) is the only type of referral that would trigger participation. Referrals alone to other programs and services do not trigger participation. However, referrals that are generated as a result of a service, such as career counseling, trigger participation. Simple

searches of job boards or automated emails are not considered to be referrals to employment, as they are informational in nature and contain publicly available information.

The ES program provides vital self-service and informational services which would result in the ES program having a high percentage of reportable individuals. Even though these individuals are not included in the performance accountability calculations, ETA strongly supports these services and other services which can be provided virtually. ETA also notes that individuals may also receive virtual services and virtual career planning that demonstrate sufficient interaction or engagement with the system to be considered participants.

#### Performance Accountability for Training Services

Generally, all participants enrolled in training funded by the WIOA title I Adult, Dislocated Worker program, or both are counted for performance accountability purposes. However, participants who receive OJT or customized training *are not* included in the credential attainment indicator at 20 CFR 677.155(a)(1)(iv) for performance accountability purposes, but, must be included in the calculation of the other performance indicators.

#### Performance Accountability for Incumbent Worker Training

WIOA sec. 134(d)(4) requires the Local WDB to determine if an employer is eligible to have its employees receive IWT and the incumbent worker who receives the training is not required to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA title I, unless they also are enrolled as a participant, resulting from the receipt of other services in the WIOA title I Adult or Dislocated Worker program. Due to WIOA sec. 134's unique eligibility requirements, the Department does not consider individuals who receive only IWT to be participants required for inclusion in the WIOA performance accountability calculations.

As a result, an individual who *only* receives incumbent worker training and does not become a core program participant will not be included in the calculation of the State primary indicators of performance for negotiations and accountability purposes. However, states and Local WDBs are required to report the outcomes of individuals in receipt of IWT on the primary indicators of performance (i.e. employed 2<sup>nd</sup> quarter after exit, employed 4<sup>th</sup> quarter after exit, median earnings, measurable skills gain, and credential attainment), among other required elements. Although there are fewer required elements for an individual who receives only IWT and is not an Adult or Dislocated Worker, the required elements for these "IWT-only" individuals will mostly be limited to the elements that are used to identify whether the incumbent worker was employed in certain quarters after exit, the wages earned during these quarters, whether a measurable skill gain or gains were achieved, and whether a credential was attained (see TEGL 10-16, Attachment 8 for the specific list of required elements). For the purposes of calculating these metrics, the exit date for a participant who has only received IWT will be the last date of training, as indicated in the training contract. If the individual receiving IWT is also a participant in another program, the State is required to report that program's performance reporting information.

All recipients of IWT must be reported in the PIRL under element number 907, regardless of whether they become a participant in one of the other WIOA programs. For individuals who

only receive IWT, and therefore are not participants in the Adult or Dislocated Worker programs, states must still report a “Date of Program Entry” in element 900, and should report a “0” in elements 903 “Adult” and 904 “Dislocated Worker.” The Departments also encourage the collection of participant Social Security Numbers (SSNs) as part of the training contract with the employer so that wage records will be available for these individuals. Otherwise the State or Local WDB must utilize supplemental wage information to verify the wages reported. The Departments will issue additional guidance on the usage of supplemental data.

For individuals who receive IWT that is funded with Statewide Rapid Response (element 908) funds under WIOA sec. 134(a)(2)(A)(i)(I), states must also report on these individuals under DOL-only PIRL element 1501, “Most Recent Date Received Rapid Response Services”.

- 17. Other Permissible Local Activities.** WIOA provides significant flexibility to local areas when providing services with adult and dislocated worker funds. In addition to the required career and training services, local areas may use these funds to provide additional job seeker services, business services, as well as to facilitate enhanced coordination between other partner programs and entities at the State and local level. Local areas can use these funds to develop new types of technical assistance, develop new intake procedures, test new procurement methods which may lead to better outcomes for job seekers, and ensure provision of robust services for businesses throughout the workforce system. These permissible local activities include:

#### Other Job Seeker Services

- Customer support to enable individuals with barriers to employment (including individuals with disabilities and veterans) to navigate among multiple services and activities (e.g. dedicated staff specializing in disability services);
- Training programs for displaced homemakers and for individuals training for nontraditional occupations (see WIOA sec. 3(37)), in conjunction with programs operated in the local area; and
- Work support activities for low-wage workers, in coordination with American Job Center partners, which will provide opportunities for these workers to retain or enhance employment. Work support activities could include providing services during nontraditional hours and provision of onsite childcare while the services are being provided. Work support activities are a strategy that can be used to ensure quality services to individuals who are underemployed. This may include any activities available under the WIOA Adult and Dislocated Worker programs in coordination with the appropriate activities and resources available through partner programs. For example, an apprentice who has not yet reached the full wage-rate could be provided these services to help him/her to continue to advance in the RA.

#### Other Employer Services

- Customized screening and referral of qualified participants in career and training services to employers;

- Customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis that are in addition to labor exchange services available to employers under the ES program; and,
- Activities to provide business services and strategies that meet the workforce investment needs of area employers, as determined by the Local WDB, consistent with the local plan.

#### Other Coordination Activities

- Employment and training activities in coordination with child support enforcement activities, as well as child support services and assistance activities, of State and local agencies carrying out part D of title IV of the Social Security Act;
- Employment and training activities in coordination with cooperative extension programs carried out by the Department of Agriculture;
- Employment and training activities in coordination with activities to facilitate remote access to services provided through the American Job Center network, including facilitating access through the use of technology;
- Improving coordination between workforce investment activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;
- Improving services and linkages between the local workforce investment system and employers, including small employers, in the local area;
- Strengthening linkages between the American Job Center network and the unemployment insurance programs;
- Improving coordination between employment and training activities and programs carried out in the local area for individual with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under sec. 705 of the Rehabilitation Act of 1973, programs funded under part B of chapter 1 of title VII of the Act, and activities carried out by centers for independent living; and
- Other Federal agency supported workforce development initiatives, under the Departments of Transportation, Energy, Veterans Affairs, Housing and Urban Development, Interior, Health and Human Services, and Defense programs.

#### Other Activities

- Implementing a pay-for-performance contract strategy for training services utilizing up to 10 percent of the combined total of Adult and Dislocated Worker funds;
- Technical assistance for American Job Center partners, and eligible training providers on the provision of services to individuals with disabilities in local areas, including staff training and development, provision of outreach and intake assessments, service delivery, service coordination across providers and programs, and development of performance accountability measures;
- Activities to adjust the economic self-sufficiency standards referred to in WIOA sec. 134(a)(3)(A)(xii) for local factors or activities to adopt, calculate or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and



- Implementing promising services to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising.

**18. Rapid Response.** Rapid Response activities are described at 20 CFR 682 Subpart C of the WIOA regulations (covering 20 CFR 682.300 through 682.370). Rapid Response encompasses the strategies and activities necessary to plan for and respond as quickly as possible following an announcement or notification of a permanent closure or mass layoff, a mass job dislocation resulting from a natural or other disaster, or the filing of a Trade Adjustment Assistance (TAA) petition. Rapid Response delivers services to enable dislocated workers to transition to new employment as quickly as possible.

#### Purpose

The purpose of Rapid Response 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. A successful Rapid Response system must include:

- Informational and direct reemployment services for workers, including but not limited to: information and support for filing unemployment insurance claims; information about the Trade Adjustment Assistance (TAA) program; information on the impacts of layoff on health coverage or other benefits; information on and referral to career services; reemployment-focused workshops and services; and training;
- Delivery of solutions to address the needs of businesses in transition, provided across the business lifecycle (expansion and contraction), including comprehensive business engagement and layoff aversion strategies and activities designed to prevent or minimize the duration of unemployment;
- Convening, brokering, and facilitating the connections, networks and partners to ensure the ability to provide assistance to dislocated workers and their families such as home heating assistance, legal aid, and financial advice; and
- Strategic planning, data gathering and analysis designed to anticipate, prepare for, and manage economic change.

#### Responsibility for Carrying out, Overseeing, and Managing Rapid Response Activities

Under the WIOA Final Rule at 20 CFR 682.310, Rapid Response activities must be carried out by the State or an entity designated by the State, in conjunction with the Local WDBs, Chief Elected Officials (CEOs), and other stakeholders consistent with WIOA secs. 133(a)(2) and 134(a)(2)(A). The regulations also require states to establish and maintain a Rapid Response unit, even if the State chooses to designate an entity to carry out some or all of the Rapid Response program activities in the State. This State-level unit is responsible for developing policies and practices for Rapid Response, carrying out statewide Rapid Response activities, and, if a state entity was designated to carry out Rapid Response activities, the

state-level unit must oversee Rapid Response activities undertaken by a designated State entity.

### When is Rapid Response Required?

Rapid Response must be provided when one or more of the following circumstances occur:

- a) Announcement or notification of a permanent closure of a facility, store, enterprise, or plant, regardless of the number of workers affected;
- b) Announcement or notification of a mass layoff (see below for more detail);
- c) A mass job dislocation (see below for how mass dislocation is defined) resulting from a disaster as defined by state or local emergency management policies. The Department encourages States to consider appropriate roles and responsibilities for Rapid Response activities following a natural or other disaster event and establish these roles and responsibilities as part of any emergency management plans that are developed; or,
- d) The filing of a TAA petition, in accordance with sec. 221(a)(2)(A) of the Trade Act, which requires that the Governor ensure that Rapid Response services are delivered to all workers who are covered by the petition for TAA.

Although we describe above the circumstances that require delivery of Rapid Response, we do not intend to suggest or imply that these are the only instances for which States and local workforce areas may provide Rapid Response. Instead, the Department strongly encourages States or their designated entities to deliver Rapid Response services to as many workers and companies as possible and to adopt policies that maximize the opportunities for Rapid Response services to be provided in a manner that best supports the businesses and workers in their communities. One good way to achieve this goal is through the State's definition of "mass layoff" for purposes of Rapid Response.

### Defining "Mass Layoff" for Purposes of Rapid Response

One specific instance where Rapid Response services must be provided is upon notification of a mass layoff. As described in the regulations, for the purposes of Rapid Response, a mass layoff will have occurred when at least one of the following conditions have been met:

- A mass layoff, as defined by the State; however, under no circumstances may a State's definition of mass layoff exceed a minimum threshold of 50 affected workers. For example, in its definition, the State cannot set the minimum threshold of laid off workers at 75, but it can be set to as few as 1. The definition may be based upon factors such as the size of the company that is impacted, the percentage of workers impacted by a layoff, the income level of the employees, and other relevant factors;
- Where a State has not defined a minimum threshold for mass layoff, any layoff affecting 50 or more workers will be considered a mass layoff by default; or
- When a company files a Worker Adjustment and Retraining Notification (WARN) Act notice, regardless of the number of workers affected by the layoff announced.

As mentioned above, the Department strongly encourages states to consider developing mass layoff policies and definitions that maximize the number of companies and workers who may benefit from Rapid Response services.

### Required Rapid Response Activities

Rapid Response practitioners will notice that the regulations for Rapid Response under WIOA have significantly increased the amount and types of required activities from under WIA. These required elements include activities that were previously discussed in guidance and through technical assistance as well as elements that were previously allowable under WIA but which are now required. In particular, the regulations now specifically identify layoff aversion activities and the provision of additional assistance to local areas experiencing increased dislocation events as required Rapid Response activities. Our experience under WIA showed that such activities are critical for a successful Rapid Response program. To meet the needs of affected workers and businesses, a Rapid Response program must be proactive, data-driven, engaged with businesses, and focused on preventing layoffs or minimizing their negative impacts. Therefore, we substantially increased the level of required activities under Rapid Response to drive those outcomes.

#### A. Layoff Aversion

The most significant change related to Rapid Response from the WIA regulation to the WIOA regulation is the requirement to conduct layoff aversion activities, as appropriate. More specifically, the regulations require that states and local areas have the capability to conduct layoff aversion; however, it is left to the discretion of the operators of Rapid Response programs to determine which strategies and activities are applicable in a given situation, based upon specific needs, policies, and procedures within the state and operating areas. In this way the regulations permit state and local rapid response operators the flexibility to meet the requirements of WIOA based on the specific needs of the companies and workers being served and the particular characteristics of each event, while ensuring that valuable and important solutions are delivered whenever possible. We encourage state and local rapid response teams to develop strategies that maximize the ability to deploy the appropriate layoff aversion solutions for the challenges they face.

Layoff aversion strategies and activities are designed to prevent, or minimize the duration of, unemployment resulting from layoffs. Layoff aversion is a comprehensive approach requiring the integration of data, relationships, partnerships, and policies and procedures to allow an assessment of the economic situation that exists within a given area. This approach enables the development of a plan that may be applied, at any time, to intervene and manage transition that occurs within that area. Layoff aversion strategies and activities are customized to specific needs, quickly deployable, informed by economic data, and designed and coordinated with partners as necessary.

ETA encourages state and local Rapid Response operators to design innovative solutions for both businesses and workers in transition. Such solutions include, but are not limited to:

- 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;
- Providing assistance to employers in managing reductions in force, which may include early identification of firms at risk of layoffs, assessment of the needs of and options for at-risk firms, and the delivery of services to address these needs;
- Funding feasibility studies to determine if a company's operations may be sustained through a buyout or other means to avoid or minimize layoffs;
- Developing, funding, and managing incumbent worker training programs or other worker upskilling approaches as part of a layoff aversion strategy or activity;
- Connecting companies to state Short-Time Compensation or other programs designed to prevent layoffs or to quickly reemploy dislocated workers, employer loan programs for employee skill upgrading; and other Federal, state and local resources as necessary to address other business needs;
- 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;
- 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;
- 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;
- Engaging in proactive measures to identify opportunities for potential economic transition and training needs in growing industry sectors or expanding businesses; and
- 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.

#### B. Other Required Activities

In addition to layoff aversion as described above, there are a number of other activities that are required to be carried out by state and local Rapid Response operators. These are:

- Immediate and on-site contact with the employer, affected workers or their representatives, and the local community, which includes an assessment of, and strategy to address: 1) the employer's layoff plans and schedule; 2) the background, probable assistance needs, and reemployment prospects of the affected workers; and 3) resources available to meet the short and long-term assistance needs of the affected workers;
- The provision of information and access to unemployment compensation benefits and programs, such as Short-Time Compensation, comprehensive American Job Center network services, and employment and training activities, including information on the TAA program, Pell Grants, the GI Bill, and other resources;
- The delivery of other necessary services and resources including workshops and classes, use of worker transition centers, and job fairs, to support reemployment efforts for affected workers;

- Establishing partnerships with Local WDBs and CEO(s) to ensure coordinated responses to dislocation events and, as needed, obtain access to state or local economic development assistance. The coordinated response may include the development of an application for a National Dislocated Worker grant as provided in 20 CFR part 687;
- The provision of emergency assistance adapted to a particular layoff, disaster, or other emergency situation;
- As appropriate, developing systems and processes for identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion; analyzing, and acting upon, data and information on dislocations and other economic activity in the state, region, or local area; and tracking outcome and performance data and information related to the activities of the Rapid Response program;
- To ensure the ability to provide Rapid Response services as early as possible, developing and maintaining partnerships with other appropriate Federal, State and local agencies and officials, employer associations, technical councils, industry business councils, labor organizations, and other public and private organizations, as applicable. These partnerships must conduct strategic planning activities for addressing dislocation events and ensuring timely access to a broad range of assistance. They must also develop mechanisms for gathering and exchanging information and data relating to potential dislocations, available resources, and the customization of layoff aversion or Rapid Response activities;
- Delivery of services to worker groups for which a petition for TAA has been filed;
- The provision of additional assistance to local areas that experience disasters, mass layoffs, or other dislocation events that exceed the capacity of the local area to respond with existing resources; and
- The provision of guidance and financial assistance as appropriate, when establishing a labor-management committee if voluntarily agreed to by the employee's bargaining representative and management. The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. The assistance to such a committee may include training and technical assistance to members of the committee, and 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.

#### Other Allowable Activities

WIOA offers significant flexibility with regard to the use of Rapid Response funds. States or designated Rapid Response providers may, in order to conduct layoff aversion activities or to prepare for and respond to dislocation events, devise additional strategies or conduct activities that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities and to ensure that workers impacted by layoffs are able to be reemployed as quickly as possible.

Additionally, when circumstances allow, Rapid Response operators 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. Such assistance can include, but is not limited to providing heat, shelter, food, clothing and other necessities and services that are beyond the resources and ability of the American Job Center network to provide.

### Additional Assistance

WIOA allows states to reserve up to 25 percent of dislocated worker funds for Rapid Response activities. Once the state has reserved adequate funds for Rapid Response activities, any of the remaining funds reserved may be provided to local areas that experience increases of unemployment due to natural disasters, layoffs or other events, for provision of direct career services to participants if there are not adequate local funds available to assist the dislocated workers. We encourage states to establish the policies or procedures governing the provision of additional assistance.

### Program Reporting

In certain instances, states must report certain information on recipients of Rapid Response services. When an individual record exists for a WIOA participant also served under the Rapid Response program, states must report information regarding the receipt of Rapid Response services for that individual.

### Rapid Response Funds at the End of the First Program Year

Funds that are reserved for Rapid Response activities and remain unobligated after the first program year for which they were allotted may be used to carry out statewide activities under 20 CFR 682.200 and 682.210. Statewide activities for which these funds may be used include prioritizing the planning for and delivery of activities designed to prevent job loss, increasing the rate of reemployment, building relationships with businesses and other stakeholders, building and maintaining early warning networks and systems, and otherwise supporting efforts to assist long-term unemployed workers to return to work. When managing the use of Rapid Response funds and their availability for statewide purposes after the first program year, states must ensure 80 percent of their total Dislocated Worker funds are obligated by the end of the first program year, or they could trigger recapture of the next program year's Dislocated Worker funds under the reallocation provision contained in WIOA 133(c).

Although the states have additional flexibility in using rapid response funds for statewide activities at the end of the first program year, the recapture process that takes place during the same time has not changed. States are expected to obligate 80 percent of its Dislocated Worker funds, including its rapid response funds, in order to avoid recapture (20 CFR 683.135).

- 19. Coordination with WIOA Core Programs.** WIOA provides a significant opportunity for coordination across all of the core programs including planning, reporting, and service delivery. Below are some examples of how the WIOA title I Adult and Dislocated Worker

programs, along with the ES program, can partner with the other WIOA core programs:

### Youth Formula Program (WIOA title I)

WIOA creates an opportunity for the Adult program to work closely with the Youth program to ensure young adults receive the services they need to succeed in education and the workforce. Individuals aged 18-24 may be eligible for both the WIOA Youth and Adult programs and can be co-enrolled in the two programs. ETA encourages the WIOA Adult and Dislocated Worker programs, along with the ES program, to coordinate closely with the WIOA Youth program to maximize flexibility and service delivery to eligible populations. Some examples where enhanced coordination could take place are as follows:

- Referring 18-24 year old individuals to the title I Youth program if they need more intensive support around specific program elements described under WIOA sec. 129(c)(2).
- Utilizing WIOA Adult formula program funded ITAs as part of a career pathway strategy for Youth program participants co-enrolled as adults or dislocated workers;
- Utilizing work-based training opportunities for Youth program participants co-enrolled as adults or dislocated workers, as identified in their Individual Service Strategy (ISS) as part of a career pathway; and
- Career pathway planning.

*(Note: This is not an exhaustive list of ways to coordinate activities and service delivery, but is meant to illustrate some of WIOA's flexibilities and services to improve educational and employment opportunities for participants.)*

Local program operators may determine, for these individuals, the appropriate level and balance of services under the Youth and Adult programs. Such determinations regarding the appropriate program for the participant must be based on the service needs of the participant and if the participant is career-ready based on an assessment of his/her occupational skills, prior work experience, employability, and the participant's needs. An important difference to note here is that while receiving an assessment from the Adult, Dislocated Worker, or ES programs does trigger participation and inclusion in the performance accountability calculations for those programs, an objective assessment carried out under WIOA sec. 129(c)(1)(A) does not trigger participation in the Youth program. Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in Youth and Adult programs concurrently, and ensure no duplication of services.

### Adult Education and Family Literacy Act (WIOA title II)

Title II of WIOA authorizes the Adult Education and Family Literacy Act (AEFLA). AEFLA, administered by the US Department of Education, is designed to create a partnership among the Federal government, States, and localities to provide, on a voluntary basis, adult education and literacy activities. These activities are designed to:

- Assist adults to become literate and obtain the knowledge and skills necessary for

- employment and economic self-sufficiency;
- Assist adults who are parents or family members to obtain the education and skills that are necessary to becoming full partners in the educational development of their children and lead to sustainable improvements in the economic opportunities for their family;
  - Assist adults in attaining a secondary school diploma and in the transition to postsecondary education and training, including through career pathways;
  - Assist immigrants and other individuals who are English language learners in:
    - Improving their reading, writing, speaking, and comprehension skills in English, as well as mathematical skills; and,
    - Acquiring an understanding of the American system of government, individual freedom, and the responsibilities of citizenship.

WIOA provides new opportunities for the title I Adult and Dislocated Worker programs, as well as the ES, to partner with title II providers.

WIOA sec. 134(c)(2) authorizes career services to be provided with title I adult and dislocated worker funds. Some of these services are activities that are also allowable under AEFLA, including workforce preparation activities, English language acquisition programs, and integrated education and training programs. In order to ensure consistency across the services for the benefit of participants and service providers, ETA is aligning the definitions for these services with those used by the AEFLA program; see Attachment III for their definition.

This allows title I and title II programs to coordinate in the development of career pathways and to co-enroll participants so they receive the full spectrum of services for their education and employment needs. For example, an individual could receive adult education services while at the same time receiving services from the OJT program funded by title I. If individuals are unable to receive services from the AEFLA program, but are determined to be in need of those services by the career planner and eligible for the services, then title I may provide those services the program is authorized to provide, as long as they are provided concurrently or in combination with training services.

#### Vocational Rehabilitation (WIOA title IV)

Title IV of WIOA makes a number of significant changes to the Rehabilitation Act of 1973 (Rehab Act) in order to improve and align core programs towards the goal of empowering individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion in and integration into society. To achieve these goals, title IV amends regulations governing the State Vocational Rehabilitation Services program (VR) and State Supported Employment Services Program (Supported Employment Program) and implements limitations on the payment of subminimum wages to individuals with disabilities. WIOA provides new opportunities for coordination and referrals for the title I Adult and Dislocated Worker programs, as well as the Employment Service, to partner and enhance service delivery to individuals with disabilities, including those served under title IV of WIOA. Individuals with disabilities are identified as individuals with barriers to



employment under WIOA, and should receive any and all American Job Center services that would normally be provided to any other job seeker.

WIOA makes the following key changes to title IV programs:

- Strengthen the alignment of the VR program with other core components of the workforce development system by aligning requirements governing unified state planning, performance accountability measures, and integration into the American Job Center network ;
- Place heightened emphasis on coordination and collaboration at the Federal, State, and local levels to ensure a streamlined and coordinated service delivery system for job-seekers, including those with disabilities, and employers;
- Include a new definition of “competitive integrated employment” that combines, clarifies, and enhances the two separate definitions of “competitive employment” and “integrated setting” for the purpose of employment under the VR program;
- Revise the definition of “employment outcome” in §361.5(c)(15) and now specifically identifies customized employment as an employment outcome under the VR program, and requires that all employment outcomes achieved through the VR program be in competitive integrated employment or supported employment;
- Amend the Supported Employment Program in order to maximize the potential of individuals with disabilities, especially those with the most significant disabilities, to achieve competitive integrated employment and to expand services for youth with the most significant disabilities;
- Requires that Supported Employment must be in competitive integrated employment or, if not, in an integrated setting in which the individual is working towards competitive integrated employment on a short-time basis;
- Extends time for which supported employment services may be provided is extended from 18 months to 24 months;
- Requires States to reserve and expend 50 percent of their allotments under the Supported Employment Program to provide supported employment services, including extended services, to youth with the most significant disabilities; and
- Limit on the Use of Subminimum Wage.
- Adds new section 511, Limitations on the Use of Subminimum Wage, which imposes requirements on employers who hold special wage certificates under the Fair Labor Standards Act (FLSA) that must be satisfied before employers may hire youth with disabilities at subminimum wages or continue to employ individuals with disabilities of an age at the subminimum wage level.

VR Counselors, who are employed by the state VR agency, are responsible for determining whether an individual is eligible to receive VR services. In order to be eligible, an individual with a disability must meet the following criteria:

- Have a physical or mental impairment that poses functional limitations resulting in a substantial impediment to employment;
- Require VR services to obtain or maintain employment; and
- Must be able to benefit from VR services to obtain or maintain employment

While an individual may be determined eligible to receive VR services, the state VR agency may not be able to provide services due to insufficient staff and/or fiscal resources. In this instance, the state VR agency must implement an order of selection (OOS) that establishes the priority categories by which individuals can be served based on their functional limitations. As of 2016, approximately 50 percent of the VR agencies have implemented an OOS. For those individuals not in a priority category being served in the OOS, the state VR agency must refer the individual to another program that may be able to meet their needs. Therefore, effective partnering with the Adult, Dislocated Worker, and ES programs is essential in order to ensure individuals with disabilities seeking employment and training services receive the services they need for employment.

In order to align the core programs and create additional flexibility for the purposes of achieving the goals under title IV, funds allocated to a local area for adult and dislocated worker activities may be used to improve coordination between employment and training programs carried out in the local area for individuals with disabilities through the American Job Center network . ETA encourages local areas to utilize this flexibility to ensure a highly coordinated service delivery in coordination with title IV activities to ensure that individuals with disabilities receive the services they need for their career needs, whether the services are provided by title I, III, or IV or some combination thereof, including other community resources. Additionally, ETA encourages local areas to coordinate with programs carried out by State agencies relating to intellectual and developmental disabilities, as well as local agencies and organizations serving individuals with significant disabilities, including the local network of centers for independent living in each State.

#### Client Assistance Program

The purpose of this program is to advise and inform clients, client applicants, and other individuals with disabilities of all the available services and benefits under the *Rehabilitation Act of 1973*, as amended by WIOA, and of the services and benefits available to them under title I of the *Americans with Disabilities Act (ADA)*. In addition, CAP grantees may assist and advocate for clients and client applicants in relation to projects, programs, and services provided under the *Rehabilitation Act*. In providing assistance and advocacy under title I of the *Rehabilitation Act*, a CAP agency may provide assistance and advocacy with respect to services that are directly related to employment for the client or client applicant.

20. **Coordination with Trade Adjustment Assistance (TAA)**. The Dislocated Worker program is a critical partner with TAA in identifying and serving trade-impacted workers. Co-enrollment, of workers covered under certified petitions (TAA-certified workers) in partnership with the WIOA Dislocated Worker or Adult program, allows for the timely provision of individualized career services and improves the overall effectiveness of the TAA Program. Additionally, sec. 221(a)(2)(A) of the Trade Act requires that the Governor ensure that Rapid Response and appropriate career services are delivered to all workers who are covered by a certified TAA petition. In addition to the Rapid Response services, American Job Centers can also provide supportive services relating to child care, transportation, dependent care, housing assistance, and needs-related payments, and may also provide career

services described in Section 4 of this TEG. TAA generally provides case management and employment services, training, income support, job search allowances, relocation allowances, wage supplements for older workers, and a health coverage tax credit for TAA-certified workers. Strict deadlines must be met if individuals are to take full advantage of the TAA benefits available to TAA-certified workers. Barriers to service delivery to this population should be eliminated in order to maximize all the resources available in the one-stop delivery system.

Of equal importance is serving workers who need assistance in filing a petition, or workers for which a petition for TAA eligibility is pending (under investigation), so that the duration of unemployment is minimized. Since most workers who appear to be threatened with layoff or to be separated from employment due to increased imports or a shift in production of articles by their employer or employer's customers are likely to meet dislocated worker eligibility criteria, these individuals should enter the American Job Center network immediately following the announcement of a layoff. They must be assisted in filing a petition with the Department (and the Governor) requesting certification as workers adversely affected by foreign trade. Immediately beginning the process of needs and skills assessment improves TAA participation rates and allows individuals more time to consider all of the options available to them, even before these workers may become eligible for TAA. Section 221(a)(2)(A) of the Trade Act of 1974, as amended, requires the provision of "appropriate career services" to workers covered by a Petition for Trade Adjustment Assistance. These services, in addition to Rapid Response, must be provided when the petition is filed, regardless of whether the petition is certified. Note that adversely affected workers, certified under a Petition for Trade Adjustment Assistance under the Trade Act of 1974, as amended, are, by definition, Dislocated Workers under WIOA.

WIOA and TAA Program funds must be managed in a coordinated manner to best meet the needs of the workers while abiding by all applicable statutes, regulations and federal policies. The Trade Act, as amended, contains provisions allowing the costs of a training program approved under the Act to be paid by TAA funds or from other sources, but does not allow duplication of payment of training costs. Those authorities and restrictions are detailed in 20 CFR 617.25(b). Under certain circumstances, the costs of training may be shared, but such an arrangement must not authorize reimbursement from TAA funds of any training costs that were incurred before a participant was certified and determined individually eligible for TAA and that training was TAA-approved. Additionally, the TAA Governor-Secretary Agreement, Section E, requires that the TAA Program will be the primary source of assistance to adversely affected workers covered by a certification and that to the extent adversely affected workers covered by a certification enrolled in the TAA Program require assistance or services not authorized under the TAA Program, or for which TAA Program funds are unavailable or insufficient (including for required employment and case management services), such assistance will be made available through the American Job Center network.

TAA-certified workers may receive WIOA-funded training otherwise provided under TAA under limited circumstances. The most common circumstance is when a TAA petition has been filed by or on behalf of a group of workers but a determination of group eligibility has

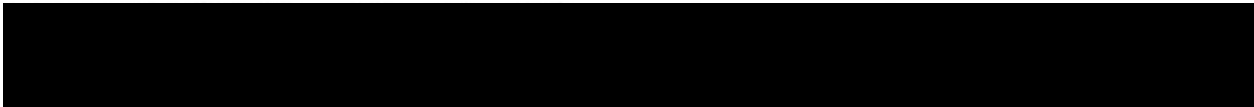
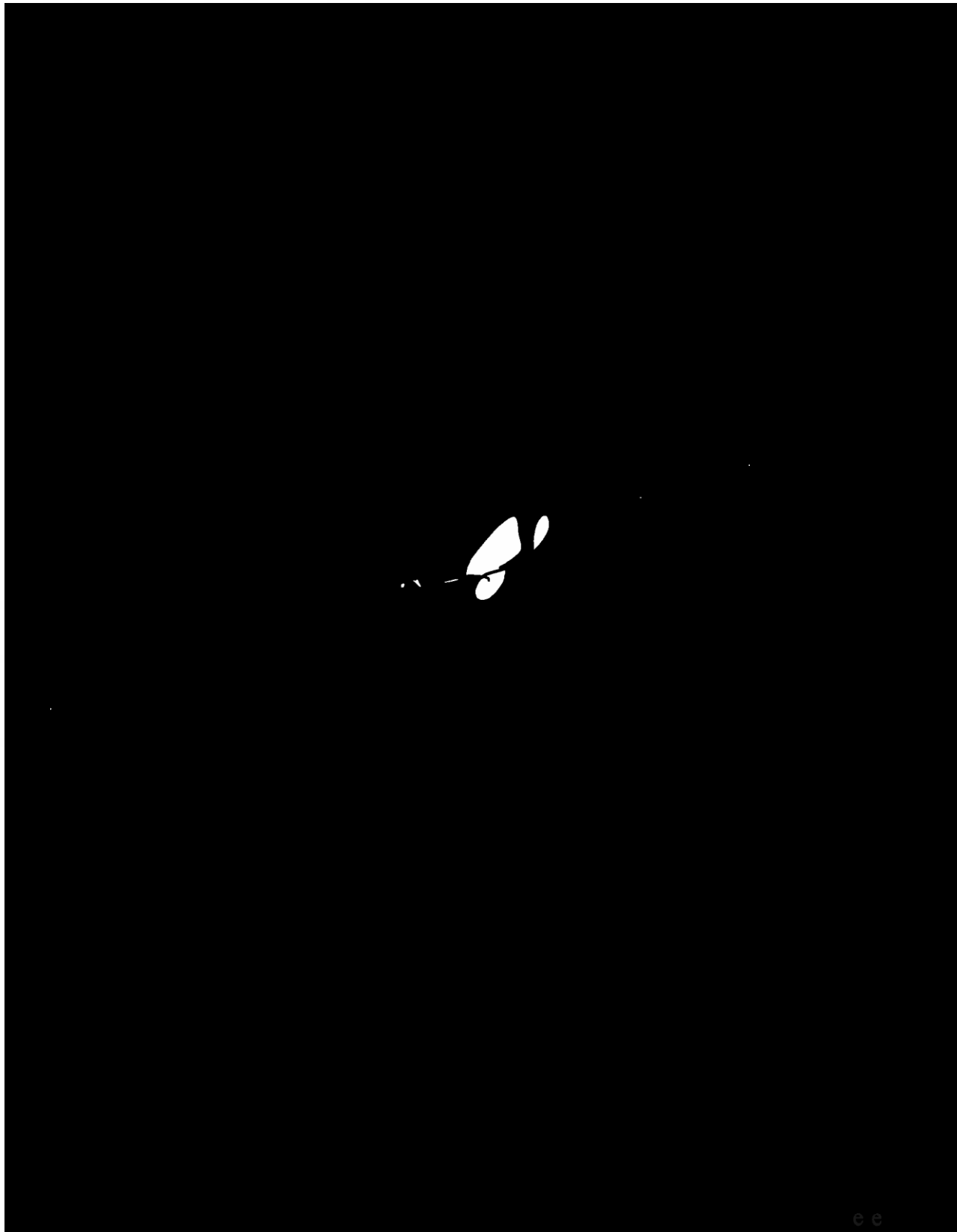
not been made. In this case WIOA funding should be used for training in the short-term, until an affirmative decision is rendered after a completed TAA investigation and the state agency operating the TAA Program as an agent of the United States determines the worker's individual eligibility and approves the training. In the event a negative decision is rendered and the petition is denied, the worker can continue as a WIOA participant. Systems must be in place to seamlessly accommodate a change in the funding of training, as appropriate, after TAA program approval is obtained. Training may be modified by the TAA Program to allow a worker additional training under the TAA Program in order to meet retraining needs as indicated in individual reemployment plans. Such a participant may remain enrolled in WIOA and the TAA Program as the individual may need continued career and supportive services through WIOA. To effectuate this seamless service, the states should ensure that the six criteria for the approval of training under Trade, found at 20 CFR 617.22 are used for determining the appropriateness of training. Also note, under co-enrollment, training is a benefit available to TAA-certified adversely affected incumbent workers. See Section D.2. of TEGL No. 5-15, *Change 1* for additional information regarding the training benefit for adversely affected incumbent workers.

WIOA allows up to 75 percent reimbursement to employers for OJT (see Section 14 of this TEGL), while the TAA Program allows reimbursement up to 50 percent of the wage rate, the cost of providing the training, and additional supervision related to the training. For OJT approved training for a co-enrolled TAA participant, the TAA Program may reimburse employers up to 50 percent, and WIOA may reimburse employers up to an additional 25 percent, to bring the total reimbursement to employers up to 75 percent to align TAA program benefits with WIOA flexibilities provided that the State and Local policies provide for a 75 percent reimbursement rate.

**21. Inquiries.** Questions regarding this guidance should be directed to the appropriate ETA regional office.

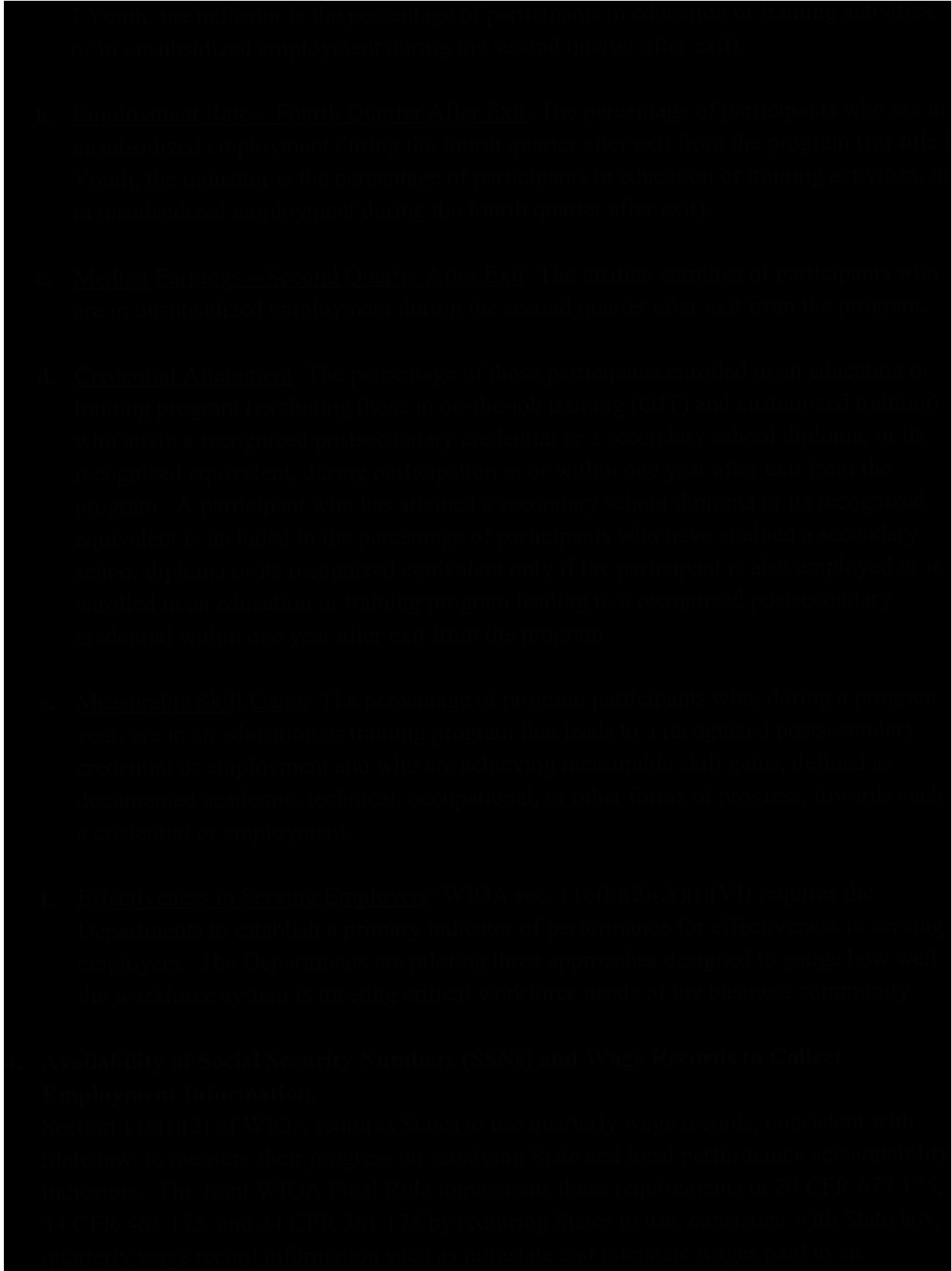
**22. Attachments.**

- Attachment I: References
- Attachment II: Participation Level Services Chart for Adult, Dislocated Worker, and Wagner-Peyser Act Employment Service
- Attachment III: Key Terms and Definitions



Technical and Administrative Support Services  
Administration  
Office of Career

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participants' outcomes for purposes of calculating levels of performance for the employment-related indicators and will be used when calculating the program results. Indicators include:

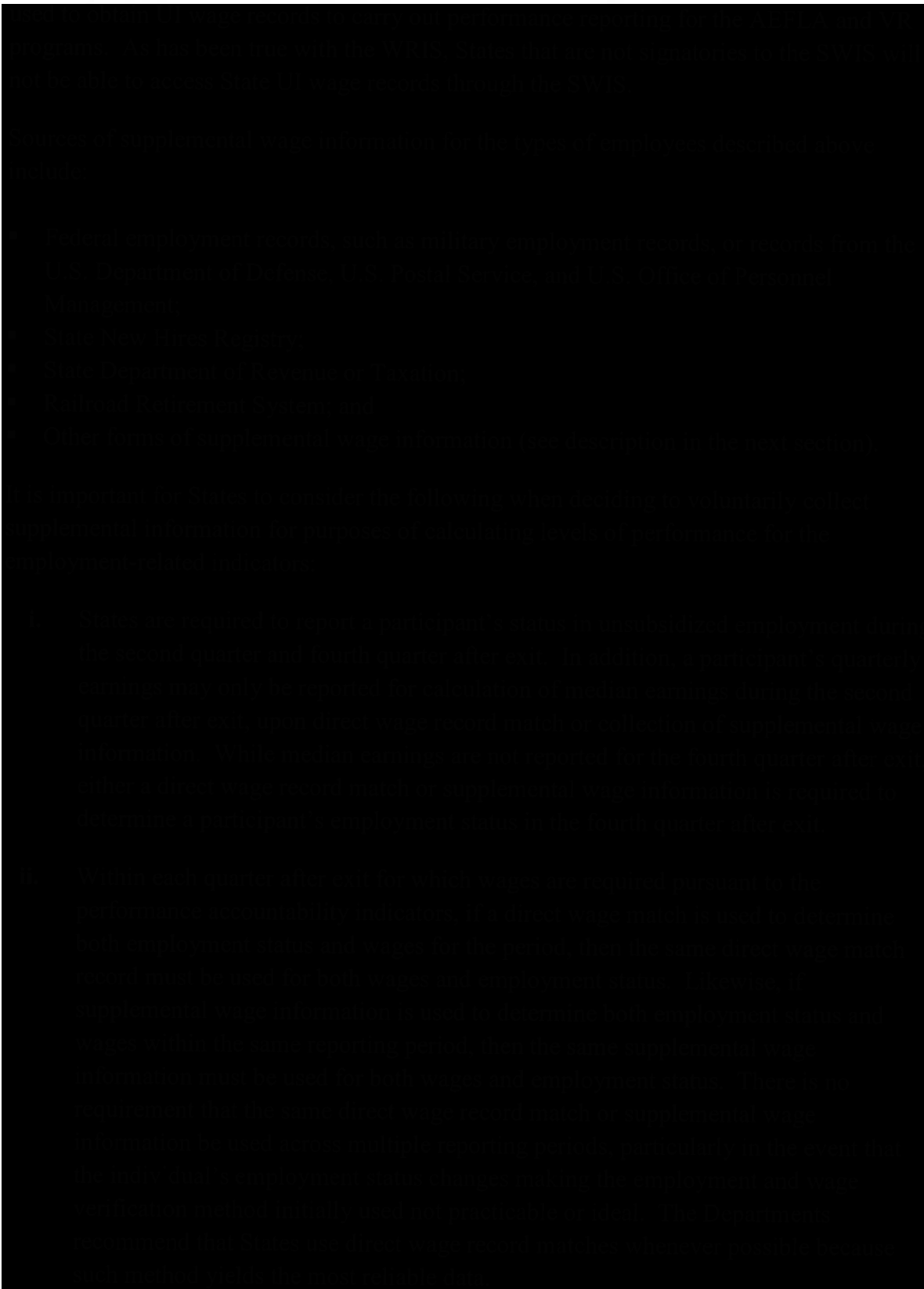
- State government employment results
- Local government employment results
- Federal government results, and
- Public school employment results.

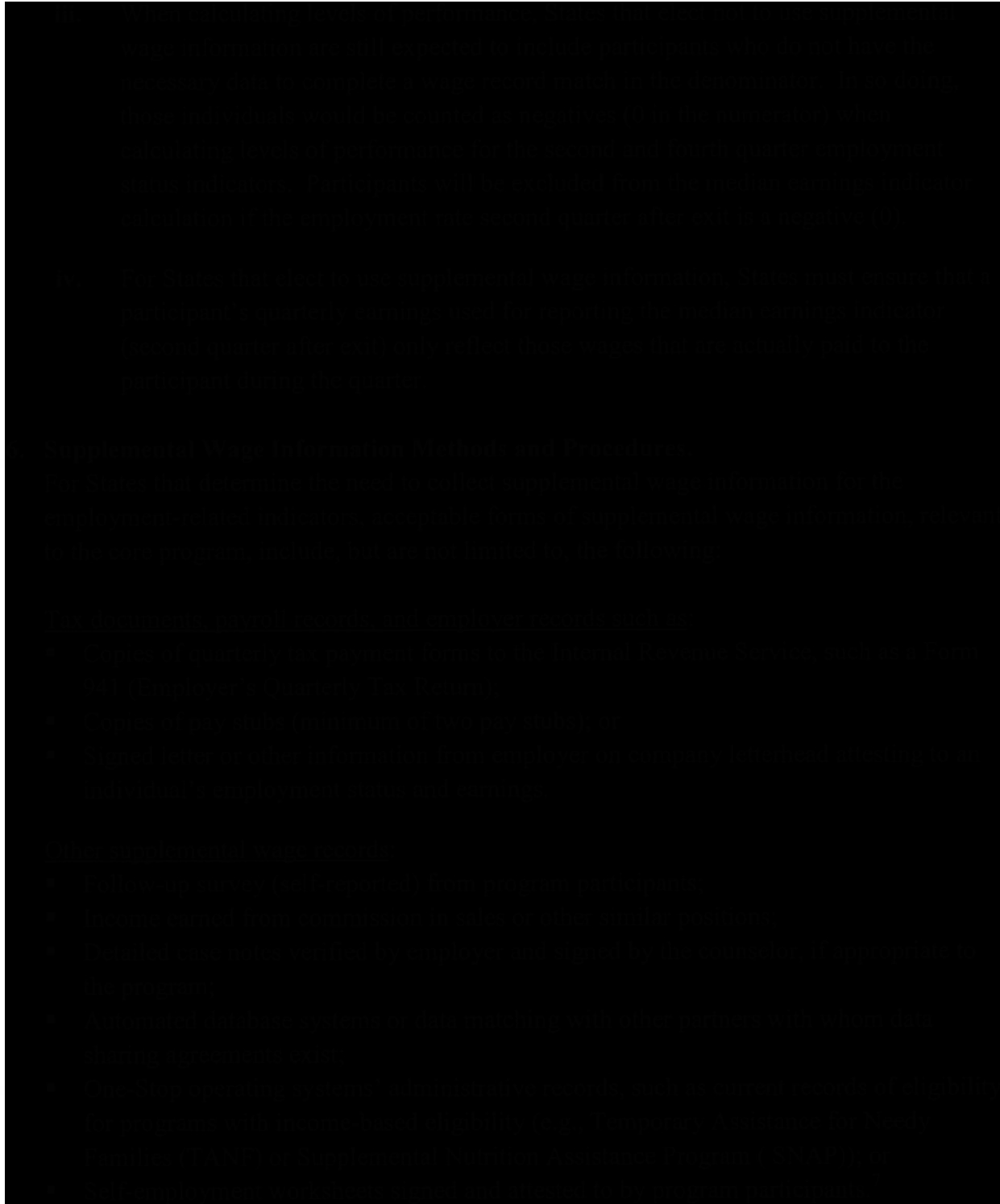
While most forms of employment in a State's workforce will be captured via employer filings in the UI wage-reporting system, certain types of employees and employees are excluded from coverage under Federal and State UI laws. For program participants engaged in these types of employment, and for participants for whom the State does not have an established record, States may use supplemental wage information and wage data from other reliable sources to collect employment-related data necessary for calculating levels of performance.

Individuals for whom a quarterly wage record might not be available through the State UI data system include but are not limited to:

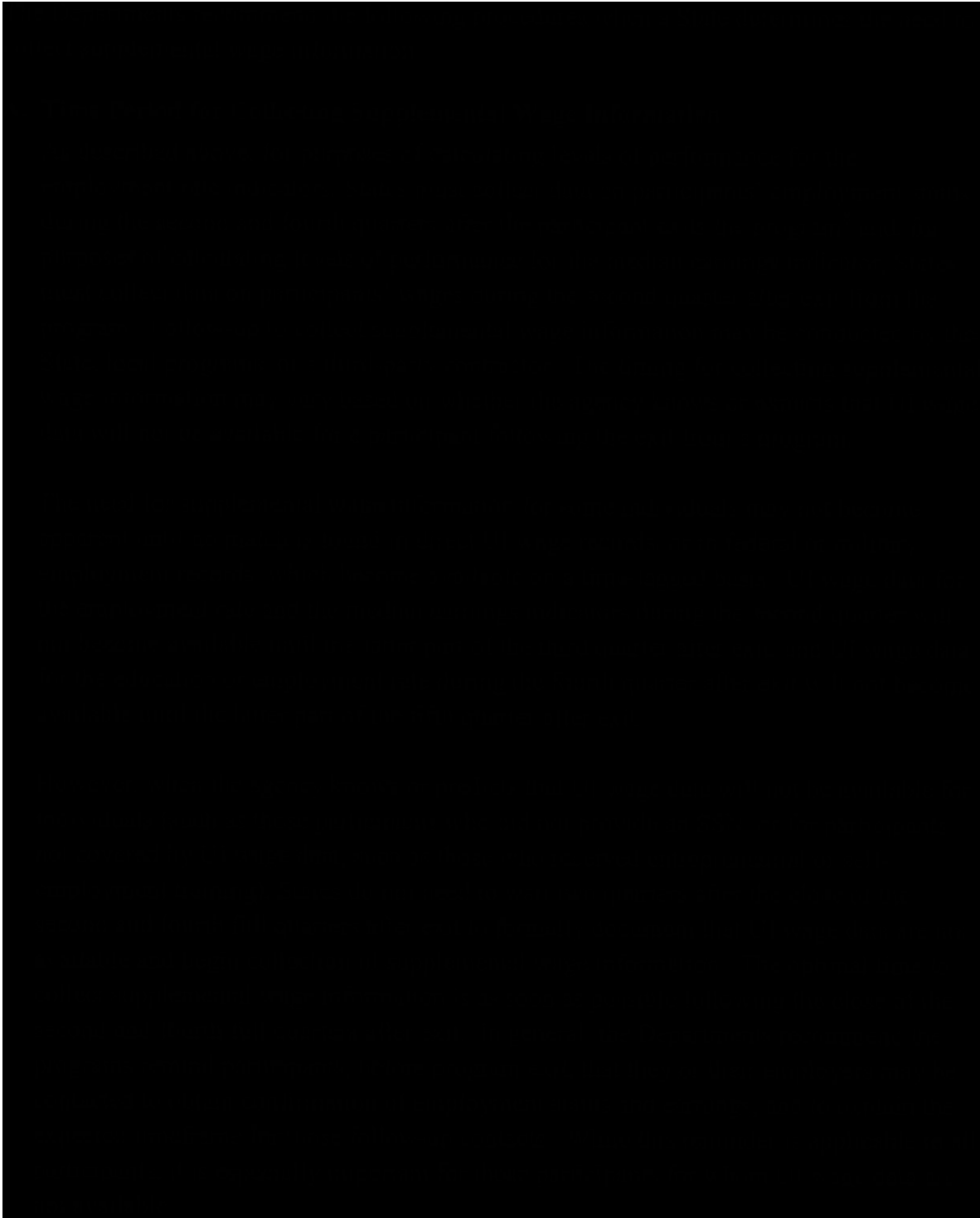
- Part-time employees
- Full-time employees
- Individuals who are self-employed

States that are not members of the State Unemployment System (SUS) may use other wage data sources through the UIIS to determine performance reporting for the UIIS. For example, States that are not members of the UIIS and the UIIS currently report quarterly wage data to the UIIS may use performance reporting for the UIIS and UIIS programs. However, performance reporting for the UIIS and UIIS programs will be based on the UIIS data.





Earnings (or net profit) can be calculated by subtracting total expenses from gross receipts. Not all self-employed individuals receive a salary, but the funds that represent income over expenses that are available to be invested back into the business are considered earnings.



For the purpose of the employment portion of the credential rate indicator, States must collect data on participants' employment status each quarter after exit within one year after exiting the program. (See Table 1: Timeline for Commencing Data Collection for Employment-Related Performance Indicators)

Table 1, below, summarizes the times when data match or supplemental wage data are to be collected.

**Table 1: Timeline for Commencing Data Collection for Employment-Related Performance Indicators**

Performance Indicator <sup>a</sup>	UI Wage Data Becomes Available	Collection of Supplemental Wage Information May Begin <sup>b</sup>
Employment Rate – Second Quarter after Exit (Including Title I Youth)	During third or fourth quarter after exit	Beginning third quarter after exit
Employment Rate – Fourth Quarter after Exit (Including Title I Youth)	During fifth or sixth quarter after exit (first or second quarter, next program year)	Beginning fifth quarter after exit
Median Earnings – Second Quarter after Exit	During third or fourth quarter after exit	Beginning third quarter after exit
Credential Attainment – within 1 Year after Exit	During second or third quarter after exit	Beginning second quarter after exit

<sup>a</sup> For all performance indicators, exit is the point after which a participant who has received services through any program meets the criteria for exit from that program, or meets the criteria for exit under an applicable common exit policy (20 CFR 677.150(c), 34 CFR 463.150(c), and 34 CFR 361.150(c)).

<sup>b</sup> For individuals for whom the agency knows or predicts UI wage data will not be available (such as those participants who do not provide an SSN, or for participants receiving entrepreneurial or self-employment training), States should begin collecting supplemental wage information as close to the reference period as possible.

Participants who provide an SSN and have exited a program, but for whom information is not yet available, are not included in performance calculations until such data subsequently become available. The Departments expect that UI employer tax record data for these indicators will generally be available, since there is a two-quarter lag built into the reporting periods to allow time for reporting participant exit and direct UI wage record match, and for obtaining supplemental wage information if a direct UI wage record match, or Federal or military employment record, is not yet available.<sup>9</sup> In order to ensure data are available and reported consistently for all participants, UI data should be reported four quarters after exit for second quarter wage and employment information, and six quarters after exit for fourth quarter information. This allows for a one-quarter lag in the reporting of UI wages by employers and an additional one-quarter lag for reporting by the core programs.

**Example:** If a participant exits the program between July 1, 2016 and September 30, 2016 (first quarter of program year (PY) 2016), the participant will not be

<sup>9</sup> After the two-quarter lag concludes, if the information is still not available, wages will be converted to \$0 permanently and employment status will be reported as not employed. Wages reported as \$0 will indicate that the participant was unemployed in the second quarter after exit, counting as a negative outcome for purposes of calculating levels of performance for the Employment Rate Second Quarter after Exit indicator and excluding that participant from the calculations of levels of performance for the Median Earnings Second Quarter after Exit indicator. Likewise, if neither a wage record match nor supplemental wage information is available following a two-quarter lag after the end of the fourth quarter following program exit, the participant will be reported as unemployed in the fourth quarter after exit.

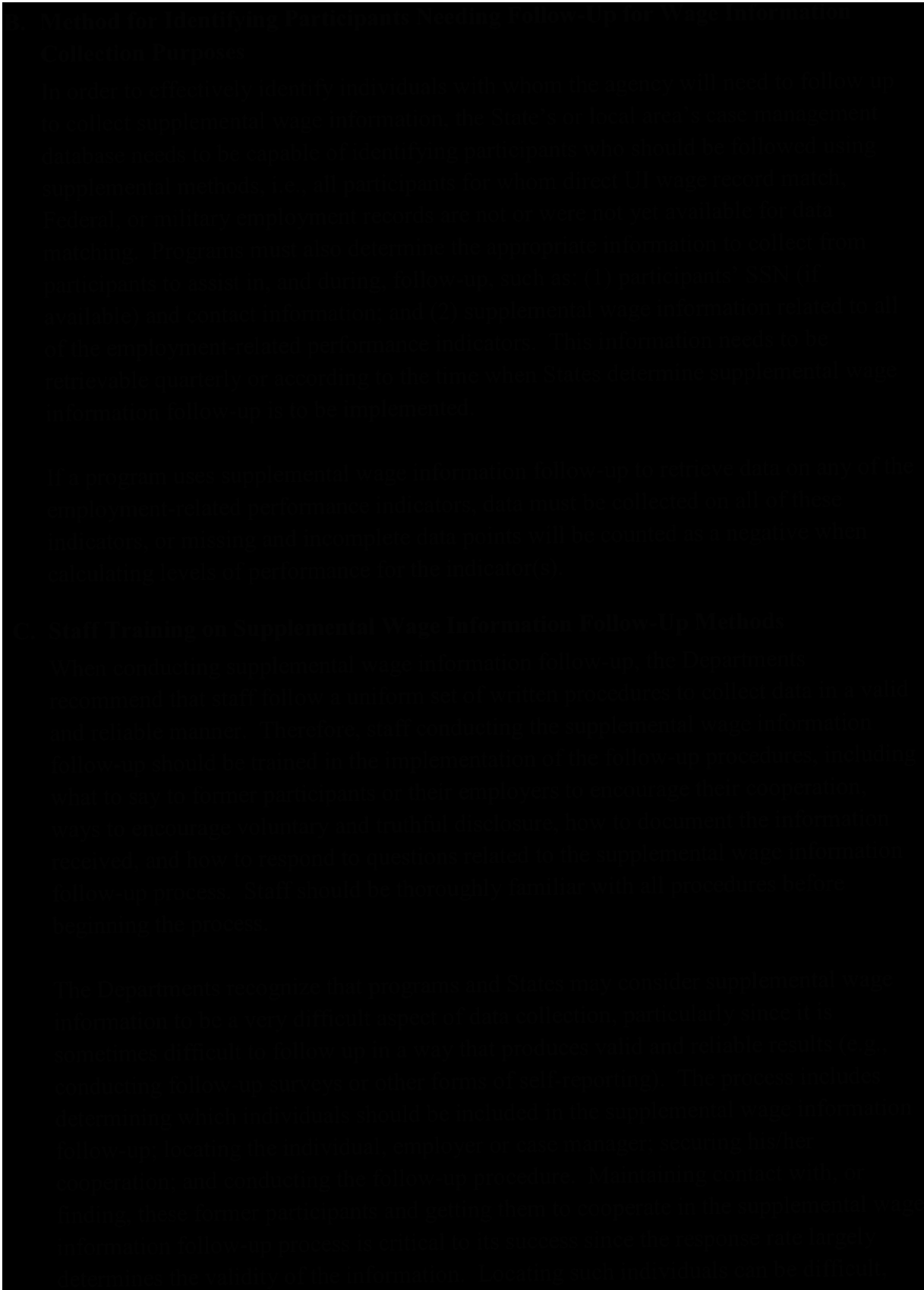
included in the Employment Rate – Second Quarter After Exit until the quarterly report for the quarter ending September 30, 2017 (first quarter of PY 2017) and the annual report for PY 2017 for the period ending June 30, 2018.

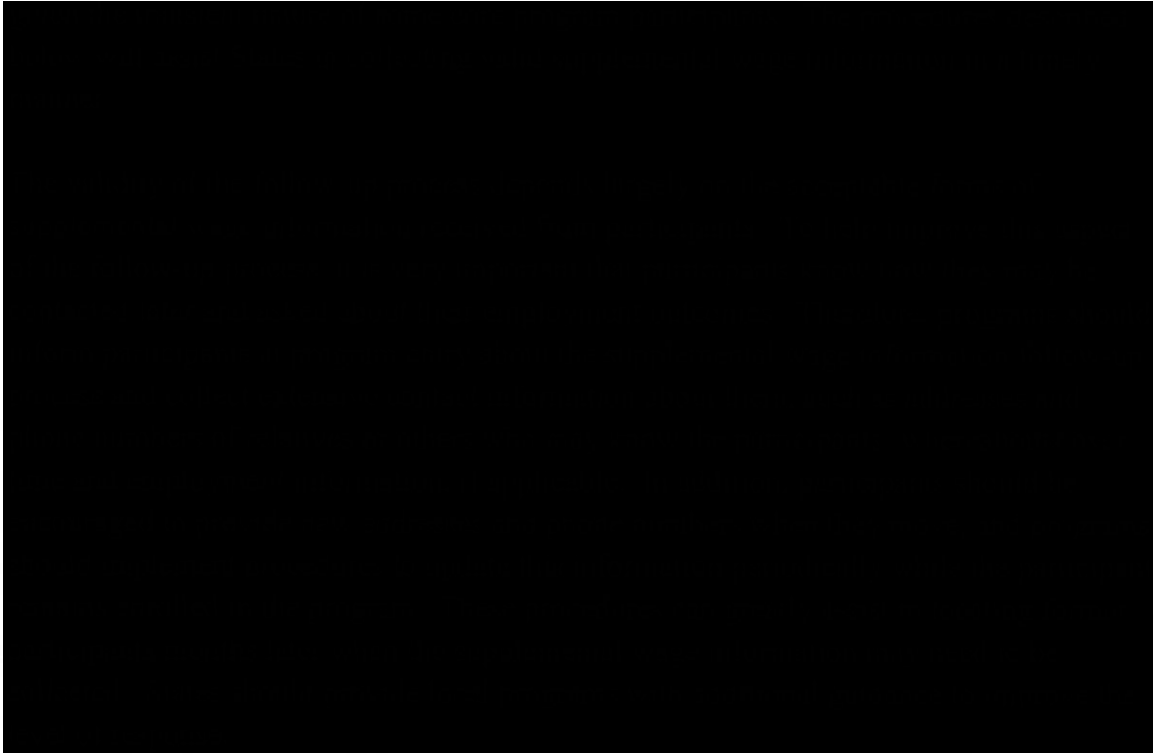
Quarterly data reporting is required for all core programs except for the AEFLA program (i.e., the Adult, Dislocated Worker, Youth, Wagner-Peyser Act ES, and VR programs) (20 CFR 677.235(a), 34 CFR 463.235(a), and 34 CFR 361.235(a)). States must report AEFLA data on an annual basis, but are required to collect data on a quarterly basis. To ensure data are collected to satisfy required reporting timelines, particularly for those programs reporting on a quarterly basis, States may decide to conduct supplemental wage information follow-up more frequently than quarterly, as more frequent follow-up may be more convenient or cost efficient. For example, the program could conduct continuous, ongoing, or monthly follow-up activities. Therefore, the Departments recommend that programs ensure the time lag to contact participants after they exit the program be as short as possible to ensure follow-up activities are successful. The longer a program waits to contact participants after they exit the program, the greater likelihood of a lower response rate which could result in less valid data.

The timeframes when employment-related information must be reported are shown in Table 2 below:

**Table 2: Deadlines for Timely Collection of Data for Employment-Related Performance Indicators**

Exit Quarter	Report Employment Rate – 2 <sup>nd</sup> Quarter (including Title I Youth) by End of:	Report Employment Rate – 4 <sup>th</sup> Quarter (including Title I Youth) by End of:	Report Median Earnings by End of:	Report Credential Attainment (Employment) – within 1 Year after Exit by End of:
First Quarter (Q1) <i>(July 1 – September 30)</i>	Q1, Next Program Year (four quarters later)	Q3, Next Program Year (six quarters later)	Q1, Next Program Year (four quarters later)	Q3, Next Program Year (six quarters later)
Second Quarter (Q2) <i>(October 1 – December 31)</i>	Q2, Next Program Year (four quarters later)	Q4, Next Program Year (six quarters later)	Q2, Next Program Year (four quarters later)	Q4, Next Program Year (six quarters later)
Third Quarter (Q3) <i>(January 1 – March 31)</i>	Q3, Next Program Year (four quarters later)	Q1, Second Program Year After Exit (six quarters later)	Q3, Next Program Year (four quarters later)	Q1, Second Program Year After Exit (six quarters later)
Fourth Quarter (Q4) <i>(April 1 – June 30)</i>	Q4, Next Program Year (four quarters later)	Q2, Second Program Year After Exit (six quarters later)	Q4, Next Program Year (four quarters later)	Q2, Second Program Year After Exit (six quarters later)







## Summary of Supplemental Wage Information Follow-Up Guidelines

1. Develop a method for identifying participants to contact for follow-up.

*Best practice tip: Have staff follow a uniform set of written procedures to collect data in a valid and reliable (i.e., accurate and repeatable) manner.*

2. Ensure that the State has a uniform way to conduct the follow-up.

3. Conduct the follow-up as close to the reference period as possible.

4. Train staff to conduct the follow-up.

5. Identify local resources available to conduct the follow-up.

6. Implement procedures to improve the quantity and quality of participant responses.

*Best practice tip: Inform participants at program entry about the supplemental wage information follow-up process and collect extensive contact information about them, such as addresses and phone numbers of relatives or others who may know the participants' whereabouts over time and employment information, if applicable.*

7. Ensure that the State has a database and procedures for supplemental wage information reporting.

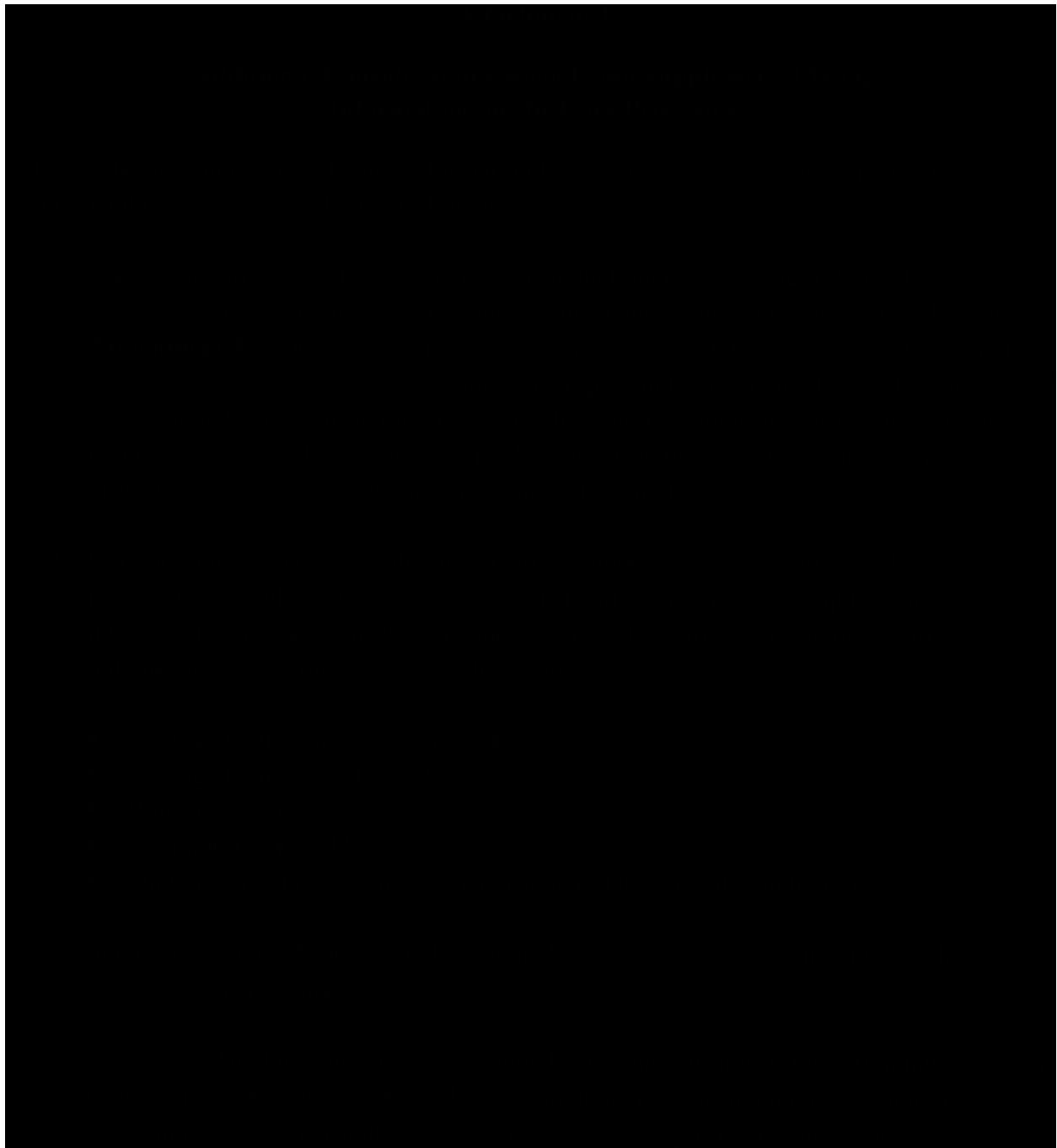
Information collected and distributed to the appropriate state and local staff

includes:

• Supplemental wage information from all funded programs may be directed to the appropriate agency for use in the program. Questions and comments about the funded program should be directed to the appropriate agency.

• Supplemental wage

• Supplemental wage information should be reported to the appropriate agency.



<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Performance
	<b>CORRESPONDENCE SYMBOL</b> OPDR/OWI
	<b>DATE</b> December 19, 2016

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER WIOA NO. 10-16  
OPERATING GUIDANCE for the WORKFORCE INNOVATION AND  
OPPORTUNITY ACT (referred to as WIOA)**

**TO:** STATE AND LOCAL STAKEHOLDERS IN THE WORKFORCE  
INNOVATION AND OPPORTUNITY ACT  
STATE WORKFORCE AGENCIES  
STATE WORKFORCE ADMINISTRATORS  
STATE WORKFORCE LIAISONS

**FROM:** PORTIA WU /s/  
Assistant Secretary for Employment and Training, Department of Labor

**SUBJECT:** Performance Accountability Guidance for Workforce Innovation and  
Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs

**1. Purpose.**

This Training and Employment Guidance Letter (TEGL) provides sub-regulatory guidance on the requirements set forth in the Workforce Innovation and Opportunity Act (WIOA), related to the implementation and operation of the performance accountability system under section 116 of WIOA and the implementing joint regulations in 20 CFR part 677 (and reprinted in 34 CFR parts 361 and 463). As explained further in this guidance, developed jointly by the U.S. Departments of Labor (DOL) and Education (ED) (Departments), WIOA requires all States and direct grantees of the Departments to collect and report information on all the participants described in this TEGL.

WIOA, signed into law on July 22, 2014, is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. WIOA supersedes titles I and II of the Workforce Investment Act of 1998 (WIA) and amends the Wagner-Peyser Act and the Rehabilitation Act of 1973.

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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The WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions (Joint WIOA Final Rule) was published in the Federal Register on August 19, 2016, at 81 FR 55791, and took effect on October 18, 2016. This guidance is based on the statutory requirements of WIOA, as well as its implementing final regulations.

2. **References.** See **Attachment 11.**

3. **Background.**

Section 116 of WIOA establishes performance accountability indicators and performance reporting requirements to assess the effectiveness of States and local areas in achieving positive outcomes for individuals served by the workforce development system's six core programs. These six core programs are the Adult, Dislocated Worker, and Youth programs, authorized under WIOA title I and administered by DOL; the Adult Education and Family Literacy Act (AEFLA) program, authorized under WIOA title II and administered by ED; the Employment Service program authorized under the Wagner-Peyser Act, as amended by WIOA title III and administered by DOL; and the Vocational Rehabilitation (VR) program authorized under title I of the Rehabilitation Act of 1973, as amended by WIOA title IV and administered by ED. WIOA provides a historic opportunity to align performance-related definitions, streamline performance indicators, integrate reporting, and ensure comparable data collection and reporting across all six of these core programs, while also implementing program-specific requirements related to data collection and reporting.

Through this guidance, the Departments elaborate on the performance accountability requirements in section 116 of WIOA, part 677 of the Joint WIOA Final Rule (also reproduced in 34 CFR parts 361 (VR) and 463 (AEFLA)), and the performance reporting requirements in the WIOA Joint Performance Accountability Information and Reporting System (WIOA Performance ICR), approved by the Office of Management and Budget (OMB) on June 30, 2016 as No. 1205-0526. Specifically, this TEGl addresses the:

- Methodology for calculating the six primary indicators of performance for the core programs;
- Definitions of: (1) reportable individual, (2) participant, (3) exit, and (4) period of participation; and
- Guidance related to: (1) career services vs. training services, (2) core services, (3) incumbent worker training, and (4) indicator of performance score calculation.

Where applicable, this document refers to data elements in the WIOA Joint Participant Individual Record Layout (Joint PIRL).<sup>1</sup> Additional references are also made to the DOL-only PIRL, as applicable for the DOL-administered programs.

The specific sections of this guidance can be found on the following pages:

Section	Page
Primary Indicators of Performance	5
A. Employment Rate – 2nd Quarter After Exit	8
A-1. Title I Youth Education and Employment Rate – 2nd Quarter After Exit Quarter	8
B. Employment Rate – 4th Quarter After Exit	9
B-1. Title I Youth Education and Employment Rate – 4th Quarter After Exit Quarter	10
C. Median Earnings – 2nd Quarter After Exit	10
D. Credential Attainment	12
E. Measurable Skill Gains	17
F. Effectiveness in Serving Employers	23
Categories of Enrollment: Reportable Individual, Participant & Date of Exit from the program	29
Self-Service and Information-Only Activities	35
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Incumbent Worker Training Under Title I	40

#### 4. **List of Attachments.**

- **Attachment 1:** Definitions of Terms Related to the Performance Accountability System
- **Attachment 2:**
  - **Table A:** Exclusions (PIRL Data Element 923): Title I Adult, Title I Dislocated Worker, Title II AEFLA, Title III Employment Service, and Title IV VR Programs;
  - **Table B:** Exclusions (PIRL Data Element 923): Title I Youth program; and

<sup>1</sup>ETA Form-9170, the WIOA Participant Individual Record Layout (Joint PIRL), has been approved with OMB Control Number 1205-0526 (Workforce Innovation and Opportunity Act Common Performance Reporting, expiration date June 30, 2019), available at [https://doleta.gov/performance/reporting/eta\\_default.cfm](https://doleta.gov/performance/reporting/eta_default.cfm). The PIRL provides a standardized set of data elements, definitions, and reporting instructions used to describe the characteristics, activities, and outcomes of WIOA participants.

- **Table C:** Exclusions: Sec. 225 of WIOA
- **Attachment 3:** Wage Conversion Chart
- **Attachment 4:**
  - **Table – A:** Effectiveness in Serving Employers’ Data Elements Specifications
  - **Table – B:** Effectiveness in Serving Employers’ Specifications: Employer Repeat Business Customers and Penetration Rate
- **Attachment 5:** Periods of Participation – Effects on Indicators of Performance
- **Attachment 6:** Examples of Counting Periods of Participation for Exit-Based Indicators of Performance
- **Attachment 7:**
  - **Table – A:** Participation Level Services Chart – WIOA Title I Adult, Title I Dislocated Worker and Title III Wagner-Peyser Act Employment Service Program;
  - **Table – B:** Participation Level Services Chart – WIOA Title I Youth Program;
  - **Table – C:** Applicable Career and Training Services for WIOA Title II AEFLA Program; and
  - **Table – D:** Participation Level Services Chart – WIOA Title IV VR Program
- **Attachment 8:** Incumbent Worker Training Required Data Elements
- **Attachment 9:** Calculation – Average Indicator of Performance Score
- **Attachment 10:** Calculations – WIOA Indicators of Performance
- **Attachment 11:** References – WIOA Operating Guidance

**5. Definitions of Terms Related to the Performance Accountability System.**

This guidance uses the following terms. See **Attachment 1** for complete definitions.

- Common Exit
- Competitive Integrated Employment
- Customized Training
- Employment
- Exit
- Incumbent worker
- Integrated Education and Training Program (IET)
- Participant
- Participant Individual Record Layout
- Period of participation
- Reportable individual
- Secondary school diploma
- Unsubsidized employment

## 6. Primary Indicators of Performance.

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

- A. Employment Rate – 2nd Quarter After Exit: 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 second quarter after exit);
- B. Employment Rate – 4th Quarter After Exit: 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);
- C. Median Earnings – 2nd Quarter After Exit: The median earnings of participants who are in unsubsidized employment during the second quarter after exit from the program;
- D. Credential Attainment: 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;
- E. Measurable Skill Gains: 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. 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 educational 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 postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the State unit's academic standards<sup>2</sup>;
- 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.

**F. Effectiveness in Serving Employers:** WIOA sec. 116(b)(2)(A)(i)(VI) requires the Departments to establish a primary indicator of performance for effectiveness in serving employers. The Departments are piloting three approaches designed to gauge three critical workforce needs of the business community.

- Approach 1 – Retention with the same employer – addresses the programs' efforts to provide employers with skilled workers;
- Approach 2 – Repeat Business Customers – addresses the programs' efforts to provide quality engagement and services to employers and sectors and establish productive relationships with employers and sectors over extended periods of time; and
- Approach 3 – Employer Penetration Rate – addresses the programs' efforts to provide quality engagement and services to all employers and sectors within a State and local economy.

Since this indicator is a new approach for measuring performance under WIOA's six core programs, the Departments have implemented a pilot program during which States must select two of the three approaches. They also may develop an additional State-specific approach. The Departments will evaluate State experiences with the various approaches and plan to identify a standardized indicator that the Departments anticipate will be implemented no later than the beginning of Program Year 2019.

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<sup>2</sup> Within each State there is an administrative unit that provides authorization to postsecondary institutions within the State. States differ in the requirements to which they hold postsecondary institutions responsible for satisfactory progress. Progress for WIOA purposes must comply with any applicable State standards. Likewise, every State has a State educational agency that establishes education standards for secondary education within the State, which would apply for purposes of determining if a participant is meeting the State's academic standards.



The methodologies for calculating most of the primary indicators of performance are written as equations (see **Attachment 10**), clearly identifying which cohorts are in the numerator and which cohorts are in the denominator. In cases where there are conditions that apply to both the numerator and denominator, the condition is represented in italics at the beginning of the discussion about the indicator.

These primary indicators of performance apply to all six core programs, except that the indicators for credential attainment and measurable skill gains do not apply to the title III Employment Service program.

For the three employment-related performance indicators (employment rate in the second and fourth quarters after exit and median earnings in the second quarter after exit), status in unsubsidized employment and quarterly earnings may be determined by direct Unemployment Insurance (UI) wage match, Federal employment records, military employment records, or supplemental wage information. Participants who are in the military or in a Registered Apprenticeship program are also considered as employed, and their quarterly earnings are calculated, for the purpose of these indicators. Supplemental wage information may be collected in those circumstances where quarterly wage records are not available or may not apply (e.g. for participants who are self-employed, or for participants who decline to provide a social security number (SSN)). States must submit supplemental wage information to the Departments by using the data reporting instruments (i.e., PIRL and Statewide and Local Performance Report Template and Specifications). The Departments will provide specific protocols on the use and reporting of supplemental wage information in future guidance.

In addition, as set forth in more detail in **Attachment 2, Table A** and **Attachment 2, Table B**, under very limited circumstances, some participants who exit programs are excluded from the performance calculations for the six indicators. These categories of exclusions apply to participants in all six core programs who exit for any of the reasons described in **Attachment 2, Tables A** and **B**. Additionally, participants receiving services under WIOA sec. 225 are excluded from exit-based measures described in **Attachment 2, Table C**.

Furthermore, participants who have exited a program, but for whom exit-based information (e.g., employment-related information) is not yet available, are not included in performance calculations until such data subsequently become available. For the employment-related indicators (i.e., employment rate in the second and fourth quarters after exit, and median earnings in the second quarter-s after exit), if employment status is recorded as “Information not yet available” or if total earnings are recorded as “999999.99” (data were not yet available), the participant record will be excluded from the performance calculations. The Departments anticipate, however, that data for the employment indicators will generally be

available, as there is a two-quarter lag built into the reporting times for the employment- and wage-based indicators to allow time for reporting participant exit and conducting direct UI wage record match.

The methodology for calculating the primary indicators of performance for the core programs, and the operational parameters determining the population assessed for each primary indicator, are as follows.

#### **A. Employment Rate – 2nd Quarter After Exit**

Employment Rate – 2nd Quarter After Exit is the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program.

##### **Methodology:**

*Calculation includes all program participants, except those participating in the title I Youth program (which will be discussed separately below):*

The number of participants who exited during the reporting period who are found to be employed, either through direct UI wage record match, Federal or military employment records, or supplemental wage information, in the second quarter after the exit quarter DIVIDED by the number of participants who exited during the reporting period. This is described in **Attachment 10, Figure 1**.

##### **Operational Parameters:**

When calculating levels of performance for this indicator, States must include all participants exiting the title I Adult, title I Dislocated Worker, title II AEFLA, title III Employment Service, and title IV VR programs, except States must not include (in either the numerator or denominator) those participants who exit during the reporting period for any of the reasons listed in **Attachment 2, Table A** or **Attachment 2, Table C** (PIRL 923) regarding exclusions.

#### **A-1. Title I Youth Education and Employment Rate – 2nd Quarter After Exit**

Title I Youth Education and Employment Rate – 2nd Quarter After Exit is the percentage of title I Youth program participants who are in education or training activities, or in unsubsidized employment, during the second quarter after exit from the program.

##### **Methodology:**

*Calculation includes all title I Youth program participants:*

The number of title I Youth program participants who exited during the reporting period who are found to be employed, either through direct UI wage record match, Federal or military employment records, or supplemental wage information, OR found to be enrolled in secondary education, postsecondary education, or occupational skills training (including advanced training) in the second quarter after the exit quarter DIVIDED by the number of title I Youth program participants who exited the program during the reporting period. This is described in **Attachment 10, Figure 2**.

**Operational Parameters:**

Calculations for determining levels of performance for this indicator include all participants who exit the title I Youth program except those that exit for any of the reasons listed in **Attachment 2, Table B** or **Attachment 2, Table C** (PIRL 923). Title I Youth who are in the AmeriCorps program or Job Corps program in the second quarter after exit are counted as a success in the training portion of the indicator.

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

Employment Rate – Fourth Quarter After Exit is the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.

**Methodology:**

*Calculation includes all program participants, except those participating in the title I Youth program (which will be discussed separately below):*

The number of participants who exited during the reporting period who are found to be employed, either through direct UI wage record match, Federal or military employment records, or supplemental wage information, in the fourth quarter after the exit quarter DIVIDED by the number of participants who exited during the reporting period. This is described in **Attachment 10, Figure 3**.

**Operational Parameters:**

Calculation of levels of performance for this indicator includes all participants who exit from the title I Adult, title I Dislocated Worker, title II AEFLA, title III Employment Service, and title IV VR programs, except States must not include (in either the numerator or denominator) those who exit for any of the reasons listed in **Attachment 2, Table A**.

## **B - 1. Title I Youth Education and Employment Rate – 4th Quarter After Exit**

Title I Youth Education and Employment Rate – Fourth Quarter After Exit is the percentage of program participants who are in education or training activities, or in unsubsidized employment, during the fourth quarter after exit from the program.

### **Methodology:**

*Calculation includes all title I Youth program participants who exit from the program:*

The number of title I Youth program participants who exited the program during the reporting period who are found to be employed, either through direct UI wage record match, Federal or military employment records, or supplemental wage information, OR found to be enrolled in secondary education, postsecondary education, or occupational skills training (including advanced training) in the fourth quarter after the exit quarter DIVIDED by the number of title I Youth program participants who exited the program during the reporting period. This is described in **Attachment 10, Figure 4**.

### **Operational Parameters:**

Calculation of levels of performance for this indicator includes all participants who exit from the title I Youth program, except those who exit for any of the reasons listed in **Attachment 2, Table B**. Title I Youth who are in the AmeriCorps program or Job Corps program in the fourth quarter after exit are counted as a success in the training portion of the indicator.

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

Median Earnings – 2nd Quarter After Exit is the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program, as established through direct UI wage record match, Federal or military employment records, or supplemental wage information.

### **Methodology:**

*To calculate the median earnings for all participants employed in the second quarter after exit from any of the core programs, including the title I Youth program:*

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,

where there is the same quantity of numbers above the median number as there is below the median number. This is described in **Attachment 10, Figure 5**.

The Wage Conversion Chart (**Attachment 3**) is used to convert supplemental wage information values that do not represent the total amount a participant earned in the second quarter after exit.

**Operational Parameters:**

The following participants and any associated earnings figures are excluded from the calculation for median earnings:

1. Participants who have exited and are not employed in the second quarter after exit (PIRL 1602 – Employed in 2nd Quarter After Exit Quarter – with code value 0)
2. Participants who have exited a program and for whom earnings information is not yet available:
  - PIRL 1602 – Employed in 2nd Quarter After Exit Quarter – with code 09 (Information not yet available); or
  - PIRL 1603 – Type of Employment Match 2nd Quarter After Exit Quarter – with code value 5 (Information not yet available); or
  - PIRL 1704 – Wages 2nd Quarter After Exit Quarter – with code value 999999.99 or blank.

There is a two quarter lag built into the reporting times for the wage- and employment-based indicators to allow time for reporting participant exit and conducting direct wage record match. After two quarters, if the information is still not available, wages will be converted to \$0 permanently. Wages reported as \$0 will indicate that the participant was not employed in the second quarter after exit, thereby counting as a negative outcome in the Employment Rate 2nd Quarter After Exit indicator and excluding that participant from the Median Earnings 2nd Quarter After Exit indicator.

3. Participants who have exited from a program and who have \$0 income. For purposes of the VR program, these participants would include unpaid family workers and homemakers.
4. Participants who have exited a program and are in subsidized employment.
5. Participants who have exited for any of the reasons listed in **Attachment 2, Tables A through C**.

#### **D. Credential Attainment**

Credential Attainment is the percentage of those participants enrolled in an education or training program (excluding those in 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.

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.

#### **Methodology:**

*Calculation includes all participants who exited from a program and were in either a postsecondary education or training program (other than OJT and customized training) OR in a secondary education program at or above the 9<sup>th</sup> grade level without a secondary school diploma or its equivalent:*

The number of participants who exited during the reporting period who obtained a recognized postsecondary credential during the program or within one year after exit PLUS those who were in a secondary education program and obtained a secondary school diploma or its recognized equivalent during the program 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 the number of participants enrolled in an education or training program (excluding those in OJT and customized training) who exited during the reporting period. This is described in **Attachment 10, Figure 6**.

#### **Operational parameters:**

**Definition of Credential:** This indicator measures attainment of two types of credentials: either a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent.

A recognized postsecondary credential is defined as 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, as well as graduate degrees for purposes of the VR program as required by section 103(a)(5) of the Rehabilitation Act of 1973, as amended

by title IV of WIOA. 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. These technical or industry/occupational skills generally are based on standards developed or endorsed by employers or industry associations. Neither certificates awarded by workforce development boards (WDBs), nor work readiness certificates, are included in this definition because neither type of certificate documents the measurable technical or industry/occupational skills necessary to gain employment or advance within an occupation. Likewise, such certificates must recognize technology or industry/occupational skills for the specific industry/occupation rather than general skills related to safety, hygiene, etc., even if such general skills certificates are broadly required to qualify for entry-level employment or advancement in employment.

A variety of different public and private entities issue recognized postsecondary credentials. Below is a list of the types of organizations and institutions that award recognized postsecondary credentials (not all credentials by these entities meet the definition of recognized postsecondary credential).

- A State educational agency or a State agency responsible for administering vocational and technical education within a State;
- An institution of higher education described in Section 102 of the Higher Education Act (20 USC 1002) that is qualified to participate in the student financial assistance programs authorized by title IV of that Act. This includes community colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in Federal student financial aid programs;
- 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.
- A professional, industry, or employer organization (e.g., National Institute for Automotive Service Excellence certification, National Institute for Metalworking Skills, Inc., Machining Level I credential) or product manufacturer or developer (e.g., recognized Microsoft Information Technology certificates, such as Microsoft Certified IT Professional (MCITP), Certified Novell Engineer, a Sun Certified Java Programmer, etc.) using a valid and reliable assessment of an individual's knowledge, skills and abilities;
- ETA's Office of Apprenticeship or a State Apprenticeship Agency;

- A public regulatory agency, which awards 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 (e.g., Federal Aviation Administration aviation mechanic license, or a State-licensed asbestos inspector);
- A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons.
- Job Corps, which issues certificates for completing career training programs that are based on industry skills standards and certification requirements.

**Definition of a Secondary School Diploma:** For purposes of the credential attainment performance indicator, a secondary school diploma (or alternate diploma) (commonly referred to as high school diploma) is one that is recognized by a State and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). 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, that would satisfy this performance indicator are those recognized by a State.

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

- Obtaining certification of attaining passing scores on a State-recognized high school equivalency test.
- Earning a secondary school diploma or State-recognized equivalent through a credit bearing secondary education program sanctioned by State law, code, or regulation.
- Obtaining certification of passing a State recognized competency-based assessment.
- Completion of a specified number of college credits.

**Types of Acceptable Credentials:** The following are acceptable types of credentials that count toward the credential attainment indicator:

- Secondary School diploma or recognized equivalent
- Associate's degree



- Bachelor’s degree
- Graduate degree for purposes of the VR program
- Occupational licensure
- Occupational certificate, including Registered Apprenticeship and Career and Technical Education educational certificates
- Occupational certification
- Other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

**Who is included in the Calculation of the Credential Attainment Indicator:**

Participants who exit and are in a postsecondary education or training program, or who are in a secondary education program (at or above the 9<sup>th</sup> grade level) without a secondary school diploma or equivalent, are included in the credential attainment indicator, subject to the “Special Rule” below. However, participants enrolled in work-based OJT or customized training are excluded from this indicator because such training does not typically lead to a credential.

**Special Rule Relating to Secondary School Diplomas and Recognized Equivalents in the Calculation of the Credential Attainment Indicator:**

Participants who obtain a secondary school diploma or its recognized equivalent must also meet an additional condition before they are counted as a successful outcome 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 following exit.

For each core program, a description of who is considered to be enrolled in an “education or training program”, and thus included in the credential attainment indicator, follows:

- **Title I Adult:** All Adult program participants who received training that was not OJT or Customized Training are included in the credential attainment indicator.
- **Title I Dislocated Worker:** All Dislocated Worker program participants who received training that was not OJT or Customized Training are included in the credential attainment indicator.
- **Title I Youth:** All in-school Youth (ISY) are included in the credential attainment indicator since they are attending secondary or postsecondary school. Only out-of-school Youth (OSY) who participate in one of the following are included in the credential attainment indicator:

- the program element occupational skills training
  - secondary education during participation in the title I Youth program
  - postsecondary education during participation in the title I Youth program
  - Title II-funded adult education during participation in the title I Youth program
  - YouthBuild during participation in the title I Youth program
  - Job Corps during participation in the title I Youth program
- **Title II AEFLA:** The following AEFLA program participants are included in this measure:
    - For the secondary school credential: Participants without a secondary school diploma or recognized equivalent, who were enrolled in a secondary education program at or above the 9<sup>th</sup> grade level.
    - For the postsecondary credential: Participants who were co-enrolled in a postsecondary education or training program.
  - **Title IV VR:** The following VR program participants are included in this measure:
    - All participants who have participated in an educational or training program leading to a postsecondary credential.
    - All participants who are enrolled in secondary education and who have the attainment of a secondary school diploma or its equivalent identified on their Individualized Plan for Employment (IPE).

**Exclusions from the Measure:**

Participants who exited a program and who were enrolled in the following are excluded from the credential attainment indicator:

- a. OJT only;
- b. Customized training only; or
- c. The title III Employment Service program (Wagner-Peyser) only.

Also, participants who exit for any of the reasons listed in **Attachment 2, Tables A through C** are excluded from the credential attainment indicator.

## **E. Measurable Skill Gains**

The Measurable Skill Gains indicator is the percentage of 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.

The measurable skill gains indicator is used to measure interim progress of participants who are enrolled in education or training services for a specified 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. Depending upon the type of education or training program in which a participant is enrolled, documented progress is defined as one of the following:

1. Documented achievement of at least one educational functioning level of a participant who is receiving instruction below the postsecondary education level;
2. Documented attainment of a secondary school diploma or its recognized equivalent;
3. Secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the State unit's academic standards;
4. 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
5. 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.

### **Examples:**

- A participant is enrolled in a 4-year registered apprenticeship program: the measurable skill gains indicator tracks the skills the participant gains throughout the reporting period, not just at the end of the 4-year training program.

- Low-skilled adult participants of an adult education program: the measurable skill gains indicator provides an opportunity to track and report gains in reading, writing, mathematics, and English proficiency.

### **Documenting Progress for Types of Measurable Skill Gains**

- 1. Documented achievement of at least one educational functioning level of a participant who is receiving instruction below the postsecondary level** – Programs may measure educational functioning level gain in one of three ways:
  - (a) States may compare the participant’s initial educational functioning level, as measured by a pre-test, with the participant’s educational functioning level, as measured by a post-test;<sup>3</sup>
  - (b) States that offer adult high school programs that lead to a secondary school diploma or its recognized equivalent may measure and report educational gain through the awarding of credits or Carnegie units; or
  - (c) States may report 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.
- 2. Documented attainment of a secondary school diploma<sup>4</sup> 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<sup>5</sup>, including a high school or adult secondary school diploma.
- 3. Secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the State unit’s academic**

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<sup>3</sup> The approved 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. The list of approved assessments is published annually in the Federal Register. See *Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education*; Education Department, 80 Fed. Reg. 48304 (August 12, 2015). <https://federalregister.gov/a/2015-19847>.

<sup>4</sup> Secondary school diploma refers to a regular high school diploma, as defined in section §101(43) of the ESEA, as amended by the ESSA. See *Every Student Succeeds Act*, Pub. L. 114-95, Sec. 8002. December 2015.

<sup>5</sup> Alternate diploma must meet the requirements under the ESEA, as amended by the ESSA.

**standards** – For secondary education, this gain may be documented through receipt of a secondary transcript<sup>6</sup> or report card for one semester showing that the participant is achieving the State unit’s policies for academic standards. For postsecondary education, this gain must demonstrate a sufficient number of credit hours—which is at least 12 hours per semester or, for part-time students, a total of at least 12 hours over the course of two completed consecutive semesters during the program year—that shows a participant is achieving the State unit’s academic standards (or the equivalent for other than credit hour programs).

- 4. 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** – Documentation for this gain may vary, as programs should identify appropriate methodologies based upon the nature of services being provided, but progress reports must document substantive skill development that the participant has achieved. The gain may be documented by a satisfactory or better 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.
- 5. 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, satisfactory attainment of an element on an industry or occupational competency-based assessment, or other completion test necessary to obtain a credential.

**Methodology:**

*Calculation includes all participants:*

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

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<sup>6</sup>Secondary transcript is specific to youth attending high school.

Participants who, during any point in the program year, are in an education or training program that leads to a recognized postsecondary credential or employment are included in the **denominator**. This includes participants who continue to receive services as well as those who have participated during the reporting period and have exited the program. Data for the denominator in this calculation is drawn from *PIRL 1811: Date Enrolled During Program Participation in an Education or Training Program Leading to a Recognized Postsecondary Credential or Employment*.

The **numerator** is the number of program participants defined above who achieved at least one type of gain. A participant may have achieved more than one type of gain in a reporting period; however, only one gain per participant in a reporting period may be used to calculate success on the measurable skill gains indicator. These calculations are described in **Attachment 10, Figure 7**.

#### **Operational Parameters:**

All participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment are counted in the calculation of this indicator. Participants who exit for any of the reasons listed in **Attachment 2, Tables A and B** are excluded from the measurable skill gains indicator. The following participants in education or training programs are included:

- **Title I Adult and Dislocated Worker** – All participants who are in a title I Adult- or Dislocated Worker-funded training program are included in the measurable skill gains indicator (which includes funding a training program for a secondary school program equivalent). This includes all participants in work-based training. (Refer to Incumbent Workers Training section on page 39.)
- **Title I Youth** – All ISY are included in the measurable skill gains indicator since they are attending secondary or postsecondary school. Only OSY who are in one of the following are included in the indicator:
  - the program element occupational skills training
  - secondary education during participation in the title I Youth program
  - postsecondary education during participation in the title I Youth program
  - Title II-funded adult education during participation in the title I Youth program
  - the YouthBuild program during participation in the title I Youth program
  - Job Corps during participation in the title I Youth program

- **Title II AEFLA** – All participants in title II AEFLA programs are considered to be in an education program leading to a recognized postsecondary credential or employment and, as such, would be included in the measurable skill gains indicator.
- **Title IV VR** – All VR program participants who are in an education or training program that leads to a recognized secondary or postsecondary credential, which is identified on the individual’s IPE, would be included in the measurable skill gains indicator.

**Additional Operational Parameters:**

- Participants are only included in the denominator one time per reporting period (i.e., program year), regardless of how many skill gains they achieve in a given program year unless the individual has more than one period of participation in a given program year. Likewise, participants are only included in the numerator one time per reporting period (i.e., program year), regardless of how many skill gains they achieve in a given program year unless the individual has more than one period of participation in a given program year (See Section 9, page 35, for discussion on periods of participation.);
- 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, as explained in the discussion of periods of participation in Section 9 of this guidance;
- 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 a program; and
- Programs should not delay enrollment or services to participants until a new program year even if programs believe there is insufficient time for the participant to make any type of measurable skill gain by the end of that program year.

For performance accountability purposes, the measurable skill gains indicator calculates the number of participants who attain at least one type of gain during each period of participation within a given program year. Since this indicator is not exit-based, each unique program entry date (not exit date) triggers inclusion in the calculation. Participants will achieve a successful outcome in the indicator as long as they attain one type of gain applicable to the core programs. See the example below for how this would apply in a typical scenario.

**Example**

Chris enters an American Job Center and becomes a participant on October 2, 2016 (PY16). He exits the program on February 10, 2017. During this time, Chris achieves two types of gain under the measurable skill gain indicator.

He re-enters the program as a participant on June 11, 2017 (PY16). By the end of the program year (June 30, 2017), he is still in his second participation period. During this time, Chris obtains an additional type of gain under the measurable skill gain indicator.

In this example, Chris has two periods of participation and two positive outcomes on the measurable skill gains indicator. Although two types of gain were achieved in the first period of participation, only one of the two types of gains counts toward the indicator in the first participation period. During the second period of participation, another type of gain was achieved before the end of the program year, which counts as another positive outcome towards the measurable skill gains indicator.

This information is collected, for all core programs (except the title III Employment Service program), as part of the Measurable Skill Gains Report Template. If a participant achieves more than one type of measurable skill gain in a reporting period, the most recent gain is the skill gain type that should be recorded on the Measurable Skill Gains Report Template.

**Operational Parameters – Individual Core Programs:**

The appropriate types of measurable skill gains for each core program are detailed in the table below. These parameters are intended to focus performance accountability under measurable skill gain on the services that are allowable under the respective statutory provisions.

<b>Operational Parameters – Individual Core Programs</b>	
<b>Core Program</b>	<b>Type of Measurable Skill Gains</b>
Title I – Adult and Dislocated Worker	<ul style="list-style-type: none"><li>▪ Measured by achievement of any of the 5 types of measurable skill gains</li><li>▪ No specific measurable skill gain types required for specific Adult or Dislocated Worker participants</li></ul>
Title I – Youth	<ul style="list-style-type: none"><li>▪ Measured by achievement of any of the 5 types of measurable skill gains</li><li>▪ No specific measurable skill gains types required for specific Youth participants</li><li>▪ Type of skill gain should be based on the youth’s individual service strategy</li></ul>



Operational Parameters – Individual Core Programs	
Core Program	Type of Measurable Skill Gains
Title II – AEFLA	<ul style="list-style-type: none"> <li>▪ Measured by: <ul style="list-style-type: none"> <li>- Achievement of at least one educational functioning level, <b>OR</b></li> <li>- Documented attainment of a secondary school diploma or its recognized equivalent.</li> </ul> </li> </ul>
Title IV – VR	<ul style="list-style-type: none"> <li>▪ May be measured by achievement of any of the 5 measurable skill gains.</li> </ul>

**F. Effectiveness in Serving Employers**

WIOA sec. 116(b)(2)(A)(i)(VI) requires the Departments to establish a primary indicator of performance for effectiveness in serving employers. The Departments have determined that 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. The Departments are implementing this indicator in the form of a pilot program to test the rigor and feasibility of three approaches, and to subsequently set a standardized indicator. This indicator is reported on an annual basis; therefore, the reporting period for the effectiveness in serving employers indicator is the program year.

As described in the Joint WIOA Final Rule and the Joint WIOA Performance ICR (OMB Control No. 1205-0526), the Departments have developed three approaches for measuring effectiveness in serving employers. States must select two of these three approaches to report on this indicator. Governors also may establish and report on a third State-specific approach for measuring effectiveness, in addition to the two Departmental approaches selected. The Departments will evaluate State experiences with the various approaches and plan to identify a standardized indicator that the Departments anticipate will be implemented no later than the beginning of Program Year 2019.

The three approaches implemented by the Departments are designed to gauge three critical workforce needs of the business community:

- 1) Providing employers with skilled workers;
- 2) Providing quality engagement and services to employers and sectors and establishing productive relationships with employers and sectors over extended periods of time; and
- 3) Providing quality engagement and services to all employers and sectors within a State and local economy.

**a. Three Approaches to Measuring Effectiveness in Serving Employers (Each State must select two and may also develop a third State-established measure(s).)**

- 1. Retention (Retention with the same employer) – This approach captures the percentage of participants who exit and are employed with the same employer in the second and fourth quarters after exit.** States must use wage records to identify whether a participant’s employer wage record indicates a match of the same establishment identifier (such as a Federal Employer Identification Number (FEIN) or State tax id) in the second and fourth quarters.

*This approach is useful in determining whether the core programs are serving employers effectively by improving the skills of their workforce and decreasing employee turnover.*

- 2. Repeat Business Customers (Percentage of repeat employers using services within the previous three years) –** This approach tracks the percentage of employers who receive services that use core program services more than once.

*This approach is useful in determining whether employers who receive services from the core 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.*

- 3. Employer Penetration Rate (Percentage of employers using services out of all employers in the State) –** This approach tracks the percentage of employers who are using the core program services out of all employers represented in an area or State served by the public workforce system (i.e., employers served). States are required to track data elements E1 – E4 in **Attachment 4, Table A** (“Effectiveness in Serving Employers Specifications”) of the WIOA joint reporting requirements for employer penetration rate and repeat business customer measures. American Job Centers will keep track of the number of establishments served within a program year, and States will collect that data and compare it to the aggregate number of employers in a given State and/or county.

*This approach is useful in determining whether the core programs are serving a large portion of employers in an area and are adequately meeting the workforce needs of the area.*

**b. How to Calculate**

In order to implement the effectiveness in serving employers indicator as a shared indicator, the Departments recommend that States centralize the coordination of data collection and reporting into a single agency. Since the measure is dependent on UI wage data and an establishment identifier (such as an employer FEIN or State tax id), the Departments anticipate that the State Workforce Agency (SWA) may be best positioned to report this measure for the State.

States have flexibility in determining which agency is responsible for tracking these services, including the collection of the data and the setting of goals with the local workforce boards.

**Approach 1 – Retention with the Same Employer**

*Percentage of participants with wage records who exit and were employed by the same employer in the second and fourth quarters after exit.*

**Methodology:**

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 and the fourth quarter after exit DIVIDED by the number of participants with wage records who exit and were employed during the second quarter after exit.

For this measure, States must report on data element 1618 (Retention with the Same Employer in the 2nd Quarter and the 4th Quarter) in the WIOA Joint PIRL. This data element is calculated based on information included in the wage record matches for participants in their fourth quarter after exit. This means that the only participants who are included in this approach are those for whom a wage record match is available. In order to count as a “yes” for this measure, the participant must have the same establishment identifier (such as an employer FEIN or State tax id) in both the second and fourth quarters after exit. This creates the numerator for this measure. The denominator for this measure is calculated based on those participants with wage records who were employed in the second quarter after exit.

Data on employee retention for all participants who received ETA-funded WIOA program services will be collected by the American Job Centers and reported at the State-level by the SWA. Outcomes for title II AEFLA participants who are co-enrolled and receiving career services through the American Job Center would also be captured in that set of data. Data on title IV VR participants will be collected at the

State level, through the State VR agency, and submitted to the SWA, which will aggregate both sets of information to provide one shared outcome for this approach.

**Approach 2 – Repeat Business Customers**

*Percentage of employers who have used WIOA core program services more than once during the last three reporting periods*

**Methodology:**

The total number of establishments, as defined by Bureau of Labor Statistics (BLS) Quarterly Census of Employment and Wages (QCEW) program, served during the current reporting period (i.e., one program year) and that during the prior three reporting periods have used core program services more than once DIVIDED by the number of establishments, as defined by BLS QCEW, served during the current reporting period.

This measure is a unique count of employers who use WIOA core programs more than once. Regardless of the incidence of repeat usage of WIOA core program services, an employer who uses WIOA core program services more than once during the last three reporting periods should be counted only once in this calculation.

**Note:** The reporting period for this indicator is a program year (July 1 through June 30).

**Note:** As this indicator is implemented, it is the Departments’ intent to look forward until three program years’ worth of data become available. The Departments are not requiring States to use data for services delivered to employers prior to July 2016 to fulfill the prior three reporting periods’ requirement.

For this measure, States must report on data elements E1 and E2 as shown in **Attachment 4, Table A** - Effectiveness in Serving Employers Specifications. Please note that for employers with more than one physical location, the QCEW reports each work site as a separate establishment, and therefore, the total number of business establishments receiving services should be counted this way.

**Attachment 4, Table B** also includes definitions for the different categories of “Core Program Services” that may be counted when calculating levels of performance for the effectiveness in serving employers indicator. For example, a placement through title IV would fall under the “Worker Recruitment Assistance” category and would therefore count as a core program service.

**Note:** For more information about QCEW, see below.

### **Approach 3 – Employer Penetration**

*Percentage of employers using WIOA core program services out of all employers in the State*

#### **Methodology:**

The total number of establishments, as defined by the BLS QCEW program, that received a service or, if it is an ongoing activity, are continuing to receive a service or other assistance during the reporting period DIVIDED by the total number of establishments, as defined by BLS QCEW, located within the State during the final month or quarter of the reporting period. This measure is a unique count of employers using WIOA core programs. If an establishment receives, or continues to receive, more than one service during the reporting period (i.e., during the program year), that establishment should be counted only once in this calculation.

For this measure, States must report data elements E3 and E4 found in “WIOA Effectiveness in Serving Employers’ Data Elements and Specifications” part of the WIOA joint reporting requirements (see **Attachment 4, Table A** for the data elements and their definitions). For employers with more than one physical location, the QCEW reports each work site as a separate establishment and therefore, the total number of business establishments receiving services should be counted this way.

**Attachment 4, Table B** also includes definitions for the different categories of “Core Program Services” that may be counted when calculating this measure. For example, a placement through the title IV VR program would fall under the “Worker Recruitment Assistance” category and would therefore count as a core program service.

**Note:** For more information about QCEW, see below.

#### **c. Pilot Program**

Since these metrics are new to WIOA core programs, the Departments have developed options by which States can pilot two of the above approaches to measure effectiveness in serving employers. States must select two of the approaches discussed above, and also may develop, at the Governor’s discretion, an additional State-specific approach.

These three approaches are outlined in the WIOA joint reporting requirements. Data reporting references include PIRL data element 1618 (Retention with the Same

Employer in the 2nd Quarter and 4th Quarter) and Effectiveness in Serving Employer Data elements (i.e., E1, E2, E3, and E4) in **Attachment 4, Table A**.

States must implement and report on two of three approaches, with initial results to be included in the first WIOA annual report due in October 2017. Having said this, due to the lag in data availability for the first and third approaches, the Departments understand that complete data will not be available for reporting in October 2017.

The Departments believe that these options provide States flexibility in selecting the approaches that best suit their needs, while providing partner agencies the opportunity to evaluate States' experiences in using these approaches during PY 2016 and PY 2017. This pilot program also allows the Departments to obtain employer feedback regarding the extent to which these indicators measure effectiveness in serving employers. For States that choose to develop an additional approach, the outcomes for that approach should be reported in the Statewide Performance Report Template for Effectiveness in Serving Employers Section C.4. A brief definition of the calculation should be included in Section D.1 of the same report template. The Departments will evaluate State experiences with the various approaches and plan to use the results of that evaluation to identify a standardized indicator for implementation no later than the beginning of PY 2019.

**d. Reporting “Effectiveness in Serving Employers” to the Departments**

The reporting methodology depends on the approaches selected. Retention with the Same Employer in the 2nd Quarter and the 4th Quarter (data element 1618) is calculated using data collected in the PIRL and, therefore, can be aggregated and reported like the other primary performance indicators. The Employer Penetration and Repeat Business Customers approaches are not based on individual participant data and will not be derived from the PIRL. Therefore, States must establish processes and policies for collecting and validating data related to these approaches before reporting the outcomes in the Statewide Performance Reporting Template.

**e. Overview of the BLS QCEW Program**

The QCEW program publishes a quarterly count of employment and wages reported by employers covering 98 percent of U.S. jobs, available at the county, Metropolitan Statistical Area (MSA), State and national levels by industry. The Departments consider this data, collected from the States, to be an accurate count of the total work sites in a given State or county. For more information about the QCEW program and for accessing the work-site counts in a given State or county, please visit: <http://www.bls.gov/cew/>.

## 7. **Categories of Enrollment: Reportable Individual, Participant & Date of Program Exit.**

**Reportable Individual:** The category of reportable individual allows the Departments to identify the individuals who engaged with the workforce development system on an initial level but who do not complete the requirements to become participants. The Departments will use this category to track the number of individuals who may take part in self-services, receive information-only services or activities, or those who do not complete the program requirements for eligibility or for participation. A reportable individual is an individual who has taken action that demonstrates an intent to use program services and who meets specific reporting criteria of the program, including:

- 1) Individuals who provide identifying information;
- 2) Individuals who only use the self-service system;
- 3) Individuals who only receive information-only services or activities; or
- 4) For purposes of the title IV VR program only, a student with a disability who solely receives pre-employment transition services and who does not apply for VR services, who is not determined eligible, and who does not have an approved IPE.

The Departments will not negotiate levels of performance or impose sanctions based on the outcomes of reportable individuals, because only “participants” are included in the performance indicators. However, the Departments require inclusion of certain information about reportable individuals in the State annual performance reports and associated WIOA performance reporting instruments or program-specific performance reporting instruments. For example, the Departments will track the number of individuals taking part in self-services, receiving information-only services or activities, or failing to complete the program requirements for eligibility or participation. Collecting such information allows the Departments to identify the individuals who engaged with the system on an initial level but who do not complete the requirements to become participants.

**Participant:** Although the definition of participant is consistent across the core programs, there are some slight differences to account for programmatic requirements. For the WIOA title I Adult, title I Dislocated Worker, title II AEFLA, and title III Employment Service programs, a participant is a reportable individual who has received services other than the services described in 20 CFR § 677.150(a)(3) or 34 CFR § 463.150(a)(3) for the AEFLA program, after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination.

As set forth in more detail in section 677.150(a)(3) or section 463.150(a)(3), as applicable, the following individuals are not participants:

- Individuals in an AEFLA program who have not completed at least 12 contact hours;
- Individuals who only use the self-service system; and
- Individuals who receive information-only services or activities, which provide readily available information that does not require an assessment by a staff member of the individual's skills, education, or career objectives.

For the title I Youth program, a participant is a reportable individual who has satisfied all applicable program requirements for the provision of services, including eligibility determination, an objective assessment, and development of an individual service strategy, and received one or more of the 14 WIOA Youth program elements identified in sec. 129(c)(2) of WIOA.

For the title IV VR programs, a participant is a reportable individual who has applied and been determined eligible for VR services, has an approved and signed IPE, and has begun to receive services.

In summary, a participant is an individual who:

- (1) Meets the definition of reportable individual;
- (2) Has received services other than the services described in 20 U.S.C. § 677.150(a)(3) (or 34 CFR § 361.150(a)(3) or § 463.150(a)(3), as applicable); and
- (3) Has satisfied all applicable programmatic requirements for the provision of services.

The Departments will negotiate levels of performance and calculate sanctions based on the outcomes of program participants because the performance indicators are based on the experience of participants upon exit from or, as applicable, during participation in a program.

**Programmatic Criteria For Becoming a Participant in Each of the Core Programs:**

Due to the variability in programmatic criteria to receive services, the particular services that trigger inclusion as a participant vary across the core programs:

- **Title I Adult and Dislocated Worker** – Receipt of any 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. See the chart in **Attachment 7, Table A**, which lists types of services received; identifies those services as basic career services, individualized career services, or training services; and states whether each type of service triggers inclusion in participation for the title I Adult and Dislocated Worker programs and for the title III Employment Service program.



- **Title I Youth** – When a reportable individual has satisfied all applicable program requirements for the provision of services, including eligibility determination, an objective assessment, development of an individual service strategy, and received one of the 14 WIOA Youth program elements identified in sec. 129(c)(2) of WIOA, he or she is considered a participant. See the chart in **Attachment 7, Table B**.
- **Title II AEFLA** – When a reportable individual in an AEFLA program has completed at least 12, contact hours he or she is considered a participant.
- **Title III Employment Service** – When a reportable individual receives an individualized career service, he or she is considered 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. See the chart in **Attachment 7, Table A**.
- **Title IV VR** – When a reportable individual has applied and been determined eligible for VR services, has an approved and signed IPE, and has begun to receive services under the IPE, he or she is considered a participant. The date the individual begins receiving services under the IPE corresponds with data element 127 on the RSA-911.

**Exit:** Exit from a program generally occurs, as described below, when the participant has not received services for a specified period of time and has no additional services scheduled. The title IV VR program has a consistent, but slightly different, definition of exit to account for programmatic requirements.

Follow-up services (for participants in the title I Adult, Dislocated Worker and Youth programs) occur, by definition, after exit and therefore do not trigger the exit date to change or delay exit. States should count each exit of a participant during the same program year as a separate period of participation if a participant has more than one exit in a program year.

**Program-Specific Criteria of Exit:**

- **Title I Adult, Dislocated Worker and Youth; Title II AEFLA; and Title III Employment Service programs** – The date of exit from the program is the last date of service. Specifically:
  - 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.

- 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.
  - PIRL data element 901 (Date of Program Exit) is used to collect and report the date of exit. For exit-based performance measures, the quarter for collecting follow-up data is determined by the quarter in which the date of exit occurs. For example, if the date of exit is between January 1st and March 31st, the first quarter after exit would be April 1st through June 30th.
- **Title IV VR program–**
    - The participant’s record of service is closed in accordance with 34 CFR § 361.56 because the participant has achieved an employment outcome; or
    - The participant’s service record is closed because the individual has not achieved an employment outcome or the individual has been determined ineligible after receiving services in accordance with 34 CFR § 361.43.
    - VR participants are not considered to have exited if the service record is closed because the participant has achieved a supported employment outcome in an integrated setting, but not in competitive integrated employment at the time the VR service record is closed.
    - The RSA-911 data element 353 (Date of Exit) is the VR equivalent of PIRL data element 901 (Date of Program Exit). For VR program participants who have achieved an employment outcome, the exit date is at least 90 days after the attainment of the employment outcome and the individual has met the requirements under 34 CFR 361.56. For VR program participants who have not achieved an employment outcome, or have been determined ineligible after receiving services in accordance with 34 CFR 361.43, the exit is based on the date of the determination to close the service record.

### **Date of Exit for Titles I and III Programs – Reportable Individuals:**

For tracking purposes, the date of “exit” for reportable individuals from a title I Adult, Dislocated Worker, or Youth program or title III Employment Service program is determined as follows:

- The individual does not become a participant; and
- The individual is served under WIOA titles I or III through receipt of services that do not result in the individual becoming a participant; and
- The individual has had 90 days elapse since being identified as a reportable individual and the individual has not received additional self-service or information-only services or activities during that 90-day time period.
  
- The date of exit for reportable individuals cannot be determined until 90 days have elapsed since the reportable individual last received any of the following services: self-service, information-only services or activities, and/or services under WIOA titles I or III that do not result in the individual becoming a participant (See **Attachment 7, Table A**), with no future services scheduled. At that point, the date of exit is applied retroactively to the last date of receipt of self-service, information-only services or activities, and/or services under WIOA titles I or III that do not result in the individual becoming a participant.

### **Date of Exit for Title II AEFLA Program – Reportable Individuals:**

- Reportable individuals are those with less than 12 contact hours. For tracking purposes, a reportable individual must be considered “exited” when 90 days have elapsed since the last date of service and no future services are planned. This means the individual has had 90 days of no services, including self-service and information-only service, since being identified as a reportable individual.

### **Date of Exit for title IV VR Program – Reportable Individuals:**

- For a student with a disability who solely receives pre-employment transition services and who has not applied or been determined eligible to receive other VR services, the service record is closed when the student is no longer receiving such services as indicated in the pre-employment transition services data elements 96 through 126 included in the RSA-911. At that time, the student is no longer considered a reportable individual. However, if a student with a disability has applied and been determined eligible for VR services and has an approved and signed IPE, the student’s service record would be “closed” when the student satisfies the definition

of “exit” at 34 CFR 361.150(c) because his or her service record is closed pursuant to 34 CFR 361.43 or 361.56. At that time, the student would be considered to have exited the VR program for purposes of WIOA’s performance accountability system as a participant.

- For all other reportable individuals under the VR program, the individual will be determined to have “exited” the VR program as of the date reported in RSA-911 data element 353 (Date of Exit).

### **Common Exit for DOL-Administered Programs Only:**

DOL encourages States to utilize a “common exit” for DOL-administered programs, and envisions full implementation of a common exit across the DOL-administered core programs within each State. A “common exit” occurs when a participant, enrolled in multiple DOL-administered partner programs, has not received services from *any* DOL-administered program to which the common exit policy applies for at least 90 days, and no future services are planned.

States that retain or develop a common exit policy must require that a participant is only exited when all the criteria for exit are met for the WIOA titles I and III core programs, as well as any additional DOL-administered required partner programs to which the State’s common exit policy applies in which the participant is enrolled. The WIOA title I and title III core programs are:

- WIOA title I Adult formula program;
- WIOA title I Dislocated Worker formula program;
- WIOA title I Youth formula program; and
- Wagner-Peyser Act Employment Service program.

Additionally, DOL encourages the additional required partner programs listed in sec. 121(b)(1)(B) of WIOA (i.e., the title I non-core programs) that are under the authority of DOL to be included in the common exit policy. Those partner programs, which may<sup>7</sup> be included in a common exit policy, are as follows:

- Job Corps program, under WIOA sec. 141 et seq.;
- Native American programs, under WIOA sec. 166;
- National Farmworker Jobs program, under WIOA sec. 167;
- National Dislocated Worker Grants, under WIOA sec. 170;

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<sup>7</sup> Some of these programs may require common exit. Grantees should refer to guidance specific to these programs for more information.

- YouthBuild program, under WIOA sec. 171;
- Senior Community Service Employment Program (SCSEP), authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);
- Trade Adjustment Assistance program (TAA), authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);
- Jobs for Veterans State Grants program (JVSG), authorized under chapter 41 of title 38, United States Code; and
- Reentry Employment Opportunities program (REO), authorized under section 212 of the Second Chance Act of 2007 (42 U.S.C. 17532)

If a State chooses to retain or implement a common exit policy, the policy must require that a participant is “exited” when that individual has not received services for 90 days, and no future services are planned (with the exception of self-service, information-only activities, or follow-up services) from any of the DOL-administered programs to which the common exit policy applies, in which the participant is enrolled.

States must identify the programs for which they have adopted a common exit in their annual narrative reports. The Departments will provide further information on this requirement in the Departments’ forthcoming amended information collection request. Additionally, States will identify in the annual Program Performance Report Template (ETA – 9173) the programs that share a common exit with the program being reported.

## **8. Self-Service and Information-Only Activities.**

Workforce development system programs offer many services to the public, both virtually and in person, that are general in nature and not customized to an individual’s needs. These are commonly known as self-services or information-only services or activities. These services do not constitute participation in a program. Therefore, individuals who receive only self-services or information-only services or activities are considered reportable individuals, not participants.

Self-service occurs when individuals independently access any workforce development system program’s information and activities in either a physical location, such as an American Job Center resource room or partner agency, or remotely via the use of electronic technologies.

However, it is important to note that self-service does not uniformly apply to all virtually-accessed services. For example, 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. This more intensive level of service would qualify the individual as a participant.

Information-only services or activities are those that provide readily available information that does not require an assessment by a staff member of the individual's skills, education, or career objectives.

## **9. Period of Participation.**

For all indicators, except measurable skill gains, a period of participation refers to the period of time beginning when an individual becomes a participant and ending on the participant's date of exit from the program. States must count each participant's exit during the same program year as a separate period of participation for purposes of calculating levels of performance. For all indicators, except the measurable skill gains indicator, a new period of participation is counted each time a participant re-enters and ***exits*** the program—even if both exits occur during the same program year. For the Measurable Skill Gains indicator, a new period of participation is counted each time a participant ***enrolls***—even if both enrollments occur within the same program year. It is not necessary to wait until the participant exits the program in order to count a measurable skill gain because the measurable skill gains indicator is not an exit-based indicator. The skill gain may be counted as soon as it is earned at any point during the participation period of the program year in which it was earned. **Attachment 5** illustrates the counting of periods of participation and its relation to each performance indicator.

A person with more than one period of participation in a program year is counted separately for each period of participation in both the numerator and denominator of each applicable performance indicator. Therefore, the person is counted multiple times—once for each period of participation. Specific examples of counting periods of participation are included in **Attachment 6**.

State levels of performance on all primary indicators under WIOA are calculated as a percentage of the number of outcomes achieved for each reporting period (whether quarterly or annually, as applicable) by the number of periods of participation during the same reporting period.

### **Reporting Unique Participants**

The Departments have determined it necessary to calculate the unique number of participants being served each program year, by each core program. As a result, it is likely that many States and programs will need to modify their data systems and processes to be able to track

each period of participation (i.e., a duplicate count) while also retaining the ability to calculate an unduplicated count of individual participants across multiple periods of participation in any given program year.

To meet this requirement, States must:

1. Develop systems to track multiple periods of participation within a program year;
2. Calculate a unique count of individual participants across multiple periods of participation in any given program year; and
3. Establish a unique identification number that will be retained by the same individual across multiple programs.

Note that the Departments will not accept a SSN as a form of unique identifier, unless specifically noted and required under the particular program.

## **10. Career Service and Training Service Guidance.**

WIOA section 116(d)(2) specifies the data elements and outcomes to be included in the Statewide Annual Performance report for WIOA core programs. One of those elements is: “the average cost per participant of those participants who received career and training services, respectively, during the most recent program year and the three preceding program years” (sec. 116(d)(2)(F) of WIOA). WIOA provides specific definitions for career services (sec. 134(c)(2)), training services (sec. 134(c)(3)), and administrative costs (sec. 3(1)).

### **Classifying Career Services and Training Services**

When the definitions of career services and training services do not directly correlate to all of the services provided by a core program, the Departments have developed separate tables in **Attachment 7, Tables A through D** of this TEGL identifying which specific services are to be classified as career services and which are to be classified as training services. When a program service includes components of both career services and training services, the programs must use those tables to determine which category will be used to ensure uniform reporting among all States and agencies. It may not be possible to classify all of a program’s services as either a career or a training service. In other words, a program may provide services that go beyond the scope of career services and training services (e.g., follow-up services, for participants in the title I Adult, Dislocated Worker, or Youth program, or instructional or program services, for participants in the title II AEFLA program). In such instance, the program must report only those services that satisfy the definition of career services and training services for this particular reporting purpose.

## **Identifying Career Services and Training Service Costs**

WIOA requires that the costs for career and training services be determined separately. Given that WIOA defines “administrative costs” separately from the definitions of career services and training services, the Departments made clear in the WIOA Performance ICR that States must not include administrative costs when reporting costs for career services and costs for training services.

Career and training costs include any career service or training service provided by a core program, regardless of whether the service occurred “at” a one-stop center. Each of the data elements required by section 116(d)(2) is presented in the context of activities performed and services provided by the core programs, with no specificity that the activities or services be provided in a one-stop center. Additionally, section 121(b)(1)(A)(i) of WIOA states that one-stop partners must “provide access through the one-stop delivery system to such program or activities carried out by the entity, including making the career services described in section 134(c)(2) that are applicable to the program or activities available at the one-stop centers *(in addition to any other appropriate locations).*”

Therefore, consistent with the statutory requirement, as least some career services must be provided at the comprehensive American Job Center. However, not all partners must provide career services at the American Job Center.

## **Calculating Career Service and Training Service Costs**

### **Career Service Costs**

The calculation for the cost of providing career services described in section 134(c)(2):

- **Title I Adult, title I Dislocated Worker, title I Youth, title III Employment Service, and title IV VR programs:**

$$\text{Career Services Costs} = \text{Total Expenditures for Career Services} / \text{Total Participants receiving Career Services in the Program}$$

- **Title II AEFLA program:**

$$\text{Career Services Costs} = \text{Total Expenditures for Career Services} / \text{Total participants receiving career services from the AEFLA One-stop Partner}$$



### Career Service Costs

Core programs define the **numerator** in the calculation of career service costs differently; therefore, the numerator for each should be adjusted accordingly as follows:

- **Title I Adult, Dislocated Worker, and Youth<sup>8</sup> programs:**

Total Expenditures for Career Services is calculated by subtracting the sum of administrative expenditures and training expenditures from total expenditures. It is important to note that the costs incurred by these particular programs are categorized only as costs for career services, training services, and administrative costs.

- **Title II AEFLA program:**

Total Expenditures for Career Services is the sum of expenditures for career services indicated in **Attachment 7, Table C**, provided by the AEFLA one-stop partner.

- **Title III Employment Service:**

Total Expenditures for Career Services is calculated by subtracting the sum of administrative expenditures from total expenditures. It is important to note that the costs incurred by this particular program are categorized only as costs for career services and administrative costs.

- **Title IV VR program:**

Total Expenditures for Career Services is the sum of the total expenditures for purchased career services as reported on the RSA-911 and the total expenditures for career services provided directly by VR agencies as reported on the RSA-2. The Total Participants Receiving Career Services in the Program is the total number of participants receiving either purchased career services or career services provided directly by the VR agency as reported on the RSA-911.

### Training Service Costs

- Average Cost of Training Services per Participant = Total expenditures for training services (not including administrative costs) / the total number of participants receiving such services.

**Note:** A participant who receives more than one career service during the participant's

<sup>8</sup>For title I adult, dislocated worker, and youth programs; DOL will issue future guidance explaining the calculation of training expenditures.

period of participation is included in the denominator for the career services calculation only one time. The costs of all of the career services the participant received are included in the numerator. Similarly, a participant who receives more than one training service during the participant's period of participation is included in the denominator for the training services calculation only one time. The costs of all of the training services the participant received are included in the numerator. However, if a participant has multiple periods of participation during a program year, the participant will appear in the denominator of the career and training services calculations more than one time.

For WIOA title I Adult, Dislocated Worker and Youth programs and title III Employment Service programs, a participant who receives career services or training services from multiple programs (e.g., title I Adult and Dislocated Worker) will be counted in the respective career services or training service denominator for all of the programs from which they received services.

Each core program will establish a process for separating the administrative costs from career service and training service costs. For example, in the VR program, the RSA-2 form requires agencies to report separately the total administrative and direct service costs for VR staff providing VR services. These administrative costs will not be included in the total expenditures for career services or training services, but rather will be included only in the administrative costs incurred by the program.

## **11. Incumbent Worker Training Under Title I.**

For the WIOA title I Adult and Dislocated Worker programs, local WDBs may use up to 20 percent of their total Adult and Dislocated Worker formula allocation to provide incumbent worker training (see WIOA sec. 134(d)(4)). However, the Departments do not consider individuals who receive incumbent worker training to be participants required for inclusion in the WIOA performance indicator calculations. Therefore, individuals who receive only incumbent worker training are not included in WIOA performance indicator calculations for the core programs.

The Departments do not consider individuals receiving incumbent worker training to be participants for the purpose of inclusion in WIOA performance indicator calculations because of WIOA sec. 134(d)(4)'s unique eligibility requirements. Unlike with other types of training, incumbent worker eligibility is determined at the employer level by the local WDB, which determines if the employer is eligible to have its employees receive incumbent worker training. There is no separate determination of the eligibility of any particular employee to receive incumbent worker training. Therefore, an incumbent worker does not have to meet

the eligibility requirements for career services and training services for the Adult and Dislocated Worker programs under WIOA, unless he or she also is enrolled as a participant as a result of receiving other services from the WIOA Adult or Dislocated Worker program, or is a participant in a separate WIOA program.

Even though individuals receiving incumbent worker training are not participants for the purpose of inclusion in WIOA performance indicator calculations, States and local areas are still required to report certain participant and performance data on all individuals who receive only incumbent worker training. The required elements for these incumbent worker individuals are limited to demographic information and the elements needed to calculate employment in the 2nd and 4th quarters after exit, Median earnings in the 2nd quarter after exit, and Credential Attainment (see **Attachment 8** for specific list of required elements). For the purposes of calculating these metrics, the exit date for an individual who only has received incumbent worker training will be the last date of training, as indicated in the training contract.

State and local boards may require additional elements be reported to collect additional information on incumbent workers, which, if collected, should also be reported through the PIRL. All recipients of Incumbent Worker Training must be reported in the DOL-only PIRL under data element number 907 (Recipient of Incumbent Worker Training), regardless of whether they become a participant in one of the WIOA programs. Individuals that only receive Incumbent Worker Training (who, therefore, are not participants in the Adult or Dislocated Worker programs) should be reported with a “Date of Program Entry” in element 900, and a “0” in elements 903 “Adult” and 904 “Dislocated Worker.” The Departments also encourage the collection of incumbent worker SSNs as part of the training contract with the employer so that wage records will be available for these individuals. If no SSN is available, the State or Local WDB may utilize supplemental wage information to verify the wages reported.

Incumbent worker training that is funded with Statewide Rapid Response (data element 908 in the DOL-only PIRL) funds under WIOA section 134(a)(2)(A)(i)(I) must also be reported under DOL-only PIRL data element 1501 (Most Recent Date Received Rapid Response Services).

**12. Average Indicator Score Calculation.** See **Attachment 9** for a brief overview. The calculations and sanctions determination process will be discussed in greater detail in the forthcoming guidance relating to sanctions.

13. **Action Requested.** States are requested to distribute this information to the appropriate State and local staff.

14. **Inquiries.** Questions concerning this guidance should be directed to the appropriate regional office.

**Attachment 1**  
**Definitions of Terms Related to the Performance Accountability System**

- **Common Exit** – occurs when a participant, enrolled in multiple partner programs, has not received services from *any* DOL-administered program in which the participant is enrolled, to which the common exit policy applies, for at least 90 days, and no future services are planned.
  
- **Competitive Integrated Employment** – in general, for individuals with disabilities, work performed by an individual on a part-time or full-time basis, including self-employment within an integrated setting within the community. The individual must be compensated at minimum wage or higher, using the higher of the Federal, State, or local rate, and at a rate comparable to the wage paid to non-disabled workers performing the same tasks, including receiving the same benefits and opportunities for advancement.
  
- **Customized Training** – is training that:
  - a. is designed to meet the specific requirements of an employer (including a group of employers);
  - b. is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and
  - c. for which the employer pays---(i) 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 (ii) 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.
  
- **Employment** – Describes when an individual is working in a paid, unsubsidized job or, for participants in titles I, II, or III, working 15 hours or more a week in an unpaid job on a farm or business operated by a family member or participant. A participant enrolled in the title IV VR program must be employed in a job that meets the definition of competitive integrated employment, as defined in 34 CFR § 361.5(c)(9) (including customized employment, self-employment, telecommuting, or business ownership), or supported employment, as defined in 34 CFR 361.5(c)(53), in competitive integrated employment that is individualized and

customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, and includes ongoing support services for individuals with the most significant disabilities.

- **Exit** – As defined for the purpose of performance calculations, exit is the point after which a participant who has received services through any program meets the following criteria:

(1) For the adult, dislocated worker, and youth programs authorized under WIOA title I, the AEFLA program authorized under WIOA title II, and the Employment Service program authorized under the Wagner-Peyser Act, as amended by WIOA title III, exit date is the last date of service.

(i) The last day of service cannot be determined until at least 90 days have elapsed since the participant last received services; services do not include self-service, information-only services, activities, or follow-up services. This also requires that there are no plans to provide the participant with future services.

(2)(i) For the VR program authorized under title I of the Rehabilitation Act of 1973, as amended by WIOA title IV (VR program):

(A) The participant’s record of service is closed in accordance with 34 CFR 361.56 because the participant has achieved an employment outcome; or

(B) The participant’s service record is closed because the individual has not achieved an employment outcome or the individual has been determined ineligible after receiving services in accordance with 34 CFR 361.43.

(ii) Notwithstanding any other provision of this section, a participant will not be considered as meeting the definition of exit from the VR program if the participant’s service record is closed because the participant has achieved a supported employment outcome in an integrated setting but not in competitive integrated employment.

(3)(i) A State may implement a common exit policy for all or some of the core programs in WIOA title I and the Employment Service program authorized under the Wagner-Peyser Act, as amended by WIOA title III, and any additional required partner program(s) listed in sec. 121(b)(1)(B) of WIOA that is under the authority of the Department of Labor (DOL).

(ii) If a State chooses to implement a common exit policy, the policy must require that a participant is exited only when all of the criteria in paragraph (c)(1) of this section are met for the WIOA title I core programs and the Employment Service program authorized under

the Wagner-Peyser Act, as amended by WIOA title III, as well as any additional required partner programs listed in sec. 121(b)(1)(B) of WIOA under the authority of the DOL to which the common exit policy applies in which the participant is enrolled.

- **Incumbent worker** – To qualify as an incumbent worker, the individual worker needs to be employed in a situation that meets the Fair Labor Standards Act requirements for an employer-employee relationship, and have an established employment history with the employer for 6 months or more, with the following exception: in the event that the incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as a majority of those employees being trained do meet the employment history requirement. An incumbent worker does not have to meet the eligibility requirements for career and training services for Adults and Dislocated Workers under WIOA, unless they also are enrolled as a participant in the WIOA Adult or Dislocated Worker program.
- **Integrated Education and Training Program (IET)** – 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.
- **Participant** – For the WIOA title I Adult, title I Dislocated Worker, title II, and title III programs, a participant is a reportable individual who has received services other than the services described in 20 CFR § 677.150(a)(3) (or 34 CFR § 463.150(a)(3), as applicable), after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination.

As set forth in more detail in section 677.150 (or 34 CFR § 463.150, as applicable), the following individuals are not participants:

- a. Individuals in an AEFLA program who have not completed at least 12 contact hours;
- b. Individuals who only use the self-service system; and
- c. Individuals who receive information-only services or activities, which provide readily available information that does not require an assessment by a staff member of the individual's skills, education, or career objectives.

For the title I Youth program, a participant is a reportable individual who has satisfied all applicable program requirements for the provision of services, including eligibility determination, an objective assessment, and development of an individual service strategy, and received 1 of the 14 WIOA Youth program elements identified in sec. 129(c)(2) of WIOA.

For the title IV VR programs, a participant is a reportable individual who has applied and been determined eligible for VR services, has an approved and signed IPE, and has begun to receive services under the IPE.

- **Participant Individual Record Layout (PIRL)** – the data layout that provides a standardized set of data elements, definitions, and reporting instructions that will be used to describe the characteristics, activities, and outcomes of WIOA participants.
- **Period of participation** – for all indicators, except Measurable Skill Gains, a period of participation refers to the period of time beginning when an individual becomes a participant and ending on the participant’s date of exit from the program.
- **Reportable individual** – an individual who has taken action that demonstrates an intent to use program services and who meets specific reporting criteria of the program, including:
  - 1) Individuals who provide identifying information;
  - 2) Individuals who only use the self-service system;
  - 3) Individuals who only receive information-only services or activities; or
  - 4) For the purposes of the title IV VR program only, a student with a disability who solely receives pre-employment transition services, and who has not applied or been determined eligible for VR services and who does not have an approved and signed IPE.
- **Secondary school diploma** – a high school diploma recognized by a State and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA).
- **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.



**Attachment 2 – Table A**  
**Exclusions (PIRL Data Element 923)**

<b>Attachment 2 – Table A</b>
<b>Exclusions – Apply To All Participants In Title I Adult, Title I Dislocated Worker, Title II AEFLA, Title III Employment Service, and Title IV VR Programs</b>
<ul style="list-style-type: none"><li>▪ The participant exits the program because he or she has become incarcerated in a correctional institution or has become a resident of an institution or facility providing 24-hour support such as a hospital or treatment center during the course of receiving services as a participant.</li> <li>▪ The participant exits the program because of medical treatment and that treatment is expected to last longer than 90 days and precludes entry into unsubsidized employment or continued participation in the program.</li> <li>▪ The participant is deceased.</li> <li>▪ The participant exits the program because the participant is a member of the National Guard or other reserve military unit of the armed forces and is called to active duty for at least 90 days.</li> <li>▪ The participant, who was determined to be eligible for program services, is later determined not to have met the program’s eligibility criteria. This exclusion applies only to the VR program, in which participant eligibility is routinely revisited during the participation period. For example, in the VR program, an individual may be presumptively eligible in accordance with program regulations and later the individual is found to be too severely disabled to benefit from VR services. As another example, a participant may decide, after receiving some services, to pursue sheltered employment. Because an individual must pursue an employment outcome, and sheltered employment does not meet the definition of an employment outcome for purposes of the VR program, this individual would be determined to be no longer eligible for the VR program. For titles I, II, and III, program eligibility is determined at the time an individual becomes a participant and such eligibility is not revisited during the individual’s participation in the program.</li></ul>

**Attachment 2 – Table B**  
**Exclusions (PIRL Data Element 923)**

<b>Attachment 2 – Table B</b>
<b>Exclusions – Apply to Participants in Title I Youth Program</b>
<ul style="list-style-type: none"><li>▪ The participant exits the program because he or she has become incarcerated in a correctional institution or has become a resident of an institution or facility providing 24-hour support such as a hospital or treatment center during the course of receiving services as a participant.</li><li>▪ The participant exits the program because of medical treatment and that treatment is expected to last longer than 90 days and precludes entry into unsubsidized employment or continued participation in the program.</li><li>▪ The participant is deceased.</li><li>▪ The participant exits the program because the participant is a member of the National Guard or other reserve military unit of the armed forces and is called to active duty for at least 90 days.</li><li>▪ The participant is in the foster care system as defined in 45 CFR 1355.20(a), and exits the program because the participant has moved from the local workforce area as part of such a program or system.</li></ul>

**Attachment 2 – Table C**  
**Exclusions: Sec. 225 of WIOA**

<b>Attachment 2 – Table C</b>
<b>Exclusions – Apply to Participants in Title II AEFLA Program</b>
<ul style="list-style-type: none"><li>▪ A Title II AEFLA participant, who is a criminal offender in a correctional institution, receives services under sec.225 of WIOA. When these participants remain incarcerated after exit from the program, they are <b>excluded</b> from the calculation of the following WIOA indicators of performance:<ul style="list-style-type: none"><li>- Employment rate – 2nd quarter after exit;</li><li>- Employment rate – 4th quarter after exit;</li><li>- Median earnings – 2nd quarter after exit; and</li><li>- Credential attainment.</li></ul></li><li>▪ All sec. 225 participants are <b>included</b> in the Measurable Skill Gains indicator.</li></ul>

**Attachment 3**  
**Wage Conversion Chart**  
**(OMB Control 1205-0526, Expires: 06-30-2019)**

<b>Attachment 3 – Wage Conversion Chart</b>					
This is a guide to convert various wage and earnings inputs to a quarterly wage as required in PIRL data elements 1703, 1704, 1705, and 1706.					
<b>Directions:</b> Collect the hourly/weekly/bi-weekly/monthly/annual wages from the participant and enter that value in the appropriate cell*. The example input values in red must be replaced with the appropriate information collected from the participant to calculate the reportable quarterly wage.					
As previously published, this chart is intended to be used in a comma separated values file, such as Microsoft Excel. It appears here in plain text as an informational reference.					
<b>Convert Hourly Rate to Quarterly Wages</b>					
Hourly Rate (\$xxx.xx/hour)		hours worked per week on average (xx.x)		13 weeks per quarter	Quarterly Wages
\$7.25	X	32.0	X	13	= \$3,016.00
<b>Convert Weekly Wages to Quarterly Wages</b>					
Weekly Wages (\$xxxxx.xx)				13 weeks per quarter	Quarterly Wages
\$290.00	X			13	= \$3,770.00
<b>Convert Biweekly Wages to Quarterly Wages</b>					
Biweekly Wages (\$xxxxx.xx)				6.5 biweekly pay periods per quarter	Quarterly Wages
\$580.00	X			6.5	= \$3,770.00
<b>Convert Monthly Wages to Quarterly Wages</b>					
Monthly Wages (\$xxxxx.xx)				3 months per quarter	Quarterly Wages
\$1,256.67	X			3	= \$3,770.01
<b>Convert Annual Wages to Quarterly Wages</b>					
Annual Wages (\$xxxxxx.xx)				4 quarters per year	Quarterly Wages
\$15,080.00	/			4	= \$3,770.00

**Attachment 4 – Table A**  
**Effectiveness in Serving Employers Data Elements and Specifications**  
**(OMB Control: 1205-0526, Expires: 06-30-2019)**

<b>Attachment 4 – Table A</b>				
<b>WIOA Effectiveness in Serving Employers Data Elements: Employer Penetration Rate &amp; Repeat Business Customers</b>				
<b>DATA ELEMENT NO.</b>	<b>DATA ELEMENT NAME</b>	<b>DATA TYPE/ FIELD LENGTH</b>	<b>DATA ELEMENT DEFINITIONS/INSTRUCTIONS</b>	<b>CODE VALUE</b>
E1	Employer Penetration Rate (Numerator)	IN 8	Record the total number of establishments, as defined by the Bureau of Labor Statistics Quarterly Census of Earnings and Wages program, that received a service or, if it is an ongoing activity, are continuing to receive a service or other assistance during the reporting period.	XXXXXXXX
E2	Employer Penetration Rate (Denominator)	IN 8	Record the total number of establishments, as defined by the Bureau of Labor Statistics Quarterly Census of Earnings and Wages program, located within the State during the final month or quarter of the reporting period.	XXXXXXXX
E3	Repeat Business Customers (Numerator)	IN 8	Record the total number of establishments, as defined by the Bureau of Labor Statistics Quarterly Census of Earnings and Wages program, that received a service or, if it is an ongoing activity, are continuing to receive a service or other assistance during the reporting period (E1), AND who utilized a service anytime within the previous three years (E4).	XXXXXXXX
E4	Repeat Business Customers (Denominator)	IN 8	Record the number of unique business customers (establishments, as defined by the Bureau of Labor Statistics Quarterly Census of Earnings and Wages program) who have received a service previously in the last three years.	XXXXXXXX

*Note: Employee retention rate specifications are not mentioned here as that information is collected by individual participant and is part of the PIRL.*

**Attachment 4 – Table B**  
**Effectiveness in Serving Employers Specifications**  
**(OMB Control: 1205-0526, Expires 06-30-2019)**  
**Employer Repeat Business Customers and Penetration Rate**

<b>Attachment 4 – Table B</b>	
<b>B – Employer Services</b>	<b>Reporting Specifications/Instructions</b>
Employer Information and Support Services	<p>Enter the total number of establishments that, during the reporting period, received staff-assisted services designed to educate them about and engage them in the local job market/economy and the range of services available through the local One-Stop delivery system. Establishment information services may be provided in a variety of service interventions including orientation sessions, workshops, or other business consultations (e.g., initial site visits). Information and support services that are delivered to establishments through mass mailings or communications, “cold” calling or other follow-up contacts, and regular establishment newsletters, brochures, or publications are not reportable services under this category.</p> <p>These services include, but are not limited to, providing information on:</p> <ul style="list-style-type: none"> <li>▪ State and Federal tax credits or workforce investment incentives (State and Federal tax credits (WOTC) or workforce investment incentives);</li> <li>▪ Customized workforce information on State, regional and local labor market conditions, industries, occupations, and the characteristics of the workforce, skills businesses need, local employment dynamics information such as workforce availability, worker supply and demand, business turnover rates, job creation, and job identification of high growth and high demand industries; and</li> <li>▪ Proactive linkage and referral of establishments to community resources that support their workforce needs.</li> </ul>
Workforce Recruitment Assistance	<p>Enter the total number of establishments that, during the reporting period, received workforce recruitment assistance from staff or remotely through electronic technologies.</p> <p>Activities include, but are not limited to, assisting employers to meet their human capital and skilled workforce needs by:</p>

B – Employer Services	Reporting Specifications/Instructions
	<ul style="list-style-type: none"> <li>▪ Supporting employers’ search for qualified candidates;</li> <li>▪ Securing information on job requirements and providing employers with One-Stop staff support for candidate screening and pre-employment interviews at the One-Stop Career Center (or affiliate site) or on site at the place of business;</li> <li>▪ Taking job order information and promoting the employment opportunities (e.g., advertising the opening to the workforce);</li> <li>▪ Conducting special recruitment efforts including out-of-area or out-of-state recruitment for candidates with special skills;</li> <li>▪ Organizing, conducting, and/or participating in job fairs;</li> <li>▪ Providing employers with meeting/work space at the One-Stop Career Center (or an affiliate site) for screening or interviewing;</li> <li>▪ Conducting pre-employment testing, background checks and assistance in completion of the I-9 paperwork; and</li> <li>▪ Providing employers with job and task analysis services, and absenteeism analysis.</li> </ul>
Engaged in Strategic Planning/Economic Development	Enter the total number of establishments that, during the reporting period, were engaged in either workforce investment strategic planning or business growth and economic development strategic planning. These activities could include, but are not limited to, participating in community based strategic planning, sponsoring employer forums, securing information on industry trends, providing information for the purpose of corporate economic development planning, and partnering in collaborative efforts to identify workforce challenges and developing strategies to address those challenges.
Accessing Untapped Labor Pools	Enter the total number of establishments that, during the reporting period, established pipeline activities in partnership with the public workforce system. Activities include, but are not limited to, outreach to youth, veterans, individuals with disabilities, older workers, ex-offenders, and other targeted demographic groups; industry awareness campaigns; joint partnerships with high schools, community colleges, or other education programs to improve skill levels; and programs to address limited English proficiency and vocational training.
Training Services	Enter the total number of establishments that, during the reporting period, received publicly funded training assistance, including customized training, OJT, and incumbent worker training.
Incumbent Worker Training Services	Enter the total number of establishments that, during the reporting period, received publicly funded incumbent worker training assistance.

<b>B – Employer Services</b>	<b>Reporting Specifications/Instructions</b>
Rapid Response/Business Downsizing Assistance	Enter the total number of establishments that, during the reporting period, received an initial on-site visit or contact to either (a) discuss the range of rapid response services and other assistance available to workers and employers affected by layoff, plant closures, or natural disasters, or (b), as required by WIOA section 3(51) (A), plan a layoff response following notification of a current or projected permanent closure or mass layoff, including natural or other disasters.
Planning Layoff Response	Of the total number of establishments reported in Row C.6, enter the total number of establishments that received an initial on-site visit or contact, as required by WIOA section 3(51)(A), to plan a layoff response following notification of a current or projected permanent closure or mass layoff, including natural or other disasters.
<b>C – Performance Results</b>	
Employer Penetration Rate	Employer Penetration Rate (Numerator) ÷ Employer Penetration Rate (Denominator) X 100
Repeat Business Customers Rate	Repeat Business Customers (Numerator) ÷ Repeat Business Customers (Denominator) X 100

**Attachment 5**  
**Periods of Participation – Effects on Indicators of Performance**

ATTACHMENT 5 – PERIODS OF PARTICIPATION – EFFECTS ON INDICATORS OF PERFORMANCE	
INDICATOR OF PERFORMANCE	EFFECT
<p>2<sup>nd</sup> and 4<sup>th</sup> Quarter Employment Indicators;            2<sup>nd</sup> and 4<sup>th</sup> Quarter Youth Indicators; and            Median Earnings</p>	<ul style="list-style-type: none"> <li>▪ States<sup>9</sup> must ensure follow-up with participants as necessary to report on the WIOA employment and median earnings indicators of performance. These data must be reported in the calendar quarters required by each measure according to the exit date of <i>each</i> period of participation.</li> </ul> <p style="margin-left: 40px;">For example:</p> <p style="margin-left: 40px;">The State must report whether a participant who exits in November was employed in the second (ending June 30th) and fourth (ending December 31st) quarters following this exit. If this individual re-enters the program, becomes a participant and exits in the same program year, the State must report the same post-exit data elements after the second exit during the same program year. The State would follow-up again with the participant to determine employment in the second and fourth quarters following the second exit (or to determine employment/education/training for Youth participants).</p> <ul style="list-style-type: none"> <li>▪ Participants are included in the calculation of median earnings only if employed in the second quarter after exit.</li> </ul>
<p>Credential Attainment</p>	<ul style="list-style-type: none"> <li>▪ States must ensure follow-up with participants as necessary to report this outcome for <i>each</i> period of participation. Reporting on this indicator requires a full year of follow-up to determine if a credential was attained within one year after exit and to determine employment or entry into postsecondary education or training for those who attain a secondary school diploma or recognized equivalent.</li> <li>▪ States report periods of participation and outcomes, if achieved, for both periods when there is more than one period of participation in the same program year.</li> </ul>

<sup>9</sup> For purposes of the VR program, the term State, in this context, refers to each individual grantee because each VR agency is responsible for collecting and reporting data regarding its participants.



INDICATOR OF PERFORMANCE	EFFECT
	<p>For example:  A participant who exits in November, re-enters and exits again in May must be provided follow-up services for 4 quarters after exit for each period of participation (i.e., quarter ending December 31st of the next program year for the first period of participation and the quarter ending June 30th of the next program year for the second period of participation).</p>
Measurable Skill Gains	<ul style="list-style-type: none"> <li>▪ Indicator is not based on exit and, therefore; a participant with multiple enrollment dates is included in this indicator for each program entry during a program year.</li> </ul> <p>For example:  If a person has two program entry dates but only exits once within a program year, they are counted twice for the measureable skill gains indicator, provided that they meet the definition and criteria for measurable skill gains (i.e., enrolled in education or training leading to a recognized credential or employment during both periods of participation).</p>

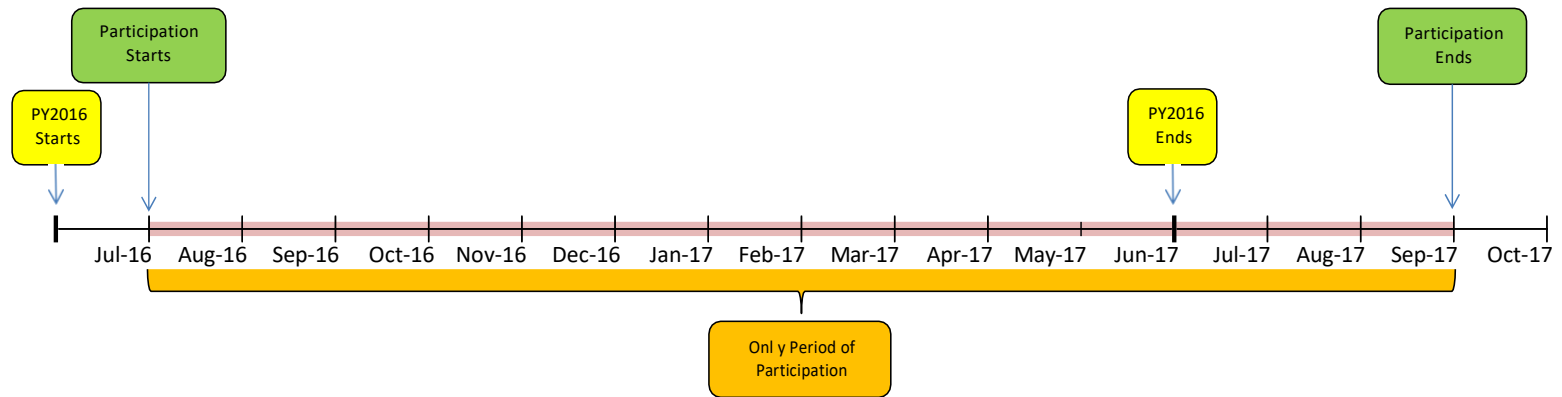
**Attachment 6**  
**Examples of Counting Periods of Participation for Exit-Based Indicators of Performance**

**Counting Periods of Participation: Examples for Exit-Based Indicators of Performance**

**Example 1**

An individual:

- 1) becomes a participant in August 2016; and
- 2) exits in October 2017.



In this example, the participant's enrollment in the program spans across two program years. However, the period of participation does not align with the program year.

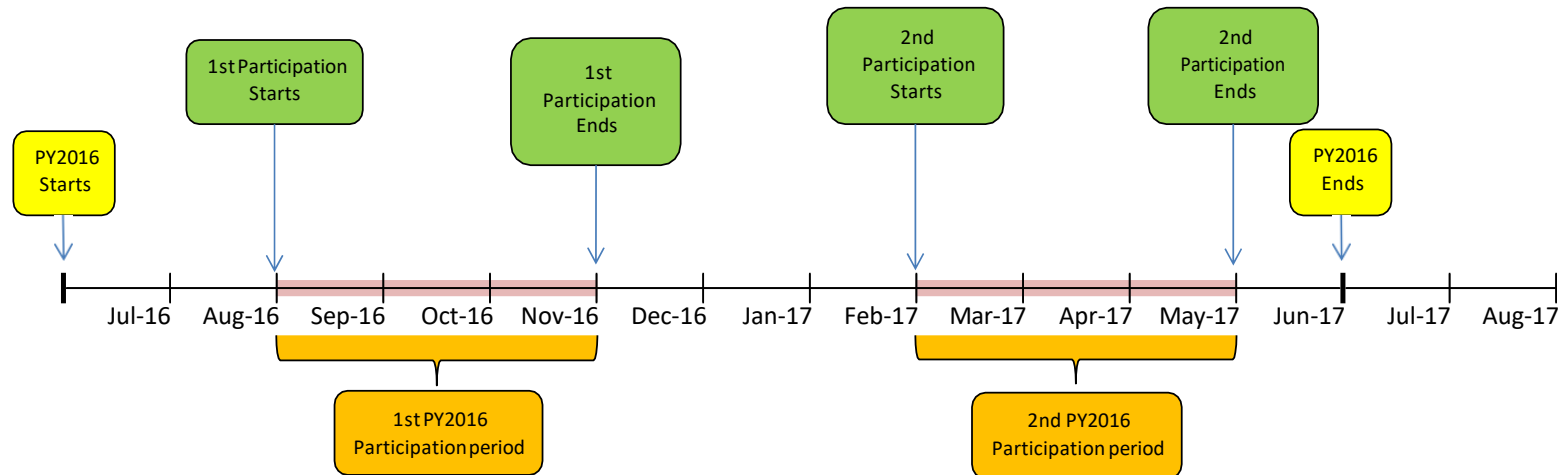
**Attachment 6**  
**Examples of Counting Periods of Participation for Exit-based Indicators of Performance**

**Counting Periods of Participation: Examples for Exit-Based Indicators of Performance**

**Example 2**

An individual:

- 1) becomes a participant in September 2016;
- 2) exits the program in November 2016;
- 3) re-enrolls and becomes a participant in March 2017; and
- 4) exits the program again in May 2017.



In this example, the participant has two periods of participation during a single program year. Because both exit dates occurred within the same program year (July 2016 – June 2017), the participant has two periods of participation for PY2016. Therefore, exit-based performance indicators should be collected and calculated based off **both** periods of participation; two separate outcomes will be based on the November 2016 exit and May 2017 exit, respectively.

## Attachment 6

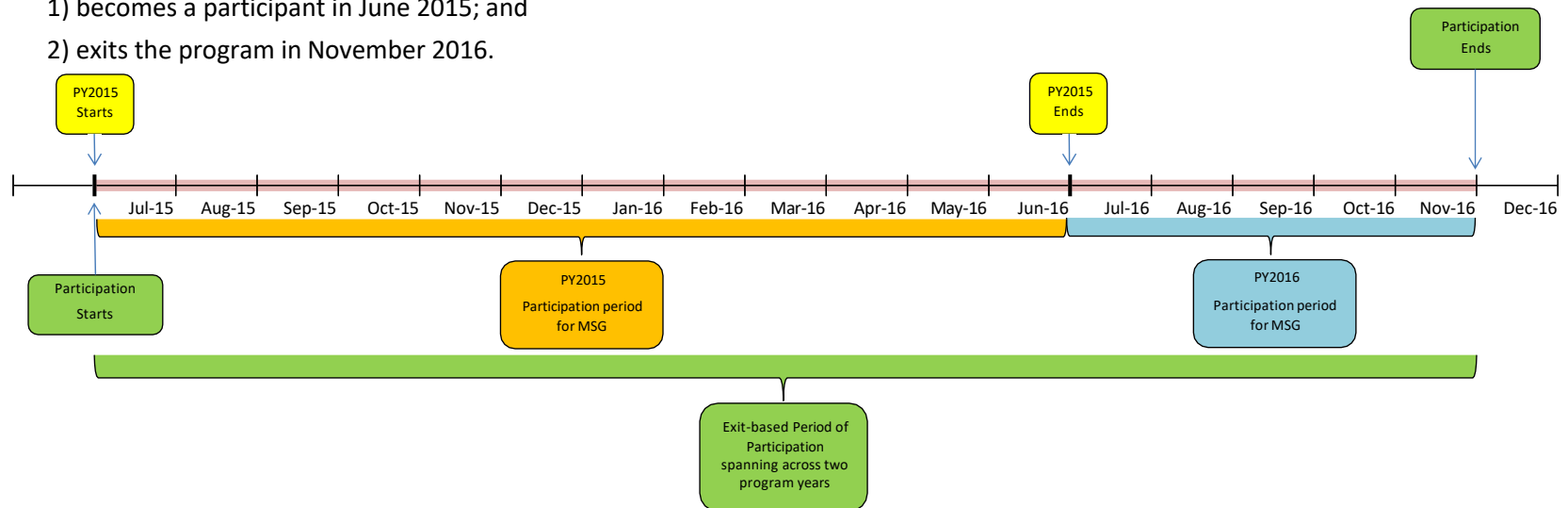
### Example of Counting Periods of Participation for Exit-based Indicators of Performance

#### Counting Periods of Participation: Example for Exit-Based Indicators and the Measurable Skill Gains Indicator of Performance

##### Example 3

An individual:

- 1) becomes a participant in June 2015; and
- 2) exits the program in November 2016.



In this example, the participant has one period of participation for the purpose of exit-based indicators which spans two program years (PY2015 and PY2016), and two periods of participation for the purpose of the measurable skill gains indicator. The individual is counted as a participant in both PY2015 and PY2016 because he/she continued to receive services after July 1, 2016. Exit-based performance indicators should be collected and calculated based off of the November 2016 exit date. However, for the measurable skill gains performance indicator calculation, the participant is counted for one reporting period in PY2015 and a different reporting period in PY2016.

**Attachment 7 – Table A**  
**Participation Level Services Chart**  
**WIOA Title I Adult, Title I Dislocated Worker, and**  
**Title III Employment Service Programs<sup>10</sup>**

Attachment 7 – Table A			
Adult/DW/ES Service Type (WIOA Sec. 134 (c))	Does this service trigger inclusion as a participant?	Category of Service (i.e. Basic, Individualized, Training)	Applicable PIRL Data Element Number(s)
Eligibility Determination	No	Basic Career Service	N/A
Outreach, Intake, Orientation	No	Basic Career Service	N/A
Initial assessment of skill levels & supportive service needs	Yes	Basic Career Service	1003, 1004, 1102
Job search assistance (Self-directed)	No	Basic Career Service	N/A
Job search assistance (Staff-assisted)	Yes	Basic Career Service	1003, 1004, 1104
Placement assistance (includes “Referred to Employment”) (Staff-assisted)	Yes	Basic Career Service	1003, 1004, 1105, 1106, 1107, 1108, 1109, 1110, 1111
Career Counseling (includes “Staff-assisted career guidance”)	Yes	Basic Career Service	1003, 1004, 1102
Providing info on in-demand sectors, occupations, or nontraditional employment	No	Basic Career Service	1100, 1101
Provision of referrals and associated coordination of activities with other programs and services	No	Basic Career Service	1100, 1101, 1113, 1115
Provision of workforce and labor market employment statistics information	No	Basic Career Service	1100, 1101, 1103

<sup>10</sup>Note this this chart does not include all available services that may be provided, but rather those services specifically authorized under WIOA sec. 134(c)(2). Additionally, these services do not indicate whether or not an individual is a participant, but rather which services trigger an individual to become a participant.

<b>Adult/DW/ES Service Type (WIOA Sec. 134 (c))</b>	<b>Does this service trigger inclusion as a participant?</b>	<b>Category of Service (i.e. Basic, Individualized, Training)</b>	<b>Applicable PIRL Data Element Number(s)</b>
Provision of info on job vacancies	No	Basic Career Service	1100, 1101, 1103
Provision of info on job skills necessary to fill vacancies	No	Basic Career Service	1100, 1101, 1103
Provision of info on local demand occupations, with earnings, skill requirements, and opportunities for advancement for those jobs	No	Basic Career Service	1100, 1101, 1103
Provision of performance and program cost info for providers of education and training	No	Basic Career Service	1100, 1101
Provision of info on local performance	No	Basic Career Service	1100, 1101
Provision of info on availability of supportive services or assistance	No	Basic Career Service	1100, 1101
Referral to supportive services	No	Basic Career Service	1113
Provision of information and meaningful assistance filing for UI	Yes	Basic Career Service	1003, 1004, 1112
Assistance establishing eligibility for financial aid	Yes	Basic Career Service	1003, 1004, 1116
Comprehensive and specialized assessments	Yes	Individualized Career Service	1004, 1200, 1201
Development of IEP	Yes	Individualized Career Service	1004, 1200, 1201, 1202
Group Counseling	Yes	Individualized Career Service	1004, 1200, 1201
Individual Counseling	Yes	Individualized Career Service	1004, 1200, 1201
Career Planning	Yes	Individualized Career Service	1004, 1200, 1201
Short-term prevocational services	Yes	Individualized Career Service	1004, 1200, 1201, 1210

<b>Adult/DW/ES Service Type (WIOA Sec. 134 (c))</b>	<b>Does this service trigger inclusion as a participant?</b>	<b>Category of Service (i.e. Basic, Individualized, Training)</b>	<b>Applicable PIRL Data Element Number(s)</b>
Internships and work experiences (including transitional jobs)	Yes	Individualized Career Service	1004, 1200, 1201, 1203, 1205, 1211
Workforce preparation activities	Yes	Individualized Career Service	1004, 1200, 1201
Financial literacy services	Yes	Individualized Career Service	1004, 1200, 1201, 1206
Out-of-area job search assistance and relocation assistance	Yes	Individualized Career Service	1004, 1200, 1201
English-language acquisition and integrated education and training programs	Yes	Individualized Career Service	1004, 1200, 1201, 1207
Follow up services	n/a (must be a participant first to receive)	Follow up Service	1503
Training services under Sec. 134(c)(3)(D) with exception of Sec. 134(c)(3)(D)(iii) (incumbent worker training)	Yes	Training	1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319
Incumbent Worker Training	No <sup>11</sup>	Training	907

\*Note: Receipt of any of the three types of services (Basic, Individualized, or Training) makes an individual a “Reportable Individual” while it only takes the receipt of one service that triggers participation to be considered a participant.

<sup>11</sup> While Incumbent Worker Training is not a self-service or information-only service, individuals are not required to meet eligibility requirements for the Adult or Dislocated Worker programs to receive Incumbent Worker Training.

**Attachment 7 – Table B**  
**Participation Level Services Chart**  
**WIOA Title I Youth Program**

<b>Attachment 7 – Table B</b>			
<b>Youth Service Type Section 129(c)(2)</b>	<b>Does this service trigger inclusion as a participant?<sup>12</sup></b>	<b>Category of Service<sup>13</sup></b>	<b>Applicable PIRL Data Element Number(s)</b>
Tutoring, study skills training, dropout prevention	Yes	Career Service	1402
Alternative secondary school services	Yes	Career Service	1403
Paid and unpaid work experience	Yes	Career Service	1205, 1405
Occupational skills training	Yes	Training	1300, 1302, 1303, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319
Education offered concurrently with workforce preparation	Yes	Career Service	1407
Leadership development	Yes	Career Service	1408
Supportive Services	Yes	Career Service	1409
Adult mentoring	Yes	Career Service	1410
Follow-up services	Yes	Career Service	1412
Comprehensive guidance and counseling	Yes	Career Service	1411
Financial literacy education	Yes	Career Service	1206
Entrepreneurial skills training	Yes	Career Service	1413
Services that provide labor market information	Yes	Career Service	1414
Postsecondary preparation and transition activities	Yes	Career Service	1415

<sup>12</sup> All youth program elements trigger participation following eligibility determination, objective assessment, and completion of the individual service strategy.

<sup>13</sup> Note that the categorization of career services and training services for the title I youth program differs from the title I adult and dislocated worker programs.



**Attachment 7 – Table C**  
**Applicable Career and Training Services for**  
**WIOA Title II AEFLA Program**

<b>Attachment 7 – Table C</b>	
<b>Career and Training Services Applicable to AEFLA<sup>14</sup></b>	<b>Category of Service</b>
Outreach, intake, and orientation information	Career Service
Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities, and supportive services needs	Career Service
Referrals to and coordination of activities with other programs and services	Career Service
Provision of performance information and program cost information on eligible providers of education, training, and workforce services by program and type of provider	Career Service
Provision of information on availability of supportive services or assistance and appropriate referrals (including child care; child support; medical or child health assistance available through the State’s Medicaid program and CHIP; SNAP benefits; EITC; assistance under TANF, and other supportive services and transportation)	Career Service
Integrated education and training (IET) programs <sup>15</sup>	Training Service

<sup>14</sup> Sections 678.430(b)(8) and 678.430(b)(11) of the WIOA Joint Rule identify workforce preparation activities and English language acquisition programs as applicable career services authorized to be provided through the one-stop delivery system by required one-stop partners. However, these are also services specifically authorized by AEFLA and provided by eligible providers as instructional or program services. Because of this, the program services and career services costs do not lend themselves to differentiation. Therefore, on the *WIOA Statewide and Local Performance Report Template*, workforce preparation activities and English language acquisition programs are not included in the career services costs calculation.

<sup>15</sup> If a program is using title II AEFLA funds to provide an IET program, the training component would be categorized as a training service and should be included in the cost calculation of Training Services on the *WIOA Statewide and Local Performance Report Template*.

**Attachment 7 – Table D**  
**Participation Level Services Chart**  
**WIOA Title IV VR Program**

<b>Attachment 7 – Table D</b>		
<b>Vocational Rehabilitation Service</b>	<b>Category of Service</b>	<b>RSA-911 Data Element Number(s)</b>
Job Exploration Counseling	Career Service	97 - 102
Work Based Learning Experiences	Training Service	103 - 108
Counseling on Enrollment Opportunities	Career Service	109 - 114
Workplace Readiness Training	Career Service	115 - 120
Instruction in Self Advocacy	Career Service	121 - 126
Graduate College or University	Training Service	129 - 135
Four-Year College or University Training	Training Service	136 - 142
Junior or Community College Training	Training Service	143 - 149
Occupational or Vocational Training	Training Service	150 - 156
On the Job Training	Training Service	157 - 163
Registered Apprenticeship Training	Training Service	164 – 169
Basic Academic Remedial or Literacy Training	Training Service	170 – 176
Job Readiness Training	Training Service	177 – 183
Disability Related Skills Training	Training Service	184 – 190
Miscellaneous Training	Training Service	191 – 197
Randolph-Sheppard Entrepreneurial Training	Training Service	198 – 204
Customized Training	Training Service	205 – 211
Assessment	Career Service	212 – 218
Diagnosis and Treatment of Impairment	Career Service	219 – 225
Vocational Rehabilitation Counseling and Guidance	Career Service	226 – 232
Job Search Assistance	Career Service	233 – 239
Job Placement Assistance	Career Service	240 – 246
Short Term Job Supports	Career Service	247 – 253
Supported Employment Services	Career Service	254 – 260
Information and Referral Services	Career Service	261 – 267
Benefits Counseling	Career Service	268 – 274
Customized Employment Services	Career Service	275 – 281
Extended Services	Career Service	282 – 286

**Attachment 8**  
**Incumbent Worker Training Required Data Elements**

<b>REQUIRED DATA ELEMENTS – INCUMBENT WORKER TRAINING</b>		
<b>Element #</b>	<b>Element Name</b>	<b>Primary Collection Method</b>
100	Unique Individual Identifier	Local/State
101	State Code of Residence	Local/State
108 - A	ETA-Assigned 1st Local Workforce Board Code	Local/State
403	Occupational Code of Most Recent Employment Prior to Participation (if available)	Employer
404	Industry Code of Employment 1st Quarter Prior to Participation	Employer
907	Recipient of Incumbent Worker Training	Local/State
1600	Employed in 1st Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records; If SSN not provided – employer follow-up
1601	Type of Employment Match 1 <sup>st</sup> Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1602	Employed in 2nd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1603	Type of Employment Match 2nd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1604	Employed in 3rd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1605	Type of Employment Match 3rd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1606	Employed in 4th Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1607	Type of Employment Match 4th Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1618	Retention with the same employer in the 2nd Quarter and the 4th Quarter (WIOA)	If SSN – UI wage records
1703	Wages 1st Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1704	Wages 2nd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1705	Wages 3rd Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1706	Wages 4th Quarter After Exit Quarter (WIOA)	If SSN – UI Wage records
1800	Type of Recognized Credential (WIOA)	Employer follow-up
1801	Date Attained Recognized Credential (WIOA)	Employer follow-up
1806	Date of Most Recent Measurable Skill Gains: Educational Achievement (WIOA)	Employer follow-up
1807	Date of Most Recent Measurable Skill Gains: Secondary Transcript/Report Card (WIOA)	Employer follow-up
1808	Date of Most Recent Measurable Skill Gains: Post-Secondary Transcript/Report Card (WIOA)	Employer follow-up
1809	Date of Most Recent Measurable Skill Gains: Training Milestone (WIOA)	Employer follow-up
1810	Date of Most Recent Measurable Skill Gains: Skills Progression (WIOA)	Employer follow-up
1811	Date Enrolled in Education or Training Program Leading to a Recognized	Employer follow-up

Element #	Element Name	Primary Collection Method
	Postsecondary Credential or Employment During the Program (WIOA)	
1501	Most Recent Date Received Rapid Response Services **Required for IW only if IWT funded with RR funds (WIOA sec. 134(a)(2)(A))	Local/State

## Attachment 9 Calculation – Average Indicator of Performance

### Average Indicator Score Calculation: A Practical Example

**Given Information:**

States and Federal agencies negotiate to one decimal place.

Actual Performance is calculated by dividing the numerator by the denominator. Actual Performance Values are reported by the State for all primary indicators. In the reports, Actual Performance Values are represented by rounding to the nearest tenth of a percent, but for the purpose of performing calculations, Actual Performance Values and Adjusted Negotiated Values are neither rounded nor truncated. For example, use Title II AEFLA Employment in the 2nd Quarter After Exit (highlighted in yellow):

- Numerator = 16,244 (Total number of participants in the denominator that were also employed second quarter after exit.)
- Denominator = 24,000 (Total number of participants that exited during the reporting period.)
- Numerator divided by Denominator =  $\frac{16,244}{24,000} = 0.676833$
- Rate reported in Annual Report = 67.7%
- Adjusted Negotiated Value = 75.2%

<b>Employment Second Quarter After Exit Results by Program</b>						
<b>Program</b>	Title II Adult Education	Title IV Rehabilitative Services	Title I Adults	Title I Dislocated Workers	Title I Youth	Title III Wagner - Peysner
Numerator	16,244	13,000	20,000	9,000	6,000	31,555
Denominator	24,000	18,000	30,000	15,000	12,000	42,000
Annual Report Value	67.7%	72.2%	66.7%	60.0%	50.0%	75.1%
Adjusted Negotiated Value	75.2%	72.5%	76.3%	79.7%	68.7%	65.4%

**What figures are used to determine how close performance was to the negotiated target?**

Each Performance Score is calculated in a similar way. For those indicators reported as a percentage, use both numerator and denominator in the next step =  $\frac{16,244}{24,000}$

The Performance Score is calculated by dividing the actual outcome by the Adjusted Negotiated Value.

$$= \frac{\frac{16,244}{24,000}}{75.2\%} = .90004 \text{ (represented in the report as 90.0\%)}$$

For those indicators not reported as a percentage, such as Median Earnings in the Second Quarter After Exit, use the value in the Annual Report and divide by the Adjusted Negotiated Value.

**How are the Average Indicator Scores calculated?**

Each row and column of Performance Scores is then averaged and truncated to one decimal place. In this example, the average of the Employment 2<sup>nd</sup> Quarter after Exit Performance Scores for the six programs (highlighted in green) is 0.89985 and is truncated to one decimal place for an Average Indicator Score of 89.9%.

$$= \frac{16,244}{24,000} + \frac{13,000}{18,000} + \frac{20,000}{30,000} + \frac{9,000}{15,000} + \frac{6,000}{12,000} + \frac{31,555}{42,000} = \frac{75.2\%}{6} + \frac{72.5\%}{6} + \frac{76.3\%}{6} + \frac{79.7\%}{6} + \frac{68.7\%}{6} + \frac{65.4\%}{6} = .89985 = 89.9\%$$

Indicator/ Program	Title II Adult Education	Title IV Rehabilitative Services	Title I Adults	Title I Dislocated Workers	Title I Youth	Title III Wagner - Peyser	Average Indicator Score
Employment 2nd Quarter After Exit	90.0%	99.6%	87.4%	75.3%	72.8%	114.9%	89.9%
Employment 4th Quarter After Exit							2
Median Earnings 2nd Quarter After Exit							3
Credential Attainment Rate							4
Measurable Skill Gains							5
Effectiveness in Serving Employers							6
Average Program Score	7	8	9	10	11	12	-

## Attachment 10

### Calculations – WIOA Indicators of Performance

#### **Figure 1: Calculation: Employment Rate – Second Quarter After Exit Quarter (All non-youth Participants)**

The data for the numerator in this calculation is drawn from *PIRL 1602 or RSA-911 Element 383*: *Employed in Second Quarter After Exit Quarter*.

##### **Numerator**

Of all participants in the denominator:

Participants who were employed in the 2<sup>nd</sup> quarter after program exit (PIRL 1602; code value #1, 2, or 3) or (RSA-911 Element 383; code #1, 2, 3, or 4).

##### **Denominator**

Total # of Participants who exited during the reporting period from title I adult (PIRL 903; code value #1, 2, or 3), title I dislocated worker (PIRL 904; code value #1, 2, or 3), title II AEFLA (PIRL 910; code value #1), title III Employment Service (PIRL 918; code value #1), and title IV VR (PIRL 917; code value #1, 2, or 3) or (RSA-911 Element 355; code #13, 14, 16, 17, 18, or 19) programs, except those that exit for any of the reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5, 6, or 7) or (RSA-911 Element 355; code #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 15).

#### **Figure 2: Calculation: Title I Youth Education and Employment Rate – Second Quarter After Exit Quarter (Not applicable to title II AEFLA and title IV VR)**

The data for the numerator in this calculation is the unique count of records showing participants employed, which is drawn from *PIRL 1602: Employed in Second Quarter After Exit Quarter* and from *PIRL 1900: Youth 2<sup>nd</sup> Quarter Placement (Title I)*.

##### **Numerator**

Of all participants in the denominator:

Youth employed in the 2<sup>nd</sup> quarter after program exit (PIRL 1602; code value #1, 2, or 3) or youth in training or education in the 2<sup>nd</sup> quarter after program exit (PIRL 1900; code value #1, 2, or 3).

##### **Denominator**

Total # of participants who exited during the reporting period from title I youth program (PIRL 905; code value #1, 2, or 3), except those that exit for any of the reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5, 6, or 7).

**Attachment 10**  
**Calculations – WIOA Indicators of Performance**

**Figure 3: Calculation: Employment Rate – Fourth Quarter After Exit Quarter (All non-youth Participants)**

The data for the numerator in this calculation is drawn from *PIRL 1606* or *RSA-911 Element 389 (Employed in 4<sup>th</sup> Quarter After Exit Quarter)*.

**Numerator**

Of all participants listed in the denominator:  
Participants who were employed in the 4<sup>th</sup> quarter after program exit (PIRL 1606; code value #1, 2, or 3) or (RSA-911 Element 389; code #1, 2, 3, or 4).

**Denominator**

Total # of participants who exited during the reporting period from title I adult (PIRL 903; code value #1, 2, or 3), title I dislocated worker (PIRL 904; code value #1, 2, or 3), title II AEFLA (PIRL 910; code value #1), title III Employment Service (PIRL 918; code value #1), and title IV VR (PIRL 917; code value #1, 2, or 3) or (RSA-911 Element 355; code #13, 14, 16, 17, 18, or 19) programs, except those that exit for any of the reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5, 6, or 7) or (RSA-911 Element 355; code #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 15).

**Figure 4: Calculation: Title I Youth Education and Employment Rate – Fourth Quarter After Exit Quarter (Not applicable to title II AEFLA and title IV VR)**

The data for the numerator in this calculation is the unique count of records showing participants employed drawn from *PIRL 1606: Employed in 4<sup>th</sup> Quarter After Exit Quarter* and from *PIRL 1901: Youth 4<sup>th</sup> Quarter Placement (Title I)*.

**Numerator**

Of all participants in the denominator:  
Youth employed in the 4<sup>th</sup> quarter after program exit (PIRL 1606; code value #1, 2, or 3) or youth in training or education in the 4<sup>th</sup> quarter after program exit (PIRL 1900; code value #1, 2, or 3).

**Denominator**

Total # of participants who exited during the reporting period from title I youth program (PIRL 905; code value #1, 2, or 3), except those that exit for any of the reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5, 6, or 7).



## Attachment 10 Calculations – WIOA Indicators of Performance

### **Figure 5: Calculation: Median Earnings Indicator**

The median is the number that is in the middle of the series of numbers, so that there is the same quantity of numbers above the median as there are below the median.

The data for this calculation is drawn from *PIRL 1704 or RSA-911 385: Wages 2<sup>nd</sup> Quarter After Exit Quarter*.

$\{(n + 1) \div 2\}$  value, where n is the number of earnings for all participants who exited during the reporting period employed in unsubsidized employment in the 2nd quarter after exit (PIRL 1704) or (RSA-911 Element 385), except those that exit for specified reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5, 6, or 7) or (RSA-911 Element 355; code #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 15).

1. To calculate the median, wages must first be ranked (sorted in ascending order).
2. The median earnings value is the wage in the middle of the rank order list.
3. Median = the middle value of a set of ordered data.

If the list rank order of earnings contains an even number of values, sum the two middle values and divide by two. Whether there is an odd or even number of entries in the list of earnings values, there will be an equal number of records above and below the median value.

#### **Example of Calculation of Median Earnings**

If the series of values is 1, 2, 12, **22**, 33, 43, 195, the median value is the number that is in the middle of the series of numbers, so that there is the same quantity of numbers above the median as there is below the median. In this example, the median value would be **22**.

If there is an even number of values, such as 1, 2, 12, **22, 27**, 33, 43, 195 the median value is the sum of the two middle values divided by two. In this case the median value would be  $(22 + 27) / 2 = 24.5$

**Attachment 10**  
**Calculations – WIOA Indicators of Performance**

**Figure 6: Calculation: Credential Attainment Rate Indicator**

$$\text{Credential Attainment Indicator} = \frac{A+C}{B+D}$$

**Postsecondary Credential**

**Numerator**

**A**

Of all Participants included in the denominator:

The date on which a participant attains a credential (PIRL 1801) or (RSA-911 Elements 87, 88, 89, 90, 93, 94, 95, or 377) occurs during participation in, or within 1 year after Program Exit (PIRL 901) or (RSA-911, Element 353) **AND**

The type of credential attained (PIRL 1800; code value #2, 3, 4, 5, 6, 7, or 8) or (RSA-911 Elements 87, 88, 89, 90, 93, 94, 95, or 378) is recognized as a postsecondary credential.

**Denominator**

**B**

Date of Program Exit (PIRL 901) or RSA-911 Element 353) is within the timeframe being reported (i.e., Jan 1, 2017 – Dec 31, 2017) **AND**

At least one type of training service (PIRL 1303, PIRL 1310, or PIRL1315; code value #2, 3, 4, 6, 7, 8, 9, or 10) or (RSA-911 Elements 150, 151, 164, 170, 171, 177, 178, 184, 185, 191, 192, 198, 199) in which the participant was enrolled is considered "Postsecondary" **OR**

The participant participated in postsecondary education (PIRL 1332; code value #1) or (RSA-911 Element 84; code #1), except those that exit for specified reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5, 6, or 7) or (RSA-911 Element 355, code # 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 15).

**Attachment 10**  
**Calculations – WIOA Indicators of Performance**

**Figure 6 (cont.): Calculation: Credential Attainment Rate Indicator**

$$\text{Credential Attainment Indicator} = \frac{A+C}{B+D}$$

**Secondary Credential**

**Numerator**

**C**

Of all participants included in the denominator:

The date on which a participant attains a credential (PIRL 1801) or (RSA-911 Element 81 or 82) occurs during participation in, or within 1 year after Program Exit (PIRL 901) or (RSA-911 Element 353) **AND**

The type of credential attained (PIRL 1800, code value #1) is recognized as a Secondary School Diploma/or Equivalency **AND**

The participant enrolls in a post exit education or training program leading to a recognized postsecondary credential (PIRL 1406) or (RSA-911 Element 376) within 1 year after program exit (PIRL 901) or (RSA-911 Element 353) **OR**

The participant is employed in the 1st Quarter (PIRL 1600; code value #1, 2, or 3) or (RSA-911 Element 379; code #1, 2, 3, or 4), 2<sup>nd</sup> Quarter (PIRL 1602; code value #1, 2, or 3) or (RSA-911 Element 383; code #1, 2, 3, or 4), 3<sup>rd</sup> Quarter (PIRL 1604; code value #1, 2, or 3) or (RSA-911 Element 386; code #1, 2, 3, or 4), or 4<sup>th</sup> Quarter (PIRL 1606; code value #1, 2, or 3) or (RSA-911 Element 389; code #1, 2, 3, or 4) after program exit.

**Denominator**

**D**

Date of Program Exit (PIRL 901) or (RSA-911 Element 353) is within the timeframe being reported (i.e., Jan 1, 2017 – Dec 31, 2017) **AND**

At least one type of training service in which the participant was enrolled (PIRL 1303, PIRL 1310, or PIRL 1315) is considered “Secondary” [code value #4 for “ABE or ESL (contextualized or other) in conjunction with Training (non-TAA funded)”] or (RSA-911 Elements 170 and 171) **OR**

The participant was "Enrolled in Secondary Education Program at Program Entry" (PIRL 1401, code value #1) or (RSA-911 Element 78; code #1), except those that exit for specified reasons listed in (PIRL 923, code value #1, 2, 3, 4, 5, 6, or 7) or (RSA-911 Element 355; Code #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 15).

**Attachment 10**  
**Calculations – WIOA Indicators of Performance**

**Figure 7: Calculation: Measurable Skill Gains Indicator**

**Numerator**

Of all the participants in the denominator:

[The unique count of the most recent date which on participants achieved a Measurable Skill Gains is in the reporting period, via one of the following:

Educational Functioning Level (PIRL 1806) or (RSA-911 Element 343)

**OR** Postsecondary Transcript/Report Card (PIRL 1807) or (RSA-911 Element 345)

**OR** Secondary Transcript/Report Card (PIRL 1808) or (RSA-911 Element 344)

**OR** Training Milestone (PIRL 1809) or (RSA-911 Element 346)

**OR** Skills Progression (PIRL 1810) or (RSA-911 Element 347)]

**Denominator**

All participants enrolled in an education or training program leading to a recognized postsecondary credential or employment (PIRL 1811) or (RSA-911 Element 85) except those that exit for specified reasons listed in (PIRL 923; code value #1, 2, 3, 4, 5 or 6) or (RSA-911 Element 355; Codes #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, or 15).

**Attachment 11**  
**References – WIOA Operating Guidance**

- Workforce Innovation and Opportunity Act, Pub. L. 113-128
- WIOA Joint Rule for United and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions, 81 Fed. Reg. 55791 (Aug. 19, 2016)
- OMB Control Number 1205-0526, WIOA Participant Individual Record Layout
- OMB Control Number 1205-0521, WIOA DOL-only Participant Individual Record Layout
- Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, 20 U.S.C 6301, et seq.
- <http://www.ed.gov/AEFLA>
- <http://www2.ed.gov/about/offices/list/osers/rsa/wioa-reauthorization.html>
- <http://www.doleta.gov/wioa>
- <http://www.doleta.gov/performance>