

## Chapter 6: Training

### *Section 6-1: Overview*

Training services are provided to equip individuals to enter the workforce and retain employment. Under the Workforce Innovation and Opportunity Act (WIOA), a program of training services includes a structured regimen that leads to specific outcomes. A program of training services is one or more courses or classes, or a structured regimen that leads to:

- (a) A recognized post-secondary credential, secondary school diploma, or its equivalent;
- (b) Employment; or
- (c) Measurable skill gains toward such a credential or employment.

Training services are available for individuals who after an interview, evaluation or assessment and case management are determined to be unlikely or unable to obtain or retain employment that leads to self-sufficiency or higher wages from previous employment through career services alone. The participant must be determined to be in need of training services and possess the skills and qualifications to successfully participate in the selected program. Please refer to the WIOA Manual Chapter 2, Sections 2-3 and 2-4, for additional information about determination of the need for training.

The WIOA lists training services. The list is not all-inclusive and additional training services may be provided. Training services may include, for example, occupational skills training, On-the-Job Training (OJT), registered apprenticeship which incorporates both OJT and classroom training, incumbent worker training, pre-apprenticeship training, workplace training with related instruction, training programs offered by the private sector, skill upgrading and retraining, entrepreneurial training, and transitional jobs.

Some participants may need additional services to assist their vocational training, such as job readiness training, literacy activities including English language training, and customized training. The WIOA training services must be provided when other sources of grant assistance are unavailable to the individual.

#### References:

NPRM 680.210

NPRM 680.420

## ***Section 6-2: Work-Based Training Services***

Work-Based Training is employer driven with the goal of unsubsidized employment after participation. Generally, such work-based trainings involve a commitment by an employer or employers to fully employ successful participants after they have completed the program. Work-Based Training can be an effective training strategy that can provide additional opportunities for participants and employers in both finding high-quality work and in developing a high-quality workforce. Customized training, OJTs, incumbent worker training, transitional jobs, and registered apprenticeships are all identified as work-based training services. Each of these work-based training models can be effectively used to target different jobseeker and employer needs.

### **Customized Training**

Customized training is designed to provide local areas with the flexibility to ensure that training meets the unique needs of jobseekers and employers or groups of employers. Customized training is to be used to meet the special requirements of an employer or group of employers and conducted with a commitment by the employer to employ all individuals upon successful completion of training.

Employers may pay a portion of the training costs, as determined by the local board, taking into account the size of the employer and other factors that may include the number of employees participating in training; the wage and benefit levels of the employees (at present and anticipated upon completion of the training); the relation of the training to the competitiveness of the participant; and other employer-provided training and advancement opportunities.

For employed workers to qualify for customized training, the employee must not be earning a self-sufficient wage as determined by local board policy, and the aforementioned requirements must be met. The training must incorporate new technologies, processes, or procedures, skills upgrades, workplace literacy, or other appropriate purposes as identified by the local board.

The Region VII WDB has a local customized training policy for the execution of customized training contracts. The policy is included in the WDB's WIOA Comprehensive Plan. Since "significant portion of the training costs" is not identified under the WIOA, the Region VII WDB will be allowed to locally define "significant portion" as part of their local customized training policy.

Local customized training policies and contracts will be reviewed during WIOA Programmatic Reviews.

### **On-the-Job Training (OJT)**

On-the-Job Training (OJT) is primarily designed to provide a participant with the knowledge and



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skills necessary for the full performance of the job. OJT is a critical tool that can help jobseekers enter into successful employment. 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:

1. Provides knowledge or skills essential to the full and adequate performance of the job;
2. Provides reimbursement to the employer of up to a percentage of the wage rate of the participant for the extraordinary costs of providing the training and additional supervision related to the training; and
3. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

The Region VII WDB has a local OJT policy for the execution of OJT contracts. The policy is included in the WDB’s WIOA Comprehensive Plan. Local OJT policies and contracts will continue to be reviewed during WIOA Programmatic Reviews.

### Participant Eligibility

Prior to approving an OJT, the WDB must assess the potential participant to ensure suitability for the training. The assessment, at a minimum, shall include the relevant occupation’s specific skill requirements, the participant’s academic and occupational skill level, prior work experience and the Individual Employment Plan (IEP) or Individual Service Strategy (ISS). The IEP must reference the lack of skills and the need for OJT. The results of the assessment will be used, in part, to determine the appropriateness of and suitability for the OJT, along with determining the duration of the training.

### Employer Eligibility

OJT is provided under an agreement with an employer in the public, private non-profit or private sector. Prior to entering into an OJT agreement with an employer, the Region VII WDB shall conduct a pre-screening to ensure that the employer meets the minimum standards and can provide both training and long-term employment to an OJT participant.

The Region VII WDB may not enter into an OJT contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment. Training positions covered by an OJT contract must not have been created by the displacement of employed workers in the same or similar position.

The Region VII WDB may not enter into an OJT contract with employers who have relocated their business or part of their business from any location in the United States, in the past 120 days, that has resulted in any employee losing his or her job at the original location.





Employers must offer wages, benefits, and working conditions that are equal to those provided to regular employees who have worked for a similar length of time and are doing the same type of work. The employer must comply with all applicable federal, state, and local laws and regulations providing safe and clean working conditions.

If a union is present at the worksite, a union concurrence is required as part of the contract.

The WDB will target priority industries identified by local consistent with a demand-driven workforce system. Occupations targeted for OJT will encompass industries that are exhibiting patterns of growth in the local region. Targeted outreach will occur within these industries through the Sector Strategies initiative developed by the WDB and the local community & technical colleges.

### OJT and Staffing Agencies

Many job openings are filled by “host employers” using staffing or personnel agencies. Staffing agencies are usually the employer of record. They provide pay and benefits and are responsible for payroll taxes and workers’ compensation. The host employer is usually responsible for providing the work and work space. Training can be the responsibility of the host employer, the staffing agency, or both.

When formula WIOA funds are used for an employment situation involving a staffing agency, several factors must be considered prior to approving OJT funding:

- **Turnover Pattern.** Is there a good chance of long-term, continued employment at the worksite? Are new hires commonly let go just prior to the transition to employment by the host employer? Turnover patterns can be estimated based upon past experience at the worksite and based on a pre-award review with the host employer and staffing agency. If “yes” is the answer for the first question and “no” for the second, the local area should proceed as defined in local policy.
- **Pay and Benefits.** The pay rate must meet state and local requirements. Benefits must be the same for similarly employed individuals.
- **Documentation.** Whenever a staffing agency is involved, both the host employer and the staffing agency must sign off on all OJT documentation. Meeting OJT obligations is a dual responsibility of the host employer and the staffing agency.
- **The Reimbursement Check.** It is critical to reimburse only for the extraordinary costs of training. Therefore, the reimbursement must be made to the host employer, not the staffing agency. Further information on reimbursement is detailed below.

## OJT and Employed Workers

An OJT contract may be written for eligible employed workers when the following circumstances are met:

- The employee is not earning a self-sufficient wage, as determined by local board policy;
- Requirements in Section 683.700 of the WIOA proposed rules are met; and
- OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to a new job that requires additional skills, workplace literacy, or other appropriate purposes as identified by the local board.

## Employer Reimbursement

Payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and potentially lower productivity of the participation while in the OJT. Employers are not required to document such extraordinary costs. However, they are understood to include costs resulting from:

- More intensive supervision;
- Above average material waste;
- Abnormal wear on tools;
- Down time; and
- Lower rates of production.

The reimbursement is not a wage subsidy. Expectations are that the participant will continue working even after the payments to the employer end and that the participant will continue to receive compensation and benefits commensurate with the job performance.

Reimbursement to employers shall be managed by an invoice system that clearly documents the number of hours worked each day by the participant and rate of pay for the time period. Invoices must be signed by both the participant and the employer or only by the employer if accompanying documentation (timesheets/time cards) is signed by the participant. Reimbursement is for straight time worked and must not include overtime pay, holiday, sick pay, or commissions.

Reimbursements are limited to 50 percent of the wage rate of an OJT participant.

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Local areas may decide that the reimbursement, or a portion of the reimbursement, will be withheld and dispensed upon retention. Local policy clearly states the requirements for reimbursement and any exceptions to such (i.e., if the trainee quits or is fired for just cause). OJT reimbursements cannot exceed the amount obligated in the training plan, or any subsequent modifications.

### OJT Contract

The OJT contract may be viewed as two parts. The two parts can be approached as separate documents or combined as one. The first part of the OJT contract sets the ground rules for OJT with an employer and functions as a nonfinancial agreement between the employer and the Region VII WDB. The terms and conditions that govern the OJT experience along with the following are written into this part of the contract. The following assurances must be included in the OJT contracts:

- Name of the business, including predecessors and successors;
- Name, address and title of the company official certifying the information; and
- Verification that there were no past/impending job losses at any other facilities due to relocation, prior to 120 days at the present location.

The second part of the OJT contract is the training plan, outlining the planned training activities to be accomplished during the training period. This constitutes a financial obligation between the service provider and the employer, and authorizes the reimbursement of the agreed upon amount upon successful completion of the training plan period and the retention period.



The training plan portion of the contract must be a formal and written program of the structured job training, which will provide participants with an orderly combination of instruction in work maturity skills, general employment competencies and occupationally specific skills that will enable the participant to work toward self-sufficiency. OJT providers can use the U.S. Department of Labor's Occupational Information Network (O\*NET) and/or a company job description as a basis to begin listing skills or tasks. Each skill description should be concise and comprehensive, and ensure the individual tasks are measurable and observable.

The O\*NET is accessible at <http://online.onetcenter.org>.

OJT contracts must be limited in duration to the time necessary for the participant to become proficient in the occupation for which they are receiving the OJT training. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, level of difficulty, and the participant's IEP or ISS. The level of difficulty is determined from an assessment of the job description. For example, if the job requires the repair of machinery, a determination needs to be made of tools needed, the precision needed to use the tools successfully, skills needed to diagnose problems, and the training needed to successfully disassemble and reassemble parts. The O\*NET is a useful resource to use in determining the length of training; however, the O\*NET should not be relied upon exclusively at the risk of overlooking the needs, skills, and abilities of the participant and the needs of the employer.

The training plan becomes the work statement of the contract and should be followed as a guide when delivering training. The training plan is also useful for determining whether the services contracted for are delivered. Local areas will include in their policy a way to identify skills needed for the job, how the skills gap is determined, and a method for measuring that the skills have been acquired so that trainees' progress can be determined.

At the end of the training period, the training plan should be used to document the participant's skills gains. An OJT is considered successful when the participant has sufficiently learned the skills included in the plan in order to retain employment.

The training plan must include the following:

- Trainee information: Name, contact information and a unique identifying number for the participant;
- Employer information: Name and contact information;
- OJT information: Starting and ending dates, wage rate, and reimbursement rate;
- Occupational information: Job title and description, O\*NET code, and number of hours per week;
- Job skills: Skills necessary to perform the job and the trainee's proficiency level for each of these skills;
- Training information: List of specific skills or tasks the employer agrees to provide to the participant, estimated training hours for each, and acknowledgment of the skills obtained; and

- Signatures and Dates: Signatures of the trainee, the employer, and the service provider.

The Region VII WDB's payment terms are inserted into the OJT contract. Payment terms are clear and concise as to the terms of reimbursement. The OJT contract must be signed by representative(s) of the local WDB, the employer, and, if applicable, the staffing agency that may be the trainee's employer of record.

Modifications to the training plan may be executed as needed. The most common modifications are changing the training plan or extending the training period due to changing work conditions, the trainee requiring new work duties, or a change in position.

Any dispute that involves a WIOA-funded OJT must be addressed by following a local area's complaint procedures. These procedures will be shared with the employer at the time the OJT requirements are reviewed.

### Workforce Development Agency (WDA) Programmatic Monitoring

The Region VII WDB will monitor local OJT policy, OJT contracts and participant files as part of the WIOA programmatic monitoring reviews. Key monitoring issues include verification and documentation that:

- The need for training was based on the assessment and IEP or ISS;
- The training was provided to the participant to increase skill level;
- The length of the OJT was reasonable;
- The employer reimbursement rate complied with policy; and
- Other applicable OJT rules and requirements (participant and employer eligibility) were followed.

### OJT Quality Assurance and Monitoring:

Monitoring is the responsibility of both the State and the Region VII WDB. Monitoring at the local level will include oversight of the participant training and the corresponding employer payroll records.

Every OJT worksite should be regularly visited. The first visit should occur prior to the execution of the OJT contract. At this time, the OJT employer information can be gathered and the OJT requirements understood. The worksite should also be visited near the completion of training to ensure that the training has been successfully delivered and wage records can be verified. The local area may wish to include information received from the participant as part of the review process.



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## OJT and Registered Apprenticeships

There is no Federal prohibition on using both Individual Training Account (ITA) and OJT funds when placing participants into a registered apprenticeship program. To ensure that local areas have the maximum flexibility in serving participants and supporting their placement into registered apprenticeship programs, OJT contracts may be written with registered apprenticeship programs or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program, consistent with the requirements under the NPRM, Section 680.700. Since registered apprenticeship programs vary in length, the OJT may support the entire duration of training while other means support the beginning of the registered apprenticeship training. Depending on the length of the registered apprenticeship and the State and local OJT policies, these funds may cover some or all of the registered apprenticeship training.

## Best Practices

- OJT Outreach

Outreach for OJT can occur at both the state and local levels, and to both employers and jobseekers. Information about OJT should be integrated into the local WDB's business and jobseeker services functions. Objectives for outreach are defined regionally and are suited to the local employment conditions. The overarching goal is to train local jobseekers for employment in high-growth industry sectors or occupations within a demand-driven system.

Outreach is done directly or indirectly. Outreach to employers includes face-to-face contacts, mailings (such as introductory letters, notes of appreciation, newsletters), involvement with local economic developers, Chambers of Commerce, press releases, networking with other agencies, and speaking to civic organizations. Outreach is not mandated, but is viewed as a necessary piece of a successful OJT plan or strategy.

- Gathering Employer Information

Creating an Employer Information Form is helpful in conducting a guided interview to gather necessary information. The following provides best practices on "how to" gather the information:

- The OJT representative (WDB staff, Business Services Representative, etc.,) should take both the OJT Employer Information Form and other OJT informational forms (agreement requirements, sample contract, etc.), to the first visit with an employer. If the employer is interested in the program, these documents can be signed by the employer and the OJT representative on-site.
- At the same time the Employer Information Form is completed, the OJT representative should also review the OJT requirements with the employer. These two completed and signed forms should start an employer master file with the Region VII WDB.





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- The employer information discussion should consider each employer's circumstances. For example, relocation may not necessarily be discussed with a locally-owned motel that has been at the same location for fifteen years and is filling a vacancy caused by normal attrition. However, relocation should be discussed in depth with a national firm with many subsidiaries that are relocating in the area.
- The Employer Information Form should be updated when the business is sold or transferred, when any other major changes affect training, hiring, or job retention occur, and at least once a year from the date of first issuance.
- "Blanket" OJT Agreements  
A "blanket" OJT agreement is a non-financial agreement and contains all common OJT rules and requirements, and sets the stage for the approval, one by one, of individual OJT training plans. This approach radically decreases employer paperwork. Care should be taken to ensure that:
  - OJT training plans are adjusted, based upon each trainee's prior related skills and experience and the specific job in which training is taking place,
  - The trainee is WIOA-eligible and registered into the formula funding stream that will pay for the training,
  - Training using the OJT approach is justified by the IEP, ISS, or training plan in the trainee's file, and
  - If a union is present, a letter of concurrence shall be obtained. The letter will be valid throughout the agreement period.

Generally, blanket OJT agreements may be valid for up to one year and cover all training plans approved with the employer prior to the OJT agreement's end date.

### Incumbent Worker Training Programs

Incumbent worker training is designed to ensure that employees of a company are able to gain the skills necessary to retain employment or avert a layoff, and must increase both the participant's and a company's competitiveness. An ideal incumbent worker training is one where a participant acquires new skills allowing the participant to move into a higher skilled and higher paid job within the company, thus allowing the company to hire a jobseeker to backfill the incumbent worker's position. Incumbent worker training is designed to meet the special requirements of an employer (including a group of employers in partnership with other entities) to retain a skilled workforce, or to avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.





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To qualify as an incumbent worker, the incumbent worker needs to be employed, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have an established employment history with the employer for six months or more. An Incumbent Worker does not necessarily have to meet eligibility requirements for career and training services for adults and dislocated workers under the WIOA.

The employer, or group of employers, must pay for a portion of the cost of providing the training to incumbent workers. The portion of the training cost is the non-federal share of the cost of providing the training.

The Region VII WDB will develop a local Incumbent Worker Training (IWT) policy in congruence with state and federal regulations. The policy will be included in the WDB's WIOA Comprehensive Plan. **When the IWT policy is adopted by the Region VII WDB, said policy will be included as an attachment to this document.**

The local policy will include a description of local and/or regional layoff aversion strategy(ies) being utilized including:

1. Strategies and services employed by the local area. Examples may include:
  - Establishing an early warning network,
  - Economic trend monitoring,
  - Asset mapping,
  - Prefeasibility studies, and
  - Succession planning.
2. How the local Workforce Development Board (WDB) will employ IWT as part of its demand-driven strategy.
3. How the local WDB will ensure that IWT directly provides skill attainment activities for the participating workers.
4. Identification of any locally defined "at risk" indicators.

The local WDB must use the following criteria when deciding on utilizing funds for incumbent worker training with the employer:

- The characteristics of the participants in the program;
- The relationship of the training to the competitiveness of a participant and the employer; and
- Other factors the local board determines appropriate, including the number of employees trained, wages and benefits including post training increases, and the existence of other training opportunities provided by the employer.

Employers are required to contribute their share of the training costs, using the following sliding scale:

- No less than 10 percent of the cost for employers with 50 or fewer employees,
- No less than 25 percent of the cost for employers with 51 to 100 employees, and
- No less than 50 percent of the cost for employers with more than 100 employees.

Calculation of the non-federal share of the training cost may include the wages paid by the employer to a worker while the worker is attending a training program. The employer share may be cash or in-kind, fairly evaluated.

Local policies and contracts for incumbent worker training will be reviewed during WIOA Programmatic Reviews.

### IWT Participant Data Reporting Requirements:

The Region VII WDB is required to report performance outcomes for any incumbent worker participant in the Workforce Investment Act Standardized Record Data (WIASRD) system and the Mid-Atlantic Career Consortium (MACC):

- All participants in IWT projects, regardless of the fund source, must be reported in the MACC.
- Incumbent worker participants are subject to selection for the federally mandated data validation. Therefore, all eligibility documentation requirements apply to incumbent workers.

Refer to *Section 6-4: Layoff Aversion* and Attachment 4 for additional information about layoff aversion.

### **Registered Apprenticeship**

Registered Apprenticeship is a national training system that combines paid learning on-the-job and related technical and theoretical instruction in a skilled occupation. Like stand-alone OJT, Registered Apprenticeship is an important component of education and training services that the workforce system can provide to its customers, and should be used as a strategy to train and employ jobseekers. Registered Apprenticeships offer jobseekers immediate employment opportunities that usually pay higher wages and offer continued career growth.

Certifications earned through Registered Apprenticeship programs are recognized nationwide as portable industry credentials. The primary apprenticeship certification is a certificate of completion, awarded at the end of the apprenticeship. Many programs also offer interim credentials and training certificates based on a competency model that leads to a Certificate of Completion.



The Registered Apprenticeship opportunities can and should be integrated throughout the workforce system as a means of leveraging resources to better serve regional needs. Strategies for collaboration and integration could:

- Include apprenticeship training as a workforce strategy in the WIOA regional and local plans as a workforce solution for growing skills in targeted industry sectors.
- Engage businesses through encouraging the development of new apprenticeship programs as a solution to meet business customer needs, integrating apprenticeship programming into strategies for talent development, and linking apprenticeship programs to other economic development entities and school district administration, alternative education programs, adult basic education programs, prisons, and city, county, and state governments.
- The WIOA and proposed regulations explicitly provide for flexibility in determining Registered Apprenticeships training programs as initially eligible providers of ITA services. Eligible training provider application procedures for Registered Apprenticeship programs are streamlined, since they are not required to undergo the standard State agency review process.
- At the One-Stop Career Center level, a range of programmatic and operational activities can support integrated and coordinated functions, such as through coordinated education and career guidance strategies, service delivery design, and coordination of the development of pre-apprenticeship programs with community-based organizations committed to providing work-based experiences.
- Collaboration with apprenticeship can be further enhanced through the development of policies that facilitate and encourage partnership and exploration of opportunities for leveraging existing workforce system funds with other funding sources to support and advance apprenticeship models.

Individual Training Accounts (ITAs) may be used to support the related instruction portion (e.g. classroom and distance learning portion) of their Registered Apprenticeship training. Registered Apprenticeships automatically qualify to be on a State's eligible training provider list. ITAs support consumer choice in the selection of training providers, empowering apprentices and pre-apprentices to make informed education and career decisions. ITAs are only available to eligible individuals who are unable to obtain grant assistance from other sources to pay for education and training, such as Trade Adjustment Assistance (TAA) or Pell Grants.



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For eligible participants, local WIOA Adult and Dislocated Worker funds may be used for:

- Pre-apprenticeship training, such as remediation and/or basic job skills training, to prepare an individual for a Registered Apprenticeship program;
- Case management, prior to, and during a Registered Apprenticeship program;
- On-the-Job Training, in the form of employer reimbursement for the extraordinary costs of training;
- Related training instruction in the form of tuition assistance, books, supplies, etc., when the training provider is on the approved list of eligible training providers;
- Supportive services, including transportation and child care assistance, and
- Follow-up services.

Under WIOA, limited exceptions allow local areas to provide training through a contract for services rather than ITAs. These exceptions include work-based training programs such as OJT, customized training, incumbent worker training, or transitional employment, and in instances where the local board determines that it would be most appropriate to award a contract to an institution of higher education or other eligible provider to facilitate the training of multiple individuals in in-demand industry sectors or occupations. Registered Apprenticeship programs remain on the eligible training provider list as long as they remain registered, and are not subject to the same performance reporting requirements as other training programs, thereby streamlining requirements and facilitating the design and delivery of work-based training opportunities.

### Customized Training Models

When working with employers, local areas may find it valuable to utilize customized training to subsidize the classroom training portion of an apprenticeship model. For example, a WDB could offer a particular course of training for apprenticeship sponsors in a targeted sector, such as advanced manufacturing, or linked courses of training across connected industry sectors, such as construction and transportation.

Under WIOA, both potential new hires and incumbent employees may participate in customized training. WIOA-funded customized training models offer several operational advantages that facilitate their use in the Registered Apprenticeship context. For small and medium-sized employers, customized training provides a flexible model for assisting them in expanding their talent pool and upgrading skill levels of current employees.

### On-the-Job Training (OJT)

OJT can be a useful training methodology for employers wishing to upgrade skills of new hires and incumbent workers and keep workplaces current with evolving skill and technologies. Like customized training models, OJT may provide apprenticeship sponsors with a talent development

strategy that supports apprentices increasing mastery of technical skills. Furthermore, because the content of OJT is largely designed by employers, the workforce system may find this training model is an attractive tool for increasing and expanding its partnership with the Registered Apprenticeship program.

Apprenticeship strategies offer local areas the opportunity to enhance performance, as it is a proven model for effectively educating and training workers, promoting retention, and advancing apprentices' careers and earnings.

### **Transitional Jobs**

Transitional jobs are a way for adults and dislocated workers with barriers to employment, who are experiencing chronic unemployment or have an inconsistent work history, to develop a work history and basic skills essential to keeping a job. Transitional jobs are time-limited, subsidized employment in the public, private, or non-profit sectors. Comprehensive career and supportive services must be made available to transitional jobs participants. Transitional jobs can be effective solutions for individuals to gain the necessary work experience that they would otherwise not be able to get through training or an OJT. The goal is to establish a work history for the individual, demonstrate work success, and develop skills that lead to entry into unsubsidized employment. The difference between a transitional job and an OJT contract is that in a transitional job there is no expectation that the individual will continue his or her hire with the employer after the work experience is complete.

Local areas may use up to 10 percent of their combined total adult and dislocated worker allotments for transitional jobs.

#### References:

NRPM 680.140  
NPRM 680.200 through 680.230  
NPRM 680.320  
NPRM 680.420  
NPRM 680.530  
NRPM 680.700 through 680.850  
WIOA Sections 122, 123, and 134(d)(5)  
TEGL 02-07  
TEGL 30-09



## ***Section 6-3: Work-Based Training - Requirements and Restrictions***

WIOA states that work-based training funds (OJT, customized training, incumbent worker training, transitional jobs, and registered apprenticeships) must not be used, or proposed to be used, for:

### Encouraging Business Relocation

- The encouragement or inducement of a business or part of a business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location.
- Customized training, skill training, OJT, incumbent worker training, transitional employment, or company specific assessments of job applicants or employees of any business, or part of a business, that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing his or her job at the original location.
- Pre-award review. To verify that a business establishment which is new or expanding is not, in fact, relocating employment from another area. Standardized pre-award review criteria developed by the state must be completed and documented jointly, by the local area and the business establishment, as a prerequisite to WIOA assistance.
  - The review must include names under which the establishment does business, including predecessors and successors in interest; name, title, and address of the company official certifying the information; and whether WIOA assistance is sought in connection with past or impending job losses at other facilities, including a review of whether Worker Adjustment and Retraining Notice (WARN) letters relating to the employer have been filed.
  - The review may include consultations with labor organizations and others in the affected local area(s).
- Contracts shall not be entered into with employers who have received payments under previous contracts, and have exhibited a pattern of failing to provide participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level, and to the same extent, as other employees working a similar length of time and doing the same type of work.
- No person or organization may charge an individual a fee for placement or referral of the individual in, or to, a workforce investment activity.

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## Promoting or Deterring Union Organizing Activities

- Work-based training funds are prohibited for assisting, promoting, or deterring union organizing activities.

## Impairment of Contracts

- Work-based training activities shall not impair an existing contract for services or collective bargaining agreement. The activity(ies) cannot be inconsistent or undertaken with the terms of a collective bargaining agreement, without written concurrence of the labor organization and the employer.

## Applying of Participants

Individuals employed in activities under Title I of the WIOA:

- Must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly compensated in similar occupations by the same employer who have similar training, experience and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in sec. 6(a)(1) of the Fair Labor Standards Act of 1938, or the applicable state or local minimum wage law.
- Must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.
- Allowances, earnings, and payments to individuals participating in programs under Title I of WIOA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any federal or federally-assisted program based on need, other than as provided under the Social Security Act.
- Must not be sued to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce delivery system.

## Displacement

A participant in a program or activity shall not displace (including partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee as of the date of participation.

## Health and Safety Standards

Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of the WIOA.



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To the extent that State workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of the WIOA on the same basis as the compensation is provided to other individuals in the state under similar employment.

If a State's workers' compensation law applies to a participant in work experience, workers' compensation benefits must be available for injuries suffered by the participant in such work experience. If a State's workers' compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

### References:

NPRM 683.260

NPRM 683.280



## ***Section 6-4: Layoff Aversion***

Some individuals may need assistance to maintain or retain a good job by enhancing their skills or learning new technologies and procedures in an ever changing economic environment. Without appropriate training that allows existing workers to gain the necessary skills to operate new processes or technologies, employers may find it necessary to lay off workers with obsolete skills. Layoff aversion is one of the functions of the workforce system.

Layoff aversion consists of strategies and activities to prevent or minimize the duration of unemployment resulting from layoffs. Layoff aversion activities may include:

- Providing assistance to employers in managing reductions in force, which may include early identification of firms at risk of layoffs, assessment of needs of and options for at-risk firms, and the delivery of services to address these needs as provided by WIOA.
- 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 re-employment as soon as possible.
- 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 and managing incumbent worker training programs or other worker upskilling approaches.
- Connecting companies to:
  - Short-time compensation or other programs designed to prevent layoffs or quickly re-employ dislocated workers available under Unemployment Insurance programs,
  - Establish 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,
  - Partner or contract with business-focused organizations to assess risks to companies, propose strategies to address those risks, implement services, and measure impacts of services delivered,
  - Conduct analysis of the suppliers of an affected company to assess their risks and vulnerabilities from potential closing or shift in production of their major customer,



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- Engage in proactive measures to identify opportunities for potential economic transition and training needs in growing industry sectors or expanding businesses, and
- Connect businesses and workers to short-term, on-the-job, or customized training programs and apprenticeships before or after layoff to help facilitate rapid reemployment.

The Region VII WDB will develop a policy for layoff aversion. When the layoff aversion policy is adopted by the Region VII WDB, said policy will be attached to this document. The layoff aversion policy will be included in the regional WIOA Comprehensive Plan. Local policies related to layoff aversion will be reviewed during WIOA Programmatic Reviews.

### References:

NRPM 680.320

TEGL 30-09

USDOL ETA Rapid Response Layoff Aversion Guide

## *Section 6-5: Other Training Services*

### **Pre-Apprenticeship Training**

For workers who may not have the fundamental skills to succeed in a Registered Apprenticeship program and youth who are exploring career options, pre-apprenticeship training programs act as a bridge. These training programs, which are operated by education, community or faith-based organizations, can help apprenticeship candidates decide on an occupational track, develop foundational skills, and improve productivity once employed. Pre-apprenticeship programs operate an approved plan under which candidates participate in a short, intensified training period in a school or training center, with the intent to place them into Registered Apprenticeships upon completion or soon after completion of the program.

Pre-apprenticeship describes a program or set of strategies designed to prepare individuals to enter and succeed in a Registered Apprenticeship program, and has a documented partnership with at least one, if not more, Registered Apprenticeship program(s). A quality pre-apprenticeship program is one that incorporates the following elements:

- Training and curriculum based on industry standards and approved by the documented Registered Apprenticeship partner(s) that will prepare individuals with the skills and competencies needed to enter one or more Registered Apprenticeship program(s).
- Strategies that increase Registered Apprenticeship opportunities for under-represented, disadvantaged or low-skilled individuals, such that upon completion they will meet the entry requirements, gain consideration, and be prepared for success in one or more Registered Apprenticeship program(s).
- Access to appropriated support services.
- The use of the Registered Apprenticeship program as a preferred means for employers to develop a skilled workforce and to create career opportunities.
- Meaningful hands-on training that accurately simulates the industry and occupational conditions of the partnering Registered Apprenticeship sponsor(s), while observing proper supervision and safety protocols.
- Facilitated entry and/or articulation.

Pre-apprenticeships may be used to provide work experiences that can help participants obtain the skills needed to be placed into a Registered Apprenticeship. Pre-apprenticeship programs provide training to increase math, literacy, and other vocational skills needed to gain entry to a Registered Apprenticeship program. A pre-apprenticeship program, funded with an ITA, must have at least one apprenticeship partner; such pre-apprenticeship programs must possess, or develop, a strong record of enrolling their pre -apprenticeship graduates into a Registered Apprenticeship program. Pre-apprenticeship programs must be on the State's eligible training provider list in order for participants to utilize an Individual Training Account (ITA).



Pre-apprenticeship programs are added to the list of work experiences for youth under the WIOA. Local youth programs must coordinate pre-apprenticeship programs to the maximum extent feasible with Registered Apprenticeship programs, and require at least one documented partnership with a Registered Apprenticeship program. Quality pre-apprenticeship programs play a valuable role in preparing entrants for a Registered Apprenticeship and contribute to the development of a diverse and skilled workforce. Pre-apprenticeship programs can be adapted to meet the needs of participants, the various employers and sponsors they serve, and the specific employment opportunities available in the local market. Pre-apprenticeship training programs have successfully demonstrated that obstacles, such as low math skills, poor work habits, lack of access to transportation, and the lack of knowledge of sector opportunities can be overcome when coordinated training and support are provided.

As a reminder, pre-apprenticeship is not just a youth program strategy but is also an effective strategy for participants in the WIOA Adult program.

### **Workplace Training with Related Instruction** (Non-regulatory definition)

Workplace training is designed to enable participants to gain exposure to the working world and its requirements and help acquire personal attributes, industry-defined skill standards, and knowledge needed to obtain a job and advancement in employment. Workplace training may include cooperative education programs.

### **Skill Upgrading and Re-training** (Non-regulatory definition)

Skills upgrading and retraining is defined as training that will upgrade current skills of the participant and which may also include retraining in a new area.

### **Entrepreneurial Training** (Non-regulatory definition)

Entrepreneurial training programs assist qualified, unemployed individuals who are seriously interested in starting a business in West Virginia and becoming self-employed.

The workforce system promotes entrepreneurship and small business development primarily by providing self-employment assistance to workforce system customers. The Employment and Training Administration encourages the workforce system to integrate entrepreneurship activities into the system's broader workforce development efforts.

Increasingly, entrepreneurship and small business development have been identified as an important employment option for populations that have barriers to employment. For those unemployed workers who are likely to return to their industry as the economy recovers, entrepreneurship may offer an income stream to support a family during the interim. Self-employment may offer individuals with disabilities greater workplace flexibility and income opportunities. Similarly, individuals in rural areas may have geographic and transportation barriers, or may have to travel outside of the region for employment. Entrepreneurship can allow individuals to work locally, even at home. Youth may also benefit from the leadership and



financial management skills provided by entrepreneurship work experience, particularly in a tight labor market where traditional jobs for youth are scarce.

Self-employment training programs and providers of these programs can and should be included on the Career Education Consumer Report (CECR). Local programs also are able to make entrepreneurship experiences available to youth. One of the required youth program elements is entrepreneurship.

**The One-Stop Career Centers in Region VII partner with the Small Business Development Centers to provide comprehensive guidance to future entrepreneurs.**

### **Job Readiness Training** (Non-regulatory definition)

Job readiness training provides, through classroom lecture and discussion, the development of the same set of skills and understanding to be acquired through work experience. It is generally offered as a pre-vocational “world-of-work” skills training that may include showing up on time, workplace attitudes and behaviors.

Job readiness training may be provided in combination with pre-apprenticeship training, workplace training with related instruction, training programs operated by the private sector, skill upgrading and retraining, and entrepreneurial training. Job readiness training as a stand-alone activity is considered a “career service.”

### **Training Programs Operated by the Private Sector** (Non-regulatory definition)

Training programs operated by the private sector, which may include but are not limited to, programs that combine workplace training with related instruction, including cooperative education programs.

### **Cooperative Education Program** (Non-regulatory definition)

Cooperative education is a method of combining classroom-based education with practical work experience. A cooperative education experience, commonly known as a “co-op,” may provide academic credit for structured job experience in the individual’s major field of study or career focus.

### **Adult Education and Literacy Activities** (Non-regulatory definition)

The term “Adult education and literacy activities” means programs, activities, and services that include adult education, literacy, workplace adult education and literacy activities, family literacy activities, English acquisition activities, integrated English literacy and civics education, workplace preparation activities, or integrated education and training.

Adult education and literacy activities comprise services or instruction below the post-secondary level for individuals who have attained 16-years of age and are not enrolled, or required to, be enrolled in secondary school by state law. The participant:

- a. lacks sufficient mastery of basic educational skills to enable the individual to function effectively in the family or in society,
- b. does not have a secondary school diploma or its recognized equivalent, and has not achieved an equivalent level of education, or
- c. is unable to speak, read, or write the English language.

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.

The term "Literacy Activities" refers to the acquisition of knowledge, skills, and competencies as a result of teaching an individual the ability to read, write, and speak English, compute, and solve problems at levels of proficiency necessary to function on the job, in the family of the individual, and in society. Literacy activities are related to basic workforce readiness; commonly defined as workforce literacy. Workforce literacy classes attempt to replicate the environment encountered in the workplace by using work relevant materials in contextual instruction.

Workplace literacy service means "literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills." Workforce technical, occupational, or vocational skills are not equivalent to basic literacy skills. These sets of skills are different in scope and require instructional approach to lead to student outcomes.

### **Occupational Skills Training**

Occupational skills training was not previously defined under the WIA. Occupational skills training under the WIOA is defined as an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels. The WIOA requires local areas to give priority consideration for training programs that lead to recognized post-secondary credentials that align with in-demand industries or occupations in the local area.

When seeking occupational skills training for a participant, local areas must first seek training programs that lead to recognized post-secondary credentials in in-demand industries or occupations and only if none are available should they refer a participant to a training program that does not lead to a recognized post-secondary credential. The training must be outcome oriented and focused on an occupational goal specified in the participant's individual employment plan or individual service strategy and that it be of sufficient duration to impart the skills needed to meet that occupational goal, and result in the attainment of a recognized post-secondary credential. In all cases, local areas must ensure the training program meets the quality standards in WIOA Section 123.

### **Distance Learning**

Distance learning is education in which students take academic courses by accessing information and communicating with the instructor over a computer network.



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Distance learning is also referred to as technology-based learning. Technology-based learning is an umbrella term, which encompasses related terms such as on-line learning, Web-based learning (which only includes learning that occurs via the Internet), CD's and DVD's, and computer-based learning (by which learning through the use of dedicated personal computers is meant). Distance learning is via audio and video conferencing, Internet bulletin boards, chat rooms, Webcasts, simulations, gaming, and a variety of mobile operations such as podcasting.

While distance learning is not identified as a type of training activity under the WIOA, the Proposed § 682.210(m) allows for States to utilize technology to allow for remote access to training services provided through the One-Stop delivery system. USDOL recognizes that there are many different means by which individuals may get training, and that the use of technology may be particularly helpful to participants in rural areas. USDOL encourages states to develop and build upon strategies that enable jobseekers to connect with the workforce system remotely.

### References:

NPRM 681.330(a)

NPRM 681.460

NPRM 681.480

NPRM 682.210

TEN 13-12

TEGL 12-10

TEGL 17-07

WIOA Sections 123, 129(c)(2), 171(b)(10), 203(2)





## *Section 6-6: Individual Training Accounts (ITAs)*

There are some circumstances where mechanisms other than ITAs may be used to provide training services. Contracts for services may be used instead of ITAs when:

- The training services provided are OJT, customized training, incumbent worker training, or transitional jobs.
- When the local board determines there are an insufficient number of eligible training providers in the local area to accomplish the purpose of a system of ITAs. The local plan must describe the process to be used in selecting the training providers under a contract for services, and the process must include a public comment period for interested providers for at least 30 days.
- When the local board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization, or another private organization, to serve individuals with barriers to employment. The local board must develop the criteria to be used in determining demonstrated effectiveness, particularly as it applies to employment to be served. The criteria may include financial stability of the organization, demonstrated performance, and how the specific program relates to the workforce investment needs identified in the local plan.
- When the local board determines that it is most appropriate that contracting with an institution of higher education, or other eligible provider of training services, will facilitate the training of multiple individuals in in-demand industry sectors or occupations, provided that the contract does not limit consumer choice.
- When the local board is considering entering into a pay-for-performance contract.

Registered Apprenticeship programs automatically qualify to be on the list of eligible training providers as long as the Registered Apprenticeship program remains registered. ITAs can be used to support pre-apprenticeship training, training tuition for a Registered Apprenticeship program to the training provider, and work-based training options.

As a reminder, WDA Policy Issuance 13-05 provides additional information about the State's Eligible Training Provider List.

### References:

WDA Policy Issuance 13-05

## Chapter 7: Performance and Accountability

**Chapter 7 will be updated when further guidance is received from the USDOL. Performance for PY 2020 is the most up-to-date information.**

### *Section 7-1: Common Measures*

In coordination with federal agencies, West Virginia has adopted uniform evaluation metrics, called "Common Measures," for U.S. Department of Labor (USDOL) funded job training and employment programs. Common Measures are an integral part of the Employment and Training Administration's (ETA) performance accountability system. The Common Measures are intended to institute uniform definitions for performance, and are applied to all USDOL programs administered by the Region VII WDB.

The implementation of common performance measures across West Virginia's job training and employment programs has enhanced the ability to assess the effectiveness and impact of the workforce investment system, including the performance of the system in serving individuals facing significant barriers to employment.

Multiple sets of performance measures have burdened states and grantees, as they are required to report performance outcomes based on varying definitions and methodologies. By minimizing the different reporting and performance requirements, common performance measures facilitate the integration of service delivery and break down barriers to cooperation among programs.

With Common Measures, the Mid-Atlantic Career Consortium (MACC) automatically creates registrations in other USDOL-funded programs as a result of participation in one USDOL-funded program. For example, when we put a new participant in Wagner-Peyser (W-P), the system will create a new pre-registration in the Workforce Investment Act (WIA) (where the One-Stop Center is funded by W-P and the WIA). The pre-WIOA is only a participant count; it does not count toward WIOA performance. Only when the WIOA pre-registration is replaced by a full WIOA registration and the customer is put into a specific WIOA program (with an appropriate funding source) does this become WIOA performance participation.

The same occurs for WIOA programs and the Trade Adjustment Assistance (TAA) program. When you create a new participant in one of these programs, the system will create a new participant in W-P, again where the One-Stop Center is funded by W-P and the WIOA. Under Common Measures, the USDOL feels that customers should be served by the workforce system, not just by individual programs. If a location is funded by more than one program, the participant is registered in all of these programs so as to reflect the use of the workforce investment system. So, if the participant is active in one program, the USDOL wants the participant to be active in other programs as well.



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## Exits

Under Common Measures, the MACC exits all participant records. The Exit will occur 90 days after the last activity has ended in all the USDOL-funded programs the participant is registered in and where there are no gaps or future services planned.

As a reminder, for concurrently enrolled participants, all records will have the same exit date.

MACC Exit Reports notify the Region VII WDB of the participants who are expected to exit from the system if no action is taken to change the participant's activities.

## Exclusions from Common Measures

Occasionally, circumstances arise that are beyond the control of both the participant and the program and are expected to last for an undetermined period beyond 90 days. A participant in any of the following categories, either at the time of exit or during the three quarter measurement period following the exit quarter, may be excluded from Common Measures.

### 1. Institutionalized

The participant is residing in an institution or facility providing 24-hour support, such as a prison or hospital, and is expected to remain in that institution for at least 90 days.

This does not apply to:

- a) Individuals with disabilities residing in institutions, nursing homes, or other residential environments;
- b) Individuals participating in the Responsible Reintegration of Youth Offenders program; and
- c) Individuals participating in the Prisoner Reentry Initiative.

### 2. Health/Medical or Family Care

The participant is receiving medical treatment or providing care for a family member with a health/medical condition that precludes entry into unsubsidized employment or continued participation into the program. This does not include temporary conditions or situations expected to last for less than 90 days.

### 3. Deceased

### 4. Reserve Forces Called to Active Duty

The participant is a member of the National Guard or a Military Reserve unit and is called to active duty for at least 90 days.

### 5. Relocated to a Mandated Program *(For Youth Participants Only)*

The participant is in the foster care system or another mandated (residential or non-residential) program and has moved from the area as part of such a program. This does not include relocation to a Job Corps center.

### 6. Invalid or Missing Social Security Number

Because the measures require grantees to match personally identifiable client records with wages and other administrative data in order to obtain outcome information, grantees may exclude from all the measures those participants who do not voluntarily disclose a valid social security number.

The Region VII WDB has flexibility in determining whether to exit a participant in a National Guard/Reserve status who has been called to active duty and who experiences gaps in service for more than 90 days.

The Participant Is Exited from Program: Participants called to active duty have been issued orders telling them the expected time they will be in service. Therefore, based on the required active service time, the WDB may exit the participant and re-enroll him/her once the military obligation has been fulfilled. This will alleviate the burden of states having to perform follow-up on the participant while allowing them, in some cases, to take credit for positive outcomes.

The Participant Is Not Exited from Program: The WDB may treat these participants in the same way as those who have a health or medical condition that prevents them from participating in services. In this instance, the WDB must document the gap in service with a note to the file indicating the individual will be on active duty and the expected return date. If possible, written documentation such as a copy of the call up notice, letter from employer, or Military Leave of Absence Record Form (DA Form 31) should be included in the file. Once the reservist returns from active duty, his/her original eligibility status will stand. However, if the individual was not determined eligible for intensive or training activities before his/her call to duty and subsequent circumstances would make him/her eligible, the new status will take precedence.

Upon a return from active duty, some reservists may need additional time before they are ready to resume job search or training activities. With documentation in the file, up to one year should be provided to the individual returning.





## *Section 7-2: Performance Measures*

Section 136 of the WIOA specifies performance measures for states and local areas as the current standard of successful achievement of a performance measure to qualify for incentive funding. Performance is evaluated annually, and attainment of 90 percent or more of the negotiated level for each and all of the performance measures establishes the minimum criteria for incentive funding eligibility. The Region VII WDB must achieve at least 90 percent of its planned performance for each and all performance measures to qualify for incentive grant eligibility. The Region VII WDB must exceed their planned level of performance in order to share in any funding.

The following statutory WIOA performance measures are the criteria used to evaluate attainment of the WDB (and State) performance in order to qualify for incentive funding for a program year:

	<ul style="list-style-type: none"><li>• Entered Employment Rate (2<sup>nd</sup> Quarter after Exit)</li><li>• Employment Rate (4<sup>th</sup> Quarter after Exit)</li><li>• Median Earnings</li><li>• Attainment of Credential Rate</li></ul>
	<ul style="list-style-type: none"><li>• Entered Employment Rate (2<sup>nd</sup> Quarter after Exit)</li><li>• Employment Rate (4<sup>th</sup> quarter after Exit)</li><li>• Median Earnings</li><li>• Attainment of Credential Rate</li></ul>
	<ul style="list-style-type: none"><li>• Entered Employment Rate (2<sup>nd</sup> quarter after Exit)</li><li>• Employment Rate (4<sup>th</sup> quarter after Exit)</li><li>• Median Earnings</li><li>• Attainment of Credential Rate</li></ul>
	<ul style="list-style-type: none"><li>• Skill Attainment Rate</li><li>• Diploma or Equivalent Rate</li><li>• Retention Rate</li></ul>
	<ul style="list-style-type: none"><li>• Measurable Skills Gain</li><li>• Effectiveness in Serving Employers</li></ul>

The performance level necessary for a local area to become eligible to receive an incentive award is established for each performance measure, subject to negotiation between the state and the WDB. Actual local performance is determined as a percent of the negotiated performance



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level for each performance measure. The degree by which actual performance meets, exceeds, or falls below the planned performance level, as expressed by the percent, determines successful, or unsuccessful, performance.

For WIOA programs, the minimum acceptable performance is 90 percent of the negotiated level of performance. Performance on an individual measure will be interpreted based on the position of the outcome relative to the negotiated performance using Exceeds, Meets, Meets with Incentive, Meets with No Incentive, and Fails criteria defined as follows:

- **Exceeds** – when the actual performance achieved against an individual performance measure is in excess of 100 percent of the negotiated level of performance for the measure;
- **Meets** – when the actual performance achieved against an individual performance measure falls in the range of 90 to 100 percent of the negotiated level of performance for the measure;
- **Meets With No Incentive** – when the actual performance achieved against an individual performance measure falls within the range of 80 to 89 percent of the negotiated level of performance for the measure; and
- **Fails** – when the actual performance achieved against an individual performance measure is less than 90 percent of the negotiated level of performance.

### References

The WIA Section 136

20 CFR Part 666

TEGLs 11-01, Change 1; 17-05, and 09-07



## *Section 7-3: Revising Levels of Performance*

### **Negotiated Performance Levels**

States are required to achieve negotiated levels of performance for Adult, Dislocated Worker, and Youth programs, as well as customer satisfaction measures under the WIOA. Since State performance is the sum of local area performance, the Region VII WDB is required to achieve their performance levels for the State to meet its performance levels. If the State determines that its required performance levels were set too high, the State may request a reduction based on guidelines established in TEGL 11-01, Change 1. This also applies to local areas if circumstances warrant such a request. Requests will be evaluated on a case-by-case basis.

All renegotiation requests will be reviewed and analyzed based on past, current, and future trends in factors affecting performance. The WDB will also weigh the impact of requested local changes on State negotiated performance levels. If requests for revision in local performance levels result in a need for the State to submit a request to the USDOL for a revision to the State performance levels, the WDB will submit its request to the USDOL using the Region VII WDB's information to the extent possible to justify the State's request. In this situation, the WDB will not take final action on the Region VII WDB's request until it is notified and assesses implications of decisions on the State request by the USDOL.

When WorkForce WV notifies the Region VII WDB of final action on their performance renegotiation request, it will also inform the WDB of process/timetable changes to the modification policy should they be needed to address approved performance level revisions. The WDB must incorporate performance level revisions approved by WorkForce WV into the local WIOA comprehensive plan.

As part of the request for a performance renegotiation, the WDB must state why adjustments to the performance goal(s) are necessary and how such adjustments will not negatively impact the ability of the WDB to effectively deliver workforce development services to individuals' eligible for and in need of those services. Consistent with the provisions of the WIOA Section 126(c)(3), the renegotiations will take into account the specific economic, demographic, and other characteristics of the populations to be served in the local area.

In order to renegotiate local WIOA levels of performance, the WDB must submit a written request with supporting documentation consistent with TEGL 11-01, Change 1.

- Each local area seeking a revision must develop and submit a written request to WorkForce WV by the end of the third quarter of each program year. This will allow time for the State to combine all requests and to negotiate with the USDOL.
- The request must articulate an unanticipated circumstance. Each local area must describe the nature of the problem or mitigating circumstance, including a description of when the unanticipated circumstance occurred and its duration or expected duration.
- The unanticipated circumstance must impact one or more factors. Evidence of an actual change is required. The performance measure(s) affected by the request must be modified.



- The stated variations from expected outcomes must be linked to the stated significant changes in factors. Sufficient and appropriate documentation to explain and justify the proposed revision requires a:
  - A description of the approach used to determine revised levels of performance,
  - A description of the data sources used to demonstrate change in the factors, and
  - The computations for the revised performance levels included in the request.

Requests for renegotiation, consistent with the aforementioned, should be submitted to the WorkForce WV to the attention of the WIOA Title I Section Manager.

### **Sanctions for Failure to Meet Negotiated Performance Levels**

The value of implementing the common performance measures is the ability to describe, in a similar manner, the core purposes of the workforce system: how many people attain jobs (entered employment), how many stayed employed (retention), and how much do people finding employment earn (median earnings). By minimizing different reporting and performance requirements, common performance measures contribute to facilitating the integration of service delivery, reducing barriers to cooperation among programs, and enhancing the ability to assess the effectiveness and impact of the workforce investment system.



Any local area that fails to meet the negotiated level of performance for at least one performance indicator listed above shall receive technical assistance. Failure to meet a local performance measure is defined as failing to achieve at least 90 percent of the negotiated level for a particular standard. The WDB's final program year performance is published in the WIOA Annual Report each October.

Any local area that fails to achieve at least 90 percent of the negotiated level of performance for a specific indicator for two consecutive years shall be required to submit a corrective action plan. The Region VII WDB Executive Director, Workforce Development Board (WDB) Chairs, and Chief Elected Officials will be notified when a performance standard(s) is failed. The WDB officials are required to submit corrective action plans within six weeks of notification that a performance standard has been failed for the second year in a row.

The WDB's corrective action plan must address why the WDB has failed the measure(s) and outline specific steps that will be taken to help ensure the measure(s) is met the following year. The WDB may wish to address program design, goals, or service strategies that may inhibit performance, including reporting problems, and appropriate technical assistance to improve such services, including continuous monitoring of the performance measures. A timeline outlining the steps to be taken must also be submitted.

Once a corrective action plan is submitted, it is reviewed and a determination is made regarding its effectiveness in addressing the failed measure(s). If a corrective action plan is deemed acceptable, the WDB will be notified to proceed with the indicated actions. WorkForce WV will continue to monitor the WDB's progress throughout the year.

If a corrective action plan does not effectively identify and address the performance measure(s) in a manner likely to ensure future success in meeting the negotiated level for the measure(s), or a response is not submitted within the required timeframe, the WDB will be notified. WorkForce WV will then begin to take the appropriate steps to address and resolve the deficiencies.

Subsequently, the following steps could be taken:

- Prohibit the use of eligible providers and service center partners identified as achieving a poor level of performance;
- Decertify the local WDB and require that a new local board be appointed pursuant to a reorganization plan, as developed by the governor;
- Appoint an existing WDB, currently demonstrating successful performance and operating in close proximity to the local area in question, to administer agency operations; and/or
- Other actions the State determines are appropriate.

A local area that is subject to a reorganization plan for failure to meet a local performance measure(s) for two consecutive years may, no later than 30 days after receiving a notice of the reorganization plan, appeal to the governor to rescind or revise such plan. The governor will make a final decision no later than 30 days after receipt of such appeal.

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## References

The WIA Section 136

20 CFR Part 666

TEGLs 11-01, Change 1; 17-05; and 09-07

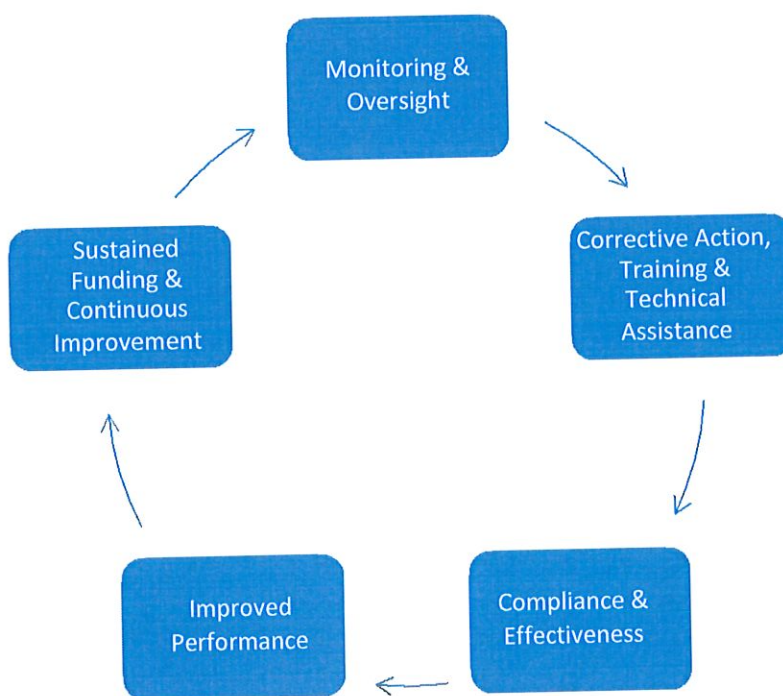




## Section 7-4: WDB Oversight

### Introduction

Ensuring compliance and driving performance excellence across the WorkForce WV system is a primary goal of WIOA Title I Section. The strategy to achieving this goal relies upon effective grant monitoring and oversight activities. These activities may identify the need for corrective action as well as technical assistance and training. Such activities also provide the opportunity to learn about and share innovative strategies and practices. This vision aligns (although with fewer steps) with what the USDOL/ETA has referred to as “the grants management cycle.” Visually, it can be depicted as:



### On-Site Monitoring

The purpose of on-site monitoring is to verify and expand upon the knowledge of the Region VII WDB’s governance, operations, and performance that has already been established through initial, quarterly, and on-demand monitoring and oversight activities. Monitoring also attempts to assess the effectiveness of the WDB structure and operations, as well as alignment with the overall vision for the state workforce system as defined by WorkForce West Virginia’s Workforce Development Council as well as the USDOL’s national goals for the system. On-site monitoring provides a window to the structure, staffing, and service design and delivery that results in the numbers and narrative included in quarterly and annual reports. On-site monitoring is critical to ensuring compliance with required provisions, determining effectiveness of program implementation, and capturing innovation that can drive continuous improvement across the system.

## ***Section 7-5: Performance Accountability***

The WDB is required to have a comprehensive plan to guide its work. The comprehensive plan identifies project goals, activity levels, spending targets, and time frames that are directly linked to achieving grant goals. The plan is required to address performance accountability. The comprehensive plan may be kept on file locally, but must be available at the request of the WIOA Title I staff for review when on-site monitoring is conducted.

Accountability for performance includes four areas:

- Meeting operational goals such as planned service level and expenditure targets,
- Meeting performance outcome goals,
- Managing sub-recipient and contractor performance, and
- Using performance data for continuous improvement.

### **The WDB Operational Goals and Utilization of Available Funds**

The comprehensive plan should be used as a tool to measure planned versus actual activity as a means of tracking progress toward goal achievement, planned performance outcomes, and to ensure that the WDB spending is occurring at a rate consistent with the amounts budgeted in order to fully utilize all grant funds by the end of the grant period.

### **Meeting Performance Outcome Goals**

The WIOA Section 136 requires establishment of a performance accountability system to assess the effectiveness of states and local areas in achieving continuous improvement of workforce investment activities in order to optimize the return on investment of federal funds in statewide and local workforce investment activities. Local levels of performance are based on the State's adjusted performance levels. In determination of local levels, specific economic, demographic, and other characteristics of the populations to be served should be taken into account. Additional indicators of performance (if any) may also be established at the State or local level.

Core indicators of performance are described in Section 7-3 of this Chapter.

### **Managing Sub-Recipient/Contractor Performance**

The WDB must hold sub-recipients and contractors accountable for achieving performance goals. Sub-recipient and contractor agreements must contain clear, specific, and measurable performance goals. Sub-recipients are to be held accountable for actual versus planned accomplishments related to performance goals. Agreements should contain provisions requiring corrective action when performance is not being met.

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Regular monitoring should be conducted to ensure compliance with federal, state, and local requirements and policy. Monitoring tools and procedures should be developed and used to monitor all elements of the local plan against performance objectives and compliance with grant requirements. Procedures should be comprehensive enough to ensure compliance.

### **Performance Data for Continuous Improvement**

The WDB will use relevant and objective data to assess the quality of service delivery and to make adjustments to program operations. The WDB will conduct a formal analysis to assess service delivery.

#### References:

The WIOA Section 136



## Chapter 8: Credentials

### Section 8-1: Credential Attainment

#### Purpose

Under the Workforce Innovation and Opportunity Act (WIOA), 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.

Credentials are designed to equip individuals to enter or re-enter employment, retain employment, or advance into better employment. Training and Employment Guidance Letter (TEGL) 15-10 established “credential” as the umbrella term encompassing post-secondary degrees, diplomas, GEDs, licenses, and industry-recognized certifications. A credential must be awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are generally based on standards developed or endorsed by employers.

**Figure 1. Credential Examples**

1. Educational diplomas, certificates and degrees	2. Registered apprenticeship certificates	3. Occupational skills licenses	4. Industry-recognized or professional association certification; also known as personnel certifications	5. Other certificates of skill completion
Issued by an educational institution, which is most often the designer of the credential and the developer of the associated curriculum.	Issued by the federal government. These certificates signify completion of—or interim steps within—registered apprenticeship programs. These certificates may also be issued by a state apprenticeship office, if applicable.	Typically, but not always, awarded by state government agencies. Licenses are required by law/regulation to practice in a particular occupation. Licenses make up the majority of credentials in the U.S.	Issued by third-party, non-governmental organizations based on standards set to demonstrate professional qualifications/competencies.	A broad and less defined category that tends to focus on credentials that capture narrow competencies.

### Public and Private Credential Issuing Entities

There is a wide array of credentialing organizations nationwide. In general, they can be lumped into three categories: (1) government, (2) educational institutions, and (3) businesses, non-educational profits and industry associations.

Organizations and institutions that award industry-recognized credentials include:

- 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 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.
- A professional, industry, or employer organization (e.g., National Institute for Automotive Service Excellence certification, or a National Institute for Metalworking Skills, Inc. Machining Level I credential) or a product manufacturer or developer (e.g., Microsoft Certified Database Administrator, Certified Novell Engineer, or a Sun Certified Java Programmer) using a valid and reliable assessment of an individual's knowledge, skills and abilities.
- Employment and Training Administration's Office of Apprenticeship or a State Apprenticeship Agency.
- A public regulatory agency, 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 centers that issue certificates.
- An institution of higher education which is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or tribes.

**All Region VII approved Training Providers must first be approved through the MACC and by WorkForce West Virginia. NO EXCEPTIONS!**

#### References

TEGL 15-10



## Section 8-2: High Quality Credentialing

State and federal policymakers have developed a number of different criteria for determining the quality of credentials, customized to the needs of their constituents or regions. The United States Department of Labor standard includes four qualities to look for in a credential:

**Figure 2. Four Qualities to Look for in a Credential**

1. Industry-	2. Portable	3. Third Party	4. Stackable
<p>Either created or endorsed by industry, a nationally-recognized industry association or organization that represents a large portion of the industry with clear preference among local employers and regional training programs.</p> <p>A credential that is sought or accepted by companies within the industry for hiring or recruitment.</p> <p>Includes credentials from vendors, e.g., Microsoft.</p>	<p>Recognized and accepted in settings other than in which it was earned:</p> <ul style="list-style-type: none"> <li>• In other geographic locations</li> <li>• At other educational institutions</li> <li>• By other industries</li> <li>• By other companies</li> </ul> <p>Recognized broadly (not only locally), among both employers and educational institutions, for the purposes of further education leading to additional advanced certificates.</p>	<p>Credentials are held to a higher standard of quality when they are accredited, for much the same reasons that the federal government requires third-party accreditation of colleges to be financial aid eligible. There are two main organizations that do this work- the American National Standards Institute and the Institute for Credentialing Excellence. These agencies focus primarily on validating that the assessments used in the credentialing process accurately assess the skills and experiences that are preferably embedded within the credential.</p>	<p>A credential that is a part of a sequence of credentials that can be accumulated over time to build an individual's qualifications and help them move along a career path to different and potentially higher-paying jobs.</p> <p>In the most basic sense, this refers to the career pathways concept that credentials should be linked, with lower-level content stacking to upper-level content, allowing an individual to earn further education and progress to higher paying jobs over time.</p> <p>Examples include a diploma or GED, or associate's, bachelor's, and master's degrees.</p>

### References

TEGL 15-10





### *Section 8-3: Frequently Asked Questions*

**Q:** Do Workforce Development Board (WDB) approved credentials, including the National Career Readiness Certificate (NCRC), count as a credential?

**A:** No. As of Program Year 2020, with the implementation of WIOA, no WDB approved credentials will count toward positive performance calculations, even if there is local policy stating otherwise. Further, WDB approved credentials will not be found as acceptable source documentation during Data Validation reviews covering Program Year 2020 and forward. This includes the NCRC. Given that Data Validation reviews cover former participants, WorkForce West Virginia will not be penalized for WDB approved credentials that meet the requirements as stated in TEGL 15-10, and were attained prior to the implementation of the WIOA.

**Q:** Does completion of On-the-Job Training (OJT) count as a credential?

**A:** Completion of an OJT does not automatically count as a credential. If, however, the individual receives an industry-recognized certificate demonstrating attainment of technical or occupational skills as a result of the OJT, that certificate will count.

**Q:** Can a certificate of attendance or a sign-in sheet be used to verify a credential?

**A:** Because skills gained must be measurable, a certificate of attendance or sign in sheet does not verify credential attainment.

**Q:** Does a ServSafe, Cardiopulmonary Resuscitation (CPR) certificate, or Occupational Safety and Health Administration (OSHA) certificate count as a credential?

**A:** No. While ServSafe, CPR, or OSHA training may provide benefit to participants as they begin to gain general knowledge about occupations and occupational standards, participants are unlikely to gain employment or advance within an occupation based solely upon receiving a ServSafe, CPR, or OSHA certificate. For all participants enrolled as of November 19, 2014, the initial effective date of the WIA manual, CPR and OSHA certificates may not be reported as credentials. For those participants enrolled in WIOA, ServSafe certificates may not be reported as credentials.

**Q:** What if a participant successfully completes a college degree in August, but the university only issues diplomas in December and May?

**A:** The student's transcript will list the date of degree attainment as a date in August following completion of courses. This is the preferred method of reporting for these participants. Should the transcript not be available; or, in a rare event, list the date of attainment as the next mass graduation date (December), the local WDB has two options:

- 1) Provide the participant with an appropriate additional service to extend enrollment to ensure the credential is in the file and entered in the One-Stop Management Information System (MACC) prior to exit; or





- 2) Exit the participant with a MACC reminder set to obtain verification from the participant following the issuance of the official degree. Enter the attainment and the date of attainment (the date on the degree). The credential must be received prior to the third quarter following the quarter of exit to count toward performance measures.

**Q:** Can I use an unofficial GED transcript to verify credential attainment?

**A:** No. The unofficial transcript does not have the date of attainment, which is the date that the State of West Virginia verifies and issues the official certificate.

### References

TEGLs 15-10 and 06-14

## Chapter 9: Rapid Response

### *Section 9-1: Introduction and Overview*

#### **Introduction**

The purpose of Rapid Response is to promote economic recovery and vitality by developing an ongoing, comprehensive approach to identifying, planning for and responding to layoffs and dislocations and preventing or minimizing their impacts on workers, businesses and communities. Rapid Response is a primary gateway to the workforce system for both dislocated workers and employers and is a component of a demand-driven system.

Successful Rapid Response programs are flexible, agile and focused on promptly delivering comprehensive solutions to businesses and workers in transition. Rapid Response, when operated successfully, delivers on the promises that the workforce system makes to businesses, workers and communities—to provide economically valuable solutions to businesses and critically important services to workers at the time when they are most needed.

To ensure high quality and maximum effectiveness, successful Rapid Response strategies must include at least the following:

- Convening, Facilitating and Brokering Connections, Networks and Partners
  - Effective Rapid Response networks develop and maintain a comprehensive set of partnerships
  - Effective Rapid Response and layoff aversion occur where strong, diverse partnerships exist with:
    - Economic Development
    - Education Providers
    - Business Associations
    - Other State and Local Governmental Organizations
- Strategic Planning, Data Gathering and Analysis Designed to Prepare for, Anticipate and Manage Economic Transition
  - Effective Rapid Response networks have access to real-time information on layoffs and growth, as well as information on available skilled workers for growing companies
  - Effective Rapid Response networks develop early warning networks and systems to understand economic transition trends within industries, communities, or at specific employers, and plan strategies for intervention when necessary and appropriate
  - Strategic planning and data gathering and analysis are not only a function of Rapid Response, but of the local area's larger demand-driven system
- Informational and Direct Reemployment Services for Workers
  - Local areas should provide the widest array of services possible based on the needs of the workers and the employer





- Provision of information and access to unemployment compensation benefits and programs, comprehensive One-Stop services, and employment and training activities (including information on the Trade Adjustment Assistance Program, Pell Grants, the GI Bill and other Resources) should be present in strategies
- Solutions for Businesses in Transition; Growth and Decline
  - Rapid Response is a business service that builds and maintains relationships with employers across the business cycle
  - Rapid Response is more than a single, on-site visit in response to a Worker Adjustment Retraining Notification (WARN) Act notice

### Rapid Response in a Demand-Driven System

The planning and information gathering necessary for effective Rapid Response also establishes an awareness of and familiarity with the talent needs of a region, and allows the workforce system the ability to strategically meet the needs of both hiring employers, and those facing layoffs. Providing an environment to engage industry leadership on a broad range of workforce issues facilitates the identification of necessary resources. Convening employers, and when appropriate, partners and other resources, allows comprehensive dialogue between employers and training institutions, resulting in collaborative problem-solving; creating unique approaches to career pathways; addressing curriculum strategies and ultimately enhancing competitiveness and reducing the potential for future layoffs.

In a demand-driven system, employer engagement results in:

- Employers identifying industry demand and vacancies
- Employers providing direct input into the design of educational program offerings that directly respond to industry identified demand and curriculum addresses occupational skill requirements (work-based learning)
- State and local services and programs align with industry's need for workers and skills
- The State's eligible training provider list includes programs representing high-demand occupations based on input from employers

The overarching objective is to adapt the workforce system to help ensure the production of workers with skills and competencies that align better with industry, and thus increase employment and retention. Pre-existing relationships can build the trust needed to share information and to create a dialogue with employers to encourage them to seek assistance before it is too late. Economic and market intelligence gathering is more robust if there are positive working relationships with business and industry groups that are developed outside of specific dislocations. Employers should be comfortable approaching the workforce system when they are looking for new workers, seeking assistance to avert a layoff, and helping their workers transition to a new job in the event they have to end their local operation. Therefore, it is critical to develop a long-term strategy to engage employers and develop a relationship with them both to earn their trust and to ensure that they understand the full range of business solutions offered through the local workforce system, including but not limited to, Rapid Response.

Thus, the state's Sector Strategy approach, which focuses on aligning efforts – initiatives, programs, and funding - around priority clusters for a demand-driven workforce system, helps facilitate such employer engagement. Through extensive labor market research, the Workforce Development Board (WDB) has initially identified four priority clusters including; energy, healthcare, information technology, and advanced manufacturing and is driving workforce development efforts toward meeting the skill needs within these clusters. This approach is in partnership with employers, WorkForce West Virginia, the state Community and Technical College system, local economic development entities, local education and training providers, and statewide trade associations. A key activity of the Sector Strategy approach is the convening of groups of employers to identify and develop solutions to address workforce needs along the entire business cycle continuum.

### **Sector Strategies seek to:**

- Implement an employer-based demand-driven system for workforce development using an industry cluster approach
- Take the industry cluster approach to statewide scale
- Increase employer-sponsored training
- Obtain accurate data on jobs in-demand and skill gaps
- Establish a Strategic Training Fund to sustain the demand-driven workforce system to better address skill gaps

### ***Section 9-2: Process and Procedures for Responding to Notifications of Plant Closures and Layoffs***

#### Responding to WARN or other dislocation event

The Workforce Innovation and Opportunity Act (WIOA) holds states responsible for the provision of Rapid Response services. The WDB maintains responsibility for ensuring compliance with federal and state requirements, implementation of program initiatives, and providing support, guidance, technical assistance and financial resources to the local service delivery areas. As such, the WDB WIOA Title I Section will remain the state's designated recipient of WARNs to fulfill its statutory requirements. However, it is the expectation that the WDB and WorkForce West Virginia, along with other key partners, will act in coordination during all layoffs in a particular region regardless of the size of the event.

Each WDB must identify a lead Rapid Response staff person to ensure that all Rapid Response partners are included in the Rapid Response process. Because of the uniqueness of each event and the necessity of WorkForce West Virginia to sustain established relationships, the WDB recognizes that flexibility is key. The following provides guidance on response:



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## Receipt of Notification

Notification (whether a WARN, a substantial layoff, or smaller event) comes through various channels to the WDB, WorkForce West Virginia and even other partners. The important factors in the response process are making all partners aware of the notice, immediate contact with the company, and gathering information to disseminate for planning of services.

- When WDB WIOA Rapid Response staff or WorkForce West Virginia staff receives information regarding the event, they should immediately contact the other to start the response process.
  - A mutual determination should be made as to who will contact the employer. Whomever contacts the employer should attempt to secure the following information:
    - Company Name (including address and telephone number)
    - Company Contact Name and Title
    - Description of the business, including North American Industry Classification System (NAICS) code
    - Type of dislocation (Mass Layoff or Plant Closure)
    - Notification type (WARN, news article, letter, phone call, other)
    - Number of impacted workers and total workers at the facility
    - Brief description of impacted employee skill sets and corresponding occupations that can be linked to a Standardized Occupational Classification code.
    - Identification of potential days and times for a Rapid Response meeting and/or Worker Orientation
  - A determination should be made as to what other partners need to be notified and how they will take part in the process. Other partners may include:
    - Unemployment Insurance (UI)
    - Job Service
    - Division of Rehabilitation Services (DRS)
    - Department of Human Services
    - Union Official
  - The lead contact will be responsible for the timely dissemination of information to other partners and key stakeholders to ensure accurate and up-to-date information is available and communicated.
  - When a meeting date is determined (whether for Rapid Response or for a Worker Orientation) the WDB will ensure coordination of UI representation.

## Rapid Response and Worker Orientation Meetings

- Rapid Response (RR) Meeting
  - The initial Rapid Response (leadership) meeting should include WorkForce West Virginia staff and the WIOA Rapid Response staff and other local partners as necessary, company officials and employee representation (union or other). The meeting is intended to discuss business services and solutions that may avert or lessen the impact of the





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layoff. Each partner has a role in the meeting that adds value to the process as a whole. A Rapid Response meeting should include:

- The opportunity to gather information regarding the layoff, timelines, and demographic information and skill sets of the affected workers;
  - Dissemination of information to assist both the business and worker through the transition to reemployment.
- Worker Orientation (WO)
    - WOs are scheduled to provide information on available services to the impacted employees. The WO should be tailored to the specific needs of each unique group of affected workers. Standard practice at a WO includes:
      - Other partners from the local One-Stop Service Centers and community agencies presenting information and providing informational materials
    - The meeting may not always follow a Rapid Response (leadership) meeting due to timing of the layoff or lack of cooperation from an employer.

### Inability to Schedule a Rapid Response or Worker Orientation Meeting

Scheduling a meeting is not always feasible. Workers may be laid off prior to the Rapid Response Team being notified, the employer does not want a meeting, timing of events does not allow for the process to play out, or other reasons may come into play. Because information and data are always helpful in determining strategy for delivery of services, the appropriate Rapid Response staff, or other Business Solution Professionals, Business Service Teams, etc.) should attempt to obtain the information in the Rapid Response Data Form to be shared with the Rapid Response Team and arrange for One-Stop and partner services information to be distributed to the impacted employees.

The RR Data Form should be used when a business closes without prior notification. The WorkForce West Virginia or WDB Rapid Response staff should complete, to the best of their ability, and email to their WIOA Rapid Response Coordinator. The information from the RR Data Form, along with the Dislocated Worker Survey data is used to:

- Keep WorkForce West Virginia fully informed of dislocation events and their potential impact on local communities;
- Respond to Legislative and other inquiries;
- Enable the WDB to make informed budgetary decisions with respect to allocation of State Adjustment Grants (SAGs) and WIOA discretionary funding.

## *Section 9-3: Enhancing Your Rapid Response System*

### Additional Tools for a Robust Rapid Response System

- Early Warning Systems as part of a Layoff Aversion Policy

Early warning systems are necessary to ensure a timely response to worker dislocations. Layoffs can be identified in a variety of ways, including but not limited to; discussions with employer representatives or employee meetings with organized labor, increased Unemployment Insurance claims, press attention, a WARN Act notice or Trade Act petition. Systems should be in place to regularly and proactively monitor all of these notification channels.

Proactive systems rely on good intelligence. Their value to economic development efforts can be increased by providing ready access to information regarding available talent. States and local areas gain a competitive advantage when they can leverage accurate information about national and regional economic trends, current and long-range labor market information, new business development and impending layoffs, regional assets, services, and education and training resources. Rapid Response providers can gather information from published data and information sources, but an active communication network should be integrated into a stakeholder network.

**Please note that currently congruent with WorkForce West Virginia Rapid Response policy, any layoff event of fifty (50) or more persons requires the state agency to take the lead. In the event of a layoff with forty-nine (49) or less persons, the Region VII WDB will take the lead in coordinating Rapid Response efforts and services. Unless specifically requested by the employer, the Region VII WDB does not typically provide Rapid Response services in instances when less than twenty (20) persons are affected.**





- State Adjustment Grants (SAG)

Rapid Response funds may be reserved for the Governor's discretionary use under the WIOA. Discretionary Rapid Response funds, and SAGs, may be used for statewide Rapid Response activities to provide additional assistance to local areas that experience mass layoffs, plant closings, or other events that precipitate increases in the number of individuals seeking dislocated worker services. Activities funded by these grants must be consistent with the WIOA Dislocated Worker (DW) guidelines.

SAGs are to support significant dislocation events with temporary time-limited funding. These funds are not intended to replenish general formula shortfalls or fluctuations in annual allocations. Rather, they support services for those dislocation events that have been reported and documented at the state level.

Typically, SAGs will not be awarded in the first quarter of the program year. However, requests submitted during the first quarter will be evaluated on a case-by-case basis. WorkForce West Virginia will award SAG funding using the following criteria:

- Prior year expenditures and draw-downs of WIOA Adult and DW funding
- Current year WIOA Adult and DW expenditures and draw-downs
- Amount of WIOA Adult and DW prior year funds carried into the current Program Year
- Current and prior year WIOA performance measure outcomes
- Prior year Data Validation outcomes
- Analysis of prior SAGs comparing planned participants and activities provided to actual participants and activities
- Assurance that the funding will be expended by the end of the current Program Year
- Current and prior National Emergency Grant expenditures and enrollments

As data assists in planning and strategizing for delivery of services, participants served with SAG funding will be identified and tracked in the One-Stop Management System (MACC). A unique identifier will be provided when SAG funding is awarded. The award letter will include specific MACC instructions.

All reporting of fiscal expenditures of SAG funds must be reported to WorkForce West Virginia on a quarterly basis. All quarterly financial expenditure reports are due to the WorkForce West Virginia no later than the 15th calendar day after the end of the calendar quarter. In the event that the due date falls on a weekend or state government holiday, the report is due on the last business

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day prior to the 15th. Submit reports to the Mid-Atlantic Career Consortium (MACC) at: <http://www.workforcewv.org>. If there are any questions, please call Mr. Brock Jarrett at (304) 558-7024.

If the Region VII WDB should require additional Rapid Response funding, such requests shall be submitted by e-mail to the attention of their WIOA Rapid Response Coordinator or other designated state official. Questions regarding SAG requests, use of funds, strategies for affected worker or any other process questions should be directed to the state WIOA RR Coordinator.

- Dislocated Worker Survey

Obtaining additional federal funding for employment and training programs through the United States Department of Labor (USDOL), such as National Dislocated Worker Grants (NDWGs), is contingent on West Virginia's ability to substantiate need for such funds. Accurate data from the affected dislocated worker population is a critical component for pursuing NDWGs, including the planned participant count, as well as demographic information such as: income status, employment background, education and skills acquired, future career plans, job search needs, job readiness and desire for additional training.

WorkForce West Virginia has developed a Dislocated Worker Survey (DWS) to assist in gathering data for a specific dislocation. The DWS aggregate data is used to produce a "labor shed snapshot" that is shared with the local boards and partners. Completed DWS results will assist in the application for a NDWG, comparison of dislocation events, and allow for examination of trends by region or industry.

The DWS is available in hard copy only at this time. Please contact your regional WIOA RR Coordinator to receive surveys and set up a process to collect the data and return for processing.

- National Dislocated Worker Grant (NDWG)

NDWGs are discretionary funding awarded by the Secretary of Labor to serve dislocated workers and other eligible individuals affected by major economic dislocations, emergencies or disasters.



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Early assessment of the needs and interests of affected workers, through such methods such as Rapid Response activities including the DWS, allows the WDB to have a better understanding of the needs and interests of the impacted workers.

WorkForce West Virginia will work with a local area to determine if applying for a NDWG is the appropriate action to secure additional funding to service the affected workers. Please contact your regional WIOA RR Coordinator for further information.

### References:

WIOA Section 134 (a)(2)(A)

TEGL 31-11, 32-11

Notice of Proposed Rule Making (NPRM) 682.300 – 682.370