

Preliminary Policy on Out-of-School Youth Spending

Reference:

Workforce Innovation and Opportunity Act (WIOA) Section 128.

Background:

At least 75% of youth funds (except for local area expenditures for administrative purposes) must be used to provide activities to out-of-school youth.¹

Action:

This policy becomes effective on April 1, 2015.

Policy:

1) To qualify as an **Out-of-School Youth**, the individual must be:²

a. Not attending any school (as defined by State law);

Attending School - Neb. Rev. Stat. § 79-201 explains mandatory school attendance for individuals between 6 and 18 years of age. The statute requires

- Enrollment in an approved school;
 - Approved school includes public, private, denominational, or parochial schools that meet the requirements for legal operation under Chapter 79.
 - Approved school also includes schools under Neb. Rev. Stat. § 79-1601 that elect not to meet the approval or accreditation requirements, which includes home school.
- Regular attendance each day the school is open unless
 - Excused by school authorities;
 - Illness makes attendance impossible; or
 - Severe weather makes attendance impossible.

b. Is no younger than 16 or older than 24; and

Age Limits – Public schools are required to provide free instruction to any person between the ages of 5 and 21 who has not completed high school, or received a

¹ WIOA section 129(a)(4)(A)

² WIOA Sections 101(46) and 129(a)(1)(B)

diploma of high school equivalency.³ There is no age limitation for other types of schools, including those that elect not to meet the approval or accreditation requirements.

c. One or more of the following:

i. A school dropout.

School Dropout – WIOA section 101(54) defines “school dropout” as an individual who is

- No longer attending any school; and
- Who has not received a secondary school diploma or its recognized equivalent.

ii. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.

iii. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is

Low Income Individual – WIOA section 101(36) defines a "low income individual" as one who:

- Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or State or local income-based public assistance;
- Is in a family with total family income that does not exceed the higher of:
 - The poverty line, for an equivalent period; or
 - Seventy percent of the lower living standard income level, for an equivalent period.
- Is a homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or a homeless child or youth (as defined under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

³ Neb. Const. art. VII, sec. 1; 92 Neb. Admin. Code §19-003

- Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
- Is a foster child on behalf of whom state or local government payments are made; or
- Is an individual with a disability whose income meets the income requirement of (2), but who is a member of a family whose income does not meet this requirement.
- Youth living in a high poverty area.

High Poverty Area – Nebraska has defined “high poverty area” as census tracts where 30% or more of the households are at or below the poverty line, as determined by the most recent United States Census Bureau’s American Community Survey. Attachment A provides a current list of Nebraska’s census tracts meeting this definition.

The U.S. Census Bureau provides an individual address search tool to find the census tract number that corresponds with an address. This tool is located on the middle right hand side of the screen at <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>.

Note: Census tracts may change with each ten year census. The most recent census tracts were designated in 2010.

1. Basic skills deficient; or

Basic Skills Deficient – WIOA section 101(5) defines “basic skills deficient” as an individual:

- Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
- Who is a youth or adult that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.

2. An English language learner.

- iv. An individual who is subject to the juvenile or adult justice system.
- v. A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, otherwise eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

- vi. An individual who is pregnant or parenting.
- vii. A youth who is an individual with a disability.
- viii. A low-income individual who requires additional assistance to enter or complete an education program or to secure or hold employment.

Requires Additional Assistance to Complete an Educational Program or to Secure and Hold Employment – Definitions and eligibility documentation requirements regarding the "requires additional assistance to complete an educational program or to secure and hold employment" criterion shall be established at the local level. However, the policy must be included in the local plan.

Youth Funds – 75% Requirement

WIOA section 129(a)(4)(A) requires that at least 75% of youth funds be used for activities for out of school youth. This requirement applies to the *total* amount of all funds allocated to a local area for youth activities.⁴ Although it is not necessary to ensure that 75% of such funds spent on any particular element of the youth program are spent on out-of-school youth, the funds spent on these activities are included in the total to which the 75% requirement applies.

Exception

There is a limited exception under which States may apply to the Secretary of Labor to reduce the minimum amount that must be spent on out-of-school youth.⁵ A State that receives a minimum allotment under the law may reduce the 75% to a percentage not less than 50% for a local area if:

- 1) after an analysis of the eligible youth population in the local area, the State determines the local area will be unable to meet the 75% requirement due to the low number of out-of-school youth
- 2) the State submits to the Secretary of Labor, for the local area, a request including a proposed reduced percentage for purposes of the 75% requirement, and the summary of the eligible youth population analysis
- 3) the request is approved by the Secretary of Labor

Nebraska does not have a Waiver for this exception.

Disclaimer

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

⁴ WIOA section 129(a)(4)(A)

⁵ WIOA section 129(a)(4)(B)

Appendix A

Nebraska's Census Tracts Meeting "High Poverty" Definition (30% or more of Household at or below the Poverty Line)

Greater Lincoln			
Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 6, Lancaster County, Nebraska	101	92	0.910891
Census Tract 17, Lancaster County, Nebraska	2846	1217	0.427618
Census Tract 20.02, Lancaster County, Nebraska	1528	618	0.40445
Census Tract 20.01, Lancaster County, Nebraska	1468	569	0.387602
Census Tract 2.02, Lancaster County, Nebraska	1669	623	0.373277
Census Tract 7, Lancaster County, Nebraska	1087	405	0.372585
Census Tract 4, Lancaster County, Nebraska	1951	723	0.370579
Census Tract 5, Lancaster County, Nebraska	630	221	0.350794
Census Tract 19, Lancaster County, Nebraska	381	133	0.349081
Census Tract 31.03, Lancaster County, Nebraska	893	309	0.346025
Census Tract 3, Lancaster County, Nebraska	1504	457	0.303856

Greater Nebraska			
Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 9696, Buffalo County, Nebraska	1632	567	0.347426
Census Tract 9657, Adams County, Nebraska	558	180	0.322581
Census Tract 101, Dakota County, Nebraska	2235	680	0.304251

Greater Omaha

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 16, Douglas County, Nebraska	148	81	0.547297
Census Tract 7, Douglas County, Nebraska	613	283	0.461664
Census Tract 8, Douglas County, Nebraska	634	287	0.452681
Census Tract 11, Douglas County, Nebraska	1077	477	0.442897
Census Tract 6, Douglas County, Nebraska	468	199	0.425214
Census Tract 60, Douglas County, Nebraska	1402	569	0.405849
Census Tract 40, Douglas County, Nebraska	1480	587	0.396622
Census Tract 59.02, Douglas County, Nebraska	755	296	0.392053
Census Tract 52, Douglas County, Nebraska	530	206	0.388679
Census Tract 29, Douglas County, Nebraska	1472	566	0.384511
Census Tract 51, Douglas County, Nebraska	1008	357	0.354167
Census Tract 61.02, Douglas County, Nebraska	1462	517	0.353625
Census Tract 4, Douglas County, Nebraska	840	295	0.35119
Census Tract 19, Douglas County, Nebraska	792	265	0.334596
Census Tract 12, Douglas County, Nebraska	957	318	0.332288
Census Tract 38, Douglas County, Nebraska	1576	521	0.330584
Census Tract 53, Douglas County, Nebraska	854	279	0.326698
Census Tract 5, Douglas County, Nebraska	575	180	0.313043
Census Tract 39, Douglas County, Nebraska	940	293	0.311702
Census Tract 21, Douglas County, Nebraska	867	267	0.307958
Census Tract 32, Douglas County, Nebraska	921	279	0.302932