State Policy Manual

WIOA Title I Adult, Dislocated Worker, and Youth Programs
WIOA Title III Wagner-Peyser Employment Service
Jobs for Veterans State Grant Program
National Dislocated Worker Grant Programs
Senior Community Service Employment Program
Trade Adjustment Assistance

Version date: September 23, 2025

Message to readers

This manual is a compilation of policies in effect as of September 23, 2025. You can navigate within this manual using the bookmark pane on the left. If you experience accessibility issues with this manual or have questions or comments, please email the policy mailbox at ndol.wioa_policy@nebraska.gov.

1. Governance

1.1. State board, CEOs, local fiscal agents, and local boards

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Governance Effective June 11, 2025 Rescinded State Workforce Development Board, Local Chief Elected Officials, Local Fiscal Agents, and Local Workforce Development Boards (effective December 13, 2023)

Local Chief Elected Officials, Fiscal Agents, and Workforce Development Boards

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes and within certain policy provisions.

NDOL policies referenced in this policy are included in the state policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

BACKGROUND

WIOA and its implementing rules, regulations, and guidance define roles and responsibilities of local chief elected officials, fiscal agents, and workforce development boards.

ACTION

NDOL

This policy rescinds NDOL's policy titled *State Workforce Development Board, Local Chief Elected Officials, Fiscal agents, and Local Workforce Development Boards*. Questions and comments on this policy may be submitted by email to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local chief elected officials, fiscal agents, and workforce development boards

Local chief elected officials (CEOs), local fiscal agents (fiscal agents), and local workforce development boards (local boards) must adhere to requirements established in this policy; applicable provisions of WIOA and its implementing rules, regulations, and guidance; and other applicable Federal and state laws, rules, and regulations.

POLICY

This policy establishes requirements pertaining to CEOs, fiscal agents, and local boards concerning their respective roles and responsibilities in Nebraska's one-stop delivery system.

This policy has three sections and three appendices.

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Section I. CEOs, fiscal agents, and local boards

(a) CEO roles and responsibilities

Roles and responsibilities of CEOs are described throughout WIOA Title IA Chapter 2 (29 USC Chapter 32 Subchapter I, Part A, Subpart 2), 20 CFR §§ 678.610 and 678.800; applicable provisions of 20 CFR Part 679 Subparts B, C, and D; 20 CFR § 683.710; and other applicable Federal and state laws, rules, regulations, and guidance.

CEO roles and responsibilities concerning biennial local board certifications are clarified below in subsection (1).

(1) Biennial local board certifications

Local boards are appointed by CEOs in accordance with criteria established under 29 USC § 3122(b) and 20 CFR § 679.310(a).

Local boards must be certified by the Governor every two years (biennially), in accordance with 29 USC § 3122(c)(1)-(2) and NDOL requirements pertaining to submission, documentation, and due date requirements, as described below.

1. NDOL requires CEOs (or their designees) to submit the following documentation when requesting biennial local board certifications:
    a. written requests indicating CEOs are applying for biennial certification of their respective local boards (email requests are sufficient);
    b. fully completed local board membership rosters, membership distributions, and standing committee membership rosters using working versions of the templates provided in APPENDIX II;[1] and
    c. membership applications for all local board members, which must have been completed using working versions of the temples provided in APPENDIX III.[2]
2. Local board certification requests and required documentation must be submitted to the policy mailbox (ndol.wioa_policy@nebraska.gov) *no later than March 1 of applicable calendar years*, as described in Table 1.
    a. Note. Due dates for submission of biennial board certification documentation will have the same biennial March 1 due date for PY33 and subsequent biennial certification periods.

Table 1. Due dates for submission of biennial local board certification documentation

Certification period	Calendar year due date
Program Years 2027 and 2028	March 1, 2027
Program Years 2029 and 2030	March 1, 2029
Program Years 2031 and 2032	March 1, 2031

(b) Fiscal agent roles and responsibilities

CEOs must ensure their fiscal agents have clearly defined roles and responsibilities. General and optional functions of fiscal agents functions are defined under 20 CFR 679.420. Fiscal agents must also comply with all other applicable Federal and state laws, rules, regulations, guidance, and policies.

(c) Local board roles and responsibilities

Local boards must:

1. perform the functions described under 29 USC § 3122(d), 20 CFR § 679.330, and 20 CFR § 679.370;
2. adhere to requirements defined under 20 CFR § 679.330 and 20 CFR § 683.710(b)(3);
3. comply with Federally defined “sunshine” requirements described in 29 USC § 3122(e);
4. comply with requirements of the Nebraska Open Meetings Act (Neb. Rev. Stat. §§ 84-1407-84-1414);[3] and

[1] Current working versions of the templates are provided to local area administrative entity staff by email.
[2] Ibid.
[3] An annotated outline of the Nebraska Open Meetings Act is accessible at https://ago.nebraska.gov/open-meetings.

5. in partnership with CEOs, provide oversight and monitoring of their respective local areas, as required under 2 CFR §§ 200.303(c) and (d), 200.318(b), 200.328, and 200.332; and 20 CFR § 679.370(i); and other applicable Federal and state laws, rules, and regulations.

(1) Standing committees

Local boards may designate standing committees to assist the local board with carrying out its responsibilities.[4] If local boards elect to designate standing committees, the standing committees must meet the requirements of 20 CFR § 679.360.

(2) Staff

Pursuant to 29 USC § 3122(f) and 20 CFR § 679.400(a), local boards have the authority to hire directors and other staff to assist in carrying out the functions of local boards. If local boards elect to hire staff, the requirements of 20 CFR § 679.400(b)-(e) must be met, as well as requirements of TEGL 10-24 and all other applicable and future Federal laws, rules, and regulations concerning salary caps.

(3) Satisfying consumer choice requirements for Title IB program services

In accordance with 29 USC §§ 3122(d)(10)(E) and 3152, local boards must satisfy consumer choice requirements described in 20 CFR § 679.380.

(4) Waitlist requirements for Title IB programs

As required under 29 USC §§ 3164 and 3174, local areas must provide Title IB youth services to eligible youth and Title IB employment and training activities to eligible adults and dislocated workers. Further, during annual budget planning for upcoming program years, local boards:

- *must* prioritize funding for Title IB program services for eligible adults, dislocated workers, and youth; and
- *must not* prioritize use of adult and dislocated worker funds for incumbent worker training or customized training services to employers, which are non-mandatory employer services, in a manner that jeopardizes the availability of Title IB program services.

If local boards predict or determine during a given program year that funding for Title IB adult, dislocated worker, or youth program services may be limited, local boards may establish waitlists for services. Prior to implementing waitlists, however, local boards must establish, implement, and adhere to local area waitlist policies, processes, and procedures, which must comply with the following conditions and requirements.

1. Only local boards (not their designees, including local administrative entity staff or service provider staff) may establish waitlists for one or more Title IB programs under the following limited circumstances:
    a. when funding is predicted to be insufficient during the remainder of a given program year, based on full analyses of local fiscal records for the impacted program(s); or
    b. unexpected economic conditions occurring in the local area.

[4] 29 USC § 3122(b)(4)

2. Local boards must ensure written agreements with employers for incumbent worker and customized training services include provisions that allow local boards to modify, suspend, or terminate the agreements due to changes in available funding levels for adult and dislocated worker programs.
3. Local boards must modify, suspend, or terminate written agreements with employers for incumbent worker and customized training services and deobligate those funds and restore the balance of the deobligated funds to adult and dislocated worker programs to ensure the availability of funding and to ensure continued provision of program services for eligible adults and dislocated workers.
4. Prior to establishing waitlists for one or more Title IB programs, local boards must take the following actions:
    a. request technical assistance from NDOL by emailing the policy mailbox (ndol.wioa_policy@nebraska.gov) and providing the following documentation with the request:
        (1) *in the event of predicted insufficient funding*, provide summary and detailed:
            (A) documentation demonstrating local board oversight and monitoring of expenditures and obligations relating to the impacted program(s);
            (B) financial documentation for the impacted program(s), including documentation reflecting time charging by subrecipient staff implementing program services under the impacted program(s); and
            (C) descriptions of how priority of service will be ensured and implemented in accordance with NDOL's policy on priority of service and how the local board will frequently monitor waitlist implementation to minimize the duration of the proposed waitlist(s);
        (2) *in the event of unexpected economic conditions occurring in local area*s, provide summary and detailed documentation demonstrating:
            (A) unexpected economic conditions occurring in the local areas;
            (B) local board actions to mitigate those conditions, including coordination with required and additional one-stop partners, as well as workforce development system partners; and
            (C) how priority of service will be ensured and implemented in accordance with NDOL's policy on priority of service and how the local board will frequently monitor waitlist implementation to minimize the duration of the proposed waitlist(s);
    b. participate in technical assistance provided by NDOL, which *must* include participation by one or more representatives of local boards, as well as local area administrative entity staff, and leadership level service provider staff; and
    c. fully implement all reasonable guidance provided by NDOL during technical assistance in order to prevent or mitigate the proposed implementation of any waitlist.

(d) High-performing local boards

Criteria for high-performing local boards have not been established by the state workforce development board.

Section II. Local board decertification

Pursuant to 29 USC § 3122(c)(3), the Governor has the authority to decertify a local board at any time for any of the following reasons:

- fraud or abuse;
- failure to carry out the functions specified for local boards; or
- failure to meet adjusted levels of performance for two consecutive program years.

If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the CEO in the local area and in accordance with the criteria established under 29 USC § 3122(b).[5]

Section III. Internal controls, conflicts of interest, and mandatory disclosures

(a) Internal controls

Local boards must adhere to the requirements of 2 CFR § 200.303. In addition, if local boards or CEOs have selected or designated an organization to function simultaneously in two or more roles (including fiscal agents, local boards staff, one-stop operators, and direct providers of services), local boards and CEOs must develop written agreements with the organizations that define how the organizations will carry out their responsibilities while demonstrating compliance with WIOA and its implementing rules, regulations, and guidance; Uniform Guidance (2 CFR Parts 200) and 20 CFR § 679.430; as well as other applicable Federal laws, rules, regulations, and guidance.

(b) Conflicts of interest

CEOs, local board members, and local board standing committee members must disclose to NDOL in writing any potential conflicts of interest pertaining to subaward of WIOA Title IB funds to CEOs, as required under 20 CFR § 683.200(c)(5).

Written disclosures must be submitted in a timely manner by email to the policy mailbox at ndol.wioa_policy@nebraska.gov.

[5] 29 USC § 3122(c)(3)(C)

(c) Mandatory disclosures

CEOs, fiscal agents, local boards, and local board standing committees must disclose in writing to NDOL and USDOL, as applicable and in a timely manner:

- all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting subawards of Federal funds by NDOL, as required under 2 CFR § 200.113; and
- certain civil, criminal, or administrative proceedings, as required under 2 CFR § 200.113.

Failure to make required disclosures can result in any of the remedies described under 2 CFR §§ 200.113, 200.339, and other applicable Federal and state laws, rules, and regulations.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, rules, regulations, and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information supporting the provisions of the policy and its appendices. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and its appendices and not as stand-alone information independent of that context.

1. chief elected official (CEO)

The term chief elected official (CEO) refers to the chief elected executive officer of a unit of general local government in a local area.[6] The term chief elected official also refers to a chief elected officials board (CEOB) established in accordance with 29 USC §§ 3102(9) and 3122(c)(1)(b).

2. community-based organization

Community-based organization[7] means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

3. demonstrated experience and expertise

An individual with *demonstrated experience and expertise* refers to an individual who has documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function.[8] Individuals with demonstrated experience and expertise may include an individual with experience and expertise in:

- education or training of job seekers with barriers to employment, such as Veterans and individuals with disabilities;
- providing or supporting competitive integrated employment for individuals with disabilities; or
- addressing employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.

For purposes of selecting representatives as members of local boards, a representative with demonstrated experience and expertise means an individual who:[9]

- is a workplace learning advisor;
- contributes to the field of workforce development, human resources, training and development, or a core program function; or
- the local board recognizes for valuable contributions in education or workforce development related fields.

[6] 29 USC § 3102(9)
[7] 29 USC § 3102(10)
[8] 20 CFR §§ 679.110(b)(3)(ii)(C) – (D) and 679.120(b)
[9] 20 CFR § 679.340(b)

4. in-demand industry sector or occupation

In-demand industry sector or occupation[10] means an:

- industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or
- occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

5. optimum policymaking authority

Individuals with optimum policymaking authority[11] are those who can reasonably be expected to:

- speak affirmatively on behalf of the entities they represent; and
- commit those entities to a chosen course of action.

6. small business

Refer to 29 CFR § 3151(b)(2)(B) for WIOA's current definition of small business.

7. subrecipient

Subrecipient[12] means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Subrecipient *does not* include an individual that is a beneficiary of such program.

8. unit of general local government

The term unit of general local government[13] means any general-purpose political subdivision of a state that has the power to levy taxes and spend funds and has general corporate and police powers.

[10] 29 USC § 3102(23)
[11] 20 CFR §§ 679.120(a) and 679.340(a)
[12] 2 CFR § 200.1
[13] 29 USC § 3102(62)

9. workplace learning advisor

The term workplace learning advisor[14] means an individual employed by an organization who has the knowledge and skills necessary to advise other employees of that organization about education, skill development, job training, career counseling services, and credentials that are required to progress toward the career goals of the employees in order to meet employer requirements related to job openings and career advancements that support economic self-sufficiency. The workplace learning advisor must also have the knowledge and skills necessary to advise other employees on the services provided through the workforce development system.

[14] 29 USC § 3102(70)

APPENDIX II. Local board roster, membership distribution, and standing committee templates

1. Local board roster template

Last name	First name	Board membership category (*business; workforce; education and training; government; economic and community development; or optional*)	Board role (*chair, vice chair, or general member*)	Board committee and subcommittee membership and assignments (*identify committee or subcommittee*)	Professional affiliation	Professional title	Full work address	Work phone	Work email address

2. Local board membership distribution template

Board members may represent 2 categories. Category means local area business, workforce, education and training, government and economic/community development, or optional categories.

- For the business category, a board member *may not* represent both local area business general *and* local area business small.

Membership category: Local area business (mandatory minimum of 51% of total membership)	# Count	% Representation	Names of applicable members
Local area business: General	0	#DIV/0!	
Local area business: Small (minimum 2)	0	#DIV/0!	
Total	0	#DIV/0!	

Membership category: Workforce (mandatory minimum of 20% of total membership)	# Count	% Representation	Names of applicable members
Workforce: Labor organization (minimum 2)	0	#DIV/0!	
Workforce: Joint labor-management *or* union-affiliated sponsor of Registered Apprenticeship program in the local area who must be a training director or member of a labor organization (minimum 1)	0	#DIV/0!	
Workforce: Community-based organization with demonstrated experience and expertise in addressing employment, training, or education needs of individuals with barriers to employment, including organizations that serve Veterans or provide or support competitive integrated employment for individuals with disabilities (optional membership)	0	#DIV/0!	
Workforce: Organization experienced in addressing employment, training, or education needs of eligible youth, including out-of-school youth (optional membership)	0	#DIV/0!	
Workforce: At least 1 additional representative from above categories to reach the mandatory 20% threshold for workforce membership	0	#DIV/0!	
Total	0	#DIV/0!	

Membership category: Education and training	# Count	% Representation	Names of applicable members
Education and training: WIOA Title II Adult Education and Family Literacy (minimum 1)	0	#DIV/0!	
Education and training: Institution of higher education (minimum 1)	0	#DIV/0!	
Total	0	#DIV/0!	

Membership category: Government and economic/community development	# Count	% Representation	Names of applicable members
Government and economic/community development: Economic and community development entity serving the local area (minimum 1)	0	#DIV/0!	
Government and economic/community development: Wagner-Peyser Employment Service Program serving the local area (minimum 1)	0	#DIV/0!	
Government and economic/community development: WIOA Title IV vocational rehabilitation programs serving the local area (minimum 1)	0	#DIV/0!	
Total	0	#DIV/0!	

Optional representation	# Count	% Representation	Names of applicable members
Entities administering education and training activities who represent local educational agencies or community-based organizations with demonstrated expertise in addressing the education or training needs for individuals with barriers to employment	0	#DIV/0!	
Governmental and economic and community development entities who represent transportation, housing, and public assistance programs	0	#DIV/0!	
Philanthropic organizations serving the local area	0	#DIV/0!	
Other appropriate individuals as determined by the CEO	0	#DIV/0!	
Total	0	#DIV/0!	

3. Local board standing committee roster template

Last name	First name	Board role (*identify board role or indicate non-board member*)	Committee role *(chair, vice chair, or committee category of representation*)	Professional affiliation	Professional title	Full work address	Work phone	Work email address

APPENDIX III. Local board membership applications

Instructions to CEOs and local boards

1. For *potential* board members:[15]

    a. Membership applications must be completed and signed digitally by potential local board members.

2. For *current* board members:[16]

    a. If they have not already done so, current local board members must complete membership applications applicable to their categories of representation.

    b. When the employment status of current local board members change, the effected local board members must complete and submit new membership applications to the CEO and local board, and local area administrative entity staff for determination of eligibility to continue serving as local board members.

    c. The applications must be completed and signed digitally by potential local board members.

[15] Current working versions of the templates are provided to local area administrative entity staff by email.
[16] Ibid.

Membership application: BUSINESS representatives[17]

Instructions

1. Sections 2 through 7 must be completed.
2. You must submit your completed and digitally signed application to the local board representative identified in Section 1, along with supporting documentation required in this form.
3. Incomplete applications and applications that do not include required supporting documentation will not be considered.

Application

1. Local area information (section must be *completed by a local board representative prior to distribution to you*)

Local board name: *Greater* _____ *Workforce Development Board*
Local board representative (full name and email address) _____
Local workforce development area counties _____
_____

2. Applicant information (each field must be completed *by you*)

Applicant name _____
Applicant job title _____
Applicant business address _____
Applicant business phone _____
Applicant business email or alternative email _____

3. Employer information (each field must be completed *by you*)

Employer name _____
Employer address _____
Employer phone (may be used to verify employment) _____
Employer email (may be used to verify employment) _____
Employer industry sector _____
Number of employees companywide _____

4. Eligibility information (each field must be completed *by you*)

Do you have optimum policymaking authority[18] or hiring authority for the entity named in Section 3? ☐ Yes ☐ No
(To be eligible for local board membership, you must have optimum policy making authority for the entity you represent.)
Are you owner of the entity named in Section 3? ☐ Yes ☐ No
Are you the chief executive officer for your employer (named in Section 3)? ☐ Yes ☐ No
Are you the chief operating officer for your employer (named in Section 3)? ☐ Yes ☐ No
Does your employer (named in Section 3) provide employment opportunities in in-demand industry sectors or occupations in the local area counties named above in Section 1? ☐ Yes ☐ No
(*Your employer must provide employment opportunities in in-demand industry sectors or occupations in the local area counties named in Section 1. If you are unsure, contact the local board representative named in Section 1.*)
Have you been nominated for appointment to the local board by a local business organization or business trade association? ☐ Yes ☐ No
(*Business representatives must be nominated for appointment to the local board by a local business organization or business trade association. Your letter of nomination must be submitted with this application.*)

[17] 20 CFR § 679.320(b) and (f)

[18] An individual with *optimum policymaking authority* is an individual who can reasonably be expected to speak affirmatively on behalf of the entity they represent and to commit that entity to a chosen course of action [20 CFR §679.340(a)].

5. Additional information (each field must be completed *by you*)

Please describe your interest in serving on the local board. _____

Please provide your job description. _____

6. Attachments (each field must be completed *by you*)

I am providing following required documents as part of this application.

☐ Letter of nomination
☐ My resume

7. Applicant signature

I assure the information I've provided in and with this application is accurate.

Signature _____

Membership application: WORKFORCE representatives[19]

Instructions

1. Sections 2 through 7 must be completed.
2. You must submit your completed and digitally signed application to the local board representative identified in Section 1, along with supporting documentation required in this form.
3. Incomplete applications and applications that do not include required supporting documentation will not be considered.

Application

1. Local area information (section must be *completed by a local board representative prior to distribution to you*)

Local board name: *Greater* _____ *Workforce Development Board*
Local board point of contact (full name and email address) _____
Local workforce development area counties (i.e., service delivery area) _____

2. Applicant information (each field must be completed *by you*)

Applicant name _____
Applicant job title _____
Applicant business address _____
Applicant business phone _____
Applicant business email or alternative email _____

3. Employer information (each field must be completed *by you*)

Employer name _____
Employer address _____
Employer phone (may be used to verify employment) _____
Employer email (may be used to verify employment) _____
Employer industry sector _____
Number of employees companywide _____

4. Eligibility information (each field must be completed *by you*)

Do you have *optimum policymaking authority*[20] or hiring authority for the entity named in Section 3? ☐ Yes ☐ No
(*All board members must have optimum policy making authority for the entity they represent*.)
Do you represent a labor organization in the local area counties named in Section 1? ☐ Yes ☐ No
Do you represent a joint labor-management organization, union affiliated organization, or Registered Apprenticeship program in the local area counties named in Section 1? ☐ Yes ☐ No
If yes, are you the training director or member of the labor organization? ☐ Yes ☐ No
If you are a representative of a labor organization, joint labor-management organization, union affiliated organization, or Registered Apprenticeship program in the local area counties named in Section 1, have you been nominated for appointment by a local labor federation? ☐ Yes ☐ No
(*Representatives of labor organizations, joint labor-management organizations, union affiliated organizations, or Registered Apprenticeship programs must be nominated for appointment to the board by local labor federations. Your letter of nomination must be provided with this application.*)
If you are not a representative of a labor organization, joint labor-management organization, union affiliated organization, or Registered Apprenticeship program in the local area counties named in Section 1, have you been nominated for appointment to the board by an organization that otherwise represents employees in those counties? ☐ Yes ☐ No
(*Representatives of other organizations that represent employees must be nominated by those organizations. A letter of nomination must be submitted with this application.*)

[19] 20 CFR § 679.320(c) and (f)
[20] An individual with *optimum policymaking authority* is an individual who can reasonably be expected to speak affirmatively on behalf of the entity they represent and to commit that entity to a chosen course of action [20 CFR §679.340(a)].

Do you represent a community-based organization that has *demonstrated experience and expertise*[21] in addressing the employment, training or education needs of individuals with barriers to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities? ☐ Yes ☐ No

(*If yes, the community-based organization named in Section 3 must have demonstrated experience and expertise in addressing the employment, training or education needs of individuals with barriers to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities.*)

Do you represent an organization that has *demonstrated experience and expertise* in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth? ☐ Yes ☐ No

(*If yes, the organization named in Section 3 must have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.*)

5. Additional information (each field must be completed *by you*)

Please describe your interest in serving on the local workforce development board. _____

_____

_____

_____

Please provide your job description. _____

_____

_____

_____

6. Attachments

I am providing following required documents as part of this application.

☐ Letter of nomination
☐ My resume

7. Applicant signature

I assure the information I've provided in and with this application is accurate.

Signature _____

[21] A representative of an organization with demonstrated experience and expertise means an individual who (1) is a workplace learning advisor as defined in 29 USC § 3102(70); (2) contributes to the field of workforce development, human resources, training and development, or a core program function; *or* (3) the local board recognizes for valuable contributions in education or workforce development related fields [20 CFR § 679.340(b)].

Membership application: GOVERNMENT, HIGHER EDUCATION, and ECONOMIC AND COMMUNITY DEVELOPMENT representatives[22]

Instructions

1. Sections 2 through 7 must be completed.
2. You must submit your completed and digitally signed application to the local board representative identified in Section 1, along with supporting documentation required in this form.
3. Incomplete applications and applications that do not include required supporting documentation will not be considered.

Application

1. Local area information (section must be *completed by a local board representative prior to distribution to you*)

Local board name: *Greater* _____ *Workforce Development Board*
Local board representative (full name and email address) _____
Local workforce development area counties _____
_____

2. Applicant information (each field must be completed *by you*)

Applicant name _____
Applicant job title _____
Applicant business address _____
Applicant business phone _____
Applicant business email or alternative email _____

3. Employer information (each field must be completed *by you*)

Employer name _____
Employer address _____
Employer phone (may be used to verify employment) _____
Employer email (may be used to verify employment) _____
Employer industry sector _____
Number of employees companywide _____

4. Eligibility information (each field must be completed *by you*)

Do you have *optimum policymaking authority*[23] or hiring authority for the entity named in Section 3? ☐ Yes ☐ No
(*All board members must have optimum policy making authority for the entity they represent*.)
Do you represent a provider that administers adult education and literacy activities authorized under WIOA Title II in the ? ☐ Yes ☐ No
(*If there are multiple providers administering Title II adult education and literacy activities in the in the local area counties named above in Section 1, those entities must nominate you. This is a mandatory eligibility criterion for Title II providers. Your letter of nomination must be submitted with this application*.)
Do you represent an institution of higher education (includes community colleges) that provides workforce investment activities (education, training, etc.)? ☐ Yes ☐ No
(*If there are multiple institutions of higher education that provide workforce investment activities in the local area counties named above in Section 1, those institutions must nominate you. Your letter of nomination must be submitted with this application.*)
Do you represent WIOA Title III Wagner-Peyser Employment Service? ☐ Yes ☐ No
Do you represent a WIOA Title IV vocational rehabilitation program (Nebraska VR or NCBVI)? ☐ Yes ☐ No

[22] 20 CFR § 679.320(d) and (f)
[23] An individual with *optimum policymaking authority* is an individual who can reasonably be expected to speak affirmatively on behalf of the entity they represent and to commit that entity to a chosen course of action [20 CFR §679.340(a)].

5. Additional information (each field must be completed *by you*)

Please provide your job description. _____

Please describe your interest in serving on the local workforce development board. _____

6. Attachments

I am providing following required documents as part of this application.

☐ Letter of nomination (if applicable, as described in Section 4)
☐ My resume

7. Applicant assurance and signature

I assure the information I've provided in and with this application is accurate.

Signature _____

Membership application: OTHER representatives[24]

Instructions

1. Sections 2 through 7 must be completed.
2. You must submit your completed and digitally signed application to the local board representative identified in Section 1, along with supporting documentation required in this form.
3. Incomplete applications and applications that do not include required supporting documentation will not be considered.

Application

1. Local area information (section must be *completed by a local board representative prior to distribution to you*)

Local board name: *Greater* _____ *Workforce Development Board*
Local board representative (full name and email address) _____
Local workforce development area counties _____
_____

2. Applicant information (each field must be completed *by you*)

Applicant name _____
Applicant job title _____
Applicant business address _____
Applicant business phone _____
Applicant business email or alternative email _____

3. Employer information (each field must be completed *by you*)

Employer name _____
Employer address _____
Employer phone (may be used to verify employment) _____
Employer email (may be used to verify employment) _____
Employer industry sector _____
Number of employees companywide _____

4. Eligibility information (each field must be completed *by you*)

Do you have *optimum policymaking authority*[25] or hiring authority for the entity named in Section 3? ☐ Yes ☐ No
(*All board members must have optimum policy making authority for the entity they represent*.)
Do you represent a local educational agency or community-based organization with demonstrated expertise in addressing the education or training needs of individuals with barriers to employment? ☐ Yes ☐ No
Do you represent a governmental or economic and community development entity that provides transportation, housing, or public assistance programs? ☐ Yes ☐ No
Do you represent a philanthropic organization that serves the local area counties named above in Section 1? ☐ Yes ☐ No

5. Additional information (each field must be completed *by you*)

Please describe your interest in serving on the local workforce development board. _____
_____
_____
_____

[24] 20 CFR § 679.320(e) and (f)
[25] An individual with *optimum policymaking authority* is an individual who can reasonably be expected to speak affirmatively on behalf of the entity they represent and to commit that entity to a chosen course of action [20 CFR §679.340(a)].

Please provide your job description. _____

_____

_____

_____

6. Attachments (each field must be completed *by you*)

I am providing following required documents as part of this application.

☐ My resume

7. Applicant signature

I assure the information I've provided in and with this application is accurate.

Signature _____

1.2. Local Workforce Development Areas and Statewide Planning Region

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Governance

Effective date
May 3, 2023

Supersedes
Local Workforce Development Areas and Statewide Planning Region, Change 1 (effective June 17, 2022)

Local Workforce Development Areas and Statewide Planning Region, Change 2

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

To receive WIOA Title I funding, a Governor must designate local areas.[1] In addition, in order for a state to receive Title I funding, a state must identify regions in the state before the second full program year after enactment of WIOA.[2] A region comprising two or more local areas is considered a planning region, which must then be designated by the Governor.[3]

CHANGES

Under this Change 2, footnotes have been revised for clarity and links have been updated, where necessary, and points of contact for notifications have been revised.

[1] WIOA Sec. 106(b)(1)(A)
[2] WIOA Sec. 106(a)(1)
[3] WIOA Sec. 106(a)(2)(B)

ACTION

This policy supersedes and cancels the Local Workforce Development Areas and Statewide Planning Region, Change 1 policy (effective June 17, 2022).[4] Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local areas must comply with the requirements of this policy.

POLICY

This policy acknowledges that Nebraska's local areas received initial designation prior to the date of this policy and establishes:

- requirements and procedures for designation, redesignation, and subsequent designation of local areas; and
- the single statewide planning region.

This policy has three sections and three appendices.

Section I. Designation, redesignation, and subsequent designation of local areas 2
(a) Initial designation 2
(b) New local area designation 3
(c) Redesignation 3
(d) Subsequent designation 3
Section II. Procedures 4
(a) Designation and redesignation procedural requirements 4
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Section I. Designation, redesignation, and subsequent designation of local areas

(a) Initial designation

All Nebraska local areas received initial designation prior to the effective date of this policy in accordance with WIOA Sec. 106(b)(1) – (2) and 20 CFR § 679.250(a) – (b).

[4] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

(b) New local area designation

The Governor may designate a new local area, meaning one that was not designated as a local area under the Workforce Investment Act of 1998 (WIA), provided the proposed new local area:[5]

- is consistent with local labor market areas;
- has a common economic development area; and
- has necessary Federal and non-Federal resources, including appropriate education and training institutions, to administer Title IB adult, dislocated worker and youth program activities.

(c) Redesignation

Two or more local boards and chief elected officials may make a joint written request for redesignation of their respective local areas as a single local area. The Governor may redesignate the local areas as a single local area if the redesignation has been requested jointly and the Governor approves the request.[6] If the Governor approves the request, the Nebraska Workforce Development Board must authorize use of statewide Title I funds to facilitate redesignation activities.[7] If Title I statewide funds are not available during the program year when the request is approved, funds for redesignation activities may be provided during the next program year.[8]

Activities that may be carried out by local areas approved for redesignation may include:[9]

- convening sessions and conferences on the topic of redesignation;
- renegotiating contracts and agreements impacted by redesignation; and
- other activities directly associated with redesignation deemed appropriate by the Nebraska Workforce Development Board.

(d) Subsequent designation

If a local board and chief elected official request subsequent designation of their local area, the request must be approved if the local area, for the two most recent program years of initial designation:[10]

- performed successfully and sustained fiscal integrity;[11] and

[5] 20 CFR § 679.240(a)
[6] 20 CFR § 679.240(c)
[7] WIOA Sec. 106(b)(6); 20 CFR § 679.280(a)
[8] 20 CFR § 679.280(b)
[9] 20 CFR § 679.280(c)
[10] WIOA Sec. 106(b)(3); 20 CFR § 679.250(b)
[11] Definitions of performed successfully and sustained fiscal integrity are provided in the State's performance accountability policy, which is included in the State policy manual and accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

- participated in regional planning activities that resulted in *all* of the following activities:[12]
    - preparation of a regional plan;
    - establishment of regional service strategies, including use of cooperative service delivery agreements;
    - development and implementation of sector initiatives for in-demand industry sectors or occupations for the region;
    - collection and analysis of regional labor market data (in conjunction with the State);
    - establishment of administrative cost arrangements for the region, including pooling of funds for administrative costs;
    - coordination of transportation and other supportive services for the region, as appropriate;
    - coordination of activities with regional economic development providers; and
    - establishment of an agreement on how local boards in the planning region will:
        - collectively negotiate and reach agreement with NDOL on local levels of performance for the local Title I programs in the planning region; and
        - report on performance accountability measures described in WIOA Sec. 116(c) for the local areas.

Section II. Procedures

(a) Designation and redesignation procedural requirements

(1) General procedural requirements

General procedural requirements for designation and redesignation of local areas include:[13]

- consultation with the Nebraska Workforce Development Board, local boards, and chief elected officials;
- consideration of comments received through a public comment process, which must:
    - provide an opportunity for comment by representatives of local boards, chief elected officials, businesses, institutions of higher education, labor organizations, other primary stakeholders, and the general public regarding designation or redesignation of local areas, as applicable; and

[12] WIOA Sec. 106(c)(1); 20 CFR § 679.250(b)(3)
[13] WIOA Sec. 106(b)(1); 20 CFR § 679.230

- offer adequate time for public comment prior to designation or redesignation of local areas;

- consideration of the extent to which local areas, including potential new local areas:
  - are consistent with labor market areas in the state;
  - are consistent with regional economic development areas in the state; and
  - have Federal and non-Federal resources necessary to effectively administer activities required under Title I and other applicable provisions of WIOA, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

(2) New local area procedural requirements[14]

The Governor may approve at any time a request from a unit of general local government or combination of units a request for designation of a new local area, meaning one that was not designated as a local area under the Workforce Investment Act of 1998.

In addition to the general procedural requirements described in Section II(a)(1), the following procedures must be followed for new local area designation.

1. The unit or combination of units seeking designation as a new local area must submit a written request and documentation demonstrating the requirements of Section I(b) and procedural requirements of Section II(a)(1) have been met.

2. The request and documentation must be submitted by email to the policy mailbox at ndol.wioa_policy@nebraska.gov.

3. Following receipt of the request and documentation, NDOL will:
   a. review the request and documentation to ensure the request and documentation meet the requirements of 20 CFR § 679.240 and Section I(b) and Section II(a)(1); and
   b. prepare a written recommendation for consideration by the Nebraska Workforce Development Board (Board) and the Governor.

4. NDOL will provide to the Board for review and consideration during the Board's next regularly scheduled meeting:
   a. the submitted request and documentation; and
   b. NDOL's recommendation on the request.

[14] 20 CFR § 679.240

5. Following the Board's review and consideration of the submitted request and documentation, NDOL will forward to the Governor the:

    a. submitted request and documentation;

    b. the Board's recommendation; and

    c. NDOL's recommendation.

6. The Governor will review the materials and will make a determination within 120 calendar days, absent extenuating circumstances.

7. NDOL will notify the Board, unit or units, and existing local boards and chief elected officials of the Governor's determination.

(3) Redesignation procedural requirements

In addition to the general procedural requirements described in Section II(a)(1), the following procedures must be followed for redesignation of two or more local areas as a single local area.

1. Local boards and chief elected officials seeking redesignation as a single local area must:

    a. prepare a joint written request and documentation:

        i. demonstrating procedural requirements described in Section II(a)(1) have been met; and

        ii. describing reasonable and verifiable projected costs for redesignation activities;

    b. submit the request and documentation simultaneously by email to the policy mailbox at ndol.wioa_policy@nebraska.gov.

2. Following receipt of the request and documentation, NDOL will:

    a. review the request and documentation to ensure the request meets the requirements of 20 CFR § 679.280 and Section II(a)(1);

    b. verify the availability of Title I statewide funds for the current program year; and

    c. prepare a written recommendation for consideration by Nebraska Workforce Development Board (Board).

3. NDOL will provide to the Board for review and consideration during the Board's next regularly scheduled meeting:

    a. the submitted request and documentation;

    b. NDOL's assessment of the availability of Title I statewide funds; and

    c. NDOL's recommendation on the request.

4. Following the Board's review and consideration of the submitted request and documentation, NDOL will forward to the Governor:

    a. the submitted request and documentation;

    b. the Board's recommendation;

    c. NDOL's assessment of the availability of Title I statewide funds; and

    d. NDOL's recommendation on the request.

5. The Governor will review the materials and will make a determination within 120 calendar days, absent extenuating circumstances.

6. NDOL will notify the Board and local boards and chief elected officials of the Governor's determination.

7. If the Governor approves the request, the Board must authorize use of Title I statewide funds during its next regularly scheduled meeting, provided Title I statewide funds are available for the current program year. If statewide funds are not available during the program year when the request is approved, funds from the next program year may be provided.

(b) Subsequent designation procedural requirements

The Governor must approve a request from a local board and chief elected official for subsequent designation if the requirements of Section I(d) have been met.[15]

1. The local board and chief elected official seeking subsequent designation must submit a written request and documentation demonstrating the requirements of 20 CFR § 679.250(b) and Section I(d) have been met.

2. The request and documentation must be submitted by email to the policy mailbox at ndol.wioa_policy@nebraska.gov.

3. Following receipt of the request and documentation, NDOL will:

    a. review the request and documentation to ensure the request and documentation meet the requirements of 20 CFR § 679.250 and Section I(d); and

    b. prepare a written recommendation for consideration by the Governor.

4. NDOL will provide to the Governor for review and consideration:

    a. the submitted request and documentation; and

    b. NDOL's recommendation.

[15] 20 CFR § 679.250(b)

5. The Governor will review the materials and will make a determination within 120 calendar days, absent extenuating circumstances.

6. NDOL will notify the local board and chief elected official of the Governor's determination.

(1) Continued subsequent designation

For local areas that have received subsequent designation, the local board and chief elected official are considered as having requested continued subsequent designation unless the local board and chief elected official notify the Governor in writing that they no longer seek continued subsequent designation.[16] The notification must be made in writing by email to the policy mailbox at ndol.wioa_policy@nebraska.gov. The notification will be transmitted to the Governor by NDOL.

(2) Review following subsequent designation

The Governor must review a local area that has received subsequent designation during each four-year state-plan planning cycle to evaluate whether the local area continues to meet requirements for subsequent designation as described in Section I(d).[17] In addition, the Governor may review a local area at any time to evaluate whether it continues to meet requirements for subsequent designation described in Section I(d).[18]

(e) Appealing a denied request for designation, redesignation, or subsequent designation

A local board and chief elected official or unit of general local government or combination of such units may appeal a denied request for designation, redesignation, or subsequent designation as a local area to the Nebraska Workforce Development Board and US Secretary of Labor (Secretary), according to the procedures described below.[19]

(1) Appeal to the Nebraska Workforce Development Board

The local board and chief elected official or unit of general local government or combination of such units must submit a written request for a hearing to the Chair of the Nebraska Workforce Development Board within 15 calendar days of the date of notification of denial. The written request must include a description of the basis for the appeal and be submitted:

- by certified mail, return receipt requested to Chair, Nebraska Workforce Development Board, Attention: Director, Reemployment Services Division, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508;

- with a copy sent the policy mailbox by email to ndol.wioa_policy@nebraska.gov.

Absent extenuating circumstances, the Chair of the Nebraska Workforce Development Board will assign a hearing officer and a hearing will take place within 15 calendar days of the Chair's receipt of the written request for a hearing. The hearing will include:

- a statement of the reason(s) for denial of the request; and

[16] 20 CFR § 679.250(e)
[17] 20 CFR § 679.250(d)(2)
[18] 20 CFR § 679.250(d)(1)
[19] WIOA Secs. 102(b)(2)(D)(i)(IV) and 106(b)(5); 20 CFR §§ 679.290 and 683.630

- an appeal by the local board and chief elected official or unit of general local government or combination of such units describing why the decision should be reversed or a compromise established.

The Chair will render a decision within 15 calendar days of the date of the hearing.

(2) Appeal to the Secretary of Labor[20]

If a decision on the appeal is not rendered by the Chair of the Nebraska Workforce Development Board within a reasonable amount of time *or* if the appeal does not result in designation, the local board and chief elected official or unit of general local government or combination of such units may request a review by the Secretary. When appealing to the Secretary, the local board and chief elected official or unit of general local government or combination of such units must file the appeal no later than 30 calendar days after receipt of written notification of denial from the Chair of the Nebraska Workforce Development Board. In the appeal to the Secretary, the local board and chief elected official or unit of general local government or combination of such units must establish that:

- procedural rights under the appeal process set forth in 20 CFR § 683.640 and this policy were not afforded; or

- the local area or proposed new local area meets the requirements for designation, redesignation, or subsequent designation provided under WIOA Secs. 106(b)(2) or 106(b)(3) and 20 CFR §§ 679.240 or 679.250, as applicable.

The appeal to the Secretary must be submitted by certified mail, return receipt requested, to:

- Secretary, United States Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET.

In addition, a copy of the appeal to the Secretary must be submitted simultaneously:

- by certified mail, return receipt requested to Commissioner, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508;

- by certified mail, return receipt requested to Chair, Nebraska Workforce Development Board, Attention: Director, Reemployment Services Division, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508;

- with a copy sent the policy mailbox by email to ndol.wioa_policy@nebraska.gov.

In making a determination, the Secretary may consider any comments submitted by the Nebraska Workforce Development Board in response to the appeal. The Secretary must issue a written decision to the Governor and the appellant.

[20] 20 CFR § 683.640

Section III. Statewide planning region

(a) Consultation

On October 14, 2020, the State held a statewide consultation session with representatives from local boards, chief elected officials, and local area administrative entities, as required under WIOA Sec. 106(a)(1), regarding establishment of a single statewide planning region in lieu of the then-current three designated planning regions originally identified in 2016 based primarily on worker commuting patterns and areas of economic concentration.

In preparation for the consultation, the State evaluated 2016 commuting patterns in contrast to preliminary 2020 commuting patterns and determined that commuting patterns are not static (commuting pattern maps provided as APPENDIX II and APPENDIX III). The State also evaluated Title I participant mobility for Program Years 2018 and 2019.

- During Program Year 2018, 148 participants were served by two or more local areas.
- During Program Year 2019, 99 participants were served by two or more local areas.

This data was presented to and discussed by the representatives, in addition to other considerations, especially the burden placed upon all three local areas regarding assignment to multiple planning regions pursuant to a waiver granted at the State's request by the US Department of Labor. All local area representatives supported and agreed unanimously that establishment of a single statewide planning region would:

- support alignment of the state's one-stop delivery system, including:
    - development of a single cohesive statewide regional plan;
    - elimination of fragmentation and duplication of regional planning efforts; and
    - improvement of Title I service delivery across local area boundaries;
- eliminate burden placed upon all three local areas based on assignment to multiple planning regions and involvement in development and implementation of multiple overlapping regional plans.

(b) Designation

Following the consultation and local area consensus, the Governor designated the statewide planning region and assigned Nebraska's local areas to the statewide planning region, as indicated in the designation letter included as appendix to the State's regional and local plans policy.[21]

[21] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. chief elected official

The term chief elected official means:[22]

- the chief elected executive officer of a unit of general local government in a local area; or
- in the case of a local area that includes multiple units of general local government, the individual(s) designated under a written agreement executed among the chief elected officials of the local area in accordance with WIOA Sec. 107(c)(1)(B).

Chief elected official also refers to a chief elected officials board established in accordance with WIOA Sec. 107(c)(1)(B).

2. consultation

Consultation means the process by which state or local stakeholders convene to discuss changes to the public workforce system and constitutes a robust conversation in which all parties are given an opportunity to express thoughts and opinions.[23]

3. In-demand industry sector or occupation

The term in-demand industry sector or occupation means:[24]

- an industry sector that:
    - has a substantial current or potential impact on the state's economy or regional or local economies, including positions that lead to economic self-sufficiency and opportunities for advancement; and
    - contributes to the growth or stability of other supporting businesses or the growth of other industry sectors;
- an occupation that currently has or is projected to have a number of positions, including positions that lead to economic self-sufficiency and opportunities for advancement within an industry sector and has or will have a significant impact on the state's economy or regional or local economies.

The determination of whether an industry sector or occupation is in-demand is made by the Nebraska Workforce Development Board or a local board, as appropriate, using state and regional business and labor market projections and information.

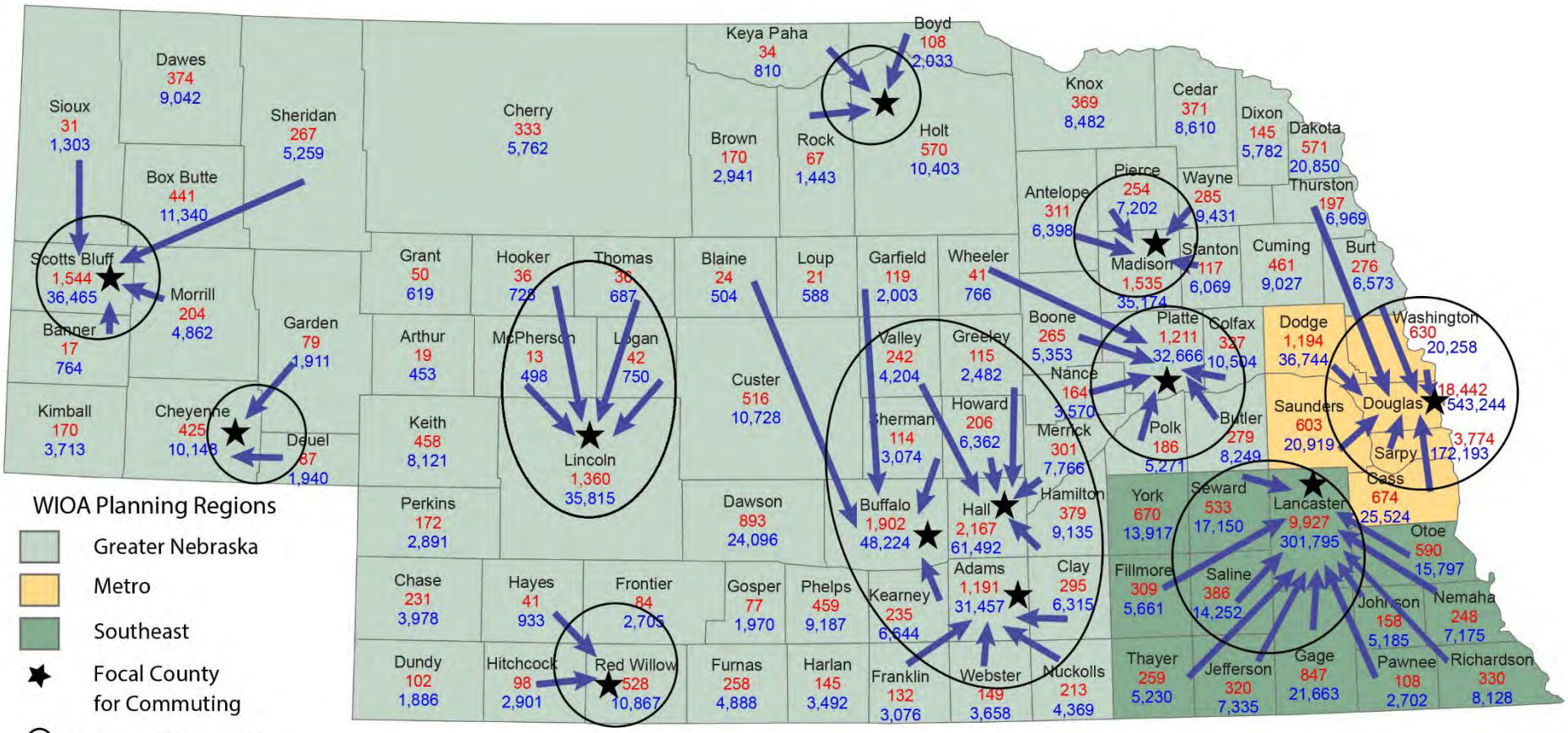
[22] WOA Sec. 3(9)
[23] 20 CFR § 675.300
[24] WIOA Sec. 3(23)

4. unit of general local government

The term unit of general local government means any general-purpose political subdivision of a state that has the power to levy taxes and spend funds and has general corporate and police powers.[25]

[25] WIOA Sec. 3(62)

APPENDIX II. 2016 commuting patterns map



Sources: Commuting Patterns from Local Employment Dynamics (LED); Worksites from Quarterly Census of Employment and Wages First Quarter 2015; Population from U.S. Census Bureau, Population Estimates Program, 2014 Population Estimates

Worksite: The number of worksites per county is determined by each physical location of a business operating in a specific county. When a business has multiple locations, all physical locations where employees perform work are counted separately.

Population: The calculated number of people living in an area as of a specified point in time, July 1st. The estimated population is calculated using a component of change model that incorporates information on natural increase (births, deaths) and net migration (net domestic migration, net international migration) that has occurred in an area since the latest decennial census.

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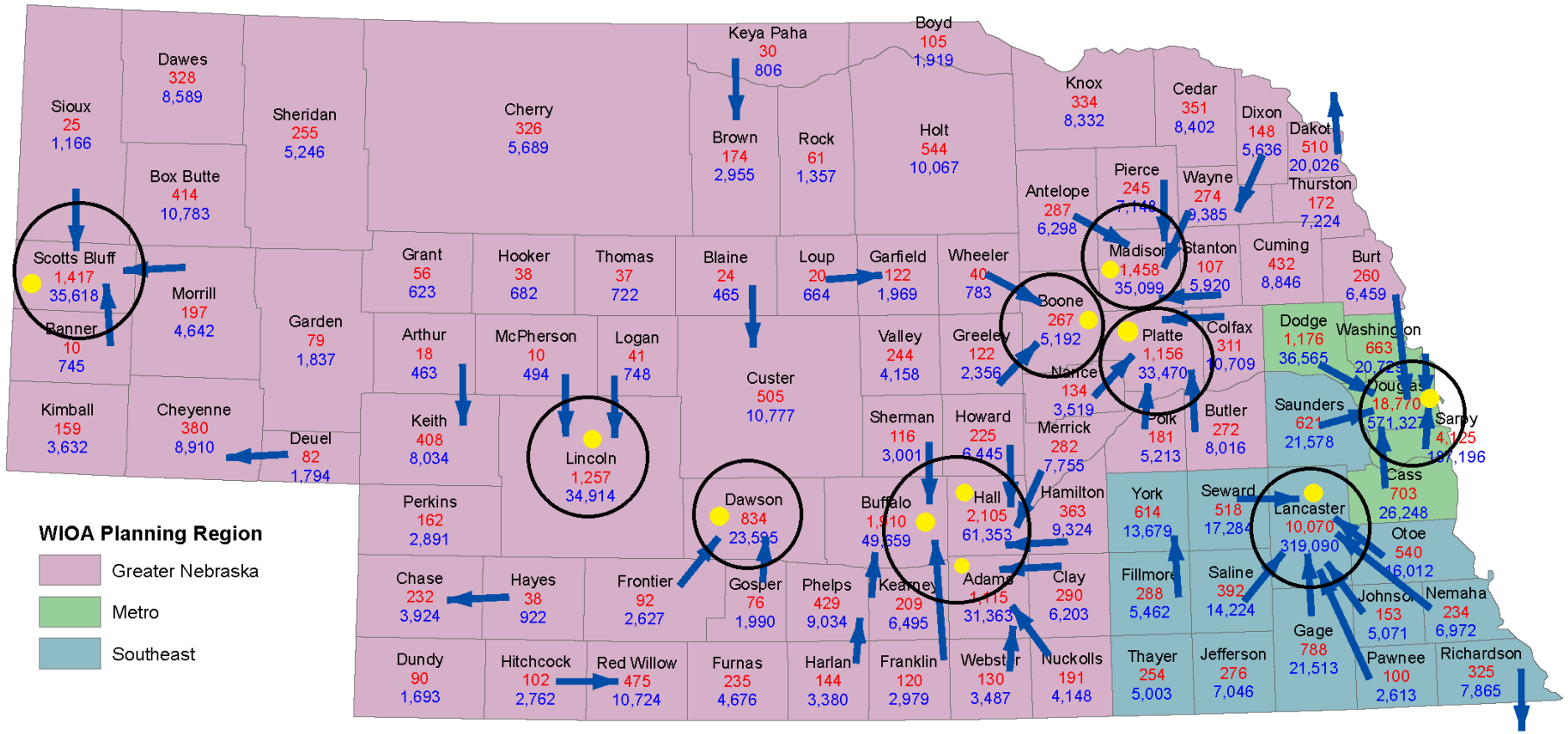
APPENDIX III. 2022 commuting patterns map



Preliminary map from LMI based on the data presented in the *Work Destination OTM Report 2020 Update*

NDOL Policy

Workforce Innovation and Opportunity Act (WIOA)

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Governance

Effective
September 23, 2025

Rescinds
Statewide Region Plans and Local Plans

Statewide Region Plans and Local Plans, Change 1

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

Local boards and local chief elected officials (CEOs) must collectively submit and obtain approval of four-year plans for the statewide planning region and mandatory two-year modifications of those plans.[1] In addition, local boards and CEOs must submit and obtain approval for four-year plans for their respective local areas and mandatory two-year modifications of those plans.[2]

CHANGES

Changes implemented under this policy are listed below.

- *APPENDIX I. Letter of designation: Statewide planning region and local area assignment to the planning region*, has been renamed as *APPENDIX I. Assignment of local areas to the Statewide Planning Region*.
- *APPENDIX II. Required content for statewide region plans and local plans* has been removed. NDOL provides current statewide region plan and local plan templates to local boards and administrative entities by email.

[1] 29 USD §§ 3121(c)(2) and 3123(a)
[2] Ibid.

- *APPENDIX III. Nebraska economic development regions* has been retitled as *APPENDIX II. Nebraska economic development regions* and includes an updated map. Specifically, Hamilton County is no longer part of the Grand Island MSA and is now part of the Central Economic Development Region.

ACTION

NDOL

This policy rescinds the NDOL policy titled *Statewide Region Plans and Local Plans*. Questions and comments regarding this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must ensure they comply with the requirements of this policy, as well as related Federal and State laws, rules, regulations, and other guidance.

POLICY

This policy establishes requirements for statewide region plans and local plans and includes four sections and two appendices.

Section I. Requirements for statewide region plans and local plans 2
(a) Four-year statewide region plans and local plans 2
(b) Two-year modifications of statewide region plans and local plans 2
Section II. Submission timelines and procedures 3
Section III. Review and approval processes 3
Section IV. Technical assistance 4
APPENDIX I. Assignment of local areas to the Statewide Planning Region 5
APPENDIX II. Nebraska economic development regions 6

Section I. Requirements for statewide region plans and local plans

(a) Four-year statewide region plans and local plans

All local boards must adhere to the requirements of 20 CFR § 679.510 and 20 CFR § 679.550 concerning preparation, submission, and approval of statewide region[3] plans and local plans.

(b) Two-year modifications of statewide region plans and local plans

Mandatory two-year modifications of statewide region plans and local plans must adhere to the requirements of 20 CFR §§ 679.390, 679.510(a)(2)(ii), 679.510(b), 679.530(b), 679.540(a), and

[3] All local areas were assigned to a single statewide planning region as described in APPENDIX I.

679.580(b), the requirements of the Nebraska Open Meetings Act, as well as other applicable Federal and State laws, rules, regulations, and guidance.

Section II. Submission timelines and procedures

Local boards must use templates provided by NDOL for statewide region plans and local plans when preparing and submitting four-year plans, and subsequent mandatory modifications of the plans.

1. Plans and modifications must be submitted in *Word format*. Plans and modifications submitted in *PDF will not be accepted*.
2. Submission of plans and modifications must include confirmation that submitters are authorized to submit plans and modifications on behalf of applicable local boards and CEOs.
3. Plans and modifications must be submitted by March 1 of the applicable calendar year to the policy mailbox at ndol.wioa_policy@nebraska.gov.
    a. Example due dates:
        i. Due date for submission of statewide region plans and local plans for PY25 through PY28 is March 1, 2025.
        ii. Due date for submission of two-year modifications of statewide region plans and local plans for PY27 and PY28 is March 1, 2027.

Section III. Review and approval processes

On behalf of the Governor, NDOL is responsible for reviewing submitted statewide region plans and local plans and two-year modifications of the plans. Plans are considered approved 90 days after NDOL's receipt of the plans according to the submission timelines described above, *unless* NDOL notifies local areas in writing that, pursuant to 20 CFR §§ 679.520 and 679.570:

- there are deficiencies in workforce investment activities that have been identified through audits and a local area has not made acceptable progress in implementing plans to address the deficiencies;
- plans or mandatory plan modifications of plans do not comply with applicable provisions of WIOA and its implementing rules, regulations, guidance, as well as applicable NDOL policies, including required consultation and public comment requirements and nondiscrimination requirements of WIOA Sec. 188 and 29 CFR Part 38; or
- plans do not align with the state plan, including alignment of core programs to support the vision, goals, and strategies defined in the state plan, in accordance with WIOA Sec. 102(b)(1)(E) and 20 CFR § 676.105.

In the event that statewide region plans and local plans and mandatory modifications are not submitted by March 1 of applicable calendar years, 90-day review periods begin on the dates the plans are *received* in the policy mailbox.

It is important to note that late submission of local plans or mandatory modifications may impact the availability of Title IB program funds to local areas. As stated in NDOL's program funding policy, program funds are available for disbursement *on the latter of*:[4]

- 30 days after funds are made available to the State; or
- 7 days after *date of approval by the Governor of local plans or mandatory plan modifications*.

Section IV. Technical assistance

NDOL will provide technical assistance and labor market information to assist with development of statewide region plans and local plans, mandatory two-year plan modifications, and service delivery efforts.[5]

- For technical assistance with labor market data during development of statewide region plans, local plans, and mandatory modifications, local boards and administrative entities may submit data requests to lmi_ne@nebraska.gov.
- For technical assistance with all other aspects of development of statewide region plans, local plans, mandatory modifications, and service delivery efforts, local boards and administrative entities may submit requests to the policy mailbox at ndol.wioa_policy@nebraska.gov.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

[4] WIOA Sec. 182(e); 20 CFR § 683.120(a)(2)(iii)
[5] 20 CFR § 679.510(c)

APPENDIX I. Assignment of local areas to the Statewide Planning Region

Pete Ricketts
Governor

STATE OF NEBRASKA
OFFICE OF THE GOVERNOR
P.O. Box 94848 • Lincoln, Nebraska 68509-4848
Phone: (402) 471-2244 • pete.ricketts@nebraska.gov

October 15, 2020

John H. Albin
Commissioner of Labor/State WIOA Liaison
Nebraska Department of Labor
P.O. Box 94600
Lincoln, NE 68509-4600

Dear Commissioner Albin,

As required under the Workforce Innovation and Opportunity Act of 2014 (WIOA), I hereby designate the entire State of Nebraska as a planning region. Also, as required under WIOA, I assign all of Nebraska's local workforce development areas to the Statewide Planning Region:

1. Greater Omaha Workforce Development Area
2. Greater Lincoln Workforce Development Area
3. Greater Nebraska Workforce Development Area

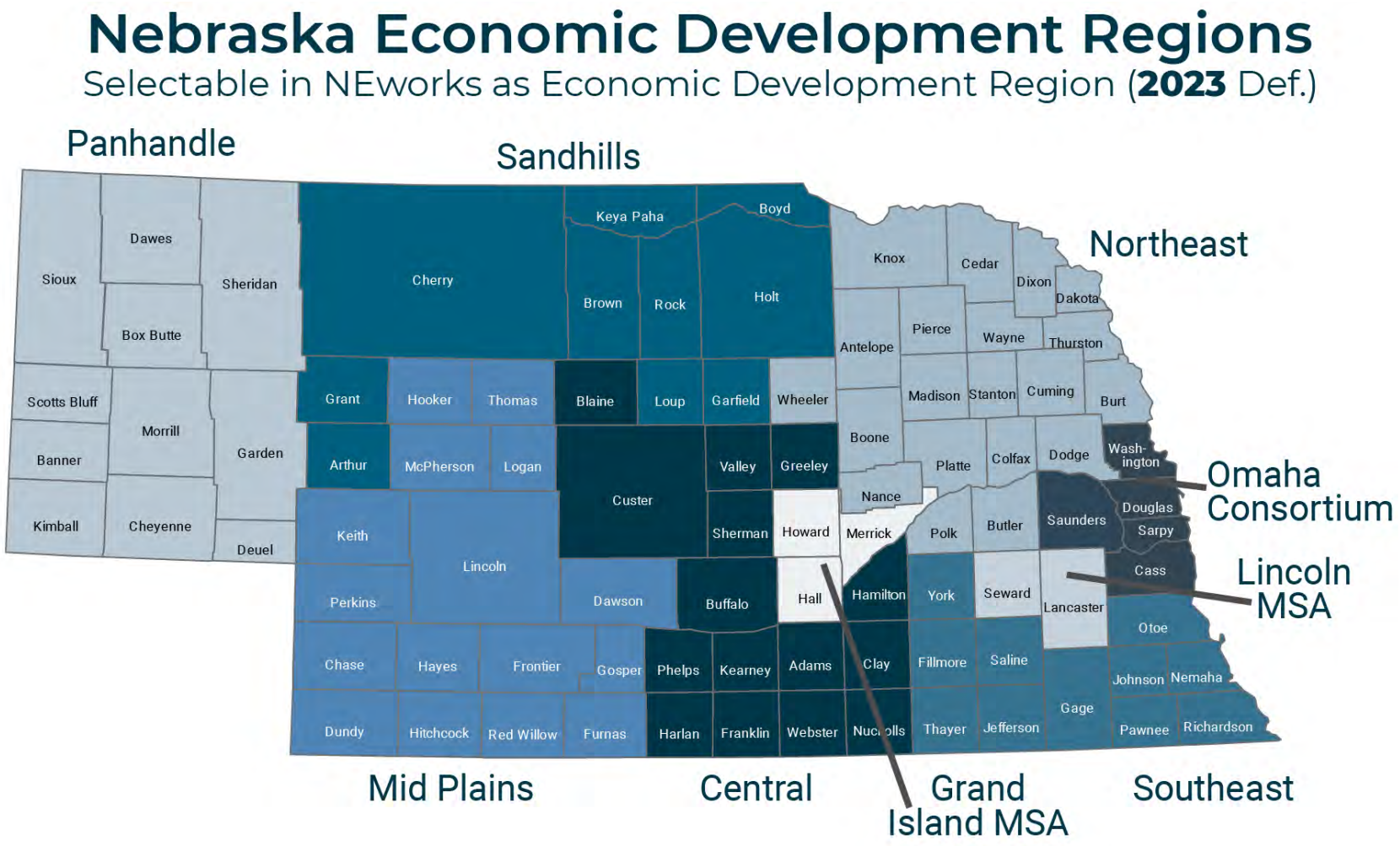
Sincerely,

Pete Ricketts
Governor

cc: Mark Moravec, Chair, Nebraska Workforce Development Board
Bradley Pierce, Director, Office of Employment and Training
Deb Andersen, Interim Administrator of Reemployment Services

An Equal Opportunity Employer

APPENDIX II. Nebraska economic development regions[6]



[6] Nebraska Department of Labor, "Nebraska Economic Development Regions," NEworks, https://neworks.nebraska.gov/admin/gsipub/htmlarea/uploads/Map_EconomicRegions_2013-23_full.pdf [accessed September 19, 2025]

1.3. Statewide Region Plans, Local Plans, MOUs, and Funding Agreements

NDOL Policy

Workforce Innovation and Opportunity Act (WIOA)

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Governance

Effective
September 23, 2025

Rescinds
Statewide Region Plans and Local Plans

Statewide Region Plans and Local Plans, Change 1

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

Local boards and local chief elected officials (CEOs) must collectively submit and obtain approval of four-year plans for the statewide planning region and mandatory two-year modifications of those plans.[1] In addition, local boards and CEOs must submit and obtain approval for four-year plans for their respective local areas and mandatory two-year modifications of those plans.[2]

CHANGES

Changes implemented under this policy are listed below.

- *APPENDIX I. Letter of designation: Statewide planning region and local area assignment to the planning region*, has been renamed as *APPENDIX I. Assignment of local areas to the Statewide Planning Region*.
- *APPENDIX II. Required content for statewide region plans and local plans* has been removed. NDOL provides current statewide region plan and local plan templates to local boards and administrative entities by email.

[1] 29 USD §§ 3121(c)(2) and 3123(a)
[2] Ibid.

- *APPENDIX III. Nebraska economic development regions* has been retitled as *APPENDIX II. Nebraska economic development regions* and includes an updated map. Specifically, Hamilton County is no longer part of the Grand Island MSA and is now part of the Central Economic Development Region.

ACTION

NDOL

This policy rescinds the NDOL policy titled *Statewide Region Plans and Local Plans*. Questions and comments regarding this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must ensure they comply with the requirements of this policy, as well as related Federal and State laws, rules, regulations, and other guidance.

POLICY

This policy establishes requirements for statewide region plans and local plans and includes four sections and two appendices.

Section I. Requirements for statewide region plans and local plans 2
(a) Four-year statewide region plans and local plans 2
(b) Two-year modifications of statewide region plans and local plans 2
Section II. Submission timelines and procedures 3
Section III. Review and approval processes 3
Section IV. Technical assistance 4
APPENDIX I. Assignment of local areas to the Statewide Planning Region 5
APPENDIX II. Nebraska economic development regions 6

Section I. Requirements for statewide region plans and local plans

(a) Four-year statewide region plans and local plans

All local boards must adhere to the requirements of 20 CFR § 679.510 and 20 CFR § 679.550 concerning preparation, submission, and approval of statewide region[3] plans and local plans.

(b) Two-year modifications of statewide region plans and local plans

Mandatory two-year modifications of statewide region plans and local plans must adhere to the requirements of 20 CFR §§ 679.390, 679.510(a)(2)(ii), 679.510(b), 679.530(b), 679.540(a), and

[3] All local areas were assigned to a single statewide planning region as described in APPENDIX I.

679.580(b), the requirements of the Nebraska Open Meetings Act, as well as other applicable Federal and State laws, rules, regulations, and guidance.

Section II. Submission timelines and procedures

Local boards must use templates provided by NDOL for statewide region plans and local plans when preparing and submitting four-year plans, and subsequent mandatory modifications of the plans.

1. Plans and modifications must be submitted in *Word format*. Plans and modifications submitted in *PDF will not be accepted*.
2. Submission of plans and modifications must include confirmation that submitters are authorized to submit plans and modifications on behalf of applicable local boards and CEOs.
3. Plans and modifications must be submitted by March 1 of the applicable calendar year to the policy mailbox at ndol.wioa_policy@nebraska.gov.
    a. Example due dates:
        i. Due date for submission of statewide region plans and local plans for PY25 through PY28 is March 1, 2025.
        ii. Due date for submission of two-year modifications of statewide region plans and local plans for PY27 and PY28 is March 1, 2027.

Section III. Review and approval processes

On behalf of the Governor, NDOL is responsible for reviewing submitted statewide region plans and local plans and two-year modifications of the plans. Plans are considered approved 90 days after NDOL's receipt of the plans according to the submission timelines described above, *unless* NDOL notifies local areas in writing that, pursuant to 20 CFR §§ 679.520 and 679.570:

- there are deficiencies in workforce investment activities that have been identified through audits and a local area has not made acceptable progress in implementing plans to address the deficiencies;
- plans or mandatory plan modifications of plans do not comply with applicable provisions of WIOA and its implementing rules, regulations, guidance, as well as applicable NDOL policies, including required consultation and public comment requirements and nondiscrimination requirements of WIOA Sec. 188 and 29 CFR Part 38; or
- plans do not align with the state plan, including alignment of core programs to support the vision, goals, and strategies defined in the state plan, in accordance with WIOA Sec. 102(b)(1)(E) and 20 CFR § 676.105.

In the event that statewide region plans and local plans and mandatory modifications are not submitted by March 1 of applicable calendar years, 90-day review periods begin on the dates the plans are *received* in the policy mailbox.

It is important to note that late submission of local plans or mandatory modifications may impact the availability of Title IB program funds to local areas. As stated in NDOL's program funding policy, program funds are available for disbursement *on the latter of*:[4]

- 30 days after funds are made available to the State; or
- 7 days after *date of approval by the Governor of local plans or mandatory plan modifications*.

Section IV. Technical assistance

NDOL will provide technical assistance and labor market information to assist with development of statewide region plans and local plans, mandatory two-year plan modifications, and service delivery efforts.[5]

- For technical assistance with labor market data during development of statewide region plans, local plans, and mandatory modifications, local boards and administrative entities may submit data requests to lmi_ne@nebraska.gov.
- For technical assistance with all other aspects of development of statewide region plans, local plans, mandatory modifications, and service delivery efforts, local boards and administrative entities may submit requests to the policy mailbox at ndol.wioa_policy@nebraska.gov.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

[4] WIOA Sec. 182(e); 20 CFR § 683.120(a)(2)(iii)
[5] 20 CFR § 679.510(c)

APPENDIX I. Assignment of local areas to the Statewide Planning Region

Pete Ricketts
Governor

STATE OF NEBRASKA
OFFICE OF THE GOVERNOR
P.O. Box 94848 • Lincoln, Nebraska 68509-4848
Phone: (402) 471-2244 • pete.ricketts@nebraska.gov

October 15, 2020

John H. Albin
Commissioner of Labor/State WIOA Liaison
Nebraska Department of Labor
P.O. Box 94600
Lincoln, NE 68509-4600

Dear Commissioner Albin,

As required under the Workforce Innovation and Opportunity Act of 2014 (WIOA), I hereby designate the entire State of Nebraska as a planning region. Also, as required under WIOA, I assign all of Nebraska's local workforce development areas to the Statewide Planning Region:

1. Greater Omaha Workforce Development Area
2. Greater Lincoln Workforce Development Area
3. Greater Nebraska Workforce Development Area

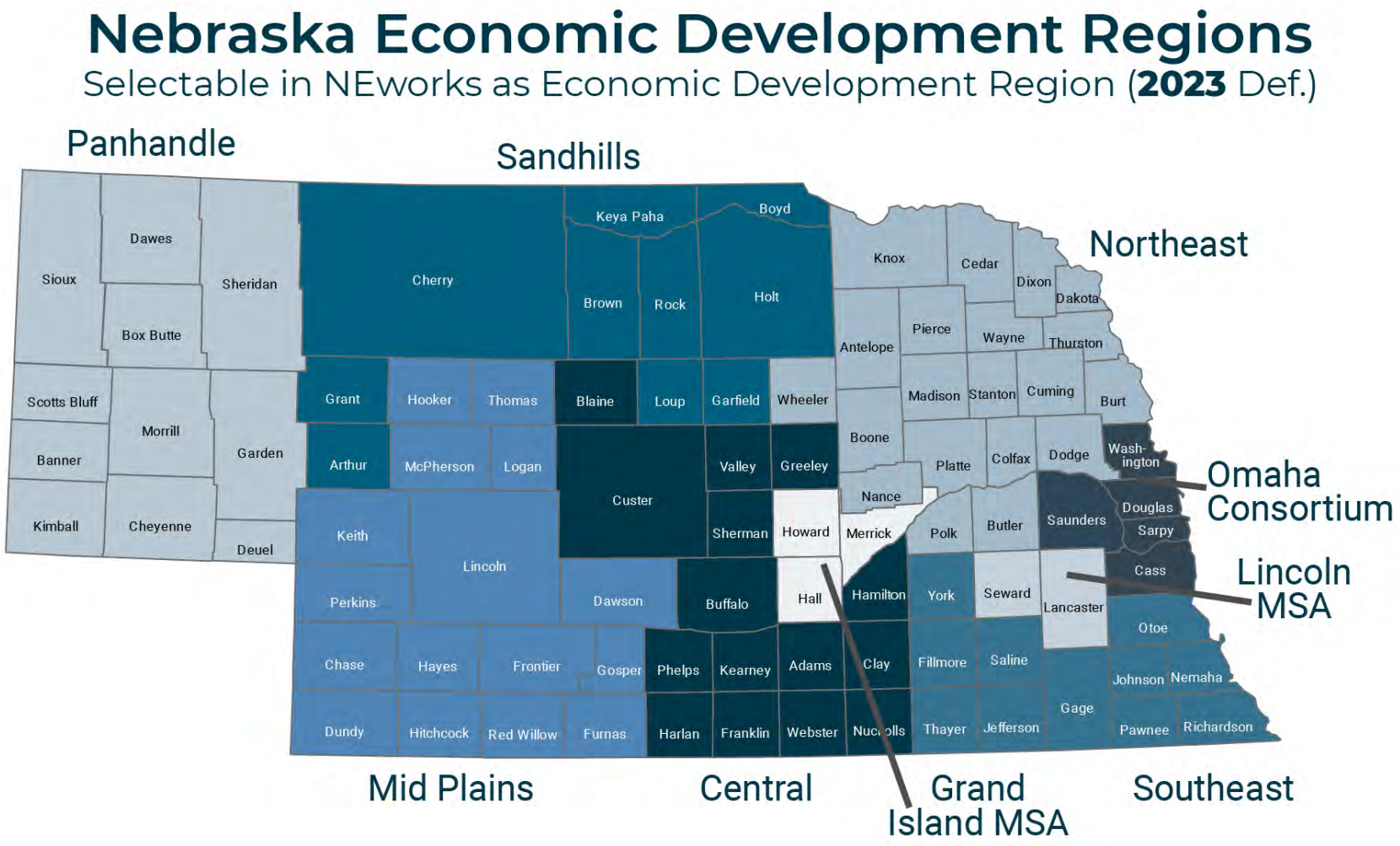
Sincerely,

Pete Ricketts
Governor

cc: Mark Moravec, Chair, Nebraska Workforce Development Board
Bradley Pierce, Director, Office of Employment and Training
Deb Andersen, Interim Administrator of Reemployment Services

An Equal Opportunity Employer

APPENDIX II. Nebraska economic development regions[6]



[6] Nebraska Department of Labor, "Nebraska Economic Development Regions," NEworks, https://neworks.nebraska.gov/admin/gsipub/htmlarea/uploads/Map_EconomicRegions_2013-23_full.pdf [accessed September 19, 2025]

NDOL Policy

Workforce Innovation and Opportunity Act (WIOA)

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Governance Effective August 27, 2025 Supersedes Memorandums of Understanding and Funding Agreements, Change 3

Memorandums of Understanding and Local Funding Mechanisms

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

Local boards, with agreement of local area chief elected officials (CEOs), are required to establish memorandums of understanding (MOUs) and local funding mechanisms with required one-stop partners covering operations of their local one-stop delivery systems and one-stop centers in their respective local areas[1] Local boards and CEOs may also establish MOUs and local funding mechanisms with additional one-stop partners.[2]

ACTION

NDOL

This policy rescinds NDOL's policy titled *Memorandums of Understanding and Funding Agreements, Change 3*. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

[1] 29 USC § 3151(a)(1)
[2] 29 USC § 3151(b)(2)

Local boards

Local boards must ensure that they and their administrative entities adhere to the requirements of this policy, as well as all applicable Federal and State laws, rules, regulations, guidance, and policies, including this policy.

POLICY

This policy provides information concerning:

- MOUs and local funding mechanisms and related local board and required one-stop partner roles and responsibilities;
- reporting outcomes of MOU and local funding mechanism negotiations; and
- the state funding mechanism, including processes by which required one-stop partners may appeal decisions regarding required contributions under the state funding mechanism.

This policy has two sections.

Section I. MOUs, local funding mechanisms, and the state funding mechanism 2
(a) MOUs 2
(b) Local funding mechanisms 2
(c) State funding mechanism 3
Section II. Reporting outcomes of MOU and local funding mechanism negotiations 6
(a) Notification requirements 6

Section I. MOUs, local funding mechanisms, and the state funding mechanism

(a) MOUs

MOUs are products of local discussions and negotiations and are developed and executed between local boards and one-stop partners, with the agreement of local CEOs, relating to the operation of local one-stop delivery systems and one-stop centers.[3] MOUs must include the elements described in 20 CFR § 678.500(b)-(e), which includes funding agreements, and must be negotiated in accordance with 20 CFR § 678.510. Required elements of MOUs are described under 29 USC § 3151(c) and 20 CFR § 678.500.

(b) Local funding mechanisms

Local funding mechanisms for infrastructure and additional costs[4] must comply with and are subject to the requirements of 29 USC §§ 3151(b)-(e), (h)(1), and (i); 2 CFR Part 200; 20 CFR Part 678 Subpart C; 20 CFR §§ 678.715, 678.720, 678.755, and 678.760; and TEGLs 16-16, 16-16 Change 1, and 17-16. Local board and CEO responsibilities relating to local funding mechanisms

[3] 20 CFR § 678.500(a)

[4] Infrastructure costs and additional costs are defined under 20 CFR §§ 678.700 and 678.760 and TEGLs 16-16 and 16-16 Change 1.

are described in 20 CFR § 678.715. Required elements of funding agreements are describe under 20 CFR § 678.755 and TEGLs 16-16 and 17-16.

(c) State funding mechanism

(1) General requirements

As indicated in 29 USC § 3151(h)(1)(A)(ii), 20 CFR §§ 678.725 and 678.730, and TEGL 17-16, if a local board and one or more required one-stop partners fail to reach consensus for sufficiently funding one-stop center *infrastructure* costs, the Governor must administer funding through the state funding mechanism for the applicable program year.

(2) State funding mechanism implementation

Pursuant to 20 CRF §§ 678.725, 678.730, and 678.736 and TEGL 17-16, the process for determining required one-stop partner contributions under the state funding mechanism consists of five steps.

1. *Notice of failure to reach consensus*. If a local board, CEO, and one or more required one-stop partners fail to reach consensus on methods of sufficiently funding a one-stop center's infrastructure costs and amounts to be contributed by each partner program, the local board is required to notify NDOL. Notification must be given as described in Section II(a).

2. *Provision of local negotiation materials*. To assist with state-funding mechanism calculations and determinations, the local board and CEO must provide the following materials and documents used during funding agreement negotiations:
    a. local plan;
    b. cost allocation methodology or methodologies proposed by the partners to be used in determining the proportionate share;
    c. proposed amounts or budget to fund infrastructure costs and the amount of partner funds included;
    d. types of funds available (cash, non-cash, and third-party in-kind contributions);
    e. any proposed or agreed upon one-stop center or system budget;
    f. any partially agreed upon, proposed, or draft funding agreements; and
    g. materials the local board and CEO feel are relevant.

3. *Determining the budget for infrastructure costs*. If the local board provides an agreed-upon budget for infrastructure costs with its notification *and* only the individual programmatic contributions to funding of infrastructure costs funding are at issue, that budget may be used to calculate each required one-stop partner's contribution consistent with the cost allocation methodologies contained in the Uniform Guidance. If an agreed-upon budget is not submitted *or* the agreed-upon budget does not adequately meet the needs of the local area, the formula established by the state board is used to determine the budget. To determine a budget using the state board formula, the one-stop center budget for the local area from the previous program year is adjusted by subtracting all:
    a. additional costs (i.e., non-infrastructure costs);
    b. costs charged to non-required one-stop partners and INA programs; and
    c. alternative funding that defrays infrastructure costs.

    The resulting amount would be the local area budget for infrastructure costs under the state funding mechanism. The budget may be increased by up to three percent, if warranted, based on materials provided with the local board's notification, subject to the approval of NDOL.

4. *Establishing the cost allocation methodology*. Once the budget is determined for a local area in step 3, the Commissioner of Labor in consultation with Commissioner Education, must determine the appropriate cost allocation methodology to be applied to required one-stop partner programs in the local area, which must be consistent with the Federal cost principles permitted under 2 CFR Part 200 to fund the infrastructure costs budget. When determining each required one-stop partner's proportionate share of infrastructure costs, consideration must be given to the costs of administration of the one-stop delivery *system* for purposes not related to one-stop *centers,* such as:
    a. costs associated with maintaining the local board or information technology systems;
    b. statutory requirements for each partner program;
    c. required one-stop partners' ability to fulfill such requirements; and
    d. all other applicable legal requirements.

    Consideration may also be given to the extent to which the required one-stop partners in the local area have agreed in determining partners' proportionate share, including any agreements reached at the local level by one or more partners, as well as any other materials or documents of the negotiating process provided by the local board.

5. *Determining partner shares*. Each required one-stop partner's proportionate share of the infrastructure costs budget is determined, subject to the requirements and limitations established under 20 CFR § 678.738 and TEGL 17-16, using the four-step methodology described below. Required one-stop partners are then notified of their determined costs in writing according to timelines established in Table 2 in Section II(a)(2).

    a. Determining maximum statewide contributions

    Formula for calculations: *ma = sc x ff*
    - *ma* = maximum statewide contribution in dollars
    - *sc* = statewide cap percentage
    - *ff* = Federal funds

    Example calculation

Factor	Amount
sc	0.03
ff	$1,000,000
ma	$30,000

    b. Determining maximum local contributions

    Formula: *lc* = *ma* x *u*
    - *lc* = maximum local area contribution in dollars
    - *ma* = maximum statewide contribution in dollars
    - *u* = use of local area
    - *u* = p1 / p2
        - *p1* = local area population
        - *p2* = state population

Example calculation

Factor	Amount
p1	90,000
p2	2,000,000
u	0.45

Factor	Amount
ma	$30,000
u	0.45
lc	$13,500

c. Determining proportionate share

Formula: n1 / n2 = s

- *n1* = number of local area participants served by the required one-stop partner program at the one-stop center, as reported by the partner, during the previous program year (July 1 – June 30)
- *n2* = number of local area participants served by all required one-stop programs at the one-stop center (sum of *n1* for all partners) during the previous program year (July 1 – June 30)
- *s* = proportionate share

Example calculation

Factor	Proportionate share
n1	1,500
n2	10,000
s	0.15

d. Determining contribution amount

Example calculation

Partner	Statewide cap (*sc*)	Local area cap (*lc*)	Proportionate share (*s*)	Proportionate share (*s* x *ff*)	Contribution amount
A	$30,000	$13,500	0.15	$15,000	$13,500

Note. Required one-stop partner contribution amounts under the state funding mechanism must not exceed the local area percentage cap for the partner program. Percentage caps on required one-stop partner contributions under the state funding mechanism are described under 20 CFR § 678.738(c).

(A) Appeal processes for the state funding mechanism

Pursuant to 20 CFR § 678.750, required one-stop partners may appeal determinations of their required contributions to funding of *infrastructure costs* under the state funding mechanism. To appeal determinations of required contributions to funding of *infrastructure costs*, required one-stop partners must:

1. submit appeals and supporting documentation within 15 days of NDOL's notification to the partners regarding their required contributions simultaneously to:
    a. Commissioner of Labor, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600
    b. chair of the applicable local board and applicable CEO;
    c. all other required one-stop partners operating in the applicable local area;
    d. Erick Carrillo, Director, Reemployment Services, erick.carrillo@nebraska.gov; and
    e. policy mailbox at ndol.wioa_policy@nebraska.gov.
2. provide the following information with written appeals:
    a. descriptions of the bases for appeal; and
    b. rationale for reversing the determination or establishing a compromise.

Absent extenuating circumstances, the Commissioner of Labor will assign a hearing officer and a hearing will take place and a determination made within 30 days of receipt of the written appeal and supporting documentation. The hearing will include:

- statement of the reasons for the determination of the required one-stop partner's required contribution;
- statement by the partner, describing why the decision should be reversed or a compromise established; and
- final judgment that will include an explanation of the reasons for retention or reversal of the determination or establishment of a compromise, if reasonably possible during the hearing.

Section II. Reporting outcomes of MOU and local funding mechanism negotiations

(a) Notification requirements

Local boards and CEOs must promptly notify NDOL by email once they've *failed to reach consensus* during negotiation of MOUs and local funding mechanisms,[5] as described in subsections (1) and (2) below. Notifications must be submitted to:

1. chair of the applicable local board and applicable CEO;
2. all other required one-stop partners operating in the applicable local area;
3. Erick Carrillo, Director, Reemployment Services, at erick.carrillo@nebraska.gov; and
4. policy mailbox at ndol.wioa_policy@nebraska.gov.

[5] 20 CFR § 678.725

(1) MOU negotiations: Failure to reach consensus

Pursuant to 20 CFR § 678.510(c), if local boards fail to reach consensus during MOU negotiations with one or more required one-stop partners, email notifications must be sent as described above, according to the timelines described below in Table 1. Email notifications must include, as attachments, the materials described above in Section I(c)(1) under item 2 (*Provision of local negotiation materials*). NDOL will provide technical assistance to local boards as described in Table 1.

Table 1. Timelines when consensus is not reached on *MOUs*

Responsible party – event	Deadline
Local board – notifies NDOL that it has failed to reach consensus with 1 or more required one-stop partners during MOU negotiation	No later than April 1 of the applicable calendar year
NDOL – provides initial technical assistance to the local board and requires the local board to resume negotiations for up to 30 days	No longer than 30 days starting on April 1 of the applicable calendar year
Local board – notifies NDOL of the outcome of the first round of resumed negotiations	No later than May 1 of the applicable calendar year
NDOL – if the local board fails to reach consensus with 1 or more required one-stop partners during first-round negotiations, NDOL provides follow-up technical assistance and requires the local board to resume negotiations for up to 15 calendar days	No longer than 15 days starting on May 1 of the applicable calendar year
Local board – notifies NDOL of the outcome of second-round negotiations and, if the impasse is not resolved or consensus is not reached, the local board must notify the state board and state-level entity(ies) responsible for administering the impacted applicable partner program(s)	No later than May 16 of the applicable calendar year
NDOL – if the local board fails to reach consensus with 1 or more required one-stop partners following second-round negotiations, NDOL provides additional technical assistance to the local board and requires the local board to resume negotiations for the third and final round of resumed negotiations, for up to 15 additional days	No longer than 15 days starting on May 16 of the applicable calendar year
Local board – notifies NDOL of the outcome of the third and final round of resumed negotiations	No later than June 1 of the applicable calendar year
NDOL – if the local board fails to reach consensus with 1 or more required one-stop partners following the third and final round of resumed negotiations, NDOL reports the failure to the state board and the Federal entity(ies) responsible for administering the impacted required one-stop partner programs	Within 15 days of receipt of notification of failure to execute MOUs by June 16 of the applicable calendar year

(2) Local funding mechanism negotiations: Failure to reach consensus

Pursuant to 20 CFR § 678.510 and TEGL 17-16, of a local board fails to reach consensus during local funding mechanism negotiations with one or more required one-stop partners, email notification must be made as described in Table 2. Email notifications must include, as attachments, the materials described above in Section I(c)(1) under item 2 (*Provision of local*

negotiation materials). NDOL will provide technical assistance to local boards as described in Table 2.

Table 2. Timelines when consensus is not reached on local funding mechanisms

Responsible party – event	Deadline
Local board – notifies NDOL that it has failed to reach consensus with 1 or more required one-stop partners during local funding mechanism negotiations	No later than April 1 of the applicable calendar year
NDOL – provides initial technical assistance to the local board and requires the local board to resume negotiations for up to 30 days	No longer than 30 days starting on April 1 of the applicable calendar year
Local board – notifies NDOL of the outcome of the first round of resumed negotiations	No later than May 1 of the applicable calendar year
NDOL – if the local board fails to reach consensus with 1 or more required one-stop partners during first-round negotiations, NDOL provides follow-up technical assistance and requires the local board to resume negotiations for up to 15 calendar days	No longer than 15 days starting on May 1 of the applicable calendar year
Local board – notifies NDOL of the outcome of second-round negotiations and, if the impasse is not resolved or consensus is not reached, the local board must notify the state board and state-level entity(ies) responsible for administering the impacted applicable partner program(s)	No later than May 16 of the applicable calendar year
NDOL – if the local board fails to reach consensus with 1 or more required one-stop partners following second-round negotiations, NDOL provides additional technical assistance to the local board and requires the local board to resume negotiations for the third and final round of resumed negotiations, for up to 15 additional days	No longer than 15 days starting on May 16 of the applicable calendar year
Local board – notifies NDOL of the outcome of the third and final round of resumed negotiations	No later than June 1 of the applicable calendar year
NDOL – if the local board fails to reach consensus with 1 or more required one-stop partners following the third and final round of resumed negotiations, NDOL reports the failure to the state board and the Federal entity(ies) responsible for administering the impacted required one-stop partner programs	Within 15 days of receipt of notification of failure to execute local funding mechanism under MOUs by June 16 of the applicable calendar year

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

2. One-stop Delivery System

2.1. Local One-stop Delivery Systems and One-Stop Centers

NEBRASKA
Good Life. Great Connections.
DEPARTMENT OF LABOR

americanjobcenter network

NDOL Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
One-stop Delivery System

Effective
August 15, 2025

Supersedes
Local One-stop Delivery Systems and One-stop Centers, Change 1

Local One-stop Delivery Systems and One-stop Centers, Change 2

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

Local one-stop delivery systems bring together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to program services and improves long-term employment outcomes for individuals receiving assistance from through one-stop delivery systems.[1] One-stop delivery system partners administer separately funded programs as a set of integrated streamlined services to customers.[2] WIOA Title I assigns responsibilities to ensure the establishment and maintenance of local one-stop delivery systems that enhance the range and quality of education and workforce development services accessible by job seekers, workers, and employers.[3]

CHANGES

Under this policy, the following material changes have been made.

1. The introductory information in Section II(f) concerning reduction of administrative barriers has been removed in accordance with TEGL 10-23 Change 2. In addition, the remainder of Section II(f) has been removed as described below.

[1] 20 CFR § 678.300(a)
[2] Ibid.
[3] 20 CFR § 679.300(b)

a. Section II(f)(1) concerning disclosure of SSNs has been removed.
    i. Provisions relating to disclosure of SSNs are now addressed in NDOL's performance accountability policy.
b. Section II(f)(2) on work authorization documentation has been removed pursuant to TEGL 10-23 Change 2.
c. Section II(f)(3) relating to assisting customers with obtaining necessary documents has been removed.
    i. Provisions relating to Title IB program assistance to participants with obtaining essential documents are now addressed in NDOL's program eligibility policy.
d. Section II(f)(4) relating to human-centered design framework has been removed as that framework is not a compliance recommendation or requirement pursuant to TEGL 10-23 Change 2.

ACTION

NDOL

This policy rescinds the NDOL policy titled *Local One-stop Delivery System and Centers, Change 1*. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must ensure that they, as well as their administrative entities and Title IB service providers and staff, adhere to the requirements of this policy.

POLICY

This policy has two sections.

Section I. Local one-stop delivery systems 3
(a) Structure and design 3
(b) Access 5
(c) Required and additional one-stop partners 5
(d) Required one-stop partner participation in local one-stop delivery systems 6
(e) Required one-stop partner roles and responsibilities in AJCs 6
Section II. Local one-stop delivery system services 7
(a) Basic career services for job seekers, workers, and employers 7
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Section I. Local one-stop delivery systems

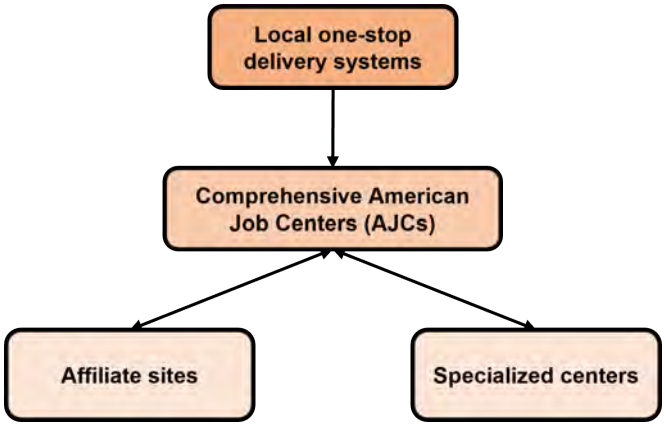
(a) Structure and design

Local one-stop delivery systems:[4]

- must include at least one physical comprehensive one-stop center, meaning a comprehensive American Job Center (AJC); and
- may have additional arrangements to supplement AJCs, which may include:
  - affiliate sites where one or more one-stop partners make programs, services, and activities available;
  - networks of one-stop partners, through which each partner provides one or more of the programs, services, and activities that are linked, either physically or technologically, to affiliated sites that assure customers are provided information on availability of career services, as well as other program services and activities, regardless of where customers initially enter local one-stop delivery systems; or
  - specialized centers that address specific needs, including those of dislocated workers, youth, or key industry sectors or clusters in local one-stop delivery systems.

Diagram 1 illustrates the general structure of local one-stop delivery systems that include AJCs, affiliate sites, and specialized centers.

Diagram 1. General structure of local one-stop delivery systems



Design of local one-stop delivery systems must be described in memorandums of understanding (MOUs) executed between local boards and required one-stop partners that include funding agreements, as described in 20 CFR § 678.500,[5] as well as NDOL's policy on MOUs and funding agreements.

[4] 29 USC § 3151(e)(1)-(2); 20 CFR § 678.300(c)-(d)
[5] 29 USC § 3151(c) and (h); 20 CFR § 678.300(f)

(1) Comprehensive American Job Centers (AJCs)

AJCs are physical locations where job seekers, workers, and employers can access programs, services, and activities from all required one-stop partners.[6] AJCs must provide access to:

- basic and individualized career services (see Sections II(b) and II(c));
- meaningful assistance with Unemployment Insurance claims (see Section II(b)(1));
- training services (see Section II(d));
- youth workforce investment activities (see Section II(e));
- business services (see Section II(f));
- programs and activities carried out by required one-stop partners;[7] and
- workforce and labor market information for job seekers, workers, and employers.

AJCs must be physically and programmatically accessible to individuals with disabilities, as described in 29 USC § 3248, as well as 29 CFR Part 38.

(2) Affiliate sites

Affiliate sites are one-stop centers that make available one or more one-stop partner programs, services, and activities, subject to the following requirements and limitations.[8]

- Affiliate sites do not need to provide access to every required one-stop partner program.
- The frequency of the physical presence of program staff at affiliate sites is determined at the local level. Affiliate sites are one-stop delivery system access points *in addition to AJCs*.
- If used by local areas as part of local one-stop delivery system strategies, affiliate sites must be implemented in a manner that supplements and enhances customer access to services provided through AJCs *but not in lieu of access to AJC services*.
- Stand-alone Title III affiliate sites are prohibited.[9] If Title III services are provided at affiliate sites, there must be one or more *other partners* located at the sites, with a presence of combined staff at affiliate sites of more than 50 percent of the time when sites are open. The presence of Jobs for Veterans State Grant program staff (Local Veterans Employment Representatives and Disabled Veterans Outreach Program Specialists) and/or Unemployment Insurance program staff *does not count toward the mandatory 50-percent presence requirement*.[10]

Affiliate sites must be physically and programmatically accessible to individuals with disabilities, as described in 29 USC § 3248, as well as 29 CFR Part 38.

(3) Specialized centers

Specialized centers are one-stop centers that address specific needs, including those of dislocated workers, youth, or key industry sectors or clusters.[11] As described above in Section I(a)(2) and 20 CFR § 678.315 concerning affiliate sites, specialized centers must include staff

[6] 20 CFR § 678.305(a)-(b)
[7] 29 USC § 3151(e)(2)(C)
[8] 20 CFR § 678.310
[9] 20 CFR § 678.315
[10] Ibid.
[11] 20 CFR § 678.300(d)

presence from other programs in addition to Title III, Jobs for Veterans State Grant, and Unemployment Insurance programs.[12]

Specialized centers must be physically and programmatically accessible to individuals with disabilities, as described in 29 USC § 3248, as well as 29 CFR Part 38.

(4) Networks of one-stop partners and specialized centers

Any network of one-stop partners or specialized centers, as described in 20 CFR § 678.300(d), must be connected to AJCs and any appropriate affiliate sites by having processes in place to make referrals to and within the network.[13]

(b) Access

Local one-stop delivery system customers must have access to AJC programs, services, and activities provided by required one-stop partners during regular business hours.[14] Local boards may establish service hours at other times outside of or other than regular business hours to accommodate the schedules of individuals who work during regular business hours.[15]

Access to required one-stop partner program services and activities means:[16]

- having at least one program staff member physically present at the one-stop center;
- having at least one staff member from other partner programs physically present at the one-stop center who are appropriately trained to provide information to customers about partner programs, services, and activities available through AJC partner programs; or
- direct linkage to program staff who provide meaningful information or services through electronic means at the AJC *within a reasonable time*, either by phone or through real-time web-based communications with program staff who can provide program information or services to customers, which cannot simply be the provision of phone numbers, website addresses, or general information, pamphlets, and materials.

Access to required one-stop partner programs and their services includes physical and programmatic accessibility for individuals with disabilities, as described in 29 USC § 3248, as well as 29 CFR Part 38.[17] Electronic service delivery systems must comply with the nondiscrimination and equal opportunity provisions of 29 USC § 3248, as well as 29 CFR Part 38.[18]

(c) Required and additional one-stop partners

Refer to 20 CFR §§ 678.400 and 678.410, as well as NDOL's policy on MOUs and funding agreements, for lists of required one-stop partners and additional one-stop partners.

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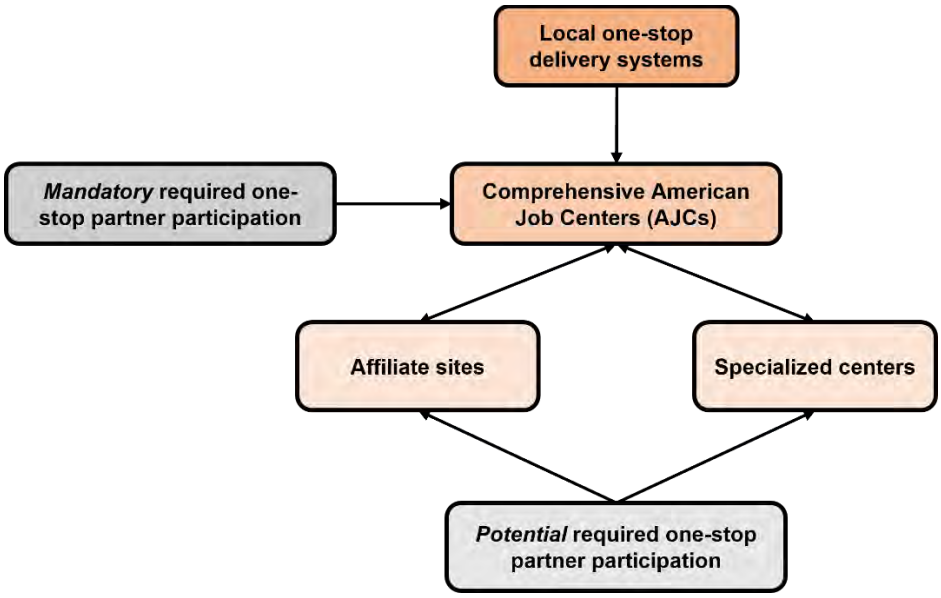
[12] 20 CFR § 678.320
[13] Ibid.
[14] 20 CFR § 678.305(c)
[15] Hours of AJC access are evaluated for effectiveness during annual one-stop delivery system assessment and triennial one-stop center certification processes, as described under 20 CFR § 678.800(b) and NDOL's policy on one-stop delivery system assessment and one-stop center certification.
[16] 20 CFR §§ 678.300 and 678.305(d)
[17] Ibid.
[18] 20 CFR § 678.300(e)

(d) Required one-stop partner participation in local one-stop delivery systems

Required one-stop partner programs must provide access to their programs and services through local AJCs and any applicable affiliate sites or specialized centers, either onsite or through electronic means, as described above in Section I(b). Provision of programs and services electronically *must* improve the efficiency, coordination, and quality of one-stop partner services and *must not* replace access to such services at an AJC or be a substitute to making services available at affiliate sites if the partner is participating in affiliate sites.

Diagram 2 illustrates mandatory and potential participation by required one-stop partners in local one-stop delivery systems. *Note that required one-stop partners are not obligated to participate in affiliate sites or specialized centers*.

Diagram 2. Mandatory and potential required one-stop partner participation in local one-stop delivery systems



(e) Required one-stop partner roles and responsibilities in AJCs

Required one-stop partners must:[19]

1. provide access to their respective programs or activities through AJCs, *in addition to any other locations where they elect to provide services*;
2. use a portion of funds made available to their programs, to the extent consistent with Federal law authorizing the respective programs and in compliance with Federal cost principles defined in 2 CFR Parts 200 and 2900, concerning:
    a. provision of career services;
    b. working collaboratively with the State and local boards to establish and maintain local one-stop delivery systems, including jointly funding AJC infrastructure costs through partner contributions:[20]

[19] 20 CFR § 678.420
[20] 20 CFR § 678.700; 20 CFR § 678.760(a)-(b)

   i. reasonable cost allocation methodologies by which infrastructure costs are charged to each respective partner based on proportionate use and relative benefit received;
   ii. Federal cost principles; and
   iii. any local area administrative cost requirements established under applicable Federal laws authorizing the partner programs;
3. use a portion of funds made available to their programs or fairly evaluated in-kind contributions, consistent with Federal law authorizing the programs, to fund additional costs relating to operation of local one-stop delivery systems, which:
   a. *must* include costs associated with the provision of applicable career services; and
   b. *may* include other costs, including costs of shared services such as initial intake, assessment of needs, appraisal of basic skills, referrals to other one-stop partners, and business services;[21]
4. enter into MOUs with local boards, which must include funding agreements, relating to the operation of AJCs, in accordance with 20 CFR § 678.500(b);[22]
5. participate in the operation of AJCs, consistent with the terms the MOUs and funding agreements, requirements of partner program authorizing laws, rules, regulations, and Federal cost principles, and all other applicable legal requirements;[23] and
6. provide representation on the state board and local boards, when required or as requested, and participate in board committees as needed.[24]

Section II. Local one-stop delivery system services

(a) Basic career services for job seekers, workers, and employers

Basic career services must be delivered collectively by required one-stop partners through AJCs (subject to legislative authorization, requirements, and limitations for each partner program) and are listed in 20 CFR § 678.430.[25] Further, basic career services, including meaningful assistance with unemployment insurance (UI) claims, must be universally available and accessible to all individuals and employers seeking services.[26] In other words, anyone *may* receive one or more basic career services based on individual needs, even if they are not participating in a program offered by AJC partner programs.

(1) Meaningful assistance

Local boards and administrative entities must ensure the availability of meaningful assistance to anyone seeking assistance with UI claims. There is no Federal mandate that meaningful assistance must be provided only by UI state merit staff. To clarify, meaningful assistance is provided:[27]

- by staff on-site who are well-trained on UI claims filing and the rights and responsibilities of claimants; or

[21] 20 CFR § 678.760(a)-(b)
[22] 20 CFR § 678.420
[23] Ibid.
[24] Ibid.
[25] 29 USC § 3174(c)(2); 20 CFR § 678.425
[26] 20 CFR § 678.430; TEGL 19-16
[27] 20 CFR § 678.430(a)(10)

- through direct linkage to UI staff by phone or other technology as long as the assistance is provided by trained and available staff *and within a reasonable timeframe*.

Costs associated with providing meaningful assistance may be paid for by Title I adult programs, Title I dislocated worker programs, Title III, UI, or some combination of these funding sources.[28]

(b) Individualized career services for job seekers and workers

Local boards and local administrative entities must ensure the availability of individualized career services for eligible individuals through AJCs, if determined appropriate in order for individuals to obtain or retain employment, which are listed in 20 CFR § 678.430(b).

- Availability of individualized career services required under local Title I adult and dislocated worker programs for eligible individuals is described in NDOL's adult and dislocated worker program policy.
- Types of career services available through other required one-stop partner programs, which are not described in this policy, are based on the authorizing legislation and implementing rules and regulations for those programs.

(c) Training services for job seekers and workers

Local boards and administrative entities must ensure the availability of training services for eligible individuals through AJCs, if determined to be appropriate in order for individuals to obtain or retain employment.[29]

- Availability of training services required under local Title I adult and dislocated worker programs for eligible individuals is described in NDOL's adult and dislocated worker programs policy.
- Types of training services available through other required one-stop partner programs, which are not described in this policy, are based on the authorizing legislation and implementing rules and regulations for those programs.

(d) Youth workforce investment activities

Local boards and administrative entities must ensure the availability of youth workforce investment activities authorized under WIOA Title I through AJCs.[30]

- Title I youth program services for eligible individuals are described in NDOL's youth program policy.
- Types of youth services available through other required one-stop partner programs, which are not described in this policy, are based on the authorizing legislation and implementing rules and regulations for those programs.

[28] 20 CFR § 678.430(a)(10)(ii); TEGL 19-16
[29] 20 CFR § 678.430(b)
[30] 29 USC § 3151(b)(1)

(e) Career services for employers (business services)

Local boards and administrative entities must ensure the availability of business services through AJCs.[31] Required and optional business services and related limitations are described under 20 CFR § 678.435 and 20 CFR § 678.440.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

[31] 29 USC § 3174(c)(2)(A); 20 CFR § 678.435(a)

2.2. One-stop Delivery System Assessment and One-Stop Center Certification

NEBRASKA
Good Life. Great Connections.
DEPARTMENT OF LABOR

americanjobcenter network

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
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Policy category
One-stop Delivery System

Effective
May 3, 2023

Supersedes
One-stop Delivery System Assessment and One-stop Center Certification, Change 3 (effective February 15, 2023)

One-stop Delivery System Assessment and One-stop Center Certification, Change 4

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

WIOA assigns responsibilities at the Federal, state, and local levels to ensure the creation and maintenance of a one-stop delivery system that enhances the range and quality of education and workforce development services that jobseekers, workers, and employers can access.[1] WIOA requires that state boards, in consultation with chief elected officials and local boards, establish objective criteria and procedures for local boards to use when assessing local one-stop delivery systems and assessing and certifying one-stop centers for effectiveness, physical and programmatic accessibility, and continuous improvement.[2]

CHANGES

Under this Change 4, footnotes have been revised for clarity and links have been updated where necessary.

[1] 20 CFR § 678.300(b)
[2] 20 CFR § 678.800(a)

ACTION

This policy supersedes and cancels the State's policy titled One-stop Delivery System Assessment and One-stop Center Certification, Change 3 (effective February 14, 2023). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Each local board must assess the effectiveness, physical and programmatic accessibility, and continuous improvement of its local one-stop delivery system at least once every three years based on the requirements established in this policy,[3] as well as the requirements established in the State's policy on security and the one-stop delivery system.[4] As part of that assessment, the local board must also assess and certify at least one comprehensive one-stop center based on the same requirements.[5] During the triennial assessment of the local one-stop delivery system and assessment and certification of one-stop centers, including any designated affiliate sites and specialized centers, each local board must follow the requirements and procedures established in this policy and the requirements of WIOA and its implementing regulations and guidance, including WIOA Sec. 188 and 29 CFR Part 38, and the applicable provisions of the Americans with Disability Act of 1990 (42 USC 12101 et seq.).[6]

In addition to the triennial assessments described above, each local board must *annually* assess the physical and programmatic accessibility of all one-stop centers in the local area.[7] During its annual assessment of the physical and programmatic accessibility of all one-stop centers in the local area, each local board must follow the requirements and procedures established in this policy, the requirements established in the State's policy on security and the one-stop delivery system, and the requirements of WIOA and its implementing regulations and guidance, including WIOA Sec. 188 and 29 CFR Part 38, and the applicable provisions of the Americans with Disability Act of 1990 (42 USC 12101 et seq.).[8]

POLICY

This policy establishes requirements regarding assessment of local one-stop delivery systems and certification of one-stop centers and has three sections and two appendices.

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(c) Continuous Improvement 5
(d) Local criteria 5
Section II. Processes and procedures 5
(a) Triennial assessment and certification 5
(b) Annual assessments 6
(c) Recertification of relocated one-stop centers 6

[3] WIOA Sec. 121(g)(1) and (4); 20 CFR § 678.800(d)
[4] The State's policy on security and the one-stop delivery system is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.
[5] 20 CFR § 678.800(d); TEGL 16-16
[6] 20 CFR §§ 678.800 and 679.370(p); TEGL 16-16
[7] 20 CFR § 679.370(p)
[8] 20 CFR §§ 678.800 and 679.370(p); TEGL 16-16

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Section I. Criteria requirements

Each local board must assess the effectiveness, physical and programmatic accessibility, and continuous improvement of its local one-stop delivery system *at least once every three* years based on the requirements established in this policy[9] and the requirements established in the State's *Security and the One-stop Delivery System* policy. As part of that assessment, the local board must also assess and certify at least one comprehensive one-stop center based on the same requirements.[10] If the local board designates affiliate sites or specialized centers for inclusion in the local one-stop delivery system, the local board must certify the sites and centers for those sites and centers to be eligible for infrastructure funding support from partner programs.[11]

In addition to the *triennial* assessment described above, each local board must *annually* assess the physical and programmatic accessibility of all one-stop centers in the local area based on the requirements of this policy[12] and the requirements established in the State's *Security and the One-stop Delivery System* policy.

Criteria and requirements for assessments and certifications are described below in subsections (a) through (d).

(a) Effectiveness

The local board's assessment of the effectiveness of the local one-stop delivery system and local one-stop centers must include how well the system and centers:[13]

1. operate in a cost-efficient manner;

2. integrate available services for jobseekers, workers, and employers;

3. meet the workforce development needs of jobseekers, workers, and employment needs of local employers;

4. coordinate services among the one-stop partner programs; and

5. provide access to one-stop partner program services to the maximum extent practicable, including providing services outside of regular business hours where there is a workforce need identified by the local board.

[9] WIOA Sec. 121(g)(1) and (4); 20 CFR § 678.800(d)
[10] 20 CFR § 678.800(d); TEGL 16-16
[11] WIOA Secs. 121(g)(1) and 121(h)(1)(A)(i). The State's policy on memorandums of understanding and funding agreements is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.
[12] 20 CFR § 679.370(p)
[13] 20 CFR § 678.800(b)

In addition, the local board's assessment of the effectiveness of the local one-stop delivery system and one-stop centers must take into account feedback from one-stop customers, .[14]

(b) Physical and programmatic accessibility

The local board's assessment of the physical and programmatic accessibility of its local one-stop delivery system and one-stop centers must address how well the system and centers take actions to comply with the requirements established in WIOA Sec. 188 and its implementing rule, 29 CFR Part 38, regarding equal opportunity and non-discrimination. The actions that must be assessed include how well the system and centers, including affiliate sites and specialized centers:[15]

1. provide reasonable accommodations for individuals with disabilities;

2. make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination against individuals with disabilities;

3. administer programs in the most appropriate integrated setting;

4. communicate with individuals with disabilities as effectively as with other individuals;

5. provide appropriate auxiliary aids and services, including assistive technology devices and services when necessary, to provide individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the program or activity;

6. provide physical accessibility for individuals with disabilities;

7. provide meaningful access for individuals who are limited English proficient (LEP) and ensure LEP individuals are effectively informed about program services and able to participate in those services;[16]

8. use the common identifier (*American Job Center* or *a proud partner of the American Job Center network*) on all:[17]

    a. products, programs, activities, services, electronic resources, facilities, and related property and new materials used within the one-stop delivery system; and

    b. interior and exterior branding, including signage;

9. ensure the physical security of system facilities and property.

All one-stop centers, including affiliate sites and specialized centers, must comply with the physical and programmatic accessibility requirements described in this policy, the requirements of the

[14] 20 CFR § 678.800(b)
[15] 20 CFR §§ 678.800(b)(1) – (6) and 678.900
[16] 29 CFR § 38.9(b)
[17] 20 CFR § 678.900. Local boards, local areas, and one-stop partners may use additional (not alternative) identifiers on or for their facilities and related property, products, programs, activities, services, and materials [20 CFR § 678.900(d)].

State's *Security and the One-stop Delivery System* policy, as well as WIOA Sec. 188, 29 CFR Part 38, and the applicable provisions of the Americans with Disability Act of 1990.[18]

(c) Continuous Improvement

The local board's assessment of continuous improvement of the local one-stop delivery system and one-stop centers:[19]

- must include how well the system and centers support the achievement of negotiated local levels of performance for the performance indicators described in WIOA Sec. 116(b)(2) and 20 CFR § 677.205;[20] and
- may include other continuous improvement factors, such as:
    - regular processes for identifying and responding to technical assistance needs of the system and centers;
    - regular systems of continuing professional staff development; and
    - systems for capturing and responding to specific customer feedback.

(d) Local criteria[21]

A local board may establish additional assessment and certification criteria or set higher standards for service coordination than those established in this policy and the State's *Security and the One-stop Delivery System* policy. If additional criteria and standards are established, the local board must review and update the criteria and standards every two years as part of regional and local plan development and modification processes.

Section II. Processes and procedures

(a) Triennial assessment and certification

The local board's processes for assessment and certification of one-stop centers must:

- be established in writing by the local board *prior* to commencement of triennial assessment and certification processes;
- comply with the requirements of this policy and the State's *Security and One-stop Delivery System* policy;

[18] 20 CFR §§ 678.800(e) and 679.370(p)
[19] 20 CFR § 678.800(c)
[20] The State's performance accountability policy provides information on performance indicators and is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.
[21] 20 CFR § 678.800(d); TEGL 16-16

- require use of the assessment and certification forms provided as APPENDIX II.A. and APPENDIX II.C., in accordance with APPENDIX II.B.; and

- require submission of a notification to NDOL regarding the outcome of the assessment and certification processes and such submission must be submitted by email to ndol.wioa_policy@nebraska.gov and ndol.state_monitor@nebraska.gov and include:

    - a fully signed *one-stop delivery system and one-stop center assessment and certification assurances* form (included as APPENDIX II.A.); and

    - digital copies of all forms completed during the assessment and certification processes, including all required attachments identified in the review form (APPENDIX II.C.).

(b) Annual assessments

As mentioned above, the local board must use the forms included with this policy as APPENDIX II. In APPENDIX II, Sections D.II. and D.III. of the review form must be completed during the annual assessment process.

Local boards are not required to notify NDOL of the outcomes of annual assessments of the physical and programmatic accessibility of local area one-stop centers. However, conduct and documentation of the outcomes of the annual assessments are subject to review by the State EO Officer and the State WIOA Monitor, as well as the US Department of Labor and other applicable Federal agencies. Documentation resulting from assessments and certification is subject to the record retention requirements described in the State's policy on records management.[22]

(c) Recertification of relocated one-stop centers

If the location of a certified one-stop center changes, the one-stop center must be recertified within 90 day of the opening of the new location. The local board must follow the requirements of this policy to recertify the one-stop.

Section III. Timelines

Effective July 1, 2017, each local board must:

- assess its local one-stop delivery system and one-stop centers *at least once every three years* (triennially) based on the requirements established in this policy;

- certify at least one comprehensive one-stop center *at least once every three years* (triennially) based on the requirements established in this policy; and

[22] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies. .

- *annually* assess the physical and programmatic accessibility of local area one-stop centers based on the requirements established in this policy.

In addition, relocated one-stop centers must be recertified within 90 day of the opening of the new location, as stated above in Section II(c).

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context

1. access

Providing *access* to each partner program and its services means:[23]

- having a program staff member physically present at the one-stop center;
- having a staff member from a different partner program physically present at the one-stop center that is appropriately trained to provide information to customers about the programs, services, and activities available through partner programs; or
- providing a direct linkage through technology to program staff who can give meaningful information or services.

2. affiliate site (affiliate one-stop center)[24]

An *affiliate site* (affiliate one-stop center) is a site that makes available to jobseekers, workers, and employers one or more one-stop partner programs, services, and activities. An *affiliate site* must be connected to a comprehensive one-stop center.

3. comprehensive one-stop center (comprehensive American Job Center or AJC)[25]

A *comprehensive one-stop center* (comprehensive American Job Center or AJC) is a physical location where jobseekers, workers, and employers can access the programs, services, and activities of all required one-stop partners.

4. direct linkage[26]

Direct linkage means providing a direct connection to a comprehensive one-stop center (or certified affiliate site or specialized center) and a required one-stop partner staff member who can provide program information or services to the customer, within a reasonable period, by phone or through real-time web-based communications. Simply providing a phone number, web address for services or information, pamphlets, or other materials *does not* constitute direct linkage.

[23] 20 CFR § 678.305.(d)(1) – (3)
[24] 20 CFR § 678.310(a)
[25] 20 CFR § 678.305(a)
[26] 20 CFR § 678.305(d)(3)(i) – (ii)

5. specialized center[27]

A *specialized center* is a center that addresses specific needs, including those of dislocated workers, youth, Veterans, employers, key industry sectors or clusters, or other groups specified by a local board. A *specialized center* must be connected to a comprehensive one-stop center and any appropriate affiliate site.

[27] 20 CFR § 678.300(d)(3); TEGL 16-16

APPENDIX II. One-stop center assessment and certification forms

Each local board must assess the effectiveness, physical and programmatic accessibility, and continuous improvement of its local one-stop delivery system and local area one-stop centers at least *once every three years* (triennially).[28] As part of the *triennial* assessment process, the local board must certify at least one comprehensive American Job Center. If the local board designates affiliate sites or specialized centers for inclusion in its local one-stop delivery system, the local board must certify those sites and centers in order for those locations to be eligible for infrastructure funding.

[28] 20 CFR § 678.800(b) and (d)

A. Instructions: One-stop center triennial assessment and certification

For triennial assessment and certification of each local area American Job Center (AJC), affiliate site, and specialized center, the local board must complete and submit the following forms, as described in and required under Section II of the State's current *One-stop Delivery System Assessment and One-stop Center Certification* policy:[29]

- one-stop center triennial assessment and certification assurances form (APPENDIX II.B.);
- one-stop center triennial assessment and certification outcome form for each certified AJC, affiliate site, and specialized center (APPENDIX II.C.); and
- one-stop partner program triennial assessment form for each program evaluated for certification of an AJC, affiliate site, and specialized center (APPENDIX II.D.).

[29] The State's policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

B. Form: One-stop center triennial assessment and certification assurances

By signing and submitting this form, along with the documentation required under the State's current *One-stop Delivery System Assessment and One-stop Center Certification* policy,[30] the undersigned chief elected official for the local workforce development area (CEO) and chair of the local workforce development board (Chair) assure that the requirements established under the aforementioned policy have been met regarding certification of the local AJC(s), affiliate site(s), and specialized center(s) identified below. Further, the CEO and Chair assure their understanding that onsite and/or virtual reviews will be conducted by the Nebraska Department of Labor State Monitoring Unit to verify compliance with the requirements established under the policy.

1. Local workforce development area

2. Triennial period for which the certification(s) apply (example: Program Years 2022 through 2024)

3. Certified one-stop center(s) (enter *not applicable* as appropriate)

Center type	Center name and physical address
Comprehensive American Job Center 1	
Comprehensive American Job Center 2	
Affiliate site 1	
Affiliate site 2	
Specialized center 1	
Specialized center 2	

4. CEO signature (must be digital)

Digital signature of CEO	

5. Chair signature (must be digital)

Digital signature of Chair	

[30] The State's policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies

C. Form: One-stop center triennial assessment and certification outcome

As stated in APPENDIX II.A., the local board must complete and submit this form to document the outcome of its triennial assessment and certification processes for each local area AJC, affiliate site, and specialized center.

1. **AJC** considered for certification (provide name and physical address of AJC)

☐ certified
☐ conditionally certified
☐ failed certification

Reasons for conditional certification (provide concise description, attach additional pages if necessary)

Reasons for failure to certify (provide concise description and supporting documentation, attach additional pages if necessary)

2. **Affiliate site** considered for certification (provide name and physical address)

☐ certified
☐ conditionally certified
☐ failed certification
☐ not applicable

Reasons for conditional certification (provide concise description, attach additional pages if necessary)

Reasons for failure to certify (provide concise description and supporting documentation, attach additional pages if necessary)

3. **Specialized center** considered for certification (provide name and physical address)

☐ certified
☐ conditionally certified
☐ failed certification
☐ not applicable

Reasons for conditional certification (provide concise description, attach additional pages if necessary)

Reasons for failure to certify (provide concise description and supporting documentation, attach additional pages if necessary)

D. Form: One-stop partner program triennial assessment

As stated in APPENDIX II.A., the local board must complete and submit the following form to document assessment of *each* required one-stop partner program and additional one-stop partner program with which the local boar[31]d has established a memorandum of understanding, including a funding agreement.[32]

[31] This form is available upon written request to ndol.wioa_policy@nebraska.gov.

[32] Refer to the State's policy on memorandums of understanding and funding agreements policy for additional information. The policy is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

Provide the following information *for all individuals* involved in assessment and certification processes.

Name	Title and business affiliation	Role on or affiliation with the local board	Role in assessment and certification processes

I. Effectiveness criteria

Requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
1. Governance	• A governance agreement among all local area CEOs is in place. • A written agreement between the CEO and the local board is in place. • All MOUs, including funding agreements, between the local board and required and additional one-stop partners are fully executed.	• The governance agreement among all local area CEOs reflects: o processes for appointment of local board members and describes their roles; o designation of a grant recipient and fiscal agent regarding funding allocated to the local area by the State; o processes for collaboration during regional and local planning activities; and o other governance functions. • The written agreement between the CEO and local board defines CEO and local board roles and responsibilities, including roles and responsibilities regarding conflict of interest. • All MOUs must comply with requirements established in the State's current *Memorandums of Understanding and Funding Agreements* policy.		
2. Governance	• One-stop operator procurement documents clearly delineate requirements for daily operations of the local one-stop delivery system and one-stop centers, as well as the roles and responsibilities of the one-stop operator and its staff. • If the one-stop operator is participating in assessment procedures *and* fulfills one or more additional roles within the one-stop delivery system, a written agreement between the local board and the one-stop operator has been established, defining the one-stop operator's roles and responsibilities regarding assessment and certification of one-stop centers. • The local board and one-stop operator have established a written continuity-of-service plan that will be initiated if an AJC is not certified.	• The local board has documentation demonstrating that one-stop operator procurement and selection: o complied with Federal rules, regulation, and guidance and State policies on One-Stop Operator Selection and Procurement; o was based on a compliant process that was in place prior to selection, including clear conflict of interest policies and procedures demonstrating internal controls during selection and procurement; and o resulted in a written agreement among the selected one-stop operator, the local board, and CEO, clarifying how the one-stop operator will carry out its responsibilities while demonstrating compliance with WIOA and its corresponding rules and regulations, including those regarding conflict of interest.		

Requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
		• Local board policies and procedures identify one-stop operator roles and responsibilities, including: o requirements for coordination of service delivery by one-stop partner programs and service providers; o requirements regarding disclosure of potential conflicts of interest arising from the one-stop operator's relationship with particular services providers; o requirements regarding compliance with Federal rules, regulations, and procurement policies relating to the calculation and use of profits; and o additional roles and responsibilities established by the local board for the one-stop operator; and o prohibitions against: ▪ establishing practices that create disincentives to providing services to individuals with barriers to employment who may require longer-term services, such as intensive employment, training, and education services; ▪ convening system stakeholders to assist in the development of the local plan; ▪ preparation and submission of local plans; ▪ self-oversight; ▪ managing or significantly participating in the competitive selection process for a one-stop operator; ▪ selecting or terminating a one-stop operator, career services providers, and youth providers; ▪ negotiating local performance accountability measures; and ▪ developing and submitting budgets for activities of the local board.		

Requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
		• When the entity serving as the one-stop operator is also serving 1 or more additional roles within the one-stop delivery system, such as Title I service provider, the local board has established sufficient firewalls and conflict of interest policies and procedures. • The written continuity-of-service plan that will be initiated if an AJC is not certified is documented and available for review.		
3. Responsiveness to needs of jobseekers, workers, and program participants	One-stop partners, in coordination with the one-stop operator, have identified specific methods for: • coordinating one-stop partner program services that meet the needs of jobseekers, workers, and program participants; and • reporting the performance of their respective programs to the local board regarding service delivery for jobseekers, workers, and program participants.	• One-stop partner policies and procedures for service delivery for jobseekers, workers, and program participants identify standards and processes for coordination of services and referrals. • Each one-stop partner has identified and documented goals for serving jobseekers, workers, and program participants. • Regular one-stop partner program performance reports regarding services for jobseekers, workers, and program participants are provided to the local board, available, and reflected in the minutes of local board meetings.		
4. Responsiveness to needs of employers	One-stop partners, in coordination with the one-stop operator, have identified specific methods for: • responding to economic and labor force needs within the one-stop delivery system; • matching employers with skilled workers; and • reporting performance of their respective programs to the local board regarding service delivery for employers.	• One-stop partner policies and procedures for service delivery for employers identify standards and processes for coordination of services and referrals. • Each one-stop partner has identified and documented goals for serving employers. • Regular one-stop partner program performance reports regarding services for employers are provided to the local board, available, and reflected in the minutes of local board meetings.		
5. Operational coordination	• Resource room teams consist of representatives from one-stop center partner programs. • Resource room materials are accurate current materials describing all one-stop partner	• Regarding resource room teams: o Rosters of resource room teams include representatives from one-stop center partner programs.		

Requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
	program services are readily available to customers. • One-stop delivery system and one-stop center websites and resource materials provide accurate current information about all programs and services available to all customers. • Business services teams include representatives from all core partner[33] programs to avoid duplication of effort, minimize employer fatigue, and encourage collaboration.	o Job descriptions for resource team staff reflect cross-program functions and responsibilities. • Resource room materials are: o accurate, current, and regularly updated; o include a date or other method for determining the materials are current; and o readily available. • One-stop delivery system and one-stop center websites provide accurate current information on services available to customers through all one-stop partner programs and: o information on the websites is current; and o resource room materials include a date or other method for determining the materials are current. • Rosters of business services teams include representatives from all one-stop delivery system and one-stop center partner programs. • A record of business services team meetings reflect participation by representatives of all core partner programs.		
6. Service hours: The one-stop delivery system and one-stop centers provide maximum access to required one-stop partner program services during regular business hours (8a – 5p) and any other predictable timeframes outside of regular business	The local board considers optimum business hours to accommodate the needs of jobseekers, workers, and employers, including business hours, work schedules, childcare, and transportation.	• Regular business hours are clearly visible on the exterior and interior of one-stop centers. • Directions for arranging for services outside of regular business hours are clearly stated and widely available to the public, including persons with disabilities. • Local board meeting minutes reflect discussions and decisions regarding regular business hours and the availability of services outside of regular business hours.		

[33] Core partners means WIOA Title IB adult, dislocated worker, and youth programs; WIOA Title II Adult Education and Family Literacy Act programs; WIOA Title III Wagner-Peyser Employment Service; and WIOA Title IV programs provided by the Nebraska Vocational Rehabilitation Program and the Nebraska Commission for the Blind and Visually Impaired.

Requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
hours, as determined by the local board to be feasible and effective.				
7. Equal opportunity and non-discrimination: One-stop delivery system and one-stop center staff are familiar with and comply all applicable Federal, state, and local laws, rules, regulations, and policies regarding non-discrimination and equal opportunity for persons with disabilities.	• One-stop delivery system and one-stop center staff training covers the following topics: o obligation to inform one-stop delivery system customers that auxiliary aids and accommodations are available; o instructions for using TDD/TTY and other adaptive technologies; o reasonable modifications to avoid discrimination and meet individual needs, such as allowing an individual with a cognitive disability extra time to complete forms; and o effective strategies for communicating with persons with disabilities. • One-stop delivery system and one-stop center partners ensure customers have access to services, in accordance all applicable Federal, state, and local laws, rules, regulations, and policies.	• One-stop delivery system and one-stop center staff members demonstrate they: o inform one-stop delivery system customers of the availability of auxiliary aids and accommodations; o know how to use the adaptive technologies and are aware of available resources; o are familiar with the modification of procedures to avoid discrimination; and o utilize effective strategies for communicating with persons with disabilities. • Corrective action plans are developed if partners or customers identify barriers to participation in services.		
8. Customer feedback: Customer feedback from jobseekers, workers, and employers is actively sought and utilized.	One-stop delivery system and one-stop center staff actively collect customer feedback from jobseekers, workers, and employers.	• Customer feedback data is provided to the local board, and documentation on the data is readily available. • Minutes of local board meetings reflect the provision and review of customer-feedback reports.		
9. Branding: The common identifier (*American Job Center* or *a proud partner of the American Job Center network*) is used, as required under WIOA Sec. 121(e)(4) and 20	All products, programs, activities, services, electronic resources, facilities, and all related property and new materials include the common identifier.	• The common identifier is found on all products, programs, activities, services, electronic resources (including websites), facilities, related property (including signage), and all new materials used in the one-stop delivery system and at one-stop centers, including brochures, business cards, publications, promotional materials, and all other electronic or tangible materials.		

Requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
CFR § 678.900, at each AJC, affiliate sites, and specialized centers, and by one-stop partners connected to AJCs, affiliate sites, and specialized centers through direct linkage.				
10. Protection of personal identifiable information (PII): The local board ensures that PII is protected as required under Federal, state, and local laws, rules, regulations, and policies.	PII is protected in accordance with Federal, state, and local laws, rules, regulations, and policies.	• The local board has established policies and procedures for protection of PII throughout the one-stop delivery system and all one-stop centers, in accordance with Federal, state, and local laws, rules, regulations, and policies.		
11. Additional comments on effectiveness				

II. Physical accessibility criteria

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
1. Physical layout access: The physical layout of one-stop centers eliminates structural barriers and is accessible to the public, including	The physical layout of one-stop centers is physically accessible in accordance with Federal, state, and local laws, rules, and regulations, including WIOA Sec. 188 and 29 CFR part 38.	The layout of all one-stop centers is easily accessible, usable by persons with disabilities and is absent of physical barriers, as defined by the ADA Standards for Accessible Design and Uniform Federal Accessibility Standards (UFAS).[34]		

[34] The UFAS are accessible at https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/background/ufas .

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
individuals with disabilities.				
2. Equal opportunity access: One-stop delivery system and one-stop center staff provide equal access to the system and centers in compliance with the requirements established in WIOA Sec. 188 and 29 CFR Part 38.	▪ One-stop delivery system and one-stop center staff: o provide reasonable accommodations for persons with disabilities; o administer programs in the most appropriate integrated setting; o communicate with persons with disabilities as effectively as with others. ▪ One-stop delivery system and one-stop center partners reasonably modify policies, practices, and procedures to avoid discrimination and to meet individual needs.	▪ One-stop delivery system and one-stop center staff demonstrate: o availability of auxiliary aids and accommodations, including assistive technology devices and services; o they inform customers of the availability of auxiliary aids and accommodations, including assistive technology devices and services; o how to use the adaptive technologies and are aware of available resources; o familiarity with modification of procedures to avoid discrimination; and o use of effective strategies for communicating with persons with disabilities. ▪ One-stop delivery system and one-stop center partners demonstrate that each has reasonably modified policies, practices, and procedures to avoid discrimination and to meet individual needs		
3. Location: Locations of one-stop centers are accessible by public transportation, driving, or walking.	▪ Customers who use public transportation can access one-stop centers within a reasonable walking distance. ▪ Adequate parking is available and accessible for customers who drive to one-stop centers. ▪ Locations of one-stop centers are identifiable in high-traffic areas.	▪ One-stop centers have dedicated parking lots suitable for the anticipated number of customers. ▪ One-stop center parking lots have spaces closest to the door that are dedicated to and marked for persons with disabilities. ▪ One-stop center signage is easily visible on the exterior and in the interior of the facility. ▪ Meeting minutes demonstrate the local board has considered whether the locations of one-stop centers are within reasonable walking distance from public transportation stops.		
4. Signage and logos: The common identifier (*American Job Center* or *a proud*	Signage and logos include the common identifier, making the physical location of one-stop centers simple to find and identifiable.	The common identifier is highly visible on signage and logos, with easy-to-see signage on the exterior and interior one-stop centers.		

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
partner of the American Job Center network) are used on signage and logos, as required under WIOA Sec. 121(e)(4) and 20 CFR § 678.900.				
5. Annual assessment of physical accessibility: The local board has annually assessed the physical accessibility of all one-stop centers.	Since Program Year 2017, the local board has annually assessed the physical accessibility of all one-stop centers, as required under 20 CFR 679.370(p).	For the 3 full program years preceding the triennial certification process, documentation for annual assessments of physical accessibility of all one-stop centers is readily available and includes results of the assessments.		
6. Additional comments on physical accessibility				

III. Programmatic accessibility criteria

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
1. Career services: Basic and individualized career services, including supportive services and follow-up services, are accessible throughout the one-stop delivery system and at all one-stop centers, as required under 20 CFR § 680.150.	All basic and individualized career , including supportive services and follow-up services, are available and accessible throughout the one-stop delivery system and at all one-stop centers for all eligible individuals, including individuals with disabilities.	• The local board's MOUs with one-stop partners demonstrate that all basic and individualized careers, including supportive services and follow-up services, are accessible through the one-stop delivery system and one-stop centers and available on demand and in real-time in person or through technology. • Clear descriptions of the availability of all basic and individualized careers, including supportive services and follow-up services, are readily available in accessible formats, including formats accessible to individuals with disabilities.		
2. Youth program services: Youth	All youth program services, including supportive and follow-up services, are available and	• The local board's MOUs with one-stop partners demonstrate that all youth program		

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
program services, including supportive services and follow-up services, are accessible throughout the one-stop delivery system and at all one-stop centers, as required under 20 CFR § 681.460.	accessible throughout the one-stop delivery system and at all one-stop centers for all eligible individuals, including individuals with disabilities.	services, including supportive and follow-up services, are accessible throughout the one-stop delivery system and at all one-stop centers and available on demand and in real-time in person or through technology. • Clear descriptions of the availability of all youth program services, including supportive and follow-up services, are readily available in accessible formats, including formats accessible to individuals with disabilities.		
3. Other services: Training services, education services, employment services, and business services are accessible throughout the one-stop delivery system and at all one-stop centers.	• All training services and education services are available and accessible throughout the one-stop delivery system and at all one-stop centers for all eligible individuals, including individuals with disabilities. • All employment services provided by WIOA Title III Wagner-Peyser Employment Service services are available and accessible throughout the one-stop delivery system and at all one-stop centers for all eligible individuals, including individuals with disabilities. • All business services are available and accessible throughout the one-stop delivery system and at all one-stop centers for all eligible employers and individuals, including individuals with disabilities.	• The local board's MOUs with one-stop partners demonstrate that all training services, education services, employment services, and business services are available and accessible throughout the one-stop delivery system and at all one-stop centers available on demand and in real-time in person or through technology. • Clear descriptions of the availability of all training services, education services, employment services, and business services are readily available in accessible formats, including formats accessible to individuals with disabilities.		
4. Accommodations: The one-stop delivery system and all one-stop centers provide reasonable accommodations for individuals with disabilities and individuals with language barriers.	The one-stop delivery system and all one-stop centers provide reasonable accommodations for individuals with disabilities and individuals with language barriers.	• The local board has implemented one or more policies regarding accommodations for individuals with disabilities and individuals regarding with language barriers. • Assistive technology devices or other auxiliary aids are readily available throughout the one-stop delivery system and at all one-stop centers. • The local board has implemented one or more policies regarding accommodations for individuals with language barriers.		

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
		• Bilingual resources, including on-demand translation services, are available and accessible throughout the one-stop delivery system and at all one-stop centers.		
5. Annual assessment of programmatic accessibility: The local board has annually assessed the programmatic accessibility of all one-stop centers.	Since Program Year 2017, the local board has annually assessed the programmatic accessibility of all one-stop centers, as required under 20 CFR 679.370(p).	Documentation of the local board's annual assessment for Program Years 2018 and 2019 of the programmatic accessibility of all one-stop centers is readily available and provides the results of the assessment.		
6. Additional comments on programmatic accessibility				

IV. Continuous improvement criteria

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
1. Negotiated levels of performance: The local board includes one-stop partners in decision making regarding strategic improvements to achieve negotiated levels of performance for the primary indicators of performance established under WIOA Sec. 116(b)(2)(A) and 20 CFR §.677.155.	• The local board requires periodic performance reports from one-stop partners regarding negotiated levels of performance for the primary indicators of performance. • One-stop partners and the one-stop operator use periodic performance reports to identify specific goals and tactics for improving performance.	• The local board has identified specific goals and metrics in work plans for continuous improvement regarding negotiated levels of performance for the primary indicators of performance, based on periodic performance reports submitted by one-stop partners and the one-stop operator. • Local board meeting minutes demonstrate decision making regarding strategic improvements to achieve negotiated levels of performance for the primary indicators of performance.		

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
2. Customer feedback: The local board has established a systematic method for collection and analysis of feedback from customers, including jobseekers, workers, and employers; and the feedback is used to continuously improve service delivery and operations throughout the one-stop delivery system and at all one-stop centers.	• Customer satisfaction surveys are provided to jobseekers, workers, and employers and ask for input on the following topics: o the way in which customers access the services; o overall satisfaction with services provided; o satisfaction level regarding the courteousness, knowledge, and responsiveness of staff; o timeliness of services provided; o accessibility and availability of program services; o physical accessibility of the one-stop delivery system and one-stop centers; and o ideas for improvement. • Results of customer satisfaction surveys are reported to the local board. • The local board has a systematic process for identifying customer complaints and developing appropriate responses and corrective actions.	• Customer satisfaction survey data indicates regular collection by the local board. • Customer satisfaction survey data can be disaggregated by service, program, and category of customer, including customers with disabilities. • Customer satisfaction survey data can be disaggregated to determine whether individuals with disabilities are prevented or inhibited from participating in each program and service. • Local board meeting minutes reflect that customer satisfaction data was considered in decision-making regarding continuous improvement. • The local board has established a mechanism for customers to provide feedback outside of the routine customer feedback survey. • Receipt of customer complaints is dated, tracked, and provided the local board. • Corrective action plans addressing customer complaints are documented with plans for implementation. • Note: Any disaggregation of data must comply with all Federal, state, and local laws, regulations, and policies regarding protection of personal identifiable information (PII).		
3. Internal and external evaluation of operations: The local board's internal procedures and systems monitor operational effectiveness and identify opportunities for improvement.	• The local board has established internal mechanisms for identification of the operational efficiency and effectiveness of the one-stop delivery system and all one-stop centers. • The local board has established external mechanisms for identification of the operational efficiency and effectiveness of the one-stop delivery system and all one-stop centers.	• The local board has established policies and procedures regarding internal evaluation systems and identification and tracking of operational efficiency and effectiveness of the one-stop delivery system and all one-stop centers. • The local board has established policies and procedures regarding external evaluation systems and identification and tracking of operational efficiency and effectiveness of the		

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
		one-stop delivery system and all one-stop centers. • Local board meeting minutes reflect that internal and external evaluations of operational efficiency and effectiveness of the one-stop delivery system and all one-stop centers is considered in decision-making regarding continuous improvement efforts.		
4. Professional development for staff: The local board ensures that continual professional development for staff is available throughout the one-stop delivery system and at all one-stop centers.	• Training on new policies, procedures, or regulatory guidance is available to staff throughout the one-stop delivery system and at all one-stop centers in a timely manner. • Roles and responsibilities of one-stop delivery system and all one-stop center staff are made clear, starting with orientation and continuing throughout employment as roles and responsibilities change. • The one-stop delivery system and all one-stop centers have systems and procedures in place to assess staff skills and core competencies, as well as gaps. • One-stop delivery system and one-stop center staff demonstrate motivation to advance professional skills.	• Documentation of training provided to staff throughout the one-stop delivery system and at all one-stop centers is available and identifies staff attendance and dates of training. • Materials used during training sessions are provided to staff throughout the one-stop delivery system and at all one-stop centers following training sessions, as evidenced by training records. • A local policy manual or other guidance is current and easily accessible by staff throughout the one-stop delivery system and at all one-stop centers. • Staff orientation materials are available and describe each staff member's function and how that staff member fits into the integrated operations of the one-stop delivery system and all one-stop centers. • A method for skills-gap analysis for one-stop delivery system and at all one-stop centers staff is documented and available. • Goals and opportunities for one-stop delivery system and one-stop center staff skills development are documented. • Training documentation verifies that one-stop delivery system and one-stop center staff participated in professional development opportunities.		

Minimum requirement	Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions
5. Additional comments on continuous improvement				

V. Additional certification requirements or criteria established by the local board

If the local board has not established additional criteria, enter “not applicable.”

Minimum certification criteria	Indicator demonstrating requirement is met	Criteria met yes or no	Comments/planned corrective actions

VI. Attachments

Attach and list (below) all relevant information that substantiates outcomes the regarding one-stop delivery system assessment and one-stop center certification.

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2.3. One-stop Operator Competitive Selection

NEBRASKA
Good Life. Great Connections.
DEPARTMENT OF LABOR

americanjobcenter network

NDOL Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
One-stop Delivery System

Effective
September 8, 2025

Supersedes
One-stop Operator Competitive Selection, Change 1 (effective May 3, 2023)

One-stop Operator (OSO) Competitive Selection, Change 2

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

Local workforce development boards (local boards) must comply with the requirements of 20 CFR Part 678 Subpart D when selecting OSOs (OSOs), in addition to all other applicable Federal and State laws, rules, regulations, guidance, and policies.

CHANGES

The entirety of this policy has been reorganized and revised for clarity. Further, this policy has been simplified by removing paraphrased versions of Federal and State laws, rules, regulations, guidance, and policies and replacing those provisions with links to those laws, rules, regulations, and guidance.

ACTION

NDOL

This policy rescinds NDOL policy titled *OSO Competitive Selection, Change 1*. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must insure that their OSOs are selected in accordance with the requirements of this policy, in addition to all other applicable Federal and State laws, rules, regulations, guidance, and policies.

POLICY

This policy defines requirements for competitive selection of OSOs by local boards and has four sections.

Section I. OSO selection and other procurement requirements....2
(a) OSO competitive selection requirements....2
Section II. Eligible entities....3
(a) Local boards serving as OSOs....3
Section III. OSO responsibilities and prohibited functions....3
Section IV. Essential OSO contract elements....3

Section I. OSO selection and other procurement requirements

(a) OSO competitive selection requirements

Local boards must use competitive processes in their selection of OSOs, in accordance with the principles of competitive procurement described under 2 CFR part 200, 2 CFR Part 2900, and TEGL 15-16, as well as local area procurement policies and procedures.[1] In addition, local boards must adhere to the requirements of 29 USC § 3151(d), 20 CFR § 678.605, and TEGL 15-16 when selecting OSOs. Local boards must also adhere to requirements of this policy and the requirements defined under NDOL's policy on procurement, as well as all other applicable Federal and State laws, rules, regulations, guidance, and policies, including but not limited to the following Federal laws, rules, regulations, and guidance:

1. 29 USC § 3111(g);
2. 29 USC § 3151(d)(4)(A);
3. 29 USC § 3122(e);
4. 2 CFR part 200, and 2 CFR Part 2900, including:
    a. 2 CFR § 200.214;
    b. 2 CFR § 200.318;
    c. 2 CFR § 200.319; and
    d. 2 CFR § 200.320;
5. 20 CFR § 678.605;
6. 20 CFR § 678.610;
7. 20 CFR § 679.430; and
8. Neb. Rev. Sta. 84-1407 to 84-1414.

[1] 29 USC § 3151(d); 20 CFR § 678.605; TEGL 15-16

Section II. Eligible entities

Pursuant to 20 CFR § 678.600 and TEGL 15-16, OSOs may be single entities (public, private, or nonprofit) or consortiums of entities that, at a minimum, include three or more required one-stop partners, as described in 20 CFR § 678.400. Entities serving as OSOs are subrecipients of Federal awards and are therefore required to adhere to the requirements of 2 CFR part 200 and 2 CFR Part 2900, in addition to all other applicable Federal and State laws, rules, regulations, guidance, and policies.

(a) Local boards serving as OSOs

While the entities referenced in 20 CFR § 678.600 are eligible to serve as OSOs, eligibility to be a OSO in a specific local area is affected by the nature of the procurement process, particularly as it relates to conflict of interest and avoiding "less-than arms-length" relationships.[2]

Local boards may compete for and be selected as OSOs, as long as appropriate firewalls and conflict of interest policies and procedures are in place and conform to the specifications of 20 CFR § 679.430 concerning internal controls and conflicts of interest. In situations where outcomes of OSO competitive selection processes are determined by local boards, when the local boards are competing as potential OSOs, the Governor and applicable local CEOs must agree to the selection of local boards as OSOs, as required by 29 USC § 3122(g)(2).

Section III. OSO responsibilities and prohibited functions

The role of OSOs must be clearly documented in all phases of the OSO procurement process and in legally binding agreements between local boards and their OSOs.[3] Local boards must ensure that OSOs, in fulfillment of their role, comply with requirements established under 20 CFR Part 678 Subpart D and TEGL 15-16, including requirements concerning prohibited functions of OSOs.

Section IV. Essential OSO contract elements

Written agreements between OSOs and local boards must include essential elements of legally executed and binding written agreements including the essential OSO contract elements, as described in TEGL 15-16.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

[2] 20 CFR § 678.615(a); TEGL 15-16
[3] 20 CFR § 678.620; TEGL 15-16

2.4. Priority of Service

NEBRASKA
Good Life. Great Connections.
DEPARTMENT OF LABOR

americanjobcenter network

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

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Policy category
One-stop Delivery System

Effective
May 14, 2024

Supersedes
Priority of Service, Change 2
(effective May 3, 2023)

Priority of Service, Change 3

WIOA Title IB Adult, Dislocated Worker, and Youth Programs (Title I)
WIOA Title III Wagner-Peyser Employment Service (Wagner-Peyser)
Jobs for Veterans State Grant program (JVSG)
National Dislocated Worker Grant programs (NDWG)
Senior Community Service Employment Program (SCSEP)
Trade Adjustment Assistance program (TAA)

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Federal laws, rules, regulations, and guidance require that certain individuals receive priority of service under Title I, Wagner-Peyser, JVSG, NDWG, SCSEP, and TAA.

CHANGES

The following material changes are implemented under this policy.

- Section I(a), general definitions relating to priority of service, has been removed to eliminate confusion in relation to definitions in program-specific sections. Applicable definitions remain in program-specific sections.

- Sections II(b)(1), (2), and (3) concerning Title I adult priority of service have been revised for clarity.

- Section II(c) now includes clarifying language relating to the definition of *military spouse* in the context of dislocated worker priority of service.

- Section II(d) now includes clarifying provisions relating to *covered persons*, *Veterans*, and *eligible spouses* in the context of youth priority of service.

- Section VI(a)(1) now includes clarifying language relating to the definition of *military spouse* in the context of SCSEP priority of service.

ACTION

This policy supersedes and cancels Priority of Service, Change 2. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

NDOL policies referenced within this policy are included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies. *State policy manual* refers to the policy manual created and maintained by the NDOL Reemployment Services State Policy Unit.

(a) Title I programs

Each local board must establish new or review and update existing policies and procedures concerning implementation, oversight, and monitoring of priority of service for Title I, as required under Sections II, and VIII(a).

(b) NDOL-administered programs

NDOL Administrators of Wagner-Peyser, JVSG, NDWG, SCSEP, and TAA must establish procedures concerning implementation, oversight, and monitoring of priority of service for their respective programs, as required under Sections III through VIII, as applicable.

POLICY

This policy establishes priority of service requirements for Title I, Wagner-Peyser, JVSG, NWDG, SCSEP, and TAA.

This policy has eight sections.

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Section I. Priority of service

(a) What is priority of service?

20 CFR Part 1010 contains USDOL regulations that mandate priority of service for covered persons. Priority of service for covered persons is authorized by 38 USC § 4215. As defined in 38 USC § 4215(a), priority of service means covered persons must be given priority over non-covered persons concerning receipt of employment, training, and placement services provided under qualified job training programs. Providing priority of service to Veterans and other covered persons in qualified job training programs means that Veterans and other covered persons have the right to take precedence over non-covered persons when obtaining services. Depending on the type of service or resource being provided, taking precedence means:

- covered persons receive access to the service or resource earlier in time than non-covered persons; or
- if the service or resource is limited, covered persons receive access to the service or resource instead of or before non-covered persons.

(b) Which programs are covered?

Priority of service applies to every qualified job training program funded in whole or in part by Federal funds, and includes any program or service:[1]

- that uses technology to assist individuals to access workforce development programs, such as job and training opportunities, labor market information, career assessment tools, and related supportive services; and

- provided under the public employment service system (Wagner-Peyser), through one-stop centers, through demonstration or other temporary programs, by workforce development programs targeted to specific groups, and programs implemented by states or local service providers based on Federal block grants administered by USDOL.

Implementation of priority of service does not change the intended function of a program or service. Covered persons must still meet all statutory eligibility and program requirements for participation in order to receive priority for a program or service.

(c) How must recipients and subrecipients implement priority of service?

Agreement to implement priority of service is a condition for receipt of all Federally funded job training program funds, as described in 20 CFR Part 1010 and applicable USDOL guidance and this policy.[2] All recipients are required to ensure that priority of service is applied by their subrecipients.[3] All program activities must be administered in compliance with Federal priority of service requirements,[4] including program activities obtained through requests for proposals, solicitations for grant awards, subgrants, contracts, subcontracts, memorandums of understanding, or other service provision agreements *that are issued or executed by operators of qualified job training programs*. **Priority of service requirements cannot be waived**.[5]

(d) Which processes must be implemented to identify covered persons?[6]

Recipients and subrecipients of Federal funding for qualified job training programs must implement processes for identifying covered persons in order to provide them with timely and useful information on priority of service at the point of entry,[7] whether in person or virtually. Processes for identifying covered persons at the point of entry must be designed to:

- permit individuals to make their covered person status known;

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[1] 20 CFR § 1010.210
[2] 20 CFR § 1010.220(a)
[3] 20 CFR § 1010.220(b)
[4] Ibid.
[5] 20 CFR § 1010.250
[6] 20 CFR § 1010.330
[7] *Point of entry* means an individual's entry into Nebraska's one-stop delivery system and may include reception a one-stop center, application processes for specific programs, or through any other methods by which covered persons express an interest in receiving services, whether in person or virtually [20 CFR § 1010.330].

- permit qualified job training programs specified in 20 CFR § 1010.330(a)(2)[8] to initiate data collection for covered entrants;
- allow covered persons to take full advantage of priority of service; and
- make covered persons aware of:
    - their entitlement to priority of service;
    - the full array of employment, training, and placement services available through priority of service; and
    - any applicable eligibility requirements for those programs and services.

Processes for identifying covered persons are not required to include verification of status of an individual as a Veteran or eligible spouse at the point of entry *unless* individuals immediately undergo eligibility determination for and enrollment in programs.

(e) How is priority of service to be applied?

Recipients and subrecipients of for qualified job training programs must implement processes, in accordance with 20 CFR § 1010.300, for identifying covered persons at the point of entry, whether in person or virtually, so covered persons can be notified of eligibility for priority of service.[9] Because qualified job training programs may offer various types of services (staff-assisted, self-service, and informational), recipients and subrecipients also must ensure that priority of service is implemented throughout the full array of services provided to covered persons by qualified job training programs. Three categories of qualified job training programs affect the application of priority of service:

- universal access programs;
- discretionary targeting programs; and
- statutory targeting programs.

To obtain priority, covered persons must meet the statutory eligibility requirements applicable to specific qualified job training programs from which services are sought. For qualified job training programs that also have discretionary or statutory priorities or preferences pursuant to Federal statute or regulation, recipients and subrecipients must provide priority of service while applying other priorities, as described below in paragraphs 2 and 3.

1. *Universal access programs*[10] deliver services to the public as a whole and do not target specific groups. Universal access programs are required to provide priority of service to covered persons.

[8] Note that 20 CFR § 1010.330(a)(2) refers programs that were covered under the Workforce Investment Act of 1998, which was superseded by WIOA. However, 20 CFR § 1010.330(a)(2) is still in effect in relation to WIOA.
[9] 20 CFR § 1010.310
[10] Wagner-Peyser is a universal access program.

2. *Discretionary targeting programs*[11] focus on particular groups or make efforts to provide a certain level of service to favored groups but do not specifically mandate that favored groups be served before other eligible individuals. Priority of service applies whether these provisions are found in Federal statute or regulation. Covered persons must receive highest priority for the program or service and non-covered persons within the discretionary targeting group receive priority over non-covered persons that fall outside the discretionary targeting group.

3. *Statutory targeting programs*[12] are programs derived from Federal statutory mandates that require priority or preference for particular groups of individuals *or* require spending a certain portion of program funds on particular groups of persons receiving services. These are mandatory priorities and recipients and subrecipients must determine individuals' covered person status and apply priority of service as follows.

    a. Covered persons who meet programmatic mandatory priorities, including program eligibility or spending requirements or limitations, must receive the highest priority for the program or service.

    b. Non-covered persons who meet programmatic mandatory priorities, including program eligibility or spending requirements or limitations, must receive priority for programs or services over covered persons that fall outside programmatic mandatory priorities or spending requirements or limitations.

    c. Covered persons outside the programmatic mandatory priority or spending requirements or limitations must receive priority for programs or services over non-covered persons that fall outside programmatic mandatory priorities or spending requirements or limitations.

(f) What are the responsibilities of recipients and subrecipients pertaining to collection, maintenance, and reporting of data pertaining to covered and non-covered persons?[13]

All recipients and subrecipients of Federal funds for qualified job training programs must collect, maintain, and report data relating to the provision of priority of service, in formats as the Secretary of Labor may require and as described below. NDOL tracks implementation of priority of service in NEworks for Title I and NDOL-administered programs (excluding SCSEP[14]) and reports priority-of-serve data to USDOL.

1. Recipients and subrecipients of funding for qualified job training programs must collect, maintain, and report individual record data for:

    a. covered entrants from the point of entry;

    b. covered persons and non-covered persons who receive services, including individual record data for qualified job training programs that require establishment

[11] NDWG may be a discretionary targeting program, depending on the conditions of the grant award.
[12] Title I, JVSG, SCSEP, and TAA are statutory targeting programs. NDWG may also be a statutory targeting program, depending on the conditions of the applicable grant award.
[13] 20 CFR § 1010.320
[14] SCSEP currently uses a separate management information system.

and submission of individual records for persons receiving services, which must include, but are not limited to:

i. covered person and non-covered person status for all individuals receiving services;

ii. types of services provided to covered persons and non-covered persons;

iii. dates that services were received by covered persons and non-covered persons; and

iv. employment outcomes experienced by covered persons and non-covered persons receiving services.

2. Recipients and subrecipients must apply the definitions set forth in 20 CFR § 1010.110 to distinguish:

   a. covered persons from non-covered persons receiving services; and

   b. Veterans from eligible spouses within the covered persons group.

All information must be collected, maintained, and managed in a manner that ensures confidentiality and protection of all PII.[15]

Section II. Title I programs

(a) Definitions specific to Title I

The following definitions are specific to Title I programs concerning priority of service.

(1) Active duty

Active duty means full-time duty in the active military service of the United States.[16] Active duty includes full-time training duty, annual training duty, and attendance while in the active military service at a school designated as a service school by law or by the Secretary of the military department concerned. Active duty does not include full-time National Guard duty.[17]

(2) Active military, naval, air, or space service

Active military, naval, air, or space service includes:[18]

- active duty;

[15] 20 CFR § 1010.330(d)
[16] 10 USC § 101(d)(1)
[17] Ibid.
[18] 38 USC § 101(24); 38 CFR § 17.31

- any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty;
- any period of inactive duty training during which the individual concerned was disabled or died:
    - from an injury incurred or aggravated in line of duty; or
    - from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training;
- full-time duty in the National Guard or a Reserve component.

Active military, naval, air, or space service does not include full-time duty for training purposes, meaning training that is often referred to as "weekend" or "annual" training for National Guard or a Reserve components.[19]

(3) Basic skills deficient

An individual who is basic skills deficient is:[20]

- a youth who has English reading or writing skills or computing skills at or below the 8th grade level based on a generally accepted standardized test; or
- a youth or adult who 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.

(4) Covered entrant

Covered entrant means covered persons at the point of entry and includes two subgroups: Veterans and eligible spouses.[21]

(5) Covered person

Covered person means a Veteran or eligible spouse.[22]

(6) Eligible spouse

Eligible spouse, as defined in 38 USC § 4215(a), means the spouse of any of the following:[23]

- any Veteran who died of a service-connected disability;

[19] 20 CFR § 1010.110
[20] WIOA Sec. 3(5)
[21] 20 CFR § 1010.330(a)(3)
[22] 20 CFR § 1010.110
[23] Ibid.

- any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
    - missing in action;
    - captured in line of duty by a hostile force; or
    - forcibly detained or interned in the line of duty by a foreign government or power;
- any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the US Department of Veterans Affairs (USDVA); or
- any Veteran who died while a total disability resulting from a service-connected disability was in existence, as evaluated by USDVA.

An eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* would lose their eligibility if the Veteran or military service member were to lose the status that is the basis for eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level).[24] Similarly, an eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* the eligible spouse's eligibility would be lost upon divorce from the Veteran or military service member.[25]

(7) Low-income individual

A low-income individual is one who meets one or more of the criteria described in Table 1.[26]

Table 1. Criteria for determining an individual is low-income

Low-income criteria
1. The individual currently receives or is a member of a family currently receiving assistance through: a. Supplemental Nutrition Assistance Program; b. Temporary Assistance for Needy Families Program; c. Supplemental Security Income through the Social Security Administration; or d. state or local income-based public assistance.
2. In the past 6 months, the individual has received or is a member of a family that has received assistance through: a. Supplemental Nutrition Assistance Program; b. Temporary Assistance for Needy Families Program; c. Supplemental Security Income through the Social Security Administration; or d. state or local income-based public assistance.
3. The individual is in a family whose total family income does not exceed the higher of:[27] a. the current Federally established poverty line; or b. 70 percent of the Federally established lower living standard income level (LLSIL).

[24] TEGL 07-09
[25] Ibid.
[26] WIOA Sec. 3(36)
[27] LLSIL means an income level determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary. NDOL's current notice on income guidelines provides information on the current LLSIL, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Notices.

Low-income criteria
4. The individual is a homeless individual who:[28] a. lacks a fixed, regular, and adequate nighttime residence; and is i. sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; ii. living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations; iii. living in an emergency or transitional shelter; or iv. awaiting foster care placement; b. has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; c. is a migratory youth who is living in circumstances described in Sections 4.a. and 4.b. of this table; d. lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or training stations, or similar settings; or e. is a runaway.
5. The individual receives or is eligible to receive a free or reduced-price lunch under the Richard B. Russell National School Lunch Act, unless the individual is a recipient of a secondary school diploma or its recognized equivalent.
6. The individual is a foster child on behalf of whom state or local government payments are made.
7. The individual is a person with a disability whose income meets the income requirement of Sections 3.a. or 3.b. of this table.

(8) Military spouse

For purposes of dislocated worker program priority of service, military spouse means:[29]

- an individual who is married to an active-duty service member, including National Guard or Reserve personnel on active duty; or

- a surviving spouse of an active-duty service member who lost their life while on active-duty service in Afghanistan, Iraq or other combat-related areas.

Policy clarifications provided in Sections II(c)(1) and II(c)(2) below also apply.[30]

(9) Non-covered person

Non-covered person means any individual who does not meet the definition of Veteran or eligible spouse.[31]

(10) Qualified job training program

Qualified job training program means any program or service for workforce preparation, development, or delivery that is Federally funded, in whole or in part.[32]

[28] 42 USC § 12473(6); 42 USC § 11434a(2)
[29] TEGL 22-04
[30] Ibid.
[31] 20 CFR § 1010.110
[32] Ibid.

(11) Separating military service member

Separating military service member means an individual that has been or will be discharged under honorable conditions, either voluntarily or involuntarily.[33]

(12) Service-connected disability

Service-connected disability means with respect to disability or death that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in Active military, naval, air, or space service.[34]

(13) Veteran[35]

Veteran means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable, as specified in 38 USC § 101(2). Active military, naval, air, or space service includes full-time duty in the National Guard or a Reserve component, except for full-time duty for training purposes (commonly referred to "weekend" or "annual" training).

(b) Title I adult priority of service

(1) Implementation requirement

Title I adult programs must prioritize delivery of *individualized career services and training services* to Veterans, eligible spouses, and certain non-covered persons.[36]

(2) 75-percent requirement

Local boards must ensure that **at least 75 percent** of adult participants receiving individualized career and training services in Title I adult programs are from at least one of the three adult priority groups (recipients of public assistance; low-income individuals; or individuals who are basic skills deficient, including English Language Learners), in addition to implementing overlying priority of service requirements for Veterans and eligible spouses as they relate to adult program priority of service requirements.[37] **Any local Title I adult program that fails to meet the 75-percent requirement described above is subject to mandatory technical assistance**.

(3) Order of priority

Priority of service for individualized career services and training services under Title I adult programs must be implemented in the following order:[38]

1. Veterans and eligible spouses who are:

    a. recipients of public assistance;

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[33] TEGL 22-04
[34] 38 CFR § 3.1
[35] 20 CFR § 1010.110; 38 USC § 101(2)
[36] WIOA Sec. 134(c)(3)(E); 20 CFR Part 1010; 20 CFR § 680.600(a); 38 USC § 4215
[37] TEGL 07-20
[38] WIOA Sec. 134(c)(3)(E); 20 CFR §§ 680.600 and 680.650; TEGLs 10-09, 19-16, and 07-20; VPL 07-09

   b. low-income individuals; or

   c. basic-skills deficient;

2. non-covered persons who are:

   a. recipients of public assistance;

   b. low-income individuals; or

   c. basic-skills deficient

3. Veterans and eligible spouses who are not:

   a. recipients of public assistance;

   b. low-income individuals; or

   c. basic-skills deficient

4. priority populations established by the local board, consistent with subsection (3) below;

5. non-covered persons who are not:

   a. recipients of public assistance;

   b. low-income individuals; or

   c. basic-skills deficient.

(4) Excluded income and benefits when determining low-income individual status for Veterans and eligible spouses

As indicated in 20 CFR § 683.230, when past income is an eligibility determinant for qualified job training programs, any amounts received as military pay or allowances by persons who served on active duty and certain other specified benefits described below must be disregarded for Veterans and eligible spouses for whom those amounts would normally be otherwise applied when making eligibility determinations. This exclusion applies when determining status as a low-income individual for eligibility purposes. This exclusion specifically applies when income is used as a factor when Title I adult programs provide priority of service for low-income individuals.[39] Regardless of this exclusion, Veterans and eligible spouses must still meet adult program eligibility criteria to receive priority services under the program.

[39] 20 CFR §§ 680.600 and 680.650

(i) Determining low-income individual status

When determining status as low-income individuals for Veterans and eligible spouses, the following income and benefits must be disregarded:[40]

- any amounts received as military pay or allowances by any person while serving on active duty;
- any amounts received by separating military service members;
- any amounts received by a Veteran under the following chapters of Title 38 of the US Code:
    - Chapter 11, Compensation for Service-Connected Disability or Death;
    - Chapter 13, Dependency and Indemnity Compensation for Service-Connected Deaths;
    - Chapter 30, All-Volunteer Force Education Assistance Program;
    - Chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities;
    - Chapter 32, Post-Vietnam Era Veterans' Educational Assistance; and
    - Chapter 36, Administration of Educational Benefits;
- any amounts received by Veterans or eligible spouses under 10 USC Chapter 106, Educational Assistance for Members of the Selected Reserve.

(5) Local priority populations[41]

Local boards may establish policies and processes that give priority to other individuals eligible to receive Title I individualized career services and training services, provided that the policies and processes are consistent with priority of service requirements for Veterans and eligible spouses as required under 20 CFR § 680.650 and the priority provisions of WIOA Sec. 134(c)(3)(E), 20 CFR § 680.600, 20 CFR § 683.230, and this policy. Priority of service for locally established priority populations *does not* override statutory priorities for Title I adult, Veteran, and eligible spouse priority populations.

(c) Title I dislocated worker priority of service requirements

(1) Implementation requirement

Title I dislocated worker programs must prioritize delivery of *basic* and *individualized* career services and *training* services to dislocated worker program participants who are Veterans and military spouses.[42]

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[40] 38 USC § 4213; TEGL 19-16
[41] TEGL 19-16
[42] 20 CFR Part 1010; 38 USC § 4215

(2) Order of priority

Individuals who meet dislocated worker program eligibility criteria defined in NDOL's program eligibility policy *and* are Veterans or military spouses must be given priority over dislocated workers who are not Veterans or military spouses.[43]

- Military spouses are individuals who are married to active duty service members, including National Guard or Reserve personnel on active duty.

- Surviving spouses of active duty service members who lost their lives while on active duty service in Afghanistan, Iraq or other combat-related areas are military spouses.[44]

(3) Policy clarification on separating military service members

A basic requirement to qualify as a Title I dislocated worker is that a worker be terminated or laid-off. It is USDOL policy that being discharged under honorable conditions, either voluntarily or involuntarily, terminates an employment relationship between the military service member and the military and, therefore, meets *termination* criterion for the dislocated worker program.[45] The separating military service member must also satisfy other criteria for dislocated worker program eligibility, including the *unlikely to return to a previous industry or occupation* criterion. Additionally, under the priority of service provisions of the Jobs for Veterans Act, separating military service members who upon discharge meet eligibility criteria for dislocated worker programs are afforded priority over individuals who are not Veterans.

(6) Policy clarification on military spouses

(i) Cessation of employment[46]

When military spouses are unable to continue employment relationships because of their military service members' permanent change of military station *or* military spouses lose employment as a result of military service members' discharge from the military, that cessation of employment meets the *termination* criterion for the dislocated worker program.

Military spouse cessation of employment due to their military service members' permanent change of military station or discharge also meets the *unlikely to return to a previous industry or occupation* criterion. This criterion recognizes the breadth of job types and considers whether the individual is likely to return to either their prior industry or (not and) occupation. In other words, the standard for determining the likelihood of return is not absolute. Instead, it is a matter of judgment based on relevant circumstances. In the majority of cases, the circumstances in which military spouses are required to leave jobs or occupations as a result of military service member transfers do not position military spouses for immediate return to previous industries or occupations, particularly at the same level for one or more of following reasons.

1. Military spouses are generally not resuming employment with the same employer.

[43] TEGL 22-04
[44] TEGL 22-04
[45] TEGL 22-04
[46] TEGLs 22-04 and 22-04 Change 1

2. Even if a military spouse resumes employment with the same employer, that employment is in a new location; and jobs/occupations will generally not be the same structurally or organizationally in the new location as in the prior location.

3. When military spouses do get jobs in their new locations, it is likely, as new employees, that they will start at lower levels of seniority than the levels of their positions in their prior locations.

4. There is frequently a gap in employment as military spouses make the move and search for new employment, which may lessen their likelihood of returning to the same level of job type or occupation.

5. Skills of military spouses may be obsolete or inadequate compared to advancing competency needs of the current workforce and economy.

6. Industries in which military spouses have prior work experience may be in decline in regions to which they may relocate.

7. There may be an excess in the number of workers with similar skill sets and experience to that of military spouses who are seeking limited employment opportunities in regions to which they have relocated.

Based upon the totality of these circumstances, it is reasonable to conclude that in the vast majority of cases, military spouses impacted by military service members' duty reassignment or discharge meet the *unlikely to return to a previous industry or occupation* criterion and may, therefore, be served as dislocated workers. **Military spouses who meet eligibility criteria for Title I dislocated worker programs must receive priority over non-covered persons**.

(ii) Displaced homemakers[47]

Military spouses may qualify to be served as dislocated workers if they meet definitional requirements for displaced homemaker.[48]

If surviving spouses of Veterans or military service members qualify generally as dislocated workers or as a displaced homemakers, they may be served under dislocated worker programs. If surviving spouses do not meet those requirements, they may be served under Title I adult programs. Under either program, surviving spouses of Veterans must receive priority of service over non-covered persons if they qualify for priority as eligible spouses.

(d) Title I youth priority of service

(1) Implementation requirement

Title I youth programs must prioritize delivery of youth program elements to Veterans, eligible spouses, and certain non-covered persons.[49]

[47] TEGL 22-04. The State's policy on program eligibility includes information on displaced homemakers and the dislocated worker program and is included in the State policy manual.
[48] Refer to the State' program eligibility policy for clarification on displaced homemaker eligibility requirements.
[49] WIOA Sec. 134(c)(3)(E); 20 CFR Part 1010; 20 CFR § 680.600(a); 38 USC § 4215

(2) Order of priority

As stated in NDOL's Title I program eligibility policy, all youth program participants must meet certain program eligibility requirements. There are priority of service requirements that apply to youth programs. The youth program eligibility criterion that applies equally to in-school youth (ISY) and out-of-school youth (OSY) is that they must be low-income individuals.[50] There is, however, an exception to this rule.

1. Up to five percent of all youth program participants, ISY and OSY combined, who ordinarily would be required to be low-income for eligibility purposes, are not required to meet the low-income requirement for eligibility, provided they meet all other eligibility requirements,[51] subject to the additional assistance limitation for ISY.[52]

2. For ISY only, not more than five percent of individuals may be eligible as ISY based solely on a need for additional assistance to complete an educational program or to secure or hold employment.[53]

Section III. Wagner-Peyser

(a) Definitions specific to Wagner-Peyser

The following definitions are specific to Wagner-Peyser concerning priority of service.

(1) Active duty

Active duty means full-time duty in the active military service of the United States.[54] Active duty includes full-time training duty, annual training duty, and attendance while in the active military service at a school designated as a service school by law or by the Secretary of the military department concerned.

(2) Eligible spouse

Eligible spouse, as defined in 38 USC § 4215(a), means the spouse of any of the following:[55]

- any Veteran who died of a service-connected disability;

- any member of the Armed Forces serving on active duty who, at the time of application for priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:

[50] 20 CFR §§ 680.110(c), 681.210(a) – (b); and 681.220(a) – (c)
[51] 20 CFR § 681.250(c); TEGL 21-16. Refer to the State's program eligibility policy for information on calculations for the low-income exception.
[52] The State's policy on program eligibility provides information on the ISY additional assistance limitation and is included in the State policy manual.
[53] 20 CFR § 681.310(b)
[54] 10 USC § 101(d)(1)
[55] 20 CFR § 1010.110

  - missing in action;
  - captured in line of duty by a hostile force; or
  - forcibly detained or interned in the line of duty by a foreign government or power;

- any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the US Department of Veterans Affairs (USDVA);
- any Veteran who died while a total disability resulting from a service-connected disability was in existence, as evaluated by USDVA.

An eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* would lose their eligibility if the Veteran or military service member were to lose the status that is the basis for eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level).[56] Similarly, an eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* the eligible spouse's eligibility would be lost upon divorce from the Veteran or military service member.[57]

(3) Non-covered person

Non-covered person means any individual who does not meet the definition of Veteran or eligible spouse.[58]

(4) Service-connected disability

Service-connected disability means with respect to disability or death that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in active military, naval, air, or space service.[59]

(5) Veteran

Veteran means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable, as specified in 38 USC § 101(2).[60]

(b) Implementation requirement

Wagner-Peyser must prioritize delivery of career services to Veterans and eligible spouses over non-covered persons.[61]

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[56] TEGL 07-09
[57] Ibid.
[58] 20 CFR § 1010.110
[59] 38 CFR § 3.1
[60] 20 CFR § 1010.110; 38 USC § 101(2)
[61] TEGL 10-09; VPL 07-09

Section IV. JVSG

(a) Definitions

The following definitions are specific to JVSG concerning priority of service.

(1) Active duty

Active duty means full-time duty in the active military service of the United States.[62] Active duty includes full-time training duty, annual training duty, and attendance while in the active military service at a school designated as a service school by law or by the Secretary of the military department concerned. Active duty does not include full-time National Guard duty.[63]

(2) Active military, naval, air, or space service

Active military, naval, air, or space service includes:[64]

- active duty;
- any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty;
- any period of inactive duty training during which the individual concerned was disabled or died:
    - from an injury incurred or aggravated in line of duty; or
    - from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training;
- full-time duty in the National Guard or a Reserve component.

Active military, naval, air, or space service does not include full-time duty for training purposes, which is often referred to as “weekend” or “annual” training.[65]

(3) Covered person

Covered person means an eligible Veteran or eligible spouse.[66]

[62] 10 USC § 101(d)(1)
[63] Ibid.
[64] 38 USC § 101(24); 38 CFR § 17.31
[65] 20 CFR § 1010.110
[66] VPL 07-09

(4) Disabled Veteran

Disabled Veteran means:[67]

- a Veteran who is entitled to compensation or, who but for the receipt of military retired pay, would be entitled to compensation under laws administered by the Secretary of the military department concerned; or
- a person who was discharged or released from active duty because of a service-connected disability.

(5) Eligible spouse

Eligible spouse, as defined in 38 USC § 4215(a), means the spouse of any of the following:[68]

- any Veteran who died of a service-connected disability;
- any member of the Armed Forces serving on active duty who, at the time of application for priority of service, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
    - missing in action;
    - captured in line of duty by a hostile force; or
    - forcibly detained or interned in the line of duty by a foreign government or power;
- any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the US Department of Veterans Affairs (USDVA);
- any Veteran who died while a total disability resulting from a service-connected disability was in existence, as evaluated by USDVA.

An eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* would lose their eligibility if the Veteran or military service member were to lose the status that is the basis for eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level).[69] Similarly, an eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* the eligible spouse's eligibility would be lost upon divorce from the Veteran or military service member.[70]

(6) Veteran

Veteran means a person who served at least one day in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable,

[67] 38 USC § 4211(3)
[68] 20 CFR § 1010.110
[69] TEGL 07-09
[70] Ibid.

as specified in 38 USC § 101(2).[71] Active military, naval, air, or space service includes full-time duty in the National Guard or a Reserve component, other than full-time duty for training purposes. Active services does not include:[72]

- full-time duty performed strictly for training purposes (i.e., that which often is referred to as "weekend" or "annual" training); or
- full-time active duty performed by National Guard personnel who are mobilized by state rather than Federal authorities.

(7) Homeless

For purposes of JVSG, an individual is homeless when they meet one or more of the criteria described in Table 2.[73]

Table 2. Criteria for determining an individual is homeless

Homeless criteria
1. an individual or family who lacks a fixed, regular, and adequate nighttime residence;
2. an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
3. an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements, including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing;
4. an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where they temporarily resided;
5. an individual or family who: a. will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by: i. a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days; ii. the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or iii. credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause; and b. has no subsequent residence identified; and c. lacks the resources or support networks needed to obtain other permanent housing;
6. unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who: a. have experienced a long-term period without living independently in permanent housing; b. have experienced persistent instability as measured by frequent moves over such period; and c. can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

[71] 20 CFR § 1010.110; 38 USC § 101(2)
[72] VPL 07-09
[73] 42 USC 11302(a); VPL 03-14 Change 2

Homeless criteria
7. Any individual or family who: a. is experiencing trauma or a lack of safety related to, or fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against the individual or a family member in the individual's or family's current housing situation, including where the health and safety of children are jeopardized; b. has no other safe residence; and c. lacks the resources to obtain other safe permanent housing.

(8) Low-income individual

A low-income individual is one who meets one or more of the criteria described in Table 3.[74]

Table 3. Criteria for determining an individual is low-income

Low-income criteria
1. The individual currently receives or is a member of a family currently receiving assistance through: a. Supplemental Nutrition Assistance Program; b. Temporary Assistance for Needy Families Program; c. Supplemental Security Income through the Social Security Administration; or d. state or local income-based public assistance.
2. In the past 6 months, the individual has received or is a member of a family that has received assistance through: a. Supplemental Nutrition Assistance Program; b. Temporary Assistance for Needy Families Program; c. Supplemental Security Income through the Social Security Administration; or d. state or local income-based public assistance.
3. The individual is in a family whose total family income does not exceed the higher of:[75] a. the current Federally established poverty line; or b. 70 percent of the Federally established lower living standard income level (LLSIL).
4. The individual is a homeless individual who: [76] a. lacks a fixed, regular, and adequate nighttime residence; and is i. sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; ii. living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations; iii. living in an emergency or transitional shelter; or iv. awaiting foster care placement; b. has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; c. is a migratory youth who is living in circumstances described in Sections 4.a. and 4.b. of this table; d. lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or training stations, or similar settings; or e. is a runaway.
5. The individual receives or is eligible to receive a free or reduced-price lunch under the Richard B. Russell National School Lunch Act, unless the individual is a recipient of a secondary school diploma or its recognized equivalent.
6. The individual is a foster child on behalf of whom state or local government payments are made.

[74] WIOA Sec. 3(36)
[75] The term ''lower living standard income level'' (LLSIL) means the income level determined annually by the Secretary of Labor based on the most recent lower living family budget issued by the Secretary. Refer to NDOL's current notice on income guidelines for information on the current LLSIL.
[76] 42 USC § 12473(6); 42 USC § 11434a(2)

Low-income criteria
7. The individual is a person with a disability whose income meets the income requirement of Sections 3.a. or 3.b. of this table.

(9) Offender

Offender means an adult or juvenile who:[77]

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

(10) Service-connected disability

Service-connected disability means with respect to disability or death that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in active military, naval, air, or space service.[78]

(11) Significant barrier to employment

An eligible Veteran or eligible spouse is determined to have a significant barrier to employment (SBE) if they attest to having one or more of the following characteristics:[79]

- a special disabled Veteran or disabled Veteran;
- homeless;
- a recently separated service member who at any point in the previous 12 months has been unemployed for 27 or more weeks in the previous 12 months;
- an offender who is currently incarcerated or who has been released from incarceration within the last 12 months;
- lacking a high school diploma or its equivalent; or
- low-income (a low-income individual).

[77] WIOA Sec. 3(38)
[78] 38 CFR § 3.1
[79] TEGL 19-13; VPLs 03-14, 03-14 Change 1, and 03-14 Change 2

(12) Special disabled Veteran

Special disabled Veteran means a Veteran who is entitled to compensation or who, but for the receipt of military retired pay, would be entitled to compensation under laws administered by the Secretary of the military department concerned for a disability rated at:[80]

- 30 percent or more;
- 10 or 20 percent in the case of a Veteran who has been determined under 38 USC § 3106 to have a serious employment handicap; or
- a person who was discharged or released from active duty because of service-connected disability.

(b) Implementation requirement

As described under VPL 07-09 and TEGL 10-09, priority of service must be provided to covered persons. This means Veterans and eligible spouses (included in the definition of covered persons) are eligible for priority of service under JVSG, as described below.

- Disabled Veterans Outreach Program (DVOP) Specialists must provide career services to eligible Veterans and eligible spouses. DVOP Specialists must prioritize service delivery to:[81]
    - special disabled Veterans;
    - other disabled Veterans; and
    - other eligible Veterans, in accordance with priorities determined by the Secretary, taking into account applicable rates of unemployment and the employment emphases set forth in 38 USC Chapter 42.
- DVOP Specialists must limit their service-delivery activities to providing services to eligible Veterans and eligible spouses who meet the definition of an individual with a significant barrier to employment (SBE), as defined in VPL 03-14 and VPL 03-14 Change 2.
- Under JVSG, maximum emphasis in meeting the employment needs of Veterans must be placed on assisting economically or educationally disadvantaged Veterans.

(c) Excluded income and benefits when determining low-income individual status for Veterans and eligible spouses

When past income is an eligibility determinant for qualified job training programs, any amounts received as military pay or allowances by any person who served on active duty and certain other specified benefits described below must be disregarded for Veterans and eligible spouses for whom those amounts would normally be applied when making eligibility determinations.. This exclusion applies when determining status as a low-income individual for eligibility purposes.

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[80] 38 USC § 4211(1)
[81] VPL 07-10

When determining low-income individual status for Veterans and eligible spouses, the following forms of income and benefits must be disregarded:[82]

- any amounts received as military pay or allowances by any person while serving on active duty;
- any amounts received by transitioning service members (service members leaving active duty);
- any amounts received by a Veteran under the following chapters of Title 38 of the US Code:
    - Chapter 11, Compensation for Service-Connected Disability or Death;
    - Chapter 13, Dependency and Indemnity Compensation for Service-Connected Deaths;
    - Chapter 30, All-Volunteer Force Education Assistance Program;
    - Chapter 31, Training and Rehabilitation for Veterans with Service-Connected Disabilities;
    - Chapter 32, Post-Vietnam Era Veterans' Educational Assistance; and
    - Chapter 36, Administration of Educational Benefits;
- any amounts received by a Veteran or eligible spouse under 10 USC Chapter 106, Educational Assistance for Members of the Selected Reserve.

Section V. NDWG

(a) Definitions

The following definitions are specific to NDWG concerning priority of service.

(1) Covered person

Covered person means a Veteran or eligible spouse.[83]

(2) Eligible spouse

Eligible spouse, as defined in 38 USC § 4215(a), means the spouse of any of the following:[84]

- any Veteran who died of a service-connected disability;

[82] 38 USC § 4213; TEGL 19-16
[83] 20 CFR § 1010.110
[84] 20 CFR § 1010.110

- any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
    - missing in action;
    - captured in line of duty by a hostile force; or
    - forcibly detained or interned in the line of duty by a foreign government or power;
- any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the US Department of Veterans Affairs (USDVA);
- any Veteran who died while a total disability resulting from a service-connected disability was in existence, as evaluated by USDVA.

An eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* would lose their eligibility if the Veteran or military service member were to lose the status that is the basis for eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level).[85] Similarly, an eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* the eligible spouse's eligibility would be lost upon divorce from the Veteran or military service member.[86]

(3) Veteran

Veteran means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable, as specified in 38 USC § 101(2).[87]

(b) Implementation requirement

NDWG programs are qualified job training programs. For that reason, priority of service must be implemented under NDWG for covered persons who meet eligibility requirements described in WIOA Sec. 170 (b)(1)(A) and the conditions of the NDWG grant award, which are described in the project manual applicable to the NDWG.

[85] TEGL 07-09
[86] Ibid.
[87] 20 CFR § 1010.110; 38 USC § 101(2)

Section VI. SCSEP

(a) Definitions

The following definitions are specific to SCSEP concerning priority of service.

(1) Eligible spouse

Eligible spouse, as defined in 38 USC § 4215(a), means the spouse of any of the following:[88]

- any Veteran who died of a service-connected disability;
- any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
    - missing in action;
    - captured in line of duty by a hostile force; or
    - forcibly detained or interned in the line of duty by a foreign government or power;
- any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the US Department of Veterans Affairs (USDVA);
- any Veteran who died while a total disability resulting from a service-connected disability was in existence, as evaluated by USDVA.

Eligible spouses whose eligibility for priority of service is derived from *living Veterans or military service members* would lose eligibility if the Veteran or military service member were to lose the status that is the basis for eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level).[89] Similarly, eligible spouses whose eligibility for priority of service is derived from *living Veterans or military service members,* eligible spouses' eligibility would be lost upon divorce from the Veterans or military service members.[90]

(2) Homeless

An individual is homeless when they meet one or more of the criteria described in Table 4.[91]

Table 4. Criteria for determining an individual is homeless[92]

Homeless criteria
1. an individual or family who lacks a fixed, regular, and adequate nighttime residence;
2. an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

[88] 20 CFR § 1010.110
[89] TEGL 07-09
[90] Ibid.
[91] 42 USC 11302(a)
[92] WIOA Sec. 3(36)

Homeless criteria
3. an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);
4. an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where they temporarily resided;
5. an individual or family who: a. will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by: i. a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days; ii. the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or iii. credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause; and b. has no subsequent residence identified; and c. lacks the resources or support networks needed to obtain other permanent housing;
6. unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who: a. have experienced a long-term period without living independently in permanent housing; b. have experienced persistent instability as measured by frequent moves over such period; and
c. can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

(3) Veteran

Veteran means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable, as specified in 38 USC § 101(2).[93]

(b) Implementation requirement

When selecting eligible individuals for participation in SCSEP, SCSEP staff must give priority to individuals with one or more of the following characteristics:[94]

- are 65 years of age or older;
- have a disability;
- have limited English proficiency;
- have low literacy skills;

[93] 20 CFR § 1010.110; 38 USC § 101(2)
[94] TEGL 17-20

- reside in a rural area;
- are Veterans or eligible spouses for purposes of 38 USC § 4215(a);
- have low employment prospects;
- have failed to find employment after using services provided under WIOA;
- are homeless or at risk for homelessness; or
- are formerly incarcerated or on supervision from release from prison or jail within five years of the date of initial eligibility determination.

For the priority groups listed above, SCSEP staff must apply priority of service in the following order:[95]

1. persons who qualify as Veterans or eligible spouses and who meet at least one of the other priority characteristics listed above; then
2. persons who qualify as a Veteran or eligible spouse who do not meet any of the other priority characteristics listed above; then
3. persons who do not qualify as a Veteran or eligible spouse but who meet at least one of the other priority characteristics listed above.

Section VII. TAA

(a) Definitions

The following definitions are specific to TAA concerning priority of service.

(1) Eligible spouse

Eligible spouse, as defined in 38 USC § 4215(a), means the spouse of any of the following:[96]

- any Veteran who died of a service-connected disability;
- any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
    - missing in action;
    - captured in line of duty by a hostile force; or

[95] 20 CFR § 641.520
[96] 20 CFR § 1010.110

- forcibly detained or interned in the line of duty by a foreign government or power;

- any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the US Department of Veterans Affairs (USDVA);

- any Veteran who died while a total disability resulting from a service-connected disability was in existence, as evaluated by USDVA.

An eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* would lose their eligibility if the Veteran or military service member were to lose the status that is the basis for eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level).[97] Similarly, an eligible spouse whose eligibility for priority of service is derived from *a living Veteran or military service member* the eligible spouse's eligibility would be lost upon divorce from the Veteran or military service member.[98]

(2) Veteran

Veteran means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable, as specified in 38 USC § 101(2).[99]

(b) TAA priority of service requirements

TAA must give priority for approval and funding of TAA Program benefits to a trade-affected workers meeting the definition Veteran or eligible spouse, as 38 USC § 4215(a), including training benefits when approval of training criteria are met.[100]

Section VIII. Priority of service oversight and monitoring requirements

(a) Title I programs

(1) Oversight

Local boards must ensure:

- local administrative entities and local Title I programs and staff comply with the requirements of this policy;

- compliant implementation of priority of service policies and procedures at all one-stop centers in their local areas;

- all local priority of service policies and procedures are readily available to and easily accessible to and by the general public and Title I program participants, including those

[97] TEGL 07-09
[98] Ibid.
[99] 20 CFR § 1010.110; 38 USC § 101(2)
[100] 20 CFR § 618.848

who are covered entrants, Veterans, and eligible spouses, by (1) publishing them on local area websites in machine readable format and (2) making printed versions available at all one-stop centers in its respective local area; and

- signage is prominently displayed in each one-stop center announcing the availability of priority of service for covered persons.

(2) Monitoring

Local boards must establish new or update existing policies and procedures concerning monitoring of implementation of priority of service. Local policies and procedures must, at a minimum, comply with the requirements of this policy and clearly define actions that must be taken:

- during monitoring of implementation of the requirements of this local policy and priority of service policies and procedures, which must include review of randomly sampled[101] participant records in NEworks and source documentation in NEworks;

- when submitting priority of service monitoring reports to local boards, subject to limitations necessary to protect PII; and

- when developing and implementing corrective actions as necessary to ensure priority of service for covered entrants and covered persons (Veterans and eligible spouses) under Title I programs.

(b) NDOL-administered programs

(1) Oversight

NDOL Administrators must ensure:

1. program staff comply with the requirements of this policy;

2. compliant implementation of priority of service policies and procedures at all one-stop centers in the local areas in which the programs operate;

3. all priority of service policies and procedures for their respective programs are readily available to and easily accessible to and by the general public and program participants, including those who are covered entrants, Veterans, and eligible spouses, by (1) publishing them on local area websites in machine readable format and (2) making printed versions available at all one-stop centers in its respective local area; and

4. signage is prominently displayed in each one-stop center announcing the availability of priority of service for covered persons.

[101] To obtain sets of randomly sampled case files, contact the NEworks Help Desk at ndol.neworkshelp@nebraska.gov. Criteria for record sampling is included in the State's policy on records management.

(2) Monitoring

NDOL Administrators must establish new or update existing procedures concerning monitoring of implementation of priority of service for their programs. The procedures must, at a minimum, comply with the requirements of this policy and clearly define actions that must be taken by administrative staff:

- during monitoring of implementation of the requirements of program-specific procedures, which must include review of randomly sampled[102] participant records in NEworks and source documentation in NEworks;

- when submitting priority of service monitoring reports to the NDOL Reemployment Services Director, subject to limitations necessary to protect PII; and

- developing and implementing corrective action as required to ensure priority of service for covered entrants and covered persons (Veterans and eligible spouses) under respective programs.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[102] To obtain sets of randomly sampled case files, contact the NEworks Help Desk at ndol.neworkshelp@nebraska.gov. Criteria for record sampling is included in the State's policy on records management.

2.5. Security and the One-stop Delivery System

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
One-stop Delivery System

Effective
May 2, 2024

Supersedes
Security and the One-stop Delivery System, Change 1 (effective May 3, 2023)

Security and the One-stop Delivery System, Change 2

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Security issues degrade physical and programmatic accessibility within one-stop delivery systems, the overall effectiveness of the systems, and the ability of one-stop partner programs to provide meaningful services.

CHANGES

- The Action section has been restated to clarify local board responsibilities under this policy.
- References to “physical security” have been revised to say “security”, because one-stop delivery system security involves more than physical security.
- Section I(b) has been revised to clarify risk mitigation consultation requirements.
- Section I(c) has been modified to clarify requirements concerning risk mitigation measures.

- Section I(d) now includes a subsection on required response and recovery actions.

- Section I now includes subsection (e), which states NDOL will provide technical assistance when security incidents call for state-level guidance.

- Section II(b) has been revised to clarify the scope of state-level monitoring concerning requirements established under this policy.

- APPENDIX II (example security incident report form) has been deleted to eliminate the need for changes to policy whenever the security incident report form is updated. As stated in Section I(d)(2), NDOL provides the current form to local area administrative entities by email.

ACTION

State

This policy supersedes and cancels the policy titled *Security and the One-stop Delivery System, Change 1* (effective May 3, 2023). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

State policies referenced in this policy are included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies. *State policy manual* refers to the policy manual created and maintained by the NDOL Reemployment Services Quality Control Unit.

Local boards

Local boards *must* have established safety committees that are responsible for developing and implementing local security policies and processes[1] and procedures[2] that comply with the requirements of this policy, including but not limited to:

1. processes and procedures for security incident documentation, notifications, and response and recovery activities;

2. mandatory annual training requirements for local area administrative entity, one-stop operator, and one-stop partner program staff concerning policies, processes, and procedures;

3. mandatory annual surveys of local area administrative entity, one-stop operator, and one-stop partner program staff to determine satisfaction with implementation of policies, processes, and procedures and the effectiveness of mandatory training, which *must* provide an opportunity for staff to provide input and suggestions;

4. mandatory annual review and updating of policies, processes, and procedures based on assessed effectiveness, including feedback provided through mandatory annual surveys

[1] A process is a series of tasks and activities that produce an outcome.
[2] A procedure is a set of instructions for completing a single task or activity within a process.

of local area administrative entity, one-stop operator, and one-stop partner program staff; and

5. regular monitoring to determine compliance with policies, processes, and procedures among local area administrative entity, one-stop operator, and one-stop partner program staff.

In addition, local boards *must* require that safety committees:

- regularly update local boards during public meetings regarding new and unresolved security incidents; and
- work with local boards, local area administrative entity, one-stop operator, and one-stop partner programs concerning procurement of security assets and creation and maintenance of incident and incident resolution logs.

POLICY

This policy:

- establishes a framework for design and implementation of security policies, processes, and procedures that sufficiently mitigate the risk of security incidents throughout local one-stop delivery systems;
- describes requirements for incorporation of security measures into annual physical and programmatic accessibility assessments and triennial one-stop center certifications;
- provides operational guidance to local boards, safety committees, and administrative entities regarding development and implementation of security measures and evaluation of the effectiveness of such measures;
- standardizes requirements for incident response and resolution procedures that promote physical and programmatic accessibility throughout the statewide one-stop delivery system; and
- defines standard protocols through which security incidents and resolution of security incidents are reported, documented, and executed.

This policy has three sections and one appendix.

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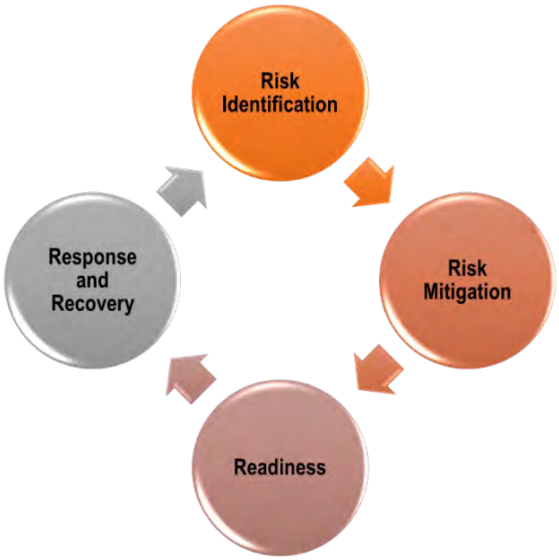
Section I. Security framework

The purpose of the security framework illustrated in Diagram 1 and further described in this section is to ensure local boards and local area administrative entities have the foundation necessary for development and implementation of effective security policies, processes, and procedures that proportionately and adequately:

1. identify security risks;
2. mitigate security risks;
3. establish security readiness; and
4. establish security incident response and recovery activities.

Local boards *must* ensure that local one-stop delivery system security policies, processes, and procedures are modeled after the four-phase framework illustrated in Diagram 1.

Diagram 1. Four-phase security framework for local one-stop delivery systems



(a) Risk identification

Identification of security risks cannot be achieved without conducting a risk assessment. Risk assessments are critical to the design and continuous improvement of security policies, processes, and procedures. Risks to one-stop delivery system customers, staff, and program participants may vary significantly throughout the statewide one-stop delivery system. An example risk assessment tool is provided as APPENDIX I. Local boards may elect to utilize alternative risk assessment tools, including tools that may be available through collaboration with local law enforcement entities and other entities.

(b) Risk mitigation

Once risks and corresponding risk levels are assessed, risk measures *must* be taken to mitigate the likelihood of security incidents and minimize the impact of security incidents. The selection of mitigation measures *must* be proportional to the likelihood and severity of risks. Mitigation measures may include, but are not limited to:

1. infrastructure hardening;
2. controlled facility access;
3. contracted security services;
4. early detection systems;
5. public alert systems;
6. digital or remote observation systems;
7. interior and exterior lighting;
8. signage and public notices;
9. evacuation plans and designated shelter areas; and
10. one-stop delivery system staff training.

Costs of security equipment and services may be funded locally as infrastructure costs under memorandums of understanding with required and additional one-stop partners.[3,4]

Local boards, safety committees, and administrative entities *must* regularly consult with representatives of all local area one-stop delivery system partners concerning risk mitigation.

[3] 2 CFR § 200.457; 20 CFR § 678.760

[4] The cost of security equipment and contracted services may be considered infrastructure costs, provided such costs are not already included in a facility lease covering such costs. Infrastructure costs are non-personnel costs necessary for the general operation of one-stop centers. NDOL's policy on memorandums of understanding and funding agreements provides additional information on infrastructure costs.

(c) Readiness

Risk mitigation measures are effective only when properly planned, rehearsed, and maintained.

1. Local security policies, processes, and procedures *must* require regular and effective staff training and rehearsals.

2. Local area administrative entity, one-stop operator, and one-stop partner program staff *must*:

    a. be trained at least annually on local one-stop delivery system security policies, processes, and procedures; and

    b. participate in rehearsal of security response and recovery activities.

3. Local board safety committees *must* maintain documentation of annual training schedules and events, training agendas, and staff attendance rosters. Training recommendations include, but are not limited to:

    a. de-escalation training;

    b. lifesaving first-aid training; and

    c. active shooter training.

4. Local boards and safety committees *must* survey local area administrative entity, one-stop operator, and one-stop partner program staff on an annual basis to measure satisfaction with implementation of security policies, processes, and procedures and the effectiveness of security training. The surveys *must* provide an opportunity for staff to provide written input and suggestions to ensure continuous improvement.

(d) Response and recovery

(1) Types of security incidents

The following types of behaviors, threats, and actions are considered security incidents; however, there may be other types that contribute to security incidents.

(A) Behaviors

Individual instances of behavior or patterns of behavior may be considered security incidents and may include, but are not limited to:

1. reckless driving in one-stop center parking areas;

2. possession of weapons;

3. alcohol intoxication or possession of alcohol;

4. drug intoxication or possession of controlled substances;

5. viewing or possession of pornography;

6. lewd behavior, inappropriate bodily exposure, and nudity;
7. vulgar, discriminatory, or threatening language;
8. unwanted physical contact;
9. loitering; and
10. stalking.

(B) Threats

Individual instances of threats or patterns of threats may be considered security incidents and may include, but are not limited to, verbal and non-verbal intent to:

1. cause bodily harm to self or others;
2. damage or destroy property or equipment; and
3. commit theft.

(C) Actions

Individual instances of actions or patterns of action may be considered security incidents and may include, but are not limited to, actions that cause or result in:

1. bodily harm to self or others;
2. damage or destruction of property or equipment; and
3. theft.

(2) Required response and recovery actions

Once a security incident occurs, local boards, safety committees, and administrative entities *must* take the following response and recovery actions.

1. Security incidents *must* be documented through completion and submission of a security incident report form.

    a. NDOL provides a fillable PDF version of the form to local area administrative entities by email. The form *must be completed digitally*. Handwritten/scanned versions of completed forms are not acceptable, because they may not be legible based on handwriting style and the quality of scans.

    b. Completed security incident report forms *must submitted* by a local area administrative entity staff member within 24 hours of the initial security event to following individuals and entities identified in the form *through encrypted email.* Applicable supporting documentation should be submitted with completed forms.

2. Security incident response *may* involve, but is not limited to, seeking assistance from:

    a. law enforcement agencies whenever criminal behavior is suspected;

    b. fire response agencies in the event of fire; and

    c. emergency medical services in the event of medical situations.

3. Security incident recovery *may* involve, but is not limited to:

    a. investigation activities, involvement of law enforcement, fire response, and emergency medical services; and

    b. implementation of corrective actions for offending individuals, which may include full or partial restrictions on facility usage on a permanent or temporary basis.

4. If incident recovery activities occur *after* submission of a security incident report form, the form *must* be updated and resubmitted *through encrypted email* by a local area administrative entity staff member.

(e) Technical assistance

NDOL will provide technical assistance as necessary when security incidents call for state-level guidance. Requests for technical assistance relating to security incidents should be *immediately* submitted by email to ndol.wioa_policy@nebraska.gov.

Section II. Security and annual one-stop center assessments and triennial one-stop center certifications

Instructions on integration of security elements into annual one-stop center assessments and triennial one-stop center certifications are available in NDOL's policy on one-stop delivery system assessment and one-stop center certification.

Section III. Security monitoring

(a) Local-level monitoring

Local boards *must* ensure regular monitoring of compliance with local security policies, processes, and procedures, including compliance with training requirements and schedules.

(b) State-level monitoring

Compliance with all requirements of this policy is subject to review by the NDOL State Monitoring Unit. Failure of local boards, safety committees, and local area administrative entities to comply with requirements established under this policy may result in findings and implementation of corrective action plans.

During monitoring of compliance with requirements of this policy, inspectable items include, but are not limited to:

- one-stop delivery system security policies, processes, and procedures;
- training schedules, agendas, and staff attendance rosters for security training events;
- procurement of security-related equipment and services;
- one-stop delivery system security; and
- submission of security incident reports; and
- maintenance of security incident and incident resolution logs.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government, the State of Nebraska, and NDOL. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Example one-stop delivery system/center security risk assessment tool

General information

1. *One-stop center information*

Name of center: _____
Address of center (street and city): _____
Center's primary point of contact: _____
Title of primary point of contact: _____
Phone number for primary point of contact: _____
Email for primary point of contact: _____

2. *Identify one-stop delivery system partners located at the one-stop center or connected to a one-stop center*

Partner information	Response
Partner 1	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 2	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 3	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 4	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 5	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 6	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 7	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 8	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 9	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 10	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:

Partner information	Response
Partner 11	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 12	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 13	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 14	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 15	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 16	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:
Partner 17	Name of partner: Partner's primary point of contact: Title of partner's primary point of contact: Phone number: Email:

3. *If there other tenants located at a one-stop center that are not one-stop center partners, provide information for the tenants.*

Tenant information	Response
Tenant 1	Name of tenant organization: Tenant's primary point of contact: Title of tenant's primary point of contact: Phone number: Email:
Tenant 2	Name of tenant organization: Tenant's primary point of contact: Title of tenant's primary point of contact: Phone number: Email:
Tenant 3	Name of tenant organization: Tenant's primary point of contact: Title of tenant's primary point of contact: Phone number: Email:
Tenant 4	Name of tenant organization: Tenant's primary point of contact: Title of tenant's primary point of contact: Phone number: Email:
Tenant 5	Name of tenant organization: Tenant's primary point of contact: Title of tenant's primary point of contact: Phone number: Email:

One-stop center infrastructure

4. *Is there adequate lighting for the one-stop center's main entrance and staff-only entrances/exits and emergency exits that ensures safety and security?*
   ☐Yes
   ☐No

5. *Is there adequate lighting in one-stop center parking areas from sunset and to sunrise?*
   ☐Yes
   ☐No

6. *Is one-stop center landscaping maintained in a manner that allows for adequate visibility (i.e., shrubbery is not overgrown and providing a hiding place for an intruder)?*
   ☐Yes
   ☐No

7. *Is there adequate lighting in all interior areas of the one-stop center?*
   ☐Yes
   ☐No

8. *Other than the main entrance, are all other one-stop center entrances and exits (staff-only entrances/exits and emergency exits) secured at all times?*
   ☐Yes
   ☐No

9. *What methods are used to secure the main entrance? (Select all that apply.)*
   ☐None (unsecured)
   ☐Lock and key
   ☐Keypad
   ☐Electronic card/badge reader
   ☐Security guard
   ☐Deadbolt
   ☐Other (explain): _____

10. *What methods are used to secure all other entrance/exit doors? (Select all that apply.)*
    ☐None (unsecured)
    ☐Lock and key
    ☐Keypad
    ☐Electronic card/badge reader
    ☐Security guard
    ☐Deadbolt
    ☐Other (explain): _____

11. *Are written procedures in place to ensure the one-stop center is always secured after business hours or when facility staff are not in the facility?*
    ☐Yes
    ☐No

12. *What are the one-stop center's visitor management procedures? (Select all that apply.)*
    ☐None
    ☐Check in at front desk required
    ☐Sign in/sign out sheet
    ☐Issuance of visitor badge/ID
    ☐Escort only within facility
    ☐Other (explain): _____

13. *Are one-stop center windows closed and locked after normal business hours?*
    ☐Yes

☐No
☐Other (i.e., non-operable/cannot be opened)

14. *Are there access points on the one-stop center roof that can provide illegal entry to the center?*
☐Yes
☐No
If yes, are the access points secured?
☐Yes
☐No

15. *Is US Mail delivered to a mailbox within the one-stop center?*
☐Yes
☐No

16. *Is janitorial and/or security service provided by third parties?*
☐Yes
☐No

17. *Do one-stop center staff and security service staff, US Postal workers, and other third parties have keys, badges, or other methods for accessing the one-stop center?*
☐Yes
☐No

18. *Have one-stop center and security service staff undergone background checks by an authorized government entity?*
☐Yes
☐No

Security measures (assets, facility, and staff protection)

19. *Does the one-stop center have methods for secure disposal of confidential information, including information that includes personally identifiable information (aka PII)?*
☐Yes
☐No

20. *Does the one-stop center have a written standard operating procedure for revocation privileges for accessing physical and digital assets once a facility staff member is no longer authorized to access such assets?*
☐Yes
☐No

21. *Does the one-stop center have signage/public notices posted regarding security requirements that must be observed by one-stop center staff and visitors?*
☐Yes
☐No

22. *Has the one-stop center designated a custodian or custodians of all keys, badges, or other methods for physically accessing the one-stop center?*
☐Yes
☐No

23. *Are all keys, badges, or other methods for accessing the one-stop center physically accounted for thoroughly on an annual basis?*
☐Yes
☐No

24. *Does the one-stop center have a written standard operating procedure for retrieval of keys and badges or revocation of other methods for accessing the one-stop center once a staff member is no longer authorized to access the one-stop center?*
☐Yes
☐No

25. *What type(s) of security measures are in place to protect assets (physical, digital, etc.) and one-stop center staff and visitors? (Select all that apply.)*
    - ☐None
    - ☐Training and procedures for facility staff regarding security risks, including risks relating to visitors and other facility staff
    - ☐Protected customer service counter (i.e., barrier to keep visitors on public side of office)
    - ☐Entrance door chime
    - ☐Duress alarm button
    - ☐Video surveillance
    - ☐Intrusion detection system (IDS) on doors
    - ☐IDS on windows
    - ☐Motion sensors in hallways
    - ☐Motion sensors on perimeter lights
    - ☐Other (explain): _____

26. *If present, how does the one-stop center alarm monitoring system announce security events? (Select all that apply.)*
    - ☐Not applicable
    - ☐Pages designated personnel
    - ☐Notifies monitoring center that then phones designated personnel, law enforcement, fire response, EMS response
    - ☐Directly contacts law enforcement, fire response, EMS response
    - ☐Other (explain): _____

27. *Have evacuation plans and designated shelter areas been established concerning physical security threats, including criminal, medical, fire, and severe weather events?*
    - ☐Yes
    - ☐No

Emergency response and preparedness

Law enforcement

28. *Does the one-stop center have first aid kits and automated external defibrillators (aka AEDs) posted prominently throughout the facility?*
    - ☐Yes
    - ☐No

29. *Identify the local law enforcement agency responsible for investigating crime(s) occurring in and near the one-stop center.*
    Agency name: _____
    Non-emergency number: _____

30. *Does local law enforcement actively patrol the one-stop center area?*
    - ☐Yes
    - ☐No

31. *What is the average response time to the one-stop center by the local law enforcement?*
    - ☐Less than 15 minutes
    - ☐15 to 30 minutes
    - ☐More than 30 minutes
    - ☐Other (explain): _____

Fire prevention and emergency

32. *What type of fire prevention and notification systems are in use at the one-stop center? (Select all that apply)*
    - ☐None
    - ☐Sprinkler systems
    - ☐Fire extinguishers
    - ☐Smoke alarms
        - ☐Hard wired
        - ☐Battery powered
        - ☐Third-party systems that automatically alert the local fire prevention and emergency agency

33. *Identify the local fire prevention and emergency agency responsible for fire prevention and emergencies occurring in and near the one-stop center.*
    Agency name: _____
    Non-emergency number: _____

34. *What is the average response time to the one-stop center by the local fire prevention and emergency agency?*
    ☐Less than 15 minutes
    ☐15 to 30 minutes
    ☐More than 30 minutes
    ☐Other (explain): _____

35. *How often does the local fire prevention and emergency agency conduct site inspections of the one-stop center?*
    ☐Monthly
    ☐Quarterly
    ☐Semi-annually
    ☐Annually
    ☐Biennially (every 2 years)
    ☐Never
    ☐Other (explain): _____

Emergency medical service

36. *Identify the local emergency medical service (EMS) provider responsible for services to and near the one-stop center.*
    Provider name: _____
    Non-emergency number: _____

37. *What is the average response time to the one-stop center by the local EMS provider?*
    ☐Less than 15 minutes
    ☐15 to 30 minutes
    ☐More than 30 minutes
    ☐Other (explain): _____

3. Performance Accountability

NDOL Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Performance Accountability

Effective
August 20, 2025

Supersedes
Performance Accountability, Change 6
(effective December 9, 2024)

Performance Accountability, Change 7

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

The US Department of Labor (USDOL) has established a performance accountability system to assess the effectiveness of the workforce development programs it funds.

CHANGES

The following changes have been made..

- One citation referring to TEGL 10-23 has been removed because TEGL 10-23 has been rescinded.
- This policy has been reorganized and simplified by removing paraphrased versions of Federal and State laws, rules, regulations, guidance, and policies and replacing those provisions with links to those laws, rules, regulations, and guidance, and NDOL policies.

ACTION

NDOL

This policy rescinds NDOL's policy titled Performance Accountability, Change 6. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must ensure that they and their administrative entities and Title IB service providers and staff adhere to the requirements of this policy, as well as all applicable Federal and State laws, rules, regulations, guidance, and policies.

POLICY

This policy has three sections.

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Section I. Performance accountability system

(a) Legislative requirements

USDOL has established a performance accountability system to assess the effectiveness of the workforce development programs it funds. Guidance concerning the USDOL performance accountability system is described in 29 USC § 3141 and 20 CFR Part 677, as well as other guidance cited in this policy. In addition, TEGLs 10-16 Change 3, 14-18, and 04-23 provide information on methodologies and operational requirements for calculating performance on primary indicators of performance.

(b) Applicability

Subsections (c) through (g) below provide information on coenrollment, exit and common exit, use of SSNs, supplemental wage information, and participant exclusion from performance calculations, as it relates to the following locally administered programs and programs administered by NDOL:

1. local Title IB adult, dislocated worker, and youth programs;
2. Title III Wagner-Peyser Employment Service;
3. Title ID national dislocated worker grants;
4. Jobs for Veterans State Grant program; and
5. Trade Adjustment Assistance program.

(c) Coenrollment

Coenrollment requirements established by USDOL are described in TEGLs 10-16 Change 3, 14-18, and 21-16, as well as UIPLs 8-18 and 7-19. In addition, NDOL requires that participants in the programs listed above in subsection (b) must be coenrolled whenever eligibility permits to ensure maximization of funding, service delivery, and coordination of services. Participants may be coenrolled in a variety of one-stop delivery system partner programs, including:

1. local Title IB adult, dislocated worker, and youth programs (Title IB);
2. Title IC Job Corps;
3. Title ID national dislocated worker grants (DWG);
4. Title ID National Farmworker Jobs Program provided by Proteus;
5. Title ID Native American employment and training programs;
6. Title ID YouthBuild;
7. Title II Adult Education and Family Literacy Act programs;
8. Title III Wagner-Peyser Employment Service (Title III);

9. Title IV vocational rehabilitation programs provided by:
    a. Nebraska Commission for the Blind and Visually Impaired; and
    b. Nebraska Vocational Rehabilitation Program;
10. Jobs for Veterans State Grant program (JVSG);
11. Senior Community Service Employment Program;
12. Supplemental Nutrition Assistance Program employment and training program (SNAP E&T);
13. Trade Adjustment Assistance program (TAA);
14. Temporary Assistance for Needy Families (TANF) employment and training program (Employment First); and
15. Unemployment Insurance.

(d) Exit and common exit

Exit and *common exit* are defined in 20 CFR § 677.150, TEGL 10-16 Change 3, and TEGL 14-18 Attachments 4 and 10. As permitted under 20 CFR § 677.150(c)(3), NDOL has implemented a common exit requirement which applies to participants coenrolled in:

1. Title IB;
2. Title III;
3. DWG;
4. JVSG; and
5. TAA.

This common exit requirement does not apply to participants who are coenrolled in partner programs that are not listed above.

(e) Use of SSNs

As described in TEGLs 26-16 Change 1 and 14-18, participant SSNs are collected to assist with assessment of program performance using quarterly wage data for the following performance indicators:

1. employment rate second quarter after program exit;
2. employment rate fourth quarter after program exit;
3. median earnings rate second quarter after program exit;
4. credential attainment rate; and
5. effectiveness in service employers (based on participant retention with the same employer second and fourth quarters after program exit).

Program eligibility is not contingent on the provision of an SSN, and program services must not be withheld when an individual is unwilling or unable to disclose an SSN.[1]

(f) Supplemental wage information

The most efficient method for determining participant employment status and earnings is use of automated quarterly wage data. However, automated quarterly wage data may not be available for all participants, such as those who are self-employed, unable, or unwilling to provide a social security number.[2] When automated quarterly wage data are not available, programs must collect supplemental wage information from other sources to determine employment and earnings status for performance reporting purposes, which must be well documented and maintained for monitoring and data validation purposes as required under NDOL's records management policy.

(1) Acceptable forms of supplemental wage information

Refer to TEGL 26-16 Change 1 for information on acceptable forms of supplemental wage information.

[1] Sec. 7(a)(1) of the Privacy Act of 1974 [5 USC 552a note]
[2] TEGL 10-16 Change 3 and 14-18

(2) Staff training

Program staff who are responsible for collecting supplemental wage information should be trained on procedures for gathering this information, including:[3]

1. when to begin supplemental wage information follow-up (i.e., after program exit and during follow-up services);
2. frequency of supplemental wage information follow-up (no less frequently than quarterly following program exit);
3. what to say to participants or employers including:
    a. ways to encourage voluntary and truthful disclosure;
    b. descriptions of needed information;
    c. how to respond to questions related to supplemental wage information follow-up processes; and
    d. how to document the information received.

NDOL provides technical assistance to programs concerning collection of supplemental wage information upon request. Requests must be sent to the policy mailbox at ndol.wioa_policy@nebraska.gov.

(g) Participant exclusion from performance calculations

As stated in TEGL 10-16 Change 3 and 14-18, participants may be excluded from performance calculations under limited circumstances. Table 1 describes those circumstances and applicable programs. *Participants cannot be excluded from participation after program exit.*

Table 1. Circumstances permitting exclusion from participation

Circumstance	Description	Applicable programs
Institutionalization	While receiving services as a participant, the individual must exit the program because the individual is incarcerated in a correctional institution or a resident of an institution or facility providing 24-hour support, such as a hospital or treatment center.	1. Title IB 2. Title III 3. JVSG 4. TAA 5. DWG
Health/medical	The participant must exit the program because of medical treatment and that treatment is expected to last longer than 90 days and precludes entry into unsubsidized employment or continued participation in the program.	1. Title IB 2. Title III 3. JVSG 4. TAA 5. DWG
Death	The participant is deceased.	1. Title IB 2. Title III 3. JVSG 4. TAA 5. DWG
Reserve forces called to active duty	The participant must exit the program because the participant is a member of the National Guard or other reserve military unit of the Armed Forces and is called to active duty* for at least 90 days.	1. Title IB 2. Title III 3. JVSG 4. TAA 5. DWG
Foster care	The participant is in the foster care system, as defined in 45 CFR 1355.20(a), and must exit the program because the participant has moved out of the local workforce development area.	1. Title IB youth programs

* *Active duty* means full-time duty in the active military service of the United States [10 USC § 101(d)(1)]. *Active duty* includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. *Active duty* does not include full-time National Guard duty.

[3] TEGL 26-16 Change 1; TEGL 14-18 Appendix VI. Additional information on supplemental wage data is available at https://www.workforcegps.org/events/2017/06/23/15/05/WIOA-Wednesday-on-Tuesday-Supplemental-Wage-Information.

Section II. Annual Title IB performance assessments

(a) Definitions relating to performance assessments

The following definitions apply to Title IB performance assessments.[4]

1. *Actual levels of performance* are the outcomes reported by NDOL in the annual statewide performance report (ETA-9169) for Title IB program primary indicators of performance.
2. *Adjusted levels of performance* are levels of Title IB program performance determined by NDOL through adjustment of negotiated levels of performance at the end of each program year to reflect actual participant characteristics and actual economic conditions experienced in the local area using the local SAM (described below in subsection (b)).
3. *Adjustment factors* are the positive or negative differences applied to negotiated levels of performance to determine adjusted levels of performance following conclusion of program years, based on actual participant characteristics and actual economic conditions.
4. *Negotiated levels of performance* are levels of performance mutually agreed upon by local boards, local chief elected official (CEOs), and the Governor during biennial performance negotiations for each Title IB program. (The negotiations process is based on the four factors described in Section III(b) of this policy.)

(b) Local statistical adjustment model (local SAM)

NDOL's local SAM calculates *adjusted levels of performance* for Title IB programs based on:

1. Title IB program *negotiated levels of performance*;
2. Title IB program *actual levels of performance*;
3. actual Title IB program participant characteristics during the applicable program year;
4. actual Title IB local area economic conditions during the applicable program year; and
5. coefficients provided in USDOL annual state-level Title IB performance assessments which are used to determine *adjustment factors* when assessing local-level Title IB performance.

NDOL issues annual *adjusted levels of performance* reports to Title IB programs following (1) the conclusion of each program year and (2) NDOL's receipt of the USDOL annual state performance assessment of Nebraska's Title IB programs.[5] Data provided in the reports are used to assess program success or failure and the need for technical assistance or corrective actions following consecutive failures to meet adjusted levels of performance.[6]

(c) Assessing Title IB program performance success and failure

NDOL has established the following performance thresholds for determining Title IB program failure to meet *adjusted levels of performance,* in alignment with TEGL 11-19 Change 2.

- *Individual local single indicator score*. For any single adult, dislocated worker, or youth program, failure to meet an adjusted level of performance occurs when any individual local single indicator score falls below 50 percent of the adjusted level of performance for that single indicator during the previous two consecutive program years.
- *Overall local single indicator score*. For any single performance indicator across all Title IB programs, failure to meet adjusted levels of performance for the indicator occurs when the overall local single indicator score falls below 90 percent of the adjusted level of performance for that indicator during the previous two consecutive program years.
- *Overall local single program score*. For any single Title IB program, failure to meet overall adjusted levels of performance for the program occurs when the overall local single program score falls below 90 percent of the overall adjusted levels of performance for that single program during the previous two consecutive program years.

[4] 29 USC § 3141(d); TEGL 11-19 Change 2
20 CFR § 677.210(c)
[6] Ibid.

(d) Mandatory technical assistance

If Title IB programs fail to meet or exceed adjusted levels of performance *for any program year*, technical assistance must be provided by NDOL on behalf of the Governor or, upon the Governor's request, by the Secretary of Labor.[7] Technical assistance provided by NDOL or the Secretary of Labor may include:[8]

- assistance in the development of a performance improvement plan;
- development of a modified local or regional plan; or
- other actions designed to assist the local area with improving performance.

(e) Mandatory corrective action

If Title IB programs fail to meet adjusted levels of performance for three consecutive program years, the Governor must take corrective actions pursuant to 20 CFR § 677.220(b). Corrective actions must include development of a reorganization plan under which the Governor:

- requires the appointment and certification of a new local board, consistent with the criteria established under 20 CFR § 679.350;
- prohibits the use of eligible providers and one-stop partners that have been identified as achieving poor levels of performance; or
- takes such other significant actions as the Governor determines appropriate.

(f) Appealing reorganization plans

Local boards and CEOs subject to reorganization plans, pursuant to 29 USC § 3141(g)(2) and 20 CFR § 677.220(b), may appeal to the Governor during the 30-day period following receipt of notice of the reorganization plan and request that the reorganization plan be rescinded or revised.[9] Such appeals must be submitted by certified mail, return receipt requested, to:

- Governor, State of Nebraska, 1445 K Street, Lincoln, NE 68508;
- Commissioner of Labor, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508; and
- Director of Reemployment Services, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508.

The Governor must make final decisions within 30 days after receipt of such appeals. The Governor's decisions on such appeals become effective once issued and remain in effect, unless the Secretary of Labor rescinds or revises the reorganization plan pursuant to 29 USC § 3141(g)(2)(C). Local boards and CEOs may appeal the Governor's decisions to the Secretary of Labor during the 30-day period following receipt of the Governor's decisions. Any appeal of such decisions must be:

- appealed jointly by local boards and CEOs, as required under 20 CFR § 683.650; and
- submitted by certified mail, return receipt requested, to:
    - Secretary of Labor, US Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET;
    - Governor of the State of Nebraska, 1445 K Street, Lincoln, NE 68508; and
    - Commissioner of Labor, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508; and
    - Director of Reemployment Services, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508.

Upon receipt of such appeals from local boards and CEOs, the Secretary of Labor must make final decisions within 30 days. In making these decisions, the Secretary may consider any comments submitted by the Governor in response to the appeals.

Section III. Biennial Title IB performance negotiations

Local boards, CEOs, and the Governor must collectively negotiate performance levels for Title IB programs.[10] Title IB performance negotiations are conducted every other program year

[7] 20 CFR § 677.220(a)
[8] 20 CFR § 677.220(a)(2)
[9] 20 CFR § 677.225
[10] 29 USC § 3141(c)

(biennially) by NDOL on behalf of the Governor. Following conclusion of biennial negotiations, NDOL must notify USDOL that Title IB program negotiations are complete and provide written documentation listing negotiated levels of performance for all Title IB programs (known as negotiation outcomes). NDOL's notification to USDOL concerning negotiation outcomes must be submitted no later than September 30 following conclusion of each biennial negotiation cycle. For example, NDOL must notify USDOL of negotiation outcomes for PY26/PY27 no later than September 30, 2026).

(a) Definitions relating to performance negotiations

The following definitions apply to biennial Title IB performance negotiations.

- *Estimated levels of performance* are levels of performance proposed by Title IB programs to NDOL during each biennial negotiation cycle.
- *Expected levels of performance* are levels of performance proposed by NDOL to Title IB programs during each biennial negotiation cycle.

(b) Negotiation factors

The following factors are considered by NDOL concerning biennial Title IB performance negotiations:

1. negotiated levels of performance (defined in Section II(a));
2. actual levels of performance (defined in Section II(a));
3. adjusted levels of performance (defined in Section II(a));
4. calculation of *expected levels of performance* based on:[11]
    a. negotiated levels of performance;
    b. actual levels of performance; and
    c. adjusted levels of performance;
5. how *expected levels of performance* will:
    a. promote continuous improvement based on primary performance indicators; and
    b. ensure optimal return on investment of Federal funds;
6. extent to which *expected levels of performance* will assist the state in meeting its USDOL negotiated levels of performance.

(c) Negotiation process

Biennial Title IB performance negotiations occur according to the following process.

1. In preparation for negotiations, NDOL provides an *estimated level of performance* tool to Title IB programs and requests they submit their estimated levels to NDOL prior to scheduled negotiations, based on data derived from the tool and any other data source the programs choose to use.
2. Prior to scheduling biennial performance negotiations, NDOL distributes *expected levels of performance* to Title IB programs and advises the programs that negotiations will be based on negotiation factors described above, *expected levels of performance*, and *estimated levels of performance*.
3. NDOL schedules negotiation calls with Title IB programs.
4. During negotiation calls:
    a. NDOL provides an overview of the negotiation process and explains how *expected levels of performance* were determined.
    b. Title IB programs provide feedback to NDOL on *expected levels of performance* and provide data to support their *estimated levels of performance*; then
    c. NDOL and Title IB programs negotiate and agree upon levels of performance.
5. Following conclusion of negotiations, NDOL issues written confirmation of negotiation outcomes to USDOL and Title IB programs.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

[11] TEGL 11-19 Change 2

4. Administrative Requirements

4.1. Administrative Rules, Costs, and Limitations

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Administrative Requirements
	Effective May 21, 2024
	Supersedes WIOA Title IB Program Funding, Change 4

WIOA Title IB Program Funding, Change 5

REFERENCE

Federal and State laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

The State must establish policy addressing the following matters pertaining to WIOA Title IB program funding:

- allocation, obligation, disbursement, and availability Title IB adult, dislocated worker, and youth program funds;[1]
- transfer of adult and dislocated worker funds, including procedures and required criteria and factors;[2]
- quarterly financial reporting requirements, including procedures and timelines;[3]
- recapture and reallocation of unobligated funds;[4] and
- return and reallocation of unexpended funds.[5]

[1] WIOA Secs. 127(b)(3) and 133(b)(3)
[2] 20 CFR § 683.130
[3] 20 CFR § 683.300
[4] WIOA Secs. 128(c) and 132(c); 20 CFR §§ 683.110 and 683.140
[5] 20 CFR § 683.140

CHANGES

Section III has been added to this policy to provide information concerning WIOA pay-for-performance contract strategy.

ACTION

State

This policy supersedes and cancels NDOL's policy titled WIOA Title IB Program Funding, Change 4. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

State policies referenced in this policy are included in the State policy manual (accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies). *State policy manual* refers to the policy manual created and maintained by the NDOL Reemployment Services Quality Control Unit.

Local areas

Local boards, fiscal agents, and administrative entity staff must adhere to all requirements established in this policy.

POLICY

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Section I. Allocation of Title IB funds

(a) Adult and youth programs

Allocation of adult and youth funds to local areas is based on the formulas described in WIOA Secs. 133(b)(2) and 128(b)(2) and 20 CFR § 683.120.

(b) Dislocated worker program

Allocation of dislocated worker funds to local areas is based on factors and weights determined appropriate by the Governor, which are listed in Table 1.

Table 1. Dislocated worker allocation factors and weights

Factor	Weight
1. Insured unemployment data	15%
2. Unemployment concentrations	15%
3. Plant closings and mass layoff data	20%
4. Declining industries data	5%
5. Farmer-rancher economic hardship data	5%
6. Long-term unemployment data	20%
7. Dislocated worker program enrollment data	20%
Total	100%

Calculation of dislocated worker program allocations is performed in two steps.

1. NDOL determines the percentage of the State's allotment of dislocated worker funds to be assigned to each allocation factor described in Table 1 (assigned percentage).

2. NDOL determines the amount of the assigned percentage based on allocation factors described in Table 1 as they apply to local areas (allocation percentage).

(c) Minimum allocations

Local area adult, dislocated worker, and youth programs *must not* receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage for the programs for the preceding two fiscal years.[6]

- Amounts necessary to adjust local area allocations to comply with the *minimum allocation percentage requirement* are determined by ratably reducing allocations to other local areas.

- If amounts of WIOA funds appropriated in a fiscal year are not sufficient to meet the *minimum allocation percentage requirement*, amounts allocated to all local areas must be ratably reduced.

Section II. Obligation, disbursement, and availability of Title IB funds

(a) Obligation of funds[7]

Adult and dislocated worker funds are available for obligation beginning July 1 of the applicable program year. Youth funds may be made available for obligation beginning April 1 for the program year that begins the following July 1.

(b) Disbursement of funds

Availability of Title IB funds for disbursement to local areas is described below, subject to conditions established by the US Department of Labor.

- Adult and dislocated worker program year funds (base funds) are typically available for disbursement on July 1.

- Adult and dislocated worker fiscal year funds (advance funds) are typically available for disbursement on October 1.

- Youth funds are typically available for disbursement to local areas on July 1.

Conditions. Title IB program funds are available for disbursement by NDOL to local areas on the latter of the following events:[8]

- 30 days after the funds are made available by USDOL to NDOL; or

- 7 days after the date of approval of local plans or local plan modifications, as applicable.

[6] 20 CFR § 683.125
[7] 20 CFR § 683.100
[8] WIOA Sec. 182(e); 20 CFR § 683.120

(1) Processes

To request disbursement of Title IB funds from NDOL, fiscal agents must submit invoices *no more or less frequently than once per calendar month*. Disbursement requests must be submitted by fiscal agents to NDOL Accounts Payable at ndol.accountspayable@nebraska.gov, using NDOL's approved invoice template.[9]

- All invoices must be securely transmitted using encrypted email to ensure the protection of potential PII.
- All invoices must be accompanied by supporting documentation for:
    - expenses previously incurred and paid; and
    - expenses that will be incurred and paid in the week following the request for disbursement.
- Separate invoices must be submitted for expenses to be paid from differing funding sources (program year funds [base funds] and fiscal year funds [advance funds]).

Local areas *must* use funds available from program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds *before* invoicing NDOL for disbursements.[10]

(c) Availability of funds during the period of performance

Subject to the requirements of Sections VI and VII, allocated Title IB funds are available for expenditure by local boards during the first program year and one succeeding program year.[11] This two-year period is known as the *period of performance*. During the period of performance, funds with the shortest period of availability must be expended first (i.e., first in first out), unless otherwise authorized in the applicable grant agreement issued to NDOL by a Federal Contracting Officer.

Section III. WIOA pay-for-performance contract strategy

(a) Overview

Title IB funds may be reserved and used to implement a WIOA pay-for-performance contract strategy in accordance with 20 CFR 683 Subpart E. A WIOA pay-for-performance contract

[9] This requirement does not apply to the Greater Nebraska Workforce Development Area because requests for disbursements to Greater Nebraska are processed and documented within NDOL financial management information systems.
[10] 2 CFR § 200.305
[11] 20 CFR § 683.110

strategy is a specific type of performance-based contract[12] strategy that has four distinct characteristics.[13]

1. It is a strategy to use pay-for-performance contracts as they are described in 20 CFR § 683.510.

2. It must include an identification of the workforce development problem and target populations for which a local area will pursue a pay-for-performance contract strategy; the outcomes the local area would hope to achieve through a pay-for-performance contract relative to baseline performance; and the acceptable cost to government associated with achieving these outcomes.

3. It must include a strategy for independently validating the performance outcomes achieved under each contract within the strategy prior to payment occurring.

4. It must include a description of how the local area will reallocate funds to other activities under the contract strategy in the event a service provider does not achieve performance benchmarks under a pay-for-performance contract.

(b) Pay-for-performance contract requirements

Prior to the implementation of a pay-for-performance contract strategy, a local area must conduct a feasibility study to determine whether the intervention is suitable for a pay-for-performance contract strategy.[14] The Pay-for-Performance contract strategy must be developed in accordance with guidance issued by the Secretary of Labor.[15] 20 CFR § 683.510 provides detailed information on pay-for-performance contract requirements.

(c) Funding pay-for-performance contract strategies

No more than 10 percent of the combined allocation of program year funds for adult and dislocated worker programs can be reserved and used for implementation of pay-for-performance contract strategies *for adult training services* described in WIOA Sec. 134(c)(3).[16]

No more than 10 percent of the allocation of program year funds for youth programs can be reserved and used for the implementation of pay-for-performance contract strategies *for youth training services and other activities* described in WIOA Sec. 129(c)(2).[17]

[12] In general, performance-based contracting is a procurement method that structures all aspects of the procurement around the purposes of the work to be performed instead of describing the manner by which the work is to be performed.
[13] 20 CFR § 683.500(a)
[14] 20 CFR § 683.500(b)
[15] 20 CFR § 683.500(c)
[16] 20 CFR § 683.520(a)
[17] Ibid.

Section IV. Transfer of Title IB adult and dislocated worker program funds

Local boards may transfer up to 100 percent of program year allocations between adult and dislocated worker programs,[18] in accordance with Federal and State laws, rules, regulations, guidance, and this policy. Local boards must obtain written approval from NDOL before any transfer will be made.[19] NDOL's written approval will be based on requirements and factors described below in subsections (a) and (b).

(a) Submission requirements

Transfer request forms[20] must be signed digitally and submitted by email *by chairs of local boards* to the:

- NDOL Reemployment Services Division Director;
- NDOL Reemployment Services Division Quality Control Unit Administrator; and
- NDOL policy mailbox.

(b) Documentation requirements

The following documentation must be submitted with signed transfer request forms:

1. minutes from local board public meetings during which proposed transfer requests were approved, which must demonstrate that documentation required below was provided to the local board;
2. fiscal reports detailing current local area funding available for adult and dislocated worker programs, as of the date of the request;
3. descriptions of the programs to and from which funds may be transferred *and* total amounts of funds requested for transfer;
4. descriptions of program years or fiscal years from which from funds may be transferred and in what amounts (example: $20,000 from PY23 and $50,000 from FY24);
5. NEworks reports detailing the following characteristics of **current** adult and dislocated worker program participants:
    a. age;
    b. sex;
    c. race/ethnicity;

[18] 20 CFR § 683.130
[19] Ibid.
[20] NDOL provides the current transfer request form to local boards and administrative entities by email.

d. low-income status; and

e. Veteran and non-Veteran status;

6. NEworks reports that list the number of enrollments in adult and dislocated worker programs for the eight most recently completed program performance quarters preceding the date of the request;

7. detailed descriptions of how transfers will meet employment and training needs of **current** and **future** participants in the programs *to* which funds may be transferred;

8. detailed descriptions of how local boards will continue to meet employment and training needs of **current** and **future** participants in the programs *from* which funds may be transferred;

9. detailed descriptions of how local boards will ensure priority of service is and will continue to be implemented within adult and dislocated worker programs in accordance with Federal and State laws, rules, regulations, guidance, and NDOL's current policy on priority of service;

10. current labor market information reports available through NEworks concerning employment and training needs of **employers** providing employment opportunities *in in-demand occupations in local areas;*

11. detailed descriptions of how requested transfers will support employment and training needs of **employers** providing employment opportunities *in in-demand occupations in local areas;*

12. detailed responses to the following questions:

    a. Will funds that may be approved for transfer under this request be used to directly or indirectly support incumbent worker training or customized training services provided to employers?

    b. If the answer to the previous question is yes:

        i. What is the specific amount of the transferred funds that will be used to *directly* fund incumbent worker training or customized training services provided to employers?

        ii. How will *indirect* support of incumbent worker training or customized training services based on transfer of funds effect the employment and training needs of **current** and **future** participants in programs *to* and *from* which funds may be transferred?

13. detailed descriptions of how transfers are consistent with the goals and strategies described in the **current** state plan;

14. annual *adjusted levels of performance* reports issued by NDOL for the previous two completed program years preceding the date of the request; and

15. when applicable, detailed explanations of reasons for local area failures meet *adjusted levels of performance* for adult and dislocated worker programs.

(1) Additional factors

NDOL may take into account any other factors it deems relevant to transfer requests, including monitoring reports issued by the NDOL Reemployment Services State Monitoring Unit.

(c) Transfer request determinations

Absent extenuating circumstances, determinations on transfer requests will be issued in writing to local board chairs by an NDOL Reemployment Services Division representative *within 30 calendar days of NDOL's receipt of complete, compliant, and signed transfer request forms*.

- Submitted transfer requests that are incomplete or conflict with Federal, State, or local laws, rules, regulations, guidance, or this policy will not be approved; in which case, an NDOL Reemployment Services Division representative will advise chairs of the local boards accordingly.

- If outdated or modified versions of the current transfer request form are submitted, resubmission will be required using the current form.

Section V. Title IB quarterly financial reporting requirements, procedures, and timelines

(a) General requirements

Local area fiscal agents must submit quarterly financial reports and acceptable supporting documentation according to the requirements, procedures, and timelines described below.

(b) Content requirements

Fiscal agents must submit quarterly financial reports using NDOL's quarterly reporting forms,[21] along with acceptable supporting documentation.[22] Quarterly financial reports must include financial data and acceptable supporting documentation detailing local area obligations, program income, indirect costs, expenditures (including training expenditures), and disbursements, as described in Table 2.[23]

Table 2. Financial data and supporting documentation required for Title IB quarterly reporting

Reporting category	Required data	Acceptable supporting documentation
Obligations	a listing of all newly incurred and ongoing obligations	completed obligations report
Program income	total amount of program income earned during the reporting quarter	written documentation clearly detailing the sources and amounts of program income

[21] Quarterly reporting forms are available by email request to ndol.accountspayable@nebraska.gov.
[22] Processes for submitting acceptable supporting documentation for quarterly reporting requirements are determined by NDOL Finance Division. Email ndol.accountspayable@nebraska.gov for technical assistance.
[23] 20 CFR § 683.300

Reporting category	Required data	Acceptable supporting documentation
Indirect costs	total amount of indirect costs incurred during the reporting quarter based on local board approved indirect cost rate	supporting documentation not required
Expenditures	total amount of expenditures made during the reporting quarter, including training expenditures	copies of invoices or other evidence of expenditures

(c) Program income

Program income (defined at 2 CFR § 1200.80) must be reported on an accrual basis and cumulatively by fiscal year of appropriation.[24] In addition, the following administrative requirements apply:[25]

1. The addition method described at 2 CFR § 200.307 must be used for all program income earned.

2. Any excess of revenue over costs incurred for services provided by Title IB programs must be included in program income.

(d) Submission of quarterly financial reports

Fiscal agents *must* simultaneously submit quarterly financial reports by email to:

- NDOL Accounts Payable at ndol.accountspayable@nebraska.gov; and

- Reemployment Services State Monitoring Unit at ndol.state_monitor@nebraska.gov.

(e) Timelines

Quarterly reports must be submitted *no later than* 30 calendar days after the end of each performance quarter. Due dates for submission of quarterly reports are listed in Table 3.

Table 3. Due dates for quarterly financial reports

Reporting quarter	Due date
Quarter 1 (July 1 – September 30)	October 30
Quarter 2 (October 1 – December 31)	January 30
Quarter 3 (January 1 – March 31)	April 30
Quarter 4 (April 1 – June 30)	July 30

(f) Records retention requirements

Each local board must ensure that all quarterly reports submitted to NDOL are retained locally, as required under the State's policy on records management. Record retention requirements under the NDOL records management policy apply equally to the supporting documentation on which local area quarterly financial reports are based.

[24] 20 CFR § 683.300
[25] Ibid.

Section VI. Recapture and reallocation of unexpended/unobligated Title IB funds

(a) Unexpended/unobligated funds[26]

At least 80 percent of the funds allocated to a local area for a program year for each of the adult, dislocated worker, and youth programs should be expended/obligated by the end of the first year program year of a period of performance. If more than 20 percent of the funds remain unexpended/unobligated at the conclusion of the first program year of the period of performance, the State may *recapture* the amount that exceeds 20 percent. (Recaptured amounts are separately determined for each program.) Calculation of the 20 percent amount must adjust for:

- funds reserved by the local board for administrative costs (up to 10 percent); and
- any transfer of funds between the local area adult and dislocated worker programs.

(b) Recapture of unexpended/unobligated funds[27]

In the event that local areas do not expend or obligate at least 80 percent of funds allocated to local areas during the first program year of a period of performance for their adult, dislocated worker, and youth programs, NDOL may recapture amounts that do not meet the minimum 20 percent expenditure/obligation threshold and reallocate that amount to other local areas for the same programs from which the funds were recaptured, following consultation with the state board.

(c) Reallocation of unexpended/unobligated funds[28]

To be eligible for reallocation of unobligated funds, local areas must have expended or obligated at least 80 percent of prior program year allocations for applicable programs, less any amount reserved for the costs of administration (up to 10 percent). Local area eligibility to receive reallocated funds must be separately determined for each applicable program. Local areas that receive reallocated funds must fully expend the funds by June 30 of the program year during which the reallocated funds are received.

(d) Pay-for-performance exception

Funds obligated by local boards to carry out WIOA pay-for-performance contract strategy, in accordance 20 CFR 683 Subpart E, remain available until expended.[29]

[26] 20 CFR § 683.140
[27] 20 CFR § 683.140
[28] Ibid.
[29] WIOA Sec. 189(g)(2)(D); 20 CFR § 683.110

Section VII. Return and reallocation of unexpended Title IB funds after periods of performance

Funds not expended by local boards during periods of performance must be returned to NDOL.[30] Returned funds may be used by NDOL during the following program year for:

- expenditure on statewide projects; or
- reallocation to eligible local boards.

Eligible local boards are those that have fully expended their allocated funds for the same program within the same period of performance. Eligible local boards that receive reallocated unexpended funds must fully expend those funds by June 30 of the program year the funds are received.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[30] 20 CFR § 683.110

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. Declining industries data

Declining industries data refers to data that identifies reductions in the number of jobs within given industries.[31]

2. Dislocated worker program enrollment data

Dislocated worker program enrollment data means data collected in NEworks regarding local area enrollments in local dislocated worker programs.

3. Farmer-rancher economic hardship data

Farmer-rancher economic hardship data refers to data that identifies the number of:[32]

- Chapter 12 farm bankruptcies in a local area; and
- farmers and ranchers in a local area whose net earnings are equal to or less than 70 percent of the Lower Living Standard Income Level.

4. Insured unemployment data

The term insured unemployment data refers to data that identifies the relative average number of unemployed individuals who reside in the local area compared to the total average number of unemployed individuals in Nebraska.[33]

5. Long-term unemployed data

Long-term unemployed[34] data refers to data that identifies the number individuals in a local area who have been looking for work for 27 weeks or longer according to NDOL unemployment insurance records.

6. Plant closings and mass layoff data

Plant closings and mass layoff data means data that is manually collected by NDOL through Rapid Response activities.

[31] NDOL Finance Division obtains this data from NDOL LMI Division.
[32] Ibid.
[33] NDOL Finance Division obtains this data from NDOL UI Division.
[34] TEGL 19-16

7. Unemployment concentrations data

Unemployment concentrations data means data that identifies the average unemployment rate in each county as compared with the average unemployment rate for Nebraska.

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
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Policy category
Administrative Requirements

Effective
May 3, 2023

Supersedes
Procurement
(effective February 23, 2018)

Procurement, Change 1

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

WIOA and the Uniform Guidance[1] establish administrative requirements, procurement standards, and methods of procurement for WIOA Title I programs (youth, adult, and dislocated worker).

CHANGES

Under this Change 1, footnotes have been revised for clarity and links have been updated where necessary.

[1] Uniform Guidance refers collectively to 2 CFR Parts 200 and 2900.

ACTION

This policy supersedes and cancels the State's policy titled Procurement (effective February 23, 2018). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Each local board must establish local procurement policies and procedures for procurement of property and services required to carry out WIOA Title I programs (youth, adult, and dislocated worker). The policies and procedures must adhere to state and local procurement laws and the following laws, regulations, and guidance:[2]

- Uniform Guidance;
- 2 CFR Part 180, guidelines on debarment and suspension;[3] and
- other applicable Federal laws, regulations, and guidance, including requirements for procurement established under WIOA and its implementing rules, regulations, and guidelines.

POLICY

This policy establishes requirements applying to administrative entities[4] regarding procurement of property and services required to carry out WIOA Title I programs, except for the procurement of one-stop operators.[5]

This policy has three sections and one appendix.

Section I. Administrative requirements....3
Section II. Procurement standards....3
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[2] 2 CFR § 200.318; 20 CFR § 681.400
[3] 2 CFR § 200.213
[4] The CEO, local board, administrative representatives, and fiscal agent(s) for a local area are collectively referred to as administrative entity throughout this policy.
[5] Procurement of one-stop operators is addressed in the State's policy on one-stop operator competitive selection and is available in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies..

Section I. Administrative requirements

The provisions of this policy apply to administrative entities in their role as pass-through entities that award:

- subawards to subrecipients to carry out part of the local WIOA Title I program; and
- contracts to contractors for purchasing property or other services needed to carry out WIOA Title I programs.

Section II. Procurement requirements

Administrative entities must follow the procurement standards established in the Uniform Guidance, key provisions of which are summarized below to stress their importance.

Each administrative entity must:

1. use its own documented procurement policies and procedures, provided they conform to the standards identified in the Uniform Guidance;[6]
2. maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of subawards and contracts;[7]
3. maintain written standards of conduct covering organizational conflicts of interest if the administrative entity has a parent, affiliate, or subsidiary organization that is not a state or local government;[8]
4. maintain, retain, and provide access records detailing the history of procurement;[9]
5. make case-by-case determinations on:
    a. whether the third party qualifies as a subrecipient or a contractor based on the substance of the administrative entity's relationship with that party;[10] and

[6] 2 CFR § 200.318
[7] 2 CFR § 200.318(c). The State's policies on workforce development boards and chief elected officials and internal controls and conflicts of interest provide additional information pertaining to conflict of interest requirements. The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.
[8] Ibid.
[9] 2 CFR §§ 200.318(c)(1), 200.333, 200.336, 200.337. The State's policy on records management provides additional information on requirements pertaining to records maintenance, retention, and access and is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.
[10] 2 CFR § 200.330

b. the appropriate legal instrument for procurement (grant agreement, pay-for-performance contract, cooperative agreement, contract) and ensure that the provisions required under the Uniform Guidance are included;[11]

6. conduct all procurement transactions in a manner providing full and open competition;[12]

7. take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and firms in labor surplus areas[13] are used when possible;[14]

8. ensure that subawards and contracts are not awarded to third parties that are debarred, suspended, or excluded from or ineligible for participation in Federal programs;[15]

9. award subawards and contracts only to third parties capable of successful performance under the provisions of their respective agreement or contract;[16]

10. maintain oversight to ensure that subrecipients perform according to the provisions of their respective grant agreement, pay-for-performance contract, or cooperative agreement;[17] and

11. be responsible for the settlement of all contractual and administrative issues arising out of agreements and contracts.[18]

Section III. Procurement methods

Table 1 provides an overview of permitted procurement methods, which are described in detail in 2 CFR § 200.320. Local boards must use one of these methods or the leveraged-resources method described in Section III(a).

Table 1. Methods of procurement[19]

Method	Description
1. Micro-purchase	Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.[20] To the extent possible, local boards must distribute micro-purchases equitably among qualified third parties. Micro-purchases may be awarded without soliciting competitive quotations if the local board considers the price to be reasonable.

[11] Uniform Guidance, including 2 CFR §§ 200.331 and 200.326 and Appendix II to 2 CFR Part 200 provide information on required provisions. In addition, refer to 20 CFR Parts 680, 681, and 683 for regulations on pay-for-performance contracts contract strategies.
[12] 2 CFR § 200.319
[13] Information on labor surplus areas is accessible at https://www.dol.gov/agencies/eta/lsa.
[14] 2 CFR § 200.321
[15] 2 CFR § 200.213
[16] 2 CFR § 200.318
[17] Ibid.
[18] Ibid.
[19] 2 CFR § 200.320; 20 CFR § 681.400(b)(4); TEGL 21-16
[20] Refer to 2 CFR § 200.320 and 48 CFR Part 2 Subpart 2.1 for information on micro-purchase thresholds.

Method	Description
2. Small purchase procedure	The small purchase procedure is the relatively simple and informal procurement method for securing services that do not cost more than the Simplified Acquisition Threshold.[21] If small purchase procedure is used, price or rate quotations must be obtained from an adequate number of qualified third parties.
3. Sealed bid (formal advertising)	Under the sealed bid procedure, bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the third party whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.
4. Competitive proposal	The technique of the competitive proposal is normally conducted with more than one provider submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.
5. Noncompetitive (sole-source) proposal	The noncompetitive (sole-source) proposal method is procurement through solicitation of a proposal from only one third party. Noncompetitive procurement may be used only when: ▪ the item is available only from a single source; ▪ public exigency or emergency will not permit a delay resulting from competitive solicitation; ▪ the US Department of Labor Employment and Training Administration *or* NDOL expressly authorizes noncompetitive proposals in response to a written request from the administrative entity; ▪ after solicitation of a number of sources, competition is determined inadequate; or ▪ there are an insufficient number of eligible youth providers or Eligible Training Providers in the local area, which is determined according to local procurement policies and procedures.[22]

(a) Leveraged resources

Local Title I programs are not required to use program funds for procurement of program services and may leverage partner resources to provide some or all services. If a program service is not funded with program funds, the local board or applicable Title I program provider must:[23]

- have a written agreement with the partner to ensure that the service will be offered; and
- ensure that the service is closely connected to and coordinated with the program.

[21] Refer to 2 CFR § 200.320 and 48 CFR Part 2 Subpart 2.1 for information on simplified acquisition thresholds.
[22] 20 CFR §§ 679.370(l)(1), 680.320(a)(2), and 681.400(b)(4)
[23] 20 CFR § 681.470

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.[24]

1. contract[25]

Contract means a legal instrument by which an administrative entity purchases property or services needed to carry out WIOA Title I programs. The term contract does not apply to transactions that meet the definition of a Federal award or subaward, even if the administrative entity considers it a contract.

2. contractor

Contractor means an entity that receives a contract (defined above).[26]

3. cooperative agreement

Cooperative agreement means a legal instrument of financial assistance between a pass-through entity and a non-Federal entity that is:[27]

- used to enter into a relationship, the principal purpose of which is to transfer anything of value (typically money) from the pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (i.e., WIOA);
- not used to acquire property or services for the pass-through entity's direct benefit or use;
- distinguished from a grant in that it provides for substantial involvement between the pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

4. grant agreement

Grant agreement means a legal instrument of financial assistance between a pass-through entity and a non-Federal entity that is:[28]

- used to enter into a relationship, the principal purpose of which is to transfer anything of value (typically money) from the pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (i.e., WIOA);

[24] Definitions for terms used in this policy that are not included in this appendix are provided in 2 CFR Part 200 Subpart A. Also, different definitions may be found in Federal statutes, regulations, and TEGLs that apply more specifically to particular WIOA Title I programs or activities.
[25] 2 CFR § 200.22
[26] 2 CFR § 200.23
[27] 2 CFR § 200.24
[28] 2 CFR § 200.51

- not used to acquire property or services for the pass-through entity's direct benefit or use;
- distinguished from a cooperative agreement in that it does not provide for substantial involvement between the pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

5. pass-through entity

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (i.e., WIOA Title I).[29]

6. pay-for-performance contract

A pay-for-performance contract is a type of performance-based contract that are entered into only when they are part of a WIOA pay-for-performance contract strategy.[30]

7. subaward[31]

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity (i.e., WIOA Title I Federal award). It does not include contracts with contractors or payments or benefits provided to WIOA Title I program participants.

8. subrecipient[32]

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program (i.e., WIOA Title I programs). The term does not include WIOA Title I program participants.

[29] 2 CFR § 200.74
[30] 2 CFR §§ 683.510 and 683.520
[31] 2 CFR § 200.92
[32] 2 CFR § 200.93

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Administrative Requirements
	Effective February 21, 2025
	Supersedes Records Management, Change 7

Records Management, Change 8

REFERENCE

Federal and state laws, rules, and regulations and other guidance and documentation relied upon for development of this policy are cited in footnotes.

BACKGROUND

Recipients and subrecipients of Federal financial assistance are required to keep records that are sufficient to:[1]

- prepare accurate Federally required program performance reports;
- verify reported performance data are valid, accurate, reliable, and comparable across programs; and
- trace funds to a level of expenditure adequate to ensure that funds have been spent lawfully.

In addition, recipients and subrecipients of Federal financial assistance are required to provide access to such records.[2]

[1] WIOA Secs. 116(d)(5) and 185. Refer to 2 CFR § 200.1 for definitions of recipient, subrecipient, and Federal financial assistance.
[2] 2 CFR § 200.337(a)

CHANGES

Section II has been revised to include provisions concerning NEworks and NEworks Document Manager (NDM) access requirements.

ACTION

State

This policy supersedes and cancels Records Management, Change 7. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

NDOL policies referenced within this policy are included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies. "State policy manual" refers to the policy manual created and maintained by the NDOL Reemployment Services Division State Policy Unit (SPU).

Local boards and local area administrative entities

Local boards and local area administrative entities must:[3]

- ensure creation, management, and maintenance of Title I program records; and
- provide access to those records according to:
  - the requirements of this policy;
  - WIOA and its implementing rules, regulations, and guidance;
  - Uniform Guidance; and
  - terms and conditions of their respective Title I subawards issued by NDOL:
- ensure local area staff, including Title I service provider staff and other local one-stop center staff and partner staff, access NEworks and NDM according to the requirements of this policy.

NDOL administered programs

Administrators of NDOL administered programs listed in Section I(c) below must:

- ensure creation, management, and maintenance of their respective program records; and
- provide access to those records according to:
  - the requirements of this policy;
  - the programs' authorizing legislation and applicable implementing rules, regulations, and subregulatory guidance;
  - Uniform Guidance; and
  - terms and conditions of corresponding awards issued by the US Department of Labor (USDOL) to NDOL.
- ensure program staff access NEworks and NDM according to the requirements of this policy.

[3] WIOA Secs. 116(d)(5) and 185. Uniform Guidance refers to 2 CFR Parts 200 and 2900. Refer to 2 CFR § 200.1 for the definition of subaward.

POLICY

This policy establishes requirements for records management by Title I programs and NDOL administered programs and has six sections and one appendix.

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Section I. General requirements

(a) NDOL

NDOL is required to submit reports to USDOL documenting the operations, program activities, and program expenditures of Title I, Title III, JVSG, TAA, and applicable Federally funded discretionary grant programs.[4] In addition, the required reports must include information necessary to demonstrate compliance with the nondiscrimination provisions of WIOA Sec. 188 and 29 CFR Part 38 and include information about:[5]

- demographic characteristics (including race, ethnicity, sex, and age) and other related characteristics pertaining to participants;
- programs and activities in which participants are enrolled and the length of time participants are engaged in programs and activities; and
- outcomes for participants taking part in programs and activities, including information on occupations and placement of participants in nontraditional employment.

[4] WIOA Sec. 185(c)
[5] WIOA Sec. 185(d)

(b) Local boards and local area administrative entities

For reporting, monitoring, and quality control purposes, local boards and local area administrative entities must:[6]

- ensure utilization of NEworks by Title I programs to safeguard NDOL's ability to perform uniform compilation, cross tabulation, and analysis of program data, including data necessary to ensure compliance with the requirements of the nondiscrimination provisions of WIOA Sec. 188 and 29 CFR Part 38;
- submit and make available in NEworks and NDM all documentation supporting program activities and service delivery; and
- ensure timely submission of mandatory Title I quarterly financial reports to NDOL, in accordance with NDOL's policy on program funding.

(c) NDOL administered programs

NDOL administers and implements the following USDOL funded programs:

1. Jobs for Veterans State Grant program (JVSG);
2. Senior Community Service Employment Program (SCSEP);
3. Title III Wagner Employment Service (Title III);
4. Trade Adjustment Assistance program (TAA); and
5. from time to time:
    a. discretionary grant programs funded by USDOL, including National Dislocated Work Grant programs authorized under WIOA Sec. 170; and
    b. other Federally funded discretionary grant programs.

For reporting, monitoring, and quality control purposes, administrators of NDOL administered programs listed above must:[7]

- ensure utilization of NEworks, except as otherwise required by a Federal partner, to safeguard NDOL's ability to perform uniform compilation, cross tabulation, and analysis of programmatic and participant data, including data necessary to ensure compliance with the requirements of the nondiscrimination provisions of WIOA Sec. 188 and 29 CFR Part 38, and NDOL's financial reporting systems; and
- submit and make available through NEworks and NDM all case management records and source documentation.

Section II. Required records management systems and systems access

(a) Management information systems of record

NEworks is NDOL's management information system of record for Federal reporting pertaining to Title I programs and NDOL administered programs. In addition, NDM is NDOL's designated source documentation management information system. Title I programs and NDOL administered

[6] WIOA Sec. 185(c); TEGL 10-16 Change 3

[7] WIOA Sec. 185(c). SCSEP utilizes a separate management information system pursuant to Federal partner requirements.

programs must use NEworks and NDM to record and document all program activities and service delivery, except as otherwise required by Federal partners.

(b) Accessing NEworks and NDM

To prevent unauthorized access and potential data breaches and to ensure NDOL's compliance with regulatory data protection requirements, NEworks and NDM must be accessed from approved IP addresses or IP subnets[8] managed by local area administrative entities (the NDOL approved IP list). Attempting to access NEworks and NDM from unapproved IP addresses and IP subnets will result in blocked access.

Local administrative entities are responsible for ensuring that all of their Title I service provider staff and other local one-stop center staff and partner staff accessing NEworks and NDM comply with this access requirement.

Local administrative entities are also responsible for notifying NDOL when additional IP addresses or IP subnets should be added to and removed from NDOL's approved IP list. Notifications must:

- be submitted by administrative entity staff only to ndol.neworkshelp@nebraska.gov; and
- identify which IP addresses and IP subnets should be added to or removed from the NDOL approved list.

Section III. Records corrections

Program staff may correct record errors in NEworks during the 30-day period beginning on the date of entry of incorrect information. After the 30-day period expires, record correction requests must be submitted, subject to the following restrictions and requirements.

1. Correction requests must not be used to enhance program performance or distort actual events.
2. NDOL's Reemployment Services Division Quality Control Unit (QCU) Administrator is responsible for review and approval of submitted correction requests.
3. All submitted record correction requests must concisely reference existing acceptable source documentation that substantiates requested corrections which must be accessible to the QCU Administrator during review of correction requests.
4. Correction requests will not be approved if source documentation for affected records is not:
    a. accessible to the QCU Administrator; or
    b. acceptable in accordance with TEGL 23-19 Change 2, Attachment II.

[8] A subnet, or subnetwork, is a segmented piece of a larger network. More specifically, subnets are a logical partition of an Internet Protocol (IP) network broken into multiple, smaller network segments. Subnets are often used to divide clients logically or by location to help the network traffic flow better. Each subnet has an assigned range of possible IP addresses. Organizations use a subnet to subdivide large networks into smaller, more efficient subnetworks. [TechTarget. "What is a subnet?" https://www.techtarget.com/searchnetworking/definition/subnet [accessed February 20, 2025]]

Section IV. Records retention

(a) Local boards and local area administrative entities

Subject to the exceptions described in Section IV(c) below, local boards and local area administrative entities must ensure that all Title I records listed below are retained for a minimum of three years from the date of NDOL's submission of the final expenditure report to USDOL for the applicable program year:[9]

1. financial records;
2. source documentation;
3. statistical records; and
4. all other records pertaining to the programs, including but not limited to local board meeting minutes.

Local boards and local area administrative entities may request the date of NDOL's submission of the final expenditure report for an applicable program year by sending a request to the policy mailbox at ndol.wioa_policy@nebraska.gov.

(1) Additional retention requirements

Greater Lincoln and Greater Omaha Workforce Development Areas *may be subject* to additional record retention requirements based on applicable state, regional, or local laws. Greater Lincoln and Greater Omaha administrative entity staff must determine if their respective local areas are subject to additional record retention requirements.

The Greater Nebraska Workforce Development Area *is subject* to additional records retention requirements under the Nebraska Records Management Act.[10] Greater Nebraska administrative entity staff must refer to the records retention and disposition schedules established by the Nebraska Secretary of State to determine additional record retention requirements.[11]

Regardless of state, regional, and local laws, rules, and regulations that may impact local workforce development areas, Federally established record retention requirements cannot be lessened by record retention requirements established under state, regional, and local laws, rules, and regulations.

(b) NDOL administered programs

Subject to exceptions described in Section IV(c) below, NDOL administered programs are bound by the same Federal three-year retention period described above. In addition to the Federal three-year retention requirement, NDOL administered programs are subject to additional record retention requirements established under the Nebraska Records Management Act, which means administrators of those programs must refer to the records retention and disposition schedules established by the Nebraska Secretary of State to determine any additional retention requirements, beyond the Federal three-year retention requirement. Federally established record

[9] 2 CFR § 200.334
[10] Nebraska Records Management Act is accessible at https://sos.nebraska.gov/records-management/records-management-act.
[11] Retention schedules for NDOL are accessible at https://sos.nebraska.gov/records-management/department-labor-schedule-45.

retention requirements cannot be lessened by record retention requirements established under state, regional, and local laws, rules, and regulations.

(c) Record retention exceptions

USDOL is not permitted to impose record retention and access requirements other than those stated in 2 CFR Part 200 Subpart D, except under the circumstances described in 2 CFR § 200.334. Likewise, NDOL, local boards, and local area administrative entities are not permitted to impose record retention requirements upon their respective subrecipients other than those stated in 2 CFR § 200.334, subject to the requirements of the Nebraska Records Management Act and other applicable state, regional, and local laws, rules, and regulations.

Section V. Records access

2 CFR § 200.337 describes rights of access to records pertaining to Federal awards.[12] 2 CFR § 200.315(e), 5 USC 552, and Executive Order 13556 provide information concerning to public access to records.

Section VI. Quality control and data validation

(a) State level system-automated quality control processes

Data quality is verified quarterly and annually at the state level through large-scale, system-automated processes within NEworks pertaining to performance reporting for Title I and Title III programs.

1. NDOL's NEworks vendor provides a PIRL[13] file to NDOL on a daily basis through secure file transfer.
2. The PIRL is uploaded to WIPS[14] during quarterly and annual reporting cycles. The PIRL passes through edit check protocols that scan all individual and programmatic data elements. Edit check protocols search for date range errors and inconsistencies, anomalies, and waterfall errors (i.e., if element a = 1 then element b cannot = 2).
3. Once quarterly and annual PIRL files successfully clear edit check protocols, PIRL reports are certified by the QCU.
4. Similar edit check processes for wage data occur simultaneously in SWIS[15] during quarterly and annual reporting cycles established by USDOL.

[12] Refer to 2 CFR § 200.1 for definition of Federal award.
[13] PIRL refers to a Participant Individual Record Layout, a format for reporting program performance data to USDOL.
[14] WIPS refers to the Workforce Integrated Performance System, the system by which states report on performance of Federally funded workforce programs.
[15] SWIS refers to the State Wage Interchange System, the system used to facilitate the interstate exchange of Wage Data between participating state agencies.

(b) Title I and Title III quality control requirements and procedures

NDOL has established quality control requirements and procedures for Title I and Title III programs.

1. Quality control activities must be conducted annually by Title I and Title III programs for quarters 1 through 3 of each program year following conclusion of quarter 3, based on the schedule provided in Table 1.
2. QCU generates lists of randomly selected participant cases from Title I and Title III participant populations for quarters 1 through 3 of each program year using the NEworks random sampling function described in Section VI(e) below.
3. QCU provides random sample lists to local Title I administrative entities and the Title III administrator within 15 calendar days of conclusion quarter 3 of each program year.
4. During performance of annual quality control activities, all participant cases listed in random sample lists must be evaluated by Title I and Title III programs to compare recorded NEworks activities and case notes to documentation available in NDM to determine if acceptable source documentation is present. TEGL 23-19 Change 2, Attachment II identifies multiple types of acceptable source documentation. If multiple types of source documentation are present in NDM for NEworks activities and case notes and those source documents conflict, the most objective acceptable source document must be used to determine if NEworks activities and case notes are accurate.
5. Following completion of annual quality control activities, the following actions must be taken by Title I and Title III programs.
    a. Record correction requests must be submitted, as described in Section III above, whenever quality control activities reveal that NEworks activities and case notes:
        i. do not include or align with source documentation stored in NDM; and
        ii. source documentation stored in NDM does not comply with types of acceptable source documentation described in TEGL 23-19 Change 2, Attachment II.
    b. Quality control reports must be generated that:
        i. indicate numbers of participant cases evaluated based on the random sample participant lists provided by QCU;
        ii. identify anomalies that may cause inaccurate reporting;
        iii. identify trends in common data accuracy issues;
        iv. identify participant cases with data accuracy issues; and
        v. identify corrective actions that were or will be taken based on the results of annual quality control activities.
    c. Quality control reports must be submitted to the State Monitoring Unit (SMU) at ndol.state_monitor@nebraska.gov based on the schedule provided in Table 1.

Table 1. Annual schedule for Title I and Title III quality control activities and reporting

Quality control period	Start date of quality control activities	End date of quality control activities	Quality control report due date	Submission of quality control reports
July 1 – March 30	April 15	June 30	July 1	to SMU at ndol.state_monitor@nebraska.gov

(c) Conflicts of interest and quality control activities

NDOL prohibits local area organizational practices that allow or require Title I service provider staff to conduct Title I quality control activities. NDOL also prohibits practices that allow or require Title III staff to conduct quality control activities for their respective participant cases. Both

prohibitions are necessary, as these practices constitute real or apparent conflicts of interest. To avoid real or apparent conflicts of interest, Title I service provider staff and Title III program staff cannot:

- conduct quality control activities for programs of which they are part; or
- evaluate participant cases for participants they may have served.

Refer to NDOL's policy on internal controls and conflicts of interest for additional information on other circumstances that constitute real or apparent conflicts of interest.

(d) Title I and Title III data validation requirements and activities

NDOL has established data validation requirements and procedures for Title I and Title III programs.

1. Data validation activities must be conducted annually by the SMU following conclusion of each program year based on the schedule provided in Table 2.
2. QCU generates lists of randomly selected participant cases from Title I and Title III participant populations for the completed program year program year using the NEworks random sampling function described in Section VI(e) below.
3. QCU provides random sample lists to the SMU within 15 calendar days of the conclusion of each program year.
4. During performance of annual data validation activities, all participant cases listed in Title I and Title III random sample lists must be evaluated to compare recorded NEworks activities and case notes to documentation available in NDM to determine if acceptable source documentation is present. TEGL 23-19 Change 2, Attachment II identifies multiple types of acceptable source documentation. If multiple types of source documentation are present in NDM for NEworks activities and case notes and those source documents conflict, the most objective acceptable source document must be used to determine if NEworks activities and case notes are accurate.
5. Following completion of annual data validation activities, the following actions must be taken by the SMU.
    a. Data validation reports must be generated that:
        i. indicate numbers of participant cases evaluated based on the random sample participant lists provided by the QCU;
        ii. identify anomalies that may cause inaccurate reporting;
        iii. identify trends in common data accuracy issues; and
        iv. identify participant cases with data accuracy issues;
    b. Resulting data validation reports must be submitted to the QCU Administrator at ndol.wioa_policy@nebraska.gov based on the schedule provided in Table 2.
6. The QCU Administrator will evaluate data validation reports and implement necessary corrective actions, in collaboration with the SMU and SPU.

Table 2. Annual schedule for Title I and Title III data validation activities and reporting

Validation period	Start date of validation	End date of validation	Validation report due date	Submission of validation report
July 1 – June 30	July 15	September 30	October 1	to QCU Administrator at ndol.wioa_policy@nebraska.gov

(e) Random record sampling

QCU generates lists of randomly selected participant cases for Title I and Title III program populations using the NEworks random sampling function. The random sampling function selects participant cases based on program population size, confidence level percentages, confidence intervals, and required case sample sizes described in Table 3.

Table 3. Required participant case sample size based on program population

Program population size	Confidence level %	Confidence interval	Required case sample size
1 – 99	95	15	30
100 – 199	95	15	35
200 – 299	95	15	37
300 – 399	95	15	39
400 – 499	95	15	39
500 – 599	95	15	40
600 – 699	95	15	40
700 – 799	95	15	41
800 – 899	95	15	41
900 – 999	95	15	41
1000 – 1999	95	15	42
2000 – 4999	95	15	42
5000 – 9999	95	15	43
10000 – 14999	95	15	43
15000 - 19999	95	15	43
20000 – 24999	95	15	43
25000 – 29999	95	15	43
30000 +	95	15	43

(f) Technical assistance

QCU provides monthly statewide technical assistance on topics relating the use of NEworks and NDM. Requests for additional technical assistance on NEworks and NDM use should be submitted simultaneously to NEworks Help Desk at ndol.neworkshelp@nebraska.gov and SPU at ndol.wioa_policy@nebraska.gov.

The SMU will provide technical assistance on required quality control activities upon request, in collaboration with the QCU Administrator and SPU.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information supporting provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. confidence interval

Confidence interval refers to a range of values that you can be confident contains the true mean of the program population size.[16]

2. confidence level

Confidence level refers to the percentage of probability or certainty that the confidence interval would contain the true program population parameter when you draw a random sample many times.[17]

3. participant case

A participant case is the set of records documenting services provided to a program participant enrolled in a particular program who was active or exited a program during the applicable data validation timeframe.

4. program population size

A program population is the total number of participants who were active or exited a program during an established data validation timeframe.

[16] Joseph F. Healey, Statistics: A Tool for Social Research [California: Thomson Wadsworth, 2005], 544
[17] Ibid.

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Administrative Requirements

Effective
May 3, 2023

Supersedes
Internal Controls and Conflicts of Interest
(effective April 14, 2023)

Internal Controls and Conflicts of Interest, Change 1

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Non-Federal entities must establish internal controls that provide reasonable assurances that they are managing Federal awards in compliance with Federal law, rules, regulations, and terms and conditions of Federal awards.[1]

CHANGES

Under this Change 1, footnotes have been revised for clarity and links have been updated where necessary.

[1] 2 CFR § 200.303

ACTION

This policy supersedes and cancels the State's policy titled Internal Controls and Conflicts of Interest (effective April 14, 2023). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards and chief elected officials (CEOs) must:

- implement written policies that establish safeguards described in Section II(a) and address requirements concerning internal controls and conflicts of interest as required under Federal and state laws, rules, regulations, and guidance; requirements of this policy; and all requirements concerning internal controls and conflicts of interest in State policies, including:[2]
    - audit and audit resolution;
    - memorandums of understanding and funding agreements;
    - nondiscrimination and equal opportunity;
    - on-the-job training;
    - one-stop delivery system assessment and one-stop center certification;
    - one-stop operator competitive selection;
    - procurement;
    - records management;
    - workforce development boards and chief elected officials; and
    - youth program;
- ensure local area compliance with local written policies pertaining to the safeguards described in Section II(a) and requirements concerning internal controls and conflicts of interest as required under Federal and state laws, rules, regulations, and guidance; requirements of this policy; and all requirements concerning internal controls and conflicts of interest in State policies.

[2] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

POLICY

This policy has two sections and one appendix.

Section I. Purposes of internal controls and prevention of conflicts of interest....3
Section II. Requirements for internal controls and prevention of conflicts of interest....3
(a) Internal controls....3
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Section I. Purposes of internal controls and prevention of conflicts of interest

The purpose of internal controls is to safeguard an organization and further its objectives. Internal controls function to prevent conflicts of interest and:

- minimize risks;
- protect assets;
- protect personally identifiable information (PII);
- prevent fraud;
- ensure accuracy of records;
- promote operational efficiency; and
- ensure compliance with Federal and state laws, rules, regulations, and guidance, as well as State policies.

Section II. Requirements for internal controls and prevention of conflicts of interest

(a) Internal controls

Recipients and subrecipients of WIOA Title I and Wagner-Peyser Act funds must establish internal control structures and written policies that provide safeguards to protect personally identifiable information, records, contracts, grant funds, equipment, sensitive information, tangible items, and other information that is readily or easily exchanged in the open market *or* that the US Department of Labor, recipients (i.e., NDOL), and subrecipients (i.e., local boards and CEOs) consider to be sensitive, consistent with applicable Federal, state, and local privacy and confidentiality laws.[3] Internal controls established by non-Federal entities should comply with Standards for Internal

[3] 20 CFR § 683.220(a)

Control in the Federal Government[4] and Internal Control – Integrated Framework.[5]. Internal controls must also include reasonable assurances that recipients and subrecipients are:[6]

- managing Federal awards in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards;
- complying with Federal statutes, regulations, and the terms and conditions of the Federal awards;
- evaluating and monitoring recipient and subrecipient compliance with WIOA and its implementing rules, regulations, and guidance, and the terms and conditions of Federal awards; and
- taking prompt action when instances of noncompliance are identified.

Further, 2 CFR § 200.303 requires that non-Federal entities, including NDOL and local boards and CEOs receiving Title I subawards, must:

1. establish and maintain effective internal controls over Federal awards that provide reasonable assurances that they are managing the awards in compliance with Federal laws, rules, regulations, and guidance and terms and conditions of awards;
2. comply with the United States Constitution, Federal laws, rules, regulations, and guidance and terms and conditions of Federal awards;
3. evaluate and monitor compliance with Federal laws, rules, regulations, and the terms and conditions of Federal awards;
4. take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
5. take reasonable measures to safeguard protected personally identifiable information (PII) and other information Federal awarding agencies or pass-through entities designate as sensitive *or* the non-Federal entities consider sensitive, consistent with applicable Federal, State, local, and tribal laws regarding privacy and responsibility over confidentiality.

[4] Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States are issued by the Comptroller General of the United States and are accessible at https://www.govinfo.gov/content/pkg/GAOREPORTS-AIMD-00-21-3-1/pdf/GAOREPORTS-AIMD-00-21-3-1.pdf.

[5] Internal Control – Integrated Framework is issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and is accessible at https://www.coso.org/sitepages/internal-control.aspx?web=1.

[6] 20 CFR § 683.220(a)

(b) Prevention of conflicts of interest

As mentioned above, requirements regarding conflicts of interest appear in the following State policies:

- audit and audit resolution;
- memorandums of understanding and funding agreements
- nondiscrimination and equal opportunity;
- on-the-job training;
- one-stop delivery system assessment and one-stop center certification;
- one-stop operator competitive selection;
- procurement;
- records management;
- workforce development boards and chief elected officials; and
- youth program.

In addition to conflicts-of-interest requirements established under the policies listed above, this policy establishes additional requirements relating to internal controls and conflicts of interest, which are described below in subsections (i) and (ii).

(i) Conflicts of interest and monitoring and oversight

Local boards, in partnership with their respective CEOs, must:[7]

- conduct oversight and monitoring of youth workforce investment activities authorized under WIOA Sec. 129(c);
- conduct oversight and monitoring of adult and dislocated worker employment and training activities authorized under WIOA Sec. 134(c) and (d);
- conduct oversight and monitoring of their entire local one-stop delivery systems; and
- ensure appropriate use, management, and investment of funds to maximize performance outcomes as described in WIOA Sec. 116.

To prevent real or apparent conflicts of interest in the conduct local oversight and monitoring of Title I programs and the local one-stop delivery system, local boards and CEOs must require that their monitors/monitoring teams are functioning independently. Functioning independently means

[7] WIOA Sec. 107(d)(8); 2 CFR §§ 200.303(c) – (d), 200.318(b), 200.328, 200.331(d); 20 CFR §§ 378.380(a) and 679.370(i)(1) – (3)

local area monitors report directly to and are solely accountable to local boards concerning conduct of local area oversight and monitoring activities.

The State *prohibits* local area organizational structures that require local monitors to function under and/or report to local area administrative entities or local area service providers. This prohibition is necessary as such organizational structures constitute inherent conflicts of interest for monitors because monitors cannot effectively monitor an entity of which they are part. This prohibition does not, however, restrict local area personnel practices and procedures concerning compensation due to local area monitors, including payroll and leave benefits, pursuant to their roles as monitors.

(ii) Conflicts of interest and the provision of workforce system services

The State prohibits staff from enrolling, case managing, or otherwise directly working with family members who are seeking workforce system services. When family members of staff are seeking services, those services must be provided by other staff in order to prevent inherent, real, and apparent conflicts of interest. This State-established prohibition applies to staff providing services under:

- Title I adult, dislocated worker, and youth programs; and
- NDOL-administered programs:
    - Title III Wagner-Peyser Employment Service (Wagner-Peyser), including the Monitor Advocate System;
    - Jobs for Veterans State Grant program (JVSG);
    - Trade Adjustment Assistance program (TAA); and
    - National Dislocated Worker Grant programs (DWG).

(c) Compliance

NDOL's Reemployment Services State Monitoring Unit is responsible for ensuring local area compliance with applicable Federal laws, rules, and regulations; all requirements of this policy; and all requirements concerning internal controls and conflicts of interest established under the State policies listed in Section II(b).

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. chief elected official (CEO)

The term chief elected official means:[8]

- the chief elected executive officer of a unit of general local government in a local area; and
- in the case of a local area that includes multiple units of general local government, the individuals designated under an agreement executed among the chief elected officials of the local area in accordance with WIOA Sec. 107(c)(1)(B).

For purposes of this policy, the term chief elected official also refers to a chief elected officials board (CEOB) established in accordance with WIOA Sec. 107(c)(1)(B).

2. cooperative agreement

The term cooperative agreement[9] means a legal instrument of financial assistance between a Federal awarding agency and a recipient or a pass-through entity and a subrecipient that is, consistent with 31 USC §§ 6302 – 6305:

- used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States[10] and not to acquire property or services for the Federal Government or a pass-through entity's direct benefit or use; and
- distinguished from a grant in that it provides for substantial involvement of a Federal awarding agency in carrying out the activity contemplated by the Federal award.

The term cooperative agreement does not include:

(a) a cooperative research and development agreement as defined in 15 USC § 3710a; or

(b) an agreement that provides only:

(1) direct United States Government cash assistance to an individual;

(2) a subsidy;

(3) a loan;

[8] WOA Sec. 3(9)
[9] 2 CFR § 200.1
[10] 31 USC § 6101(3)

(4) a loan guarantee; or

(5) insurance.

3. family member

The term family member refers to:[11]

(a) grandparents, parents, and step-parents;

(b) siblings and step-siblings;

(c) spouses;

(d) children, step-children, adopted children, and foster children;

(e) siblings of spouses;

(f) spouses of siblings; and

(g) nieces and nephews.

4. Federal award

Federal award means either, depending on context:[12]

(a) Federal financial assistance a recipient receives comes directly from a Federal awarding agency or indirectly from a pass-through entity; or

(b) the instrument setting forth the terms and conditions in a grant agreement, cooperative agreement, or other agreement for assistance covered in paragraph (b) of the definition of Federal financial assistance below.

The term Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government owned contractor operated facilities (GOCOs).

5. Federal awarding agency

The term Federal awarding agency refers to the Federal agency that provides a Federal award directly to a non-Federal entity.[13]

[11] Family member is defined by the State.
[12] 2 CFR § 200.1
[13] Ibid.

6. Federal financial assistance

Federal financial assistance means:[14]

(a) assistance that non-Federal entities receive or administer in the form of:

(1) grants;

(2) cooperative agreements;

(3) non-cash contributions or donations of property (including donated surplus property);

(4) direct appropriations;

(5) food commodities; and

(6) other financial assistance (excluding assistance described in paragraph (b) of this definition).

(b) pursuant to 2 CFR § 200.203 (and 2 CFR Part 200 Subpart F), assistance that non-Federal entities receive or administer in the form of:

(1) loans;

(2) loan guarantees;

(3) interest subsidies; and

(4) insurance;

(c) pursuant to 2 CFR § 200.216, assistance that non-Federal entities receive or administer in the form of:

(1) grants;

(2) cooperative agreements;

(3) loans; and

(4) loan guarantees.

Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals as described in 2 CFR § 200.502(h) and 2 CFR § 200.502(i).

[14] 2 CFR § 200.1

7. grant agreement

Grant agreement[15] refers to a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that is, consistent with 31 USC §§ 6302 and 6304:

- used to enter into a relationship, the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States[16] and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use; and

- distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.

The term grant agreement does not include an agreement that provides only:

(a) direct United States Government cash assistance to an individual;

(b) a subsidy;

(c) a loan;

(d) a loan guarantee; or

(e) insurance.

8. internal controls

The term internal controls by non-Federal entities means processes designed and implemented by the non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories:[17]

- effectiveness and efficiency of operations;

- reliability of reporting for internal and external use; and

- compliance with applicable laws and regulations.

9. non-Federal entities

The term non-Federal entity means a State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization that carries out a Federal award as a recipient or subrecipient.[18]

[15] 2 CFR § 200.1
[16] 31 USC § 6101(3)
[17] Ibid.
[18] Ibid.

10. pass-through entity (PTE)

The term pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.[19]

11. personally identifiable information (PII)

The term personally identifiable information[10] (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources, such as telephone books, public websites, and university listings. This type of information is considered to be public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, or general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that could be used to identify an individual when combined with other available information.

12. recipient

The term recipient means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency.[20] The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

13. subaward

Subaward[21] means an award provided by a PTE to a subrecipient for the subrecipient to carry out part of a Federal award received by the PTE. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program (i.e., a program participant). A subaward may be provided through any form of legal agreement, including an agreement that the PTE considers a contract.

14. subrecipient

The term subrecipient[22] means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

[19] 2 CFR § 200.1
[20] Ibid.
[21] Ibid.
[22] Ibid.

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Administrative Requirements
	Effective May 3, 2023
	Supersedes State Monitoring Program – WIOA Title I, Change 1 (effective April 10, 2023)

State Monitoring Program – WIOA Title I, Change 2

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

As the WIOA Title I grant recipient for the State of Nebraska, the Governor is required to oversee and monitor the activities of Nebraska's Title I subrecipients to ensure that Title I subawards are used for authorized purposes in compliance with Federal laws, regulations, rules, and guidance; terms and conditions of subaward agreements; and applicable State policies.[1] NDOL meets this requirement, on behalf of the Governor, through the efforts of the NDOL Reemployment Services Division State Monitoring Unit (SMU).

CHANGES

Under this Change 2, footnotes have been revised for clarity and links have been updated where necessary.

[1] WIOA Sec. 184(a)(4); 2 CFR §§ 200.303(c), 200.329(a), 200.332(b), and 200.332(d)

ACTION

Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

POLICY

This policy has two sections and one appendix.

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(b) Annual Title I comprehensive monitoring 3
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Section I. State Monitoring Program

(a) Overview

NDOL is responsible for oversight and monitoring of Nebraska's Title I subrecipients, on behalf of the Governor, to ensure WIOA Title I subrecipient compliance with WIOA and its implementing rules, regulations, and guidance; other applicable Federal laws, rules, regulations, and guidance; terms and conditions of subaward agreements with the subrecipients; and applicable State policies.[2] Oversight and monitoring is conducted by the SMU through annual Title I comprehensive monitoring and may be conducted pursuant to ad hoc monitoring and single audits.

[2] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

(b) Annual Title I comprehensive monitoring

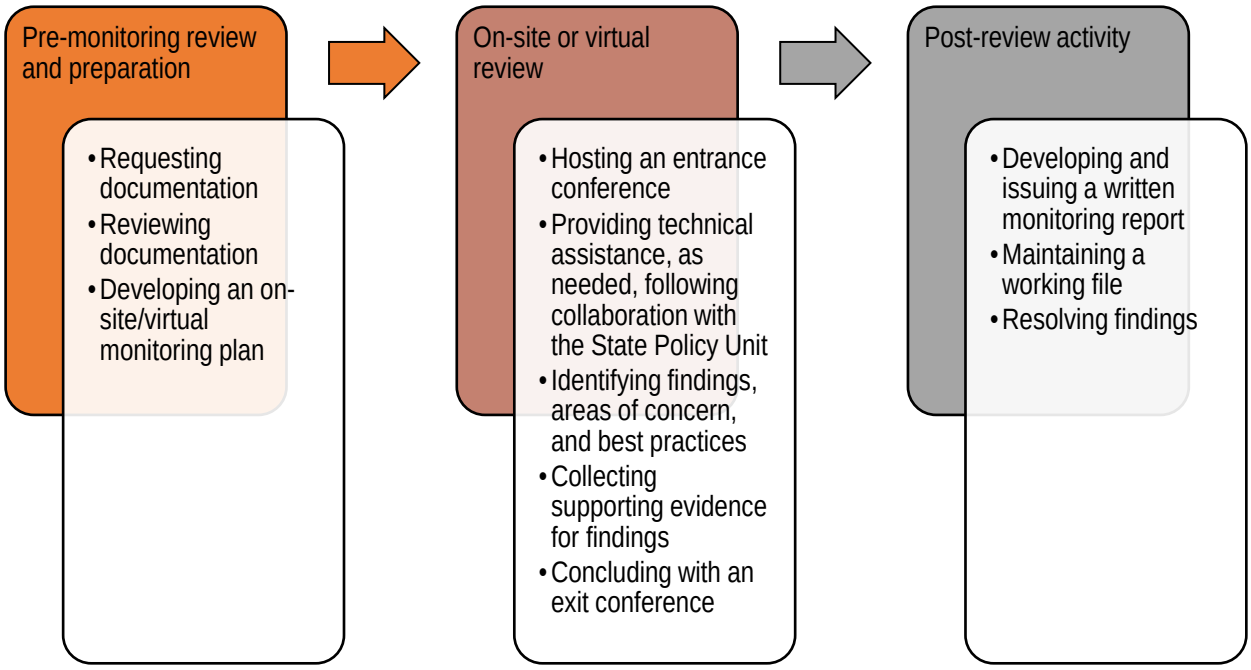
The SMU conducts annual comprehensive monitoring of Nebraska's Title I subrecipients in accordance with NDOL's current Comprehensive Monitoring Guide,[3] as well as:

- WIOA and its implementing rules, regulations and guidance;
- other applicable Federal laws, rules, regulations, and guidance; and
- applicable State policies.

(1) Process

Diagram 1 illustrates the monitoring process typically followed by the SMU which includes three components: pre-monitoring review and preparation, on-site or virtual review, and post-review activity.

Diagram 1. 3 components of the monitoring process



(2) Roles and responsibilities

The SMU is responsible for conducting annual Title I comprehensive monitoring, including fiscal monitoring, in accordance with NDOL's Comprehensive Monitoring Guide. During fiscal monitoring activities, the SMU coordinates with NDOL's Finance Division and the applicable subrecipient regarding transaction testing and other fiscal matters.

[3] The Comprehensive Monitoring Guide is accessible on the Manuals, Plans, and Reports page (https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/ManualsPlansReports) under the WIOA Monitoring and Oversight section.

(3) Scope

Annual Title I comprehensive monitoring events involve monitoring based on three core monitoring activities, which are described in detail in the Comprehensive Monitoring Guide.[4] A summary of the focus of the core activities is provided below.

Core activity 1. Service design and delivery

Core activity 1 addresses service design and delivery that guides and supports grant subrecipient strategy for accomplishing the goals of the grant subaward. It also addresses the systems, procedures, and program operational elements essential to the effective delivery of participant and employer services and the development of a subaward delivery product, such as a regional or local plan.

Core activity 1 is dissected into five objectives that help the monitor determine compliance and effectiveness of subrecipient service design and delivery.

1. Objective 1.a. Planning and program design
2. Objective 1.b. Implementation
3. Objective 1.c. Products and deliverables
4. Objective 1.d. Business services and employer engagement
5. Objective 1.e. Participant services

Core activity 2. Grant operations

Core activity 2 addresses grant operations supporting successful administration of subawards. Programmatic and fiscal operations under subawards support effective management of subrecipient activities required pursuant to WIOA and its implementing rules, regulations and guidance; other applicable Federal laws, rules, regulations, and guidance; terms and conditions of subaward agreements with the subrecipient; and applicable State policies.

Core activity 2 is divided into nine objectives to help the monitor determine compliance and effectiveness of grant operations.

1. Objective 2.a. Project management
2. Objective 2.b. Budget
3. Objective 2.c. Property management
4. Objective 2.d. Procurement and contract administration
5. Objective 2.e. Performance management

[4] The Comprehensive Monitoring Guide is accessible on the Manuals, Plans, and Reports page (https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/ManualsPlansReports) under the WIOA Monitoring and Oversight section.

6. Objective 2.f. Subrecipient management and oversight
7. Objective 2.g. Records management
8. Objective 2.h. Personnel
9. Objective 2.i. Civil rights, complaints, grievances, and incident reporting

Core activity 3. Financial management

Core activity 3 addresses the financial management systems and funds used by subrecipients to administer subawards in a manner that promotes transparency, accountability, and compliance with the requirements of WIOA and its implementing rules, regulations and guidance; other applicable Federal laws, rules, regulations, and guidance; terms and conditions of subaward agreements with the subrecipient; and applicable State policies.

Core activity 3 is broken down into eight objectives to help the monitor determine compliance and effectiveness of financial management.

1. Objective 3.a. Internal controls
2. Objective 3.b. Accounting system and financial reporting
3. Objective 3.c. Payment and cash management
4. Objective 3.d. Match and leveraged resources
5. Objective 3.e. Program income
6. Objective 3.f. Allowable costs and cost classification
7. Objective 3.g. Cost allocation/indirect costs
8. Objective 3.h. Audits and audit resolution

(4) Schedules and timelines

The SMU publishes annual Title I comprehensive monitoring schedules on the Manuals, Plans, and Reports page.[5] Prior to commencement of each annual comprehensive monitoring event, the SMU provides an announcement letter to the applicable subrecipient that includes:

- a description of the focus of the review;
- identification of the review period;
- a list of requested subrecipient documents and materials to be reviewed by the monitor and due date(s) for submission of the requested documents and materials;

[5] The comprehensive monitoring schedule is accessible on the Manuals, Plans, and Reports page (https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/ManualsPlansReports) under the WIOA Monitoring and Oversight section.

- planned dates of entrance and exit conferences;
- planned dates for review of participant records;
- planned date of release of the monitoring report (typically within 45 days of the exit conference, absent extenuating circumstances).

The schedule for annual comprehensive monitoring, as well as timelines in announcements to subrecipients, may be adjusted to accommodate the business purposes of NDOL and the SMU.

(c) Ad hoc monitoring and single audits

In addition to annual Title I comprehensive monitoring, the SMU may schedule ad hoc monitoring events and single audits, as circumstances require. If the SMU plans to conduct an ad hoc monitoring or a single audit, an announcement will be sent by the SMU to the local area. Ad hoc monitoring and single audits will be conducted in accordance NDOL's current Comprehensive Monitoring Guide; WIOA and its implementing rules, regulations and guidance; other applicable Federal laws, rules, regulations, and guidance; terms and conditions of subaward agreements with the subrecipient; and applicable State policies.[6]

Section II. Substantial violations of 2 CFR Part 200

(a) Corrective action

As required under WIOA Sec. 184(a)(4), all Title I subrecipients must comply with the applicable administrative requirements of 2 CFR Part 200 (also known as the Uniform Guidance). If the SMU identifies any substantial violation of 2 CFR Part 200 regarding use of Title I funds by a subrecipient during compliance monitoring or other means, such as ad hoc monitoring and single audits, NDOL must require corrective actions to secure compliance with the requirements of 2 CFR Part 200,[7] in addition to the requirements established under WIOA and its implementing rules, regulations and guidance; other applicable Federal laws, rules, regulations, and guidance; terms and conditions of subaward agreements with the subrecipient; and applicable State policies.

(b) Sanctions

If the SMU identifies any substantial violation of 2 CFR Part 200 regarding use of Title I funds by a subrecipient through compliance monitoring, or other means such as ad hoc monitoring single audits, and the applicable local board fails to take corrective actions as required by NDOL, the Governor must:[8]

- issue a notice of intent to revoke approval of all or part of the applicable local board's local plan; or

[6] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.
[7] WIOA Sec. 184(a)(5)(A); 20 CFR § 683.410(b)(4)
[8] WIOA Sec. 184(b)(1)

- impose a reorganization plan, which may include:
    - decertifying the local board;
    - prohibiting the use of Eligible Training Providers by the local area;
    - selecting an alternative entity to administer the local board's affected Title I program(s);
    - merging the local area into one or more other local areas; or
    - making other changes as the Secretary of the US Department of Labor (Secretary) or the Governor determine necessary to secure compliance.

(c) Repayment of misexpended funds

If the Secretary requires that the State repay funds to the US Department of Labor pursuant to a determination that a Nebraska Title I subrecipient expended funds in a manner contrary to the requirements of WIOA Title I, NDOL will deduct an amount equal to the misexpenditure from subsequent Title I program year allocation to the affected subrecipient from funds reserved for administrative costs of the applicable subrecipient Title I program.[9]

(d) Appeals and administrative adjudication

If a Title I subrecipient has been found in substantial violation of 2 CFR Part 200 regarding use of Title I funds *and* notified of a sanction issued by the Governor, as described in Section II(b), the subrecipient may appeal the sanction to the Secretary.[10] The Governor's sanction will not become effective until the time for appeal has expired *or* the Secretary has issued a decision.[11]

(1) Appeal procedure

Subrecipient appeals must be filed no later than 30 calendar days after receipt of written notification of local plan revocation or imposed reorganization.[12] The appeals must be submitted by certified mail, return receipt requested, to:

- Secretary, US Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET;[13] and
- Office of the Governor, PO Box 94848, Lincoln, NE 68509-4848.[14]

[9] WIOA Sec. 184(c)(3) – (4); 20 CFR § 683.410(b)(5)
[10] WIOA Sec. 184(b)(2)(A); 20 CFR § 683.650(a)
[11] Ibid.
[12] 20 CFR § 683.650(a)
[13] 20 CFR § 683.650(d)
[14] Ibid.

Further, NDOL requires that a copy of the appeal be provided simultaneously by certified mail, return receipt requested, to:

- Commissioner of Labor, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600; and

- Director, Reemployment Services Division, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600.

The Secretary will notify the subrecipient and the Governor in writing of the Secretary's decision within 45 calendar days after receipt of the appeal.[15] In making this decision, the Secretary may consider any comments submitted by the Governor in response to the appeal.

(2) Administrative adjudication

If the affected Title I subrecipient is dissatisfied with the Secretary's final decision, the subrecipient may appeal to the US Department of Labor Office of Administrative Law Judges by requesting a hearing.[16] The request for a hearing must:[17]

- specifically identify the issues or findings in the Secretary's final decision upon which review is requested;

- be transmitted by certified mail, return receipt requested, to Chief Administrative Law Judge, US Department of Labor, Suite 400, 800 K Street NW, Washington, DC 20001; and

- be provided simultaneously to Secretary, US Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET.

Further, NDOL requires that a copy of the secondary appeal be provided simultaneously by certified mail, return receipt requested, to:

- Commissioner of Labor, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600; and

- Director, Reemployment Services Division, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600.

Note that a subrecipient's failure to request a hearing within 21 calendar days of receipt of the Secretary's final decision constitutes the subrecipient's waiver of its right to administrative adjudication.[18]

Further, issues or findings identified in the Secretary's final decision that are not specified in the subrecipient's request for review *or* the Secretary's entire final decision when no hearing has been requested within the 21-day period are considered resolved and not subject to further review.[19] Only alleged violations of WIOA, its implementing regulations, the applicable grant or other

[15] WIOA Sec. 184(b)(2)(B)
[16] WIOA Sec. 186(a); 20 CFR § 683.800(a), (c), and (d)
[17] WIOA Sec. 186(b)
[18] 20 CFR § 683.800(b)
[19] 20 CFR § 683.800(c)

agreement under WIOA raised in the Secretary's final decision and the subrecipient's request for hearing are subject to review.[20]

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[20] Ibid.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. chief elected official

The term chief elected official[21] means:

- the chief elected executive officer of a unit of general local government in a local area; and
- in the case of a local area that includes multiple units of general local government, the individuals designated under the agreement executed among the chief elected officials of the local area in accordance with WIOA Sec. 107(c)(1)(B).

For purposes of this policy, the term chief elected official also refers to a chief elected officials board (CEOB) established in accordance with WIOA Sec. 107(c)(1)(B).

2. contract

Contract[22] means a legal instrument by which a non-Federal entity, such as a local board, purchases property or services needed to carry out the project or program under a Federal award.

3. pass-through entity

Pass-through entity[23] means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

4. recipient

Recipient[24] means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

5. subaward

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity.[25]

[21] WIOA Sec. 3(9)
[22] 2 CFR § 200.22
[23] 2 CFR § 200.74
[24] 2 CFR § 200.86
[25] 20 CFR § 675.300

6. subrecipient

Subrecipient[26] means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program, such as a local board.

[26] 2 CFR § 200.93

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

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Policy category
Administrative Requirements

Effective
May 3, 2023

Supersedes
Audit and Audit Resolution, Change 1
(effective January 18, 2023)

Audit and Audit Resolution, Change 2

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for development of this policy are cited in footnotes.

BACKGROUND

20 CFR § 683.210 requires that all recipients of WIOA Title I and Wagner-Peyser Act funds that expend more than the minimum amounts specified in 2 CFR Part 200 Subpart F in Federal awards during their fiscal year must have a program-specific or single audit conducted in accordance with 2 CFR Part 200 Subpart F. In addition, 2 CFR Part 200 Subpart F requires that subrecipients and pass-through entities adhere to audit requirements established in Subpart F.

CHANGES

Under this Change 2, footnotes have been revised for clarity and links have been updated where necessary.

ACTION

This policy supersedes and cancels the State's policy titled Audit and Audit Resolution, Change 1 (effective January 18, 2023). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

- Local areas must ensure that they comply with all requirements of this policy, as well as Federal and state laws, rules, regulations, and guidance.

- The Reemployment Services Division State Monitoring Unit is responsible for ensuring local area compliance with this policy.

POLICY

This policy has six sections and two appendices.

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Section I. General

This policy implements Federal standards for obtaining consistency and uniformity for audit of a non-Federal entity expending Federal award, which are defined in the Uniform Guidance (2 CFR Part 200, including 2 CFR Part 200 Subpart F).

Section II. Audits

(a) Audit requirements[1]

(1) Audit required

A non-Federal entity that expends $750,000 or more in Federal awards during the non-Federal entity's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR Part 200.[2]

(2) Single audit

A non-Federal entity that expends $750,000 or more in Federal awards during the non-Federal entity's fiscal year must have a single audit conducted in accordance with 2 CFR § 200.514 (refer to Section II(a)(2)), except when the non-Federal entity elects to have a program-specific audit conducted in accordance with Section II(a)(3).[3]

(3) Program-specific audit election

When an auditee expends Federal awards under only one Federal program *and* the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with 2 CFR § 200.507.[4]

(4) Exemption when Federal awards expended are less than $750,000

A non-Federal entity that expends less than $750,000 in Federal awards during the non-Federal entity's fiscal year is exempt from Federal audit requirements for that fiscal year, except as noted in 2 CFR § 200.503; however, records must be available for review or audit by a pass-through entity, appropriate officials of the Federal agency, and Government Accountability Office (GAO).[5]

[1] Thresholds change over time, so it is important that local areas routinely verify Federally established thresholds to ensure compliance with Federal laws, rules, regulations, and guidance.
[2] 2 CFR § 200.501(a)
[3] 2 CFR § 200.501(b)
[4] 2 CFR § 200.501(c)
[5] 2 CFR § 200.501(d)

(5) Subrecipients and contractors[6]

An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. 2 CFR § 200.331 sets forth considerations for determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(6) Compliance responsibility for contractors[7]

In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

(7) For-profit subrecipient[8]

Because audit requirements under 2 CFR Part 200 do not apply to a for-profit subrecipient, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with a for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits.

(b) Basis for determining Federal awards expended

(1) Determining Federal awards expended[9]

The determination of when a Federal award is expended must be based on when activity related to the Federal award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with Federal statutes, regulations, and the terms and conditions of Federal awards, such as:

- expenditure/expense transactions associated with awards including grants;
- cost-reimbursement contracts under Federal Acquisition Regulation (FAR), compacts with Indian Tribes, cooperative agreements, and direct appropriations;
- disbursement of funds to subrecipients;

[6] 2 CFR § 200.501(f)
[7] 2 CFR § 200.501(g)
[8] 2 CFR § 200.501(h)
[9] 2 CFR § 200.502(a)

- receipt of property;
- receipt of surplus property;
- receipt or use of program income;
- distribution or use of food commodities;
- disbursement of amounts entitling the non-Federal entity to an interest subsidy; and
- the period when insurance is in force.

(2) Free rent

Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of a Federal award to carry out a Federal program must be included when determining Federal awards expended and is subject to audit under 2 CFR Part 200.[10]

(3) Valuing non-cash assistance

Federal non-cash assistance, such as free rent, food commodities, donated property, or donated surplus property must be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.[11]

(c) Relation to other audit requirements[12]

An audit conducted in accordance with 2 CFR Part 200 must be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal statute or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal statute or regulation, a Federal agency must rely upon and use that information. However, a Federal agency, Inspectors General, or GAO may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal statute or regulation. The provisions of 2 CFR Part 200 do not authorize any non-Federal entity to constrain, in any manner, such Federal agency from carrying out or arranging for such additional audits, except that the Federal agency must plan such audits to not be duplicative of other audits of Federal awards. Prior to commencing such an audit, the Federal agency or pass-through entity must review the Federal Audit Clearinghouse (FAC)[13] for recent audits submitted by the non-Federal entity and, to the extent such audit(s) meet a Federal agency or pass-through entity's needs, the Federal agency or pass-through entity must rely upon and use such audits. Any additional audits must be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed by other auditors. Note that the provisions of 2 CFR Part 200 do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

[10] 2 CFR § 200.502(f)
[11] Ibid.
[12] 2 CFR § 200.503(a) – (e)
[13] Information on the FAC is accessible at https://facweb.census.gov/uploadpdf.aspx.

(1) Federal agency to pay for additional audits

A Federal agency that conducts or arranges for additional audits must, consistent with other applicable Federal statutes and regulations, arrange for funding the full cost of such additional audits.

(2) Request for a program to be audited as a major program

A Federal awarding agency may request that an auditee have a particular Federal program audited as a major program in lieu of the Federal awarding agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 calendar days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such a request by informing the Federal awarding agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in 2 CFR § 200.518 and, if not, the estimated incremental cost. The Federal awarding agency must then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal awarding agency request, and the Federal awarding agency agrees to pay the full incremental costs, then the auditee must have the program audited as a major program. A pass-through entity may use the provisions of this paragraph in relation to a subrecipient.

(d) Frequency of audits[14]

Except for the provisions for biennial audits provided in items 1 and 2 below, audits required by 2 CFR Part 200, including 2 CFR Part 200 Subpart F, must be performed annually.

Any biennial audit must cover both years within the biennial period:

1. A state or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period.

2. Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits part biennially.

(e) Sanctions

In cases of continued inability or unwillingness to have an audit conducted in accordance with 2 CFR Part 200, including 2 CFR Part 200 Subpart F, Federal agencies and pass-through entities must take appropriate action as provided in 2 CFR § 200.339.

[14] 2 CFR § 200.504

(f) Audit costs (audit services)[15]

A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:

- any costs when audits required by the Single Audit Act of 1984, as amended, and 2 CFR Part 200 Subpart F have not been conducted or have been conducted but not in accordance therewith; and

- any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act of 1984, as amended, and 2 CFR Part 200 Subpart F because its expenditures under Federal awards are less than $750,000 during the non-Federal entity's fiscal year.

The costs of a financial statement audit of a non-Federal entity that does not currently have a Federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

Pass-through entities may charge Federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with 2 CFR Part 200 Subpart D and 2 CFR §§ 200.331, 200.332, and 200.333) through who are exempted from the requirements of the Single Audit Act and 2 CFR Part 200 Subpart F. This cost is allowable only if the agreed-upon procedures engagements are:

- conducted in accordance with GAGAS attestation standards;

- paid for and arranged by the pass-through entity; and

- limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

(g) Program-specific audits

(1) Program-specific audit guide available[16]

A program-specific audit guide is available and provides specific guidance to the auditor with respect to internal controls; compliance requirements, including allowed and unallowed activities;[17] suggested audit procedures; and audit reporting requirements. A listing of current program-specific audit guides is provided in the compliance supplement.[18] When a current program-specific audit guide is available, the auditor must follow GAGAS *and* the guide when performing a program-specific audit.

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[15] 2 CFR § 200.425. Thresholds change over time, so it is important that local areas routinely verify Federally established thresholds to ensure compliance with Federal laws, rules, regulations, and guidance

[16] 2 CFR § 200.507(a)

[17] Refer to APPENDIX II for a list of allowed and unallowed WIOA Title I activities, as excerpted from the compliance supplement which is linked in the next footnote and in APPENDIX II.

[18] The compliance supplement is accessible at https://www.whitehouse.gov/wp-content/uploads/2022/05/2022-Compliance-Supplement_PDF_Rev_05.11.22.pdf.

(2) Program-specific audit guide not available

When a current program-specific audit guide is not available, the auditee and auditor must have basically the same responsibilities for the Federal program as they would have for an audit of a major program during a single audit.[19]

- The auditee must prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of 2 CFR § 200.511(b) and a corrective action plan consistent with the requirements of 2 CFR § 200.511(c).

- The auditor must:

    - perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

    - obtain an understanding of internal controls and perform tests of internal controls over the Federal program consistent with the requirements of 2 CFR § 200.514(c) for a major program;

    - perform procedures to determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that could have a direct and material effect on the Federal program consistent with the requirements of 2 CFR § 200.514(d) for a major program;

    - follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with the requirements of 2 CFR § 200.511, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding; and

    - report any audit findings consistent with the requirements of 2 CFR § 200.516.

(3) Report submission for program-specific audits[20]

The audit must be completed, and the reporting required under 2 CFR § 200.507(c)(2) or 2 CFR § 200.507(c)(3) must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide. Unless restricted by Federal law or regulation, the auditee must make report copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package *do not* include protected personally identifiable information.

[19] 2 CFR § 200.507(b)
[20] 2 CFR § 200.507(c)

When a program-specific audit guide is available, the auditee must electronically submit to the FAC the data collection form prepared in accordance with 2 CFR § 200.512(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide.

Section III. Auditees

(a) Auditee responsibilities[21]

The auditee must:

- procure or otherwise arrange for the audit required by this part in accordance with 2 CFR § 200.509, and ensure it is properly performed and submitted when due in accordance with 2 CFR § 200.512;
- prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR § 200.510;
- promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with 2 CFR § 200.511(b) and 2 CFR § 200.511(c), respectively; and
- provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this part.

(b) Auditor selection

(1) Auditor procurement[22]

In procuring audit services, the auditee must follow the procurement standards prescribed by the Procurement Standards defined in 2 CFR Part 200 Subpart D. In requests for proposals for audit services, the objectives and scope of the audit must be made clear and the non-Federal entity must request a copy of the audit organization's peer review report which the auditor is *required* to provide under GAGAS. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in 2 CFR § 200.321.

[21] 2 CFR § 200.508
[22] 2 CFR § 200.509(a)

(2) Restriction on auditor preparing indirect cost proposals[23]

An auditor who prepares the indirect cost proposal or cost allocation plan *must not* also be selected to perform the audit required by this part *when* the indirect costs recovered by the auditee during the prior year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs.

(3) Use of Federal auditors

Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.[24]

(c) Financial statements

(1) Financial statements[25]

The auditee must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements must be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, non-Federal entity-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with 2 CFR § 200.514(a) and prepare separate financial statements.

(2) Schedule of expenditures of Federal awards[26]

The auditee must also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements which must include the total Federal awards expended as determined in accordance with 2 CFR § 200.502. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple Federal award years, the auditee may list the amount of Federal awards expended for each Federal award year separately. At a minimum, the schedule must:

1. list individual Federal programs by Federal agency.

    a. For a cluster of programs, provide the cluster name, list individual Federal programs within the cluster of programs, and provide the applicable Federal agency name.

2. for Federal awards received as a subrecipient, include the name of the pass-through entity and identifying number assigned by the pass-through entity;

[23] 2 CFR § 200.509(b). Thresholds change over time, so it is important that local areas routinely verify Federally established thresholds to ensure compliance with Federal laws, rules, regulations, and guidance.
[24] 2 CFR § 200.509(c)
[25] 2 CFR § 200.510(a)
[26] 2 CFR § 200.510(b)

3. provide total Federal awards expended for each individual Federal program and the assistance listing number or other identifying number when the Assistance Listings information is not available and for a cluster of programs also provide the total for the cluster;

4. include the total amount provided to subrecipients from each Federal program; and

5. include notes that describe that significant accounting policies used in preparing the schedule and note whether or not the auditee elected to use the 10 percent de minimis cost rate as covered in 2 CFR § 200.414.

(d) Audit findings follow-up

(1) General[27]

The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee must prepare a:

- summary schedule of prior audit findings; and

- a corrective action plan for current year audit findings.

The summary schedule of prior audit findings and the corrective action plan must include the reference numbers the auditor assigns to audit findings under 2 CFR § 200.516(c). Because the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred. The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(2) Summary schedule of prior audit findings[28]

The summary schedule of prior audit findings must report the status of all audit findings included in the prior audit's schedule of findings and questioned costs. The summary schedule must also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance item 1 and item 3 below or audit findings that are no longer valid or not warranting further action in accordance with item 3.

1. When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

2. When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action and any partial corrective action taken. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule must provide an explanation.

[27] 2 CFR § 200.510(a)
[28] 2 CFR § 200.510(b)

3. When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

    a. two years have passed since the audit report in which the finding occurred was submitted to the FAC;

    b. the Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

    c. a management decision was not issued.

(3) Corrective action plan[29]

At the completion of the audit, the auditee must prepare, in a document separate from the auditor's findings described in 2 CFR § 200.516, a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.

(e) Report submission

(1) General[30]

The audit must be completed and the data collection form described Section III(e)(2) and reporting package described in Section III(e)(3) must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

Unless restricted by Federal statutes or regulations, the auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

(2) Data collection[31]

FAC is the repository of record under 2 CFR Part 200 Subpart F for reporting packages and the data collection form. All Federal agencies, pass-through entities, and others interested in a reporting package and data collection form must obtain it by accessing FAC.

- The auditee must submit required data elements to FAC, as required under 2 CFR Part 200 Appendix X, which state whether the audit was completed in accordance with 2 CFR Part 200 Subpart F and provides information about the auditee, its Federal programs, and

[29] 2 CFR § 200.510(c)
[30] 2 CFR § 200.512(a)
[31] 2 CFR § 200.512(b)

the results of the audit. The data must include information available from the required audit that is necessary for Federal agencies to use the audit to ensure integrity for Federal programs. The data elements and format must be approved by the Office of Management and Budget (OMB) and available from FAC and include collections of information from the reporting package described in in Section III(e)(3). A senior level representative of the auditee (state controller, director of finance, chief executive officer, or chief financial officer, etc.) must sign a statement to be included as part of the data collection that says that the:

  - auditee complied with the requirements of 2 CFR Part 200 Subpart F;
  - data were prepared in accordance with 2 CFR Part 200 Subpart F (and the instructions accompanying the data collection form;
  - reporting package does not include protected personally identifiable information;
  - information included in its entirety is accurate and complete; and
  - FAC is authorized to make the reporting package and the form publicly available on a website.

- Using the information included in the reporting package described in Section III(e)(3), the auditor must complete the applicable data elements of the data collection form. The auditor must sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package and that the content of the form is limited to the collection of information prescribed by OMB.

(3) Reporting package[32]

The reporting package must include the:

- financial statements and schedule of expenditures of Federal awards discussed in 2 CFR § 200.510(a) and 2 CFR § 200.510(b), respectively, as well as Section III(c);
- summary schedule of prior audit findings discussed in 2 CFR § 200.511(b), as well as Section III(d)(2);
- auditor's report(s) discussed in 2 CFR § 200.515, as well as Section V(b); and
- corrective action plan discussed in 2 CFR § 200.511(c), as well as Section V(c).

(4) Submission to FAC[33]

The auditee must electronically submit to FAC the data collection form and the reporting package.

[32] 2 CFR § 200.512(c)
[33] 2 CFR § 200.512(d)

(5) Requests for management letters issued by the auditor

In response to requests by a Federal agency or pass-through entity, auditees must submit a copy of any management letters issued by the auditor.[34]

(6) Report retention requirements

Auditees must keep one copy of the data collection form section and one copy of the reporting package of this section on file for three years from the date of submission to FAC.[35]

(7) FAC responsibilities[36]

The FAC must make available the reporting packages received to the public and maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees that have not submitted the required data collection forms and reporting packages.

Section IV. Federal agencies

Responsibilities of Federal agencies regarding audits are described in 2 CFR § 200.513.

Section V. Auditors

(a) Scope of audit

(1) General[37]

The audit must be conducted in accordance with GAGAS.[38] The audit must cover the entire operations of the auditee or, at the option of the auditee, such audit must include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered Federal awards during such audit period, provided that each such audit must encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit that must be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards must be for the same audit period.

[34] 2 CFR § 200.512(e)
[35] 2 CFR § 200.512(f)
[36] 2 CFR § 200.512(g)
[37] 2 CFR § 200.514(a)
[38] GAGAS refers to Generally accepted government auditing standards (GAGAS), also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits. The Yellow Book is accessible at https://www.gao.gov/yellowbook.

(2) Financial statements[39]

The auditor must determine whether the financial statements of the auditee are presented fairly in all material respects in accordance with generally accepted accounting principles. The auditor must also determine whether the schedule of expenditures of Federal awards is stated fairly in all material respects in relation to the auditee's financial statements as a whole.

(3) Internal control[40]

The compliance supplement[41] provides guidance on internal controls over Federal programs based upon the guidance in Standards for Internal Control in the Federal Government[42] and Internal Control – Integrated Framework.[43]. In addition to the requirements of GAGAS, the auditor must perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk of noncompliance for major programs.[44] Except as described below, the auditor must:

- plan the testing of internal control over compliance for major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

- perform testing of internal control as planned.

Exception. When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described above are not required for those compliance requirements. However, the auditor must report a significant deficiency or material weakness in accordance with 2 CFR § 200.516, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(4) Compliance[45]

In addition to requirements of GAGAS, the auditor must determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that may have a direct and material effect on each of its major programs. The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement. For the compliance

[39] 2 CFR § 200.514(b)
[40] 2 CFR § 200.514(c)
[41] The compliance supplement is accessible at https://www.whitehouse.gov/wp-content/uploads/2022/05/2022-Compliance-Supplement_PDF_Rev_05.11.22.pdf.
[42] Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States are issued by the Comptroller General of the United States and are accessible at https://www.govinfo.gov/content/pkg/GAOREPORTS-AIMD-00-21-3-1/pdf/GAOREPORTS-AIMD-00-21-3-1.pdf.
[43] Internal Control – Integrated Framework is issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and is accessible at https://www.coso.org/sitepages/internal-control.aspx?web=1.
[44] Refer to Section V(e) for detail on major program determinations.
[45] 2 CFR § 200.514(d)

requirements related to Federal programs contained in the compliance supplement,[46] an audit of these compliance requirements will meet the requirements of 2 CFR Part 200. When there have been changes to the compliance requirements and the changes are not reflected in the compliance supplement, the auditor must determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor must follow the compliance supplement's guidance for programs not included in the supplement.[47]

When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in Section V(a)(3) are not required for those compliance requirements. However, the auditor must report a significant deficiency or material weakness in accordance with 2 CFR § 200.516, assess the related control risk at the at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(5) Audit follow-up[48]

The auditor must follow-up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with 2 CFR § 200.511(b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor must perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(6) Data *collection form*

As required in 2 CFR § 200.512(b)(3), the auditor must complete and sign specified sections of the data collection form.

(b) Audit reporting[49]

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that the audit was conducted in accordance with 2 CFR Part 200 Subpart F and 2 CFR § 200.515 and include the following:

1. *Financial statements*. The auditor must determine and provide an opinion (or disclaimer of opinion) whether the financial statements of the auditee are presented fairly in all materials respects in accordance with generally accepted accounting principles (or a special purpose framework such as cash, modified cash, or regulatory as required by state law). The auditor must also decide whether the schedule of expenditures of Federal

[46] The compliance supplement covers includes Title I adult, dislocated worker, and youth programs; Title III Wagner-Peyser Employment Service; Jobs for Veterans State Grant; Senior Community Service Employment Program; and Trade Adjustment Assistance for Workers.
[47] Refer to Section II(g)(2) for information relating to the lack of program-specific audit guides.
[48] 2 CFR § 200.514(e)
[49] 2 CFR § 200.515

awards is stated fairly in all material respects in relation to the auditee's financial statements as a whole.

2. *Internal control*. A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements. This report must describe the scope of testing of internal control and compliance and the results of the tests, and, where applicable, it will refer to the separate schedule of findings and questioned costs described item 4 below.

3. *Compliance*. A report on compliance for each major program and a report on internal control over compliance. This report must:

    a. define the scope of testing of internal control over compliance;

    b. include an opinion or disclaimer of opinion as to whether the auditee complied with Federal statutes, regulations; and

    c. include terms and conditions of Federal awards which could have a direct and material effect on each major program and refer to the separate schedule of findings and questioned costs as described in item 4 below.

4. A schedule of findings and questioned costs which must include the following components:

    a. a summary of the auditor's results, which must include:

        i. a description of the type of report the auditor issued on whether the financial statements audited were prepared in accordance with generally accepted accounting principles, also known as GAAP (unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

        ii. a statement about whether significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements, when applicable;

        iii. a statement as to whether the audit disclosed any noncompliance that is material to the financial statements of the auditee;

        iv. a statement about whether significant deficiencies or material weaknesses in internal control over major programs were disclosed by the audit, when applicable;

        v. a description of the type of report the auditor issued on compliance for major programs (unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

        vi. a statement as to whether the audit disclosed any audit findings that the auditor is required to report under 2 CFR § 200.516(a);

vii. an identification of major programs by listing each individual major program;[50]

viii. an identification the dollar threshold used to distinguish between Type A and Type B programs, as described in 2 CFR § 200.518(b)(1); and

ix. a statement as to whether the auditee qualified as a low-risk auditee under 2 CFR § 200.520.

b. findings relating to the financial statements which are required to be reported in accordance with GAGAS;

c. findings and questioned costs for Federal awards which must include audit findings as defined in 2 CFR § 200.516(a):

i. audit findings (internal control findings, compliance findings, questioned costs, or fraud) that relate to the same issue must be presented as a single audit finding:

(1) Note. When practical, audit findings should be organized by Federal agency or pass-through entity.

ii. audit findings relating to both financial statements and Federal awards, as reported under 2 CFR § 200.515(d)(2) and 2 CFR § 200.515(d)(3) of this section, respectively, must be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

5. Nothing in this part precludes combining of the audit reporting required under 2 CFR § 200.515 with reporting required by 2 CFR § 200.512(b) when allowed by GAGAS and 2 CFR Part 200 Appendix X.

(c) Audit findings[51]

1. *Audit findings reported.* The auditor must report the following as audit findings in a schedule of findings and questioned costs:

a. significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs;

i. auditor's determination on whether a deficiency of internal control is a significant deficiency or material weakness for purposes of reporting an audit finding relates to a type of compliance requirement for a major program identified in the compliance supplement;

b. material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program, including

[50] In the case of a cluster of programs, only the cluster name as shown on the schedule of expenditures of Federal awards is required. Section III(c)(2) provides information on schedules of expenditures of Federal awards.
[51] 2 CFR § 200.516

auditor's determination on whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement;

c. known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program:[52]

    i. Known questioned costs are those specifically identified by the auditor.

    ii. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs).

    iii. The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program.

    iv. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

d. known questioned costs that are greater than $25,000 for a Federal program which is not audited as a major program:[53]

    i. Except for audit follow-up:

        (1) The auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program that is not audited as a major program.

        (2) However, if the auditor does become aware of questioned costs for a Federal program that is not audited as a major program (as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $25,000, then the auditor must report this as an audit finding.

e. circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards;

f. known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards:

[52] Questioned-cost thresholds may change over time, so it is important that local areas routinely verify thresholds to ensure compliance with Federal laws, rules, regulations, and guidance.
[53] Ibid.

i. Note. This does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's reports under the direct reporting requirements of GAGAS.

g. instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with 2 CFR § 200.511(b) materially misrepresents the status of any prior audit finding.

2. *Audit finding detail and clarity*. Audit findings must be presented in sufficient detail and clarity for the auditee to prepare a corrective action plan and take corrective action, and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information must be included, as applicable, in audit findings:

a. Federal program and specific Federal award identification, including the assistance listing title and number, Federal award identification number and year, name of Federal agency, and name of the applicable pass-through entity:

i. Note. When information, such as the assistance Listings title and number or Federal award identification number, is not available, the auditor must provide the best information available to describe the Federal award.

b. criteria or specific requirement upon which the audit finding is based, including the Federal statutes, regulations, or terms and conditions of the Federal awards;

c. criteria generally identifying the required or desired state or expectation with respect to the program or operation:

i. Note. Criteria provide context for evaluating evidence and understanding findings.

d. conditions found, including facts that support the deficiency identified in the audit finding;

e. statement of cause that identifies the reason or explanation for the conditions or the factors responsible for the difference between the situation that exists (conditions) and the required or desired state (criteria), which may also serve as a basis for recommendations for corrective action;

f. possible asserted effects to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action:

i. Note. Statement of the effect or potential effect should provide a clear, logical link to establish the impact or potential impact of the difference between the condition and the criteria.

g. identification of questioned costs and how they were computed (known questioned costs must be identified by applicable assistance listing number(s) and applicable Federal award identification number(s));

h. information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem.

i. Note. When appropriate, instances identified must be related to the universe and the number of cases examined and be quantified in terms of dollar value. The auditor should report whether the sampling was a statistically valid sample.

i. identification of whether the audit finding was a repeat of a finding in the immediately prior audit and if so any applicable prior year audit finding numbers;

j. recommendations to prevent future occurrences of the deficiency identified in the audit finding; and

k. views of responsible officials of the auditee.

3. *Reference numbers.* Each audit finding in the schedule of findings and questioned costs must include a reference number in the format meeting the requirements of the data collection form submission required by 2 CFR § 200.512(b) to allow for easy referencing of the audit findings during follow-up.

(d) Audit documentation[54]

Retention of audit documentation. The auditor must retain audit documentation and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period. When the auditor is aware that the Federal agency, pass-through entity, or auditee is contesting an audit finding, the auditor must contact the parties contesting the audit finding for guidance prior to destruction of the audit documentation and reports.

Access to audit documentation. Audit documentation must be made available upon request to the cognizant or oversight agency for audit or its designee, cognizant agency for indirect cost, a Federal agency, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to audit documentation includes the right of Federal agencies to obtain copies of audit documentation, as is reasonable and necessary.

[54] 2 CFR § 200.517

(e) Major program determination

(1) General[55]

The auditor must use a risk-based approach to determine which Federal programs are major programs. This risk-based approach must include consideration of current and prior audit experience, *oversight* by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in Section V(e)(2) through Section V(e)(8) below must be followed.

(2) Step one[56]

The auditor must identify the larger Federal programs, which must be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the levels outlined in the Table 1.[57]

Table 1. Total Federal awards expended and Type A/B threshold[58]

Total Federal awards expended	Type A/B threshold
Equal to or exceed $750,000 but less than or equal to $25 million	$750,000.
Exceed $25 million but less than or equal to $100 million	Total Federal awards expended multiplied by 0.03.
Exceed $100 million but less than or equal to $1 billion	$3 million.
Exceed $1 billion but less than or equal to $10 billion	Total Federal awards expended multiplied by 0.003.
Exceed $10 billion but less than or equal to $20 billion	$30 million.
Exceed $20 billion	Total Federal awards expended multiplied by 0.0015.

Federal programs that meet one of the thresholds in Table 1 muse be labeled Type A; and Federal programs that do not meet any of the thresholds in Table 1 must be labeled Type B programs.[59]

For biennial audits permitted under 2 CFR § 200.504, the determination of Type A and Type B programs must be based upon the Federal awards expended during the two-year period.[60]

(3) Step two[61]

The auditor must identify Type A programs which are low-risk. In making this determination, the auditor must consider whether the requirements in 2 CFR § 200.519(c), the results of audit follow-up, or any changes in personnel or systems affecting the program indicate significantly increased risk and preclude the program from being low risk. For a Type A program to be considered low-risk, it must have been audited as a major program in at least one of the two most recent audit

[55] 2 CFR § 200.518(a)
[56] 2 CFR § 200.518(b)
[57] 2 CFR § 200.518(b)(1)
[58] Thresholds change over time, so it is important that local areas routinely verify thresholds to ensure compliance with Federal laws, rules, regulations, and guidance.
[59] 2 CFR § 200.518(b)(2)
[60] 2 CFR § 200.518(b)(4)
[61] 2 CFR § 200.518(c)

periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, the program must have not had:

- internal control deficiencies which were identified as material weaknesses in the auditor's report on internal control for major programs as required under 2 CFR § 200.515(c);
- a modified opinion on the program in the auditor's report on major programs as required under 2 CFR § 200.515(c); or
- known or likely questioned costs that exceed five percent of the total Federal awards expended for the program.

Notwithstanding any said in step two, OMB may approve a Federal awarding agency's request that a Type A program may not be considered low risk for a certain recipient. For example, it may be necessary for a large Type A program to be audited as a major program of a recipient each year to allow the Federal awarding agency to comply with 31 USC § 3515. The Federal awarding agency must notify the recipient and, if known, the auditor of OMB's approval at least 180 calendar days prior to the end of the fiscal year to be audited.

(4) Step three[62]

The auditor must identify Type B programs which are high-risk using professional judgment and the criteria in 2 CFR § 200.519. However, the auditor is not required to identify more high-risk Type B programs than at least one fourth the number of low-risk Type A programs identified as low-risk under Step 2. Except for known material weakness in internal control or compliance problems as discussed in 2 CFR § 200.519(b)(1), 2 CFR § 200.519(b)(2), and 2 CFR § 200.519(c)(1), a single criterion in risk would seldom cause a Type B program to be considered high-risk. When identifying which Type B programs to risk assess, the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed 25 percent (0.25) of the Type A threshold determined in step one.

(5) Step four[63]

At a minimum, the auditor must audit all of the following as major programs:

- all Type A programs not identified as low risk under step two; and
- all Type B programs identified as high-risk under step three.

Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in Section V(e)(6) below. This may require the auditor to audit more programs as major programs than the number of Type A programs.

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[62] 2 CFR § 200.518(d)
[63] 2 CFR § 200.518(e)

(6) Percentage of coverage rule[64]

If the auditee meets the criteria in 2 CFR § 200.520, the auditor need only audit the major programs identified in step four and such additional Federal programs with Federal awards expended that, in aggregate, all major programs encompass at least 20 percent (0.20) of total Federal awards expended. Otherwise, the auditor must audit the major programs identified in step four and such additional Federal programs with Federal awards expended that, in aggregate, all major programs encompass at least 40 percent (0.40) of total Federal awards expended.

(7) Documentation of risk

The auditor must include in the audit documentation the risk analysis process used in determining major programs.[65]

(8) Auditor's judgment[66]

When the major program determination was performed and documented in accordance with this Subpart, the auditor's judgment in applying the risk-based approach to determine major programs must be presumed correct. Challenges by Federal agencies and pass-through entities must only be for clearly improper use of the requirements in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor must consider this guidance in determining major programs in audits not yet completed.

(f) Criteria for Federal program risk

(1) General[67]

The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring that could be material to the Federal program. The auditor must consider criteria, such as described in Section V(f)(2) through Section V(f)(4) below, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(2) Current and prior audit experience[68]

Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to Federal statutes, regulations, and the terms and conditions of Federal awards and the competence and experience of personnel who administer the Federal programs.

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[64] 2 CFR § 200.518(f)
[65] 2 CFR § 200.518(g)
[66] 2 CFR § 200.518(h)
[67] 2 CFR § 200.519(a)
[68] 2 CFR § 200.519(b)

- A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor must consider whether weaknesses are isolated in a single operating unit or pervasive throughout the entity.

- When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected. Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(3) Oversight exercised by Federal agencies and pass-through entities[69]

Oversight exercised by Federal agencies or pass-through entities could be used to assess risk. For example, recent monitoring or other reviews performed by an oversight entity that disclosed no significant problems would indicate lower risk, whereas monitoring that disclosed significant problems would indicate higher risk.

Federal agencies, with the concurrence of OMB, may identify Federal programs that are higher risk. OMB will provide this identification in the compliance supplement.

(4) Inherent risk of the Federal program[70]

The nature of a Federal program may indicate risk.

- Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third-party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have high risk for noncompliance with requirements of 2 CFR § 200.430, but otherwise be at low risk.

- The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, statutes, regulations, or the terms and conditions of Federal awards may increase risk.

- The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

- Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

[69] 2 CFR § 200.519(c)
[70] 2 CFR § 200.519(d)

(g) Criteria for a low-risk auditee[71]

An auditee that meets all of the following conditions for each of the preceding two audit periods must qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with 2 CFR § 200.518.

- Single audits were performed on an annual basis in accordance with the provisions of 2 CFR 200 Subpart F, including submitting the data collection form and the reporting package to the FAC within the timeframe specified in 2 CFR § 200.512. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee.

- The auditor's opinion on whether the financial statements were prepared in accordance with GAAP, or a basis of accounting required by state law, and the auditor's in relation to opinion on the schedule of expenditures of Federal awards were unmodified.

- There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS.

- The auditor did not report substantial doubt about the auditee's ability to continue as a going concern.

- None of the Federal programs had audit findings from any of the following in either of the preceding two audit periods in which they were classified as Type A programs and:

    - having internal control deficiencies that were identified as material weaknesses in the auditor's report on internal control for major programs as required under 2 CFR § 200.515(c);

    - receiving a modified opinion on a major program in the auditor's report on major programs as required under 2 CFR § 200.515(c); or

    - having known or likely questioned costs that exceeded five percent of the total Federal awards expended for a Type A program during the audit period.

Section VI. Management decisions

(a) General[72]

The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee. While not required, the Federal agency or pass-through entity may also

[71] 2 CFR § 200.520
[72] 2 CFR § 200.521(a)

issue a management decision on findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(b) Federal agency[73]

As provided in 2 CFR § 200.513(a)(3)(vii), the cognizant agency for audit must be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in 2 CFR § 200.513(c)(3)(i), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to non-Federal entities.

(c) Pass-through entity

As provided in 2 CFR § 200.332(d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.[74]

(d) Time requirements[75]

The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

(e) Reference numbers[76]

Management decisions must include the reference numbers the auditor assigned to each audit finding in accordance with 2 CFR § 200.516(c).

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[73] 2 CFR § 200.521(b)
[74] 2 CFR § 200.521(c)
[75] 2 CFR § 200.521(d)
[76] 2 CFR § 200.521(e)

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. assistance listing

The term assistance listing refers to the publicly available listing of Federal assistance programs managed and administered by the General Services Administration, formerly known as the Catalog of Federal Domestic Assistance (CFDA).[77]

2. assistance listing number

Assistance listing number means a unique number assigned to identify an assistance listing, formerly known as the CFDA Number.[78]

3. assistance listing program title

The term assistance listing program title means the title that corresponds to the assistance listing number, formerly known as the CFDA program title.[79]

4. auditee

Auditee means any non-Federal entity that expends Federal awards which must be audited under 2 CFR Part 200 Subpart F.[80]

5. auditor[81]

The term auditor means an auditor who is a public accountant or a Federal, State, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS).

The term auditor does not include internal auditors of nonprofit organizations.

6. contract

The term contract means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award.[82]

[77] 2 CFR § 200.1
[78] Ibid.
[79] Ibid.
[80] Ibid.
[81] Ibid.
[82] Ibid.

For additional information on subrecipient and contractor determinations, refer to 2 CFR § 200.331. Refer also to the definition of subaward below.

7. contractor

The term contractor means an entity that receives a contract.[83]

8. cooperative agreement[84]

The term cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency and a recipient or a pass-through entity and a subrecipient that, consistent with 31 USC §§ 6302 – 6305 is:

- used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (refer to 31 USC § 6101(3)) and not to acquire property or services for the Federal Government or a pass-through entity's direct benefit or use; and

- distinguished from a grant in that it provides for substantial involvement of a Federal awarding agency in carrying out the activity contemplated by the Federal award.

The term cooperative agreement does not include:

(a) a cooperative research and development agreement as defined in 15 USC § 3710a; or

(b) an agreement that provides only:

- direct United States Government cash assistance to an individual;

- a subsidy;

- a loan;

- a loan guarantee; or

- insurance.

9. disallowed costs

The term disallowed costs means those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.[85]

[83] 2 CFR § 200.1
[84] Ibid.
[85] Ibid.

10. Federal award[86]

Federal award means, depending on context, either:

(a) Federal financial assistance a recipient receives comes directly from a Federal awarding agency or indirectly from a pass-through entity; or

(b) the instrument setting forth the terms and conditions in a grant agreement, cooperative agreement, or other agreement for assistance covered in paragraph (b) of the definition of Federal financial assistance below.

The term Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government owned contractor operated facilities (GOCOs).

11. Federal awarding agency

The term Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.[87]

12. Federal financial assistance[88]

Federal financial assistance means:

(a) assistance that non-Federal entities receive or administer in the form of:

- grants;
- cooperative agreements;
- non-cash contributions or donations of property (including donated surplus property);
- direct appropriations;
- food commodities; and
- other financial assistance (excluding assistance described in paragraph (b) of this definition).

(b) for 2 CFR § 200.203 and 2 CFR Part 200 Subpart F, assistance that non-Federal entities receive or administer in the form of:

- loans;
- loan guarantees;

[86] 2 CFR § 200.1
[87] Ibid.
[88] Ibid.

- interest subsidies; and
- insurance;

(c) for 2 CFR § 200.216, assistance that non-Federal entities receive or administer in the form of:

- grants;
- cooperative agreements;
- loans; and
- loan guarantees.

Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals as described in 2 CFR § 200.502(h) and 2 CFR § 200.502(i).

13. Federal program

Federal program means:[89]

(a) all Federal awards which are assigned a single assistance listing number; or

(b) when no assistance listing number(s) is assigned, all Federal awards from the same agency made for the same purpose are combined and considered one program.

14. grant agreement[90]

Grant agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 USC §§ 6302 and 6304 (accessible at 31 USC Chapter 63), is:

- used to enter into a relationship, the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (refer to 31 USC § 6101(3)) and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use; and
- distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.

The term grant agreement does not include an agreement that provides only:

(a) direct United States Government cash assistance to an individual;

[89] 2 CFR § 200.1
[90] Ibid.

(b) a subsidy;

(c) a loan;

(d) a loan guarantee; or

(e) insurance.

15. improper payment[91]

The term improper payment means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements.

Incorrect amounts are overpayments or underpayments that are made to eligible recipient, including:

(a) inappropriate denials of payment or service;

(b) any payment that does not account for credit for applicable discounts;

(c) payments that are for an incorrect amount; and

(d) duplicate payments.

An improper payment also includes any payment that was made:

- to an ineligible recipient; or
- for an ineligible good or service or payments for goods or services not received (except for such payments authorized by law).

16. internal controls

The term internal controls by non-Federal entities means processes designed and implemented by the non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories::[92]

- effectiveness and efficiency of operations;
- reliability of reporting for internal and external use; and
- compliance with applicable laws and regulations.

17. major program

The term major program means a Federal program determined by the auditor to be a major program in accordance with 2 CFR § 200.518 or a program identified as a major program by a

[91] 2 CFR § 200.1
[92] Ibid.

Federal awarding agency or pass-through entity in accordance with 2 CFR § 200.503(e).[93] (Refer to Section V(e) of the policy for information on major program determination.)

18. non-Federal entity

The term non-Federal entity means a State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization that carries out a Federal award as a recipient or subrecipient.[94]

19. pass-through entity

The term pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.[95]

20. questioned cost[96]

The term Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(a) which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds;

(b) when the costs, at the time of the audit, are not supported by adequate documentation; or

(c) when the costs incurred appear unreasonable and do not reflect the actions a prudent person would take under the circumstances.

Questioned costs are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A-123 Appendix C.

21. recipient[97]

The term recipient means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency.

The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

22. subaward[98]

The term subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. A subaward

[93] 2 CFR § 200.1
[94] Ibid.
[95] Ibid.
[96] Ibid.
[97] Ibid.
[98] Ibid.

may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

The term subaward does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

23. subrecipient[99]

The term subrecipient means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

[99] 2 CFR § 200.1

APPENDIX II. Allowed and unallowed activities for WIOA Title I programs

Allowed and unallowed activities for WIOA Title I programs are provided in the compliance supplement[100] (pages 790 – 801 of the PDF) and listed below for reference. Please refer to the compliance supplement for full information on program-specific audit information for Title I programs (pages 787 – 809 of the PDF).

1. Required and allowable statewide activities

a. Administrative

(1) preparing the annual performance progress report and submitting it to the Secretary of Labor;[101]

(2) operating a fiscal and management accountability information system;[102]

(3) carrying out monitoring and oversight activities[103]

b. Programmatic

(1) Conducting statewide workforce development activities:

(a) *required statewide youth activities*: administration of youth workforce development activities;[104]

(b) *other allowable statewide youth activities*: providing technical assistance and career services to local areas, including local boards, one-stop operations, one-stop center partners, and eligible training providers;[105]

(c) *required statewide adult dislocated worker services*: providing employment and training activities, such as rapid response activities, and additional assistance to local areas;[106] and

(d) *other allowable statewide adult dislocated worker services*: establishing and implementing innovative incumbent worker training programs;[107]

(2) providing support to local areas for the identification of eligible training providers;[108]

[100] The compliance supplement is accessible at https://www.whitehouse.gov/wp-content/uploads/2022/05/2022-Compliance-Supplement_PDF_Rev_05.11.22.pdf.
[101] WIOA Sec. 116(d)(1); 20 CFR §§ 677.160 and 683.300(d)
[102] WIOA Sec. 116(i); 20 CFR §§ 652.8(b) and 682.200(l)
[103] WIOA Secs. 129(b)(1)(E), 134(a)(2)(B)(iv), and 184(a)(4); 20 CFR §§ 682.200(j) and 683.410
[104] WIOA Sec. 129(b)(1)
[105] WIOA Sec. 129(b)(2)
[106] WIOA Sec. 134(a)(2)
[107] WIOA Sec. 134(a)(3)
[108] WIOA Sec. 122(a)(2)

(3) implementing innovative programs for displaced homemakers and programs to increase the number of individuals trained for and placed in nontraditional employment;[109]

(4) carrying out adult and dislocated worker employment and training activities as the state determines are necessary to assist local areas in carrying out local employment and training activities;[110]

(5) disseminating the following:[111]

(a) the state list of eligible training providers for adults and dislocated workers;

(b) information identifying eligible training providers of on-the-job training (OJT) and customized training;

(c) performance and program cost information about these providers; and

(d) a list of eligible providers of youth activities;

(6) conducting evaluations of workforce activities for adults, dislocated workers, and youth, in order to promote, establish, implement, and utilize methods for continuously improving core program activities to achieve high-level performance within, and high-level outcomes from, the workforce development system;[112]

(7) providing incentive grants;[113]

(8) providing technical assistance to local areas that fail to meet local performance measures;[114]

(9) assisting in the establishment and operation of one-stop delivery systems, in accordance with the strategy described in the state plan; and

(10) providing additional assistance to local areas that have high concentrations of eligible youth[115]

2. Required and allowable local activities

a. Required adult and dislocated worker employment and training activities

(1) funds must be used at the local level to pay for career and training services through the one-stop delivery system for program participants;

[109] WIOA Sec. 134(c)(3)
[110] WIOA Sec. 134(a)(2)
[111] WIOA Sec. 122
[112] Ibid.
[113] WIOA Sec. 134(a)(3)(A)(xi)
[114] WIOA Sec. 129(b)(2)(E)
[115] WIOA Sec. 129(b)(1)(F)

(2) required basic career services for all interested individuals:[116]

(a) eligibility determination for WIOA services;

(b) outreach, intake, and orientation to available information and services;

(c) initial assessment of skill levels, including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs;

(d) provision of labor exchange services, including job search and placement assistance, as well as career counseling and appropriate recruitment and other business services provided by employers;

(e) provision of referrals to and coordination of activities with other programs and services within the one-stop delivery system;

(f) provision of workforce and labor market employment statistics and job information;

(g) provision of performance information and program cost information on eligible training providers by program and type of provider;

(h) provision of information on local area performance;

(i) provision of information on availability of supportive services and assistance;

(j) provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation; and

(k) provision of assistance on financial aid eligibility for training and education programs that are not funded under WIOA Title I;

(3) required individualized career services for all Title I program participants after determination that such services are required to retain or obtain employment, consistent with statutory priorities:[117]

(a) comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing, in-depth interviewing, and evaluation;

(b) development of an individual employment plan;

(c) group and/or individual counseling and mentoring;

(d) career planning;

[116] WIOA Sec. 134(c)(2)(A)(i) – (xi)
[117] WIOA Sec. 134(c)(2)(A)(xii)

(e) short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and workplace behavior skills training;

(f) internships and work experiences linked to careers;

(g) workforce preparation activities, including basic academic skills, critical thinking skills, digital literacy skills, and self-management skills;

(h) financial literacy services;

(i) out-of-area job search assistance and relocation assistance;

(j) English-language acquisition and integrated education and training programs

(4) required training services for eligible Title I program participants when determined appropriate:[118]

(a) occupational skills training, including training for nontraditional employment.

(b) on-the-job-training (OJT);

(c) incumbent worker training;

(d) programs that combine workplace training with related instruction, including cooperative education programs;

(e) training programs operated by the private sector;

(f) skill upgrading and retraining;

(g) entrepreneurial training;

(h) transitional jobs;

(i) job readiness training in combination with other training programs;

(j) adult education and literacy training;

(k) customized training (designed to meet the specific requirements of an employer who is are required to pay a significant portion of the cost of the training

(5) required follow-up services;[119] and

(6) allowable pay-for performance (PFP) strategies and performance contracts.

[118] WIOA Sec. 134(c)(3)(D)
[119] WIOA Sec. 134(c)(2)(A)(xiii)

b. Other adult and dislocated worker employment and training activities

At the discretion of the state and local boards, the following services may be provided:[120]

(1) job seeker services, including:

(a) customer support to enable individuals with barriers to employment to navigate among multiple services;

(b) training programs for displaced homemakers and for individuals training for nontraditional occupations; and

(c) work support activities for low-wage workers

(2) employer services, including:

(a) customized screening and referral of individuals in career and training services to employers; and

(b) customized employment-related services to employers, employer associations, or other organization on a fee-for-service basis, in addition to labor exchange services available to employers under the Wagner-Peyser Act; and

(c) activities to provide business services and strategies;

(3) coordination activities, including:

(a) employment and training activities in coordination with child support enforcement and child support services;

(b) employment and training activities in coordination with cooperative extension programs carried out by the US Department of Agriculture;

(c) employment and training activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

(d) improving coordination with economic development activities to promote entrepreneurial skills training and microenterprise services;

(e) improving linkages with small employers;

(f) strengthening linkages with unemployment insurance programs;

(g) improving coordination of activities for individuals with disabilities; and

[120] WIOA Sec. 134(d)

(h) improving coordination with other federal agency supported workforce development initiatives;

(4) implementing PFP contract strategies for training services, which may include only the activities listed in the definition of PFP contracting strategies at WIOA Sec. 3(47);

(5) technical assistance for one-stop centers, one-stop partners, and eligible training providers regarding the provision of services to individuals with disabilities;

(6) activities for setting self-sufficiency standards for the provision of career and training services;

(7) implementing promising services to workers and businesses;

(8) supportive services, including needs related payments; and

(9) locating transitional jobs.

c. Required youth activities[121]

(1) tutoring, study skills training, instruction and evidence-based dropout prevention and recovery strategies that lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized post-secondary credential;

(2) alternative secondary school services or dropout recovery services, as appropriate;

(3) paid and unpaid work experiences that have academic and occupational education as a component of the work experience, which may include the following types of work experiences:

(a) summer employment opportunities and other employment opportunities available throughout the school year;

(b) pre-apprenticeship programs;

(c) internships and job shadowing; and

(d) OJT opportunities;

(4) occupational skills training, which includes priority consideration for training programs that lead to recognized post-secondary credentials that align with in-demand industry sectors or occupations in the local area involved, if the local board determines that the programs meet the quality criteria described in WIOA Sec. 123;

[121] WIOA Sec. 129(c)(2)

(5) education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(6) leadership development opportunities, including community service and peer-centered activities encouraging responsibility and other positive social and civil behaviors;

(7) supportive services;

(8) adult mentoring for a duration of *at least* 12 months that may occur both during and after program participation;

(9) follow-up services for *not less than* 12 months after completion of participation;

(10) comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate;

(11) financial literacy education;

(12) entrepreneurial skills training;

(13) services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and

(14) activities that help youth prepare for and transition to postsecondary education and training;

(15) allowable pay-for performance (PFP) strategies and performance contracts.

d. Funds allocated to a local area for eligible youth

(1) Funds allocated to a local area for eligible youth must be used for programs that:

(a) objectively assess academic levels, occupational skills levels, service needs (occupational, prior work experience, employability, interests, aptitudes, etc.), supportive service needs of each participant, and developmental needs of each participant, for the purpose of identifying appropriate services and career pathways;

(b) develop service strategies that are directly linked to one or more indicators of performance of the youth program described in WIOA Sec. 116(b)(2)(A)(ii) and identify career pathways that include education and employment goals, appropriate achievement objectives, and the appropriate services needed to achieve the goals and objectives for each participant taking into account the assessment conducted; and

(c) provide activities leading to the attainment of a secondary school diploma or its recognized equivalent, postsecondary education preparation, strong linkages between academic instruction and occupational education that lead to the attainment of recognized postsecondary credentials, preparation for

unsubsidized employment opportunities, and effective connections to employers in in-demand industry sectors and occupations of the local and regional labor markets.[122]

3. Unallowed activities

WIOA Title I funds may not be used for the following activities (except as indicated below).

a. construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the Secretary of Labor

   (1) Note. WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for disaster relief projects authorized under WIOA Sec. 170(d) and for other projects that the Secretary determines necessary to carry out the purposes of WIOA, as described under WIOA Sec. 189(c).

b. employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals;[123]

c. employment or training of participants in sectarian activities:

   a. Note. Participants must not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants.[124]

d. encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location;[125]

e. providing customized training, skill training, or OJT or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, *until* the company has operated at that location for 120 calendar days, if the relocation resulted in any employee losing his or her job at the original location;[126]

[122] WIOA Sec. 129(c)(1)(A) – (C)
[123] WIOA Sec. 181(e)
[124] WIOA Sec. 188(a)(3)
[125] WIOA Sec. 181(d)(1)
[126] WIOA Sec. 181(d)(2)

f. paying the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system;[127]

g. public service employment, except to provide disaster relief employment, as specifically authorized in WIOA Sec. 194(10);

h. use of funds allotted to the State and allocated to local areas under WIOA Title I Subtitle B must not be used for foreign travel.[128]

[127] WIOA Sec. 181(b)(1)
[128] 20 CFR § 683.250(b); 29 USC § 2931(e)

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
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Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Administrative Requirements

Effective
May 3, 2023

Supersedes
Grant Closeout
(effective January 20, 2023)

Grant Closeout, Change 1

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

As a recipient of Federal awards, NDOL is required to institute a timely closeout process after the end of performance to ensure a timely closeout concerning its subrecipients.[1]

CHANGES

Under this Change 1, footnotes have been revised for clarity and links have been updated where necessary.

[1] 2 CFR § 200.344

ACTION

This policy supersedes and cancels the State's policy titled Grant Closeout (effective January 20, 2023). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards, as subrecipients and pass-through entities whenever they issue subawards to other subrecipients, must ensure compliance with Federal laws, rules, regulations, and guidance, as well as this policy, to ensure grant closeout requirements met.

POLICY

This policy has two sections and one appendix.

Section I. Closeout requirements 2
Section II. Post-closeout adjustments and continuing responsibilities 3
APPENDIX I. Definitions 5

Section I. Closeout requirements[2]

NDOL, as a pass-through entity, will close out Federal awards to local areas when it determines that all applicable administrative actions and all required work of the Federal award has been completed by its subrecipients. If the non-Federal entity fails to complete the requirements, the Federal awarding agency and pass-through entity will proceed to close out the Federal award with the information available. Below are the actions NDOL must take to complete this process at the end of the period of performance.

(a) The subrecipient must submit to NDOL, no later than 90 calendar days (or an earlier date as agreed upon by NDOL and the subrecipient) after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. NDOL may approve extensions when requested and justified by the subrecipient, as applicable.

(b) Unless NDOL authorizes an extension, the subrecipient must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the end date of the period of performance, as specified in the terms and conditions of the Federal award.

(c) NDOL must make prompt payments to the subrecipient for costs meeting the requirements established under 2 CFR Part 200 Subpart E regarding the applicable Federal award.

(d) The subrecipient must promptly refund any balances of unobligated cash that NDOL paid in advance or paid and that are not authorized to be retained by the subrecipient for use in other projects.

[2] 2 CFR § 200.344

(e) Consistent with the terms and conditions of the Federal award, NDOL must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The subrecipient must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 CFR §§ 200.310 through 200.316 and 2 CFR § 200.330.

(g) When the subrecipient completes all closeout requirements, NDOL must promptly complete all closeout actions for Federal awards.

(h) If the subrecipient does not submit all reports in accordance with 2 CFR § 200.344 and the terms and conditions of the Federal Award, NDOL must proceed to close out with the information available within one year of the period of performance end date.

Section II. Post-closeout adjustments and continuing responsibilities[3]

Closeout of a Federal award does not affect:

1. rights of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review:

    a. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

2. requirements that the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments;

3. ability of the Federal awarding agency to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments;

4. audit requirements in 2 CFR Part 200 Subpart F;[4]

5. property management and disposition requirements in 2 CFR §§ 200.310 through 200.316; or

6. records retention as required in 2 CFR §§ 200.334 through 200.337.[5]

[3] 2 CFR § 200.345

[4] The State's policy on audit and audit resolution provide information on audit and audit resolution requirements and is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

[5] The State's policy on records management provides additional information on record retention requirements, some of which are based on Nebraska law. The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to above, including those for property management, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. assistance listing

The term assistance listing refers to the publicly available listing of Federal assistance programs managed and administered by the General Services Administration, formerly known as the Catalog of Federal Domestic Assistance (CFDA).[6]

2. assistance listing number

Assistance listing number means a unique number assigned to identify an assistance listing, formerly known as the CFDA Number.[7]

3. closeout

The term closeout means the process by which a Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in 2 CFR § 200.344.[8]

4. contractor

The term contractor means an entity that receives a contract.[9]

5. contract

The term contract means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award.[10]

6. cooperative agreement

The term cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency and a recipient or a pass-through entity and a subrecipient that, consistent with 31 USC §§ 6302 – 6305 is:[11]

- used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (refer to 31

[6] 2 CFR § 200.1
[7] Ibid.
[8] Ibid.
[9] Ibid.
[10] Ibid.
[11] 2 CFR § 200.1

USC § 6101(3)) and not to acquire property or services for the Federal Government or a pass-through entity's direct benefit or use; and

- distinguished from a grant in that it provides for substantial involvement of a Federal awarding agency in carrying out the activity contemplated by the Federal award.

The term cooperative agreement does not include:

(a) a cooperative research and development agreement as defined in 15 USC § 3710a; or

(b) an agreement that provides only:

- direct United States Government cash assistance to an individual;
- a subsidy;
- a loan;
- a loan guarantee; or
- insurance.

7. Federal award

Federal award means, depending on context, either:[12]

(a) Federal financial assistance a recipient receives comes directly from a Federal awarding agency or indirectly from a pass-through entity; or

(b) the instrument setting forth the terms and conditions in a grant agreement, cooperative agreement, or other agreement for assistance covered in paragraph (b) of the definition of Federal financial assistance below.

The term Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government owned contractor operated facilities (GOCOs).

8. Federal awarding agency

The term Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.[13]

[12] Ibid.
[13] 2 CFR § 200.1

9. Federal financial assistance[14]

Federal financial assistance means:

(a) assistance that non-Federal entities receive or administer in the form of:

- grants;
- cooperative agreements;
- non-cash contributions or donations of property (including donated surplus property);
- direct appropriations;
- food commodities; and
- other financial assistance (excluding assistance described in paragraph (b) of this definition).

(b) for 2 CFR § 200.203 (and 2 CFR Part 200 Subpart F), assistance that non-Federal entities receive or administer in the form of:

- loans;
- loan guarantees;
- interest subsidies; and
- insurance;

(c) for 2 CFR § 200.216, assistance that non-Federal entities receive or administer in the form of:

- grants;
- cooperative agreements;
- loans; and
- loan guarantees.

Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals as described in 2 CFR § 200.502(h) and 2 CFR § 200.502(i).

[14] Ibid.

10. Federal program

Federal program means:[15]

(a) all Federal awards which are assigned a single assistance listing number; or

(b) when no assistance listing number is assigned, all Federal awards from the same agency made for the same purpose are combined and considered one program.

11. grant agreement[16]

Grant agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 USC §§ 6302 and 6304 (accessible at 31 USC Chapter 63), is:

- used to enter into a relationship, the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (refer to 31 USC § 6101(3)) and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use; and

- distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.

The term grant agreement does not include an agreement that provides only:

(a) direct United States Government cash assistance to an individual;

(b) a subsidy;

(c) a loan;

(d) a loan guarantee; or

(e) insurance.

[15] 2 CFR § 200.1
[16] 2 CFR § 200.1

12. internal controls

The term internal controls by non-Federal entities means processes designed and implemented by the non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories:[17]

- effectiveness and efficiency of operations;
- reliability of reporting for internal and external use; and
- compliance with applicable laws and regulations.

13. non-Federal entities

The term non-Federal entity means a State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization that carries out a Federal award as a recipient or subrecipient.[18]

14. period of performance

The term period of performance means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award per 2 CFR § 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period.[19]

For WIOA Title IB programs, period of performance means that funds allocated to local areas for a given program year are available for expenditure by local boards during that program year and one succeeding program year.[20]

15. pass-through entity

The term pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.[21]

16. recipient

The term recipient means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency.[22]

The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

[17] Ibid.
[18] 2 CFR § 200.1
[19] Ibid.
[20] 20 CFR § 683.110(c)
[21] 2 CFR 200.1
[22] Ibid.

17. subaward

The term subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Subaward does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

18. subrecipient[23]

The term subrecipient means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a *Federal awarding agency*.

[23] 2 CFR § 200.1

4.2. Nondiscrimination and Equal Opportunity

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Administrative Requirements

Effective
May 3, 2023

Supersedes
Nondiscrimination and Equal Opportunity, Change 3 (effective March 28, 2022)

Nondiscrimination and Equal Opportunity, Change 4

REFERENCE

Federal and state laws, rules, and regulations and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

All recipients of WIOA Title I financial assistance must ensure nondiscrimination and equal opportunity in their provision of WIOA Title I services.[1] Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, are governed by the implementing regulations of WIOA Sec. 188, codified at 29 CFR Part 38, and are administered and enforced by the US Department of Labor Civil Rights Center (CRC).[2]

CHANGES

Under this Change 4, footnotes have been revised for clarity and links have been updated, where necessary.

[1] 20 CFR § 683.285(a)(1)
[2] 20 CFR § 683.285(a)(2); 29 CFR § 38.20; TEGL 37-14

ACTION

This policy supersedes and cancels the State's policy titled Nondiscrimination and Equal Opportunity, Change 3 (effective March 28, 2022). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Each local board must:

- meet the obligation to ensure nondiscrimination and equal opportunity as described in this policy; and
- ensure equal access to programs and services as described in this policy.

POLICY

The purpose of this policy is to:

- define recipient obligations regarding nondiscrimination and equal opportunity under WIOA Sec. 188 and 29 CFR Part 38, including:
    - applicability, meaning the recipients to which the obligations apply; and
    - prohibited activities and limitations on activities;
- establish the requirements and procedures regarding nondiscrimination and equal opportunity under WIOA Sec. 188 and 29 CFR Part 38; and
- identify consequences for failure to comply with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 and 29 CFR Part 38.

This policy is organized in three sections and two appendices.

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Section I. Obligation to ensure nondiscrimination and equal opportunity

All recipients of WIOA Title I financial assistance must comply with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 and its implementing regulations provided at 29 CFR Part 38, including:[3]

- the requirements of 29 CFR Part 32, Subparts B and C and Appendix A, which are the regulations requirements pertaining to employment practices and employment-related training, program accessibility and reasonable accommodation;[4]
- the requirements of Titles I, II and III of the Americans with Disabilities Act of 1990 (ADA);[5] and
- all applicable obligations the recipient may have under:[6]
    - the Equal Pay Act of 1963, as amended;
    - Title VII of the Civil Rights Act of 1964, as amended;
    - the anti-discrimination provision of the Immigration and Nationality Act of 1965, as amended;
    - Executive Order 11246 (c. 1965), as amended, pertaining to equal employment opportunity regarding Federal contractors and Federally-assisted constructions contractors and subcontractors;
    - the Age Discrimination in Employment Act of 1967, as amended;
    - Title IX of the Education Amendments of 1972, as amended;
    - Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to nondiscrimination and individuals with a disability;
    - the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; and
    - the Age Discrimination Act of 1975, as amended; and
    - Executive Order 13160 (c. 2000) pertaining to nondiscrimination and parents in Federally-conducted education and training programs.

The obligation to comply with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 or 29 CFR Part 38 are not excused or reduced by any:[7]

- state or local law or other requirement; or

[3] 20 CFR § 683.285
[4] 29 CFR § 38.3(b)
[5] 29 CFR § 38.3(c)
[6] 29 CFR § 38.3(d)
[7] 29 CFR § 38.24

- private organization rules or policies.

(a) Applicability

The requirements of WIOA Sec. 188 and 29 CFR Part 38 apply to:[8]

- each recipient of WIOA Title I financial assistance;
- each one-stop partner, and its programs and activities, that are part of the one-stop delivery system; and
- the employment practices of each recipient, to the extent the employment is in the administration of or in connection with programs and activities conducted under WIOA Title I or the one-stop delivery system.

The requirements of WIOA Sec. 188 and 29 CFR Part 38 do not apply to:[9]

- programs or activities that are financially assisted under laws other than WIOA Title I and are not part of the one-stop delivery system, including programs or activities implemented under the Workforce Investment Act of 1998;
- contracts of insurance or guaranty; or
- Federal procurement contracts, with the exception of contracts to operate or provide services to Job Corps Centers.

(b) Prohibitions

In general, recipients are prohibited from using any method that has the purpose or effect of subjecting individuals to discrimination on a prohibited ground due to the recipient's administration of facilities and programs providing aid, benefits, service, or training.[10]

(1) Discrimination and harassment[11]

WIOA Sec. 188 prohibits discrimination and harassment based on race, color, religion, sex (including pregnancy[12]), national origin, age, disability, or political affiliation or belief. In addition, WIOA Sec. 188 prohibits discrimination against and harassment of any WIOA Title I program applicant or participant on the basis of citizenship status or participation in a WIOA Title I financially assisted program or activity. Further, a recipient must not exclude any individual from, or restrict any individual's participation in, any program or activity based on the recipient's belief or concern that the individual will encounter limited future employment opportunities because of the individual's race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship status, or participation in a WIOA Title I financially assisted program or activity.[13]

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[8] 29 CFR § 38.2(a)
[9] 29 CFR § 38.2(b)
[10] TEGL 37-14
[11] 29 CFR § 38.1. Note: 29 CFR §§ 38.6 – 38.12 provides detailed information on specifically prohibited actions.
[12] 29 CFR § 38.8
[13] 29 CFR § 38.24(c)

A recipient must not communicate any information that suggests, by text or illustration, that the recipient treats beneficiaries, registrants, applicants, participants, employees or applicants for employment differently on any prohibited basis described in 29 CFR § 38.5, except when such treatment is permitted under 29 CFR Part 38 or Federal law.[14]

(2) Intimidation and retaliation

A recipient must not discharge, intimidate, retaliate, threaten, coerce or discriminate against any individual because the individual has, with regard to the requirements and obligations of WIOA Sec. 188 or 29 CFR Part 38:[15]

- filed a complaint alleging a violation;
- opposed a practice prohibited by the nondiscrimination and equal opportunity provisions; or
- furnished information to, or assisted or participated in any manner in, an investigation, review, hearing, or any other activity related to any of the following:
    - administration of the nondiscrimination and equal opportunity provisions;
    - exercise of authority under those provisions;
    - exercise of privilege secured by those provisions; or
    - otherwise exercised any rights and privileges under the nondiscrimination and equal opportunity provisions.

(3) Assistance for facilities for religious instruction or worship[16]

Except as described in Section I(c), WIOA Title I program funds must not be used to subsidize the employment of individuals participating in WIOA Title I programs where the participant would be carrying out the construction, operation, or maintenance of any part of any facility that is used or will be used for religious instruction or worship.

(c) Exceptions and limitations

(1) Facilities for religious instruction or worship[17]

The prohibition against use of WIOA Title I funds for facilities for religious instruction or worship, as described above, does not apply to maintenance of a facility that is not primarily or inherently devoted to religious instruction or worship when the organization operating the facility is part of a program or an activity providing services to WIOA Title I participants.

[14] 29 CFR § 38.38(c)
[15] 29 CFR § 38.19
[16] WIOA Sec. 188(a)(3)
[17] Ibid.

(2) Employment and training in religious activities[18]

WIOA Title I funds may be used to support employment and training in religious activities when the assistance is indirect. Financial assistance for employment in religious activities is considered indirect when the participant has been provided with a genuine and independent opportunity to choose the provider of the employment, even where the local WIOA Title I service provider pays the provider of employment directly. Financial assistance for training in religious activities is considered indirect when the participant:

- is given a genuine and independent private choice among training providers or program options, which must be provided in a manner that maximizes informed consumer choice; and
- can freely elect, from among those options, to receive training in religious activities.

For training in religious activities, individual training accounts (ITAs) are considered indirect assistance.

Section II. Requirements and procedures

In addition to the specific requirements described in this section, each local board, in general, must ensure that its local American Job Center(s) provides equal access to programs and services.[19]

(a) Requirements

(1) Accessibility

(i) Physical accessibility

Each recipient must insure that no qualified individual with a disability is excluded from participation in, or be denied the benefits of a recipient's service, program, or activity or be subjected to discrimination by any recipient because a recipient's facilities are inaccessible or unusable by individuals with disabilities.[20]

(ii) Programmatic accessibility

Each recipient must insure that all WIOA Title I financially assisted programs and activities are programmatically accessible, which includes:[21]

- providing reasonable accommodations for individuals with disabilities;
- making reasonable modifications to policies, practices, and procedures;

[18] TEGL 1-05
[19] TEGL 37-14
[20] 29 CFR § 38.13(a)
[21] 29 CFR § 38.13(b)

- administering programs in the most integrated setting appropriate;
- communicating with persons with disabilities as effectively as with others; and
- providing appropriate auxiliary aids or services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

(2) Reasonable accommodations and modifications

With regard to employment and aid, benefits, service, and training, a recipient must:

- provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship;[22] and
- make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.[23]

(3) Communications

Each recipient must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others, including communications with program applicants and participants, applicants for employment and employees, members of the public, and their companions.[24]

(4) Assurances[25]

Each recipient of WIOA Title I financial assistance must provide written assurances that it will adhere to and comply with the requirements of WIOA Sec. 188 and 29 CFR Part 38.

- In the case of a local board, the assurances are included in the local board's WIOA Title I grant agreement with NDOL.
- For all other recipients of WOA Title I financial assistance provided through the local board, the assurances must be provided in writing as part of an appropriate written agreement between the recipient and the local board or its authorized designee.

[22] 29 CFR § 38.14(a)
[23] 29 CFR § 38.14(b)
[24] 29 CFR § 38.15(a). Companion means a family member, friend, or associate of an individual seeking access to an aid, benefit, service, training, program, or activity of a recipient, who, along with such individual, is an appropriate person with whom the recipient should communicate [29 CFR § 38.15(a)(ii)].
[25] 29 CFR §§ 38.25 and 38.26

(5) Equal Opportunity Officers[26]

Every recipient must designate an Equal Opportunity Officer (EO Officer), except small recipients and service providers.

- The EO Officer should be a senior-level employee of the recipient.
- The EO Officer must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer.
- The EO Officer is responsible for:
    - serving as the recipient's liaison with CRC;
    - monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I financial assistance from the recipient, to make sure that the recipient and its subrecipients are not violating their nondiscrimination and equal opportunity obligations;
    - reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
    - developing and publishing the recipient's procedures for processing discrimination complaints and making sure that those procedures are followed;
    - reporting directly to the Commissioner of Labor and the NDOL State-level EO Officer (identified below) on nondiscrimination and equal opportunity matters;
    - undergoing training (at the recipient's expense) to maintain competency as an EO Officer; and
    - if applicable, overseeing the development and implementation of the recipient's Methods of Administration.

In Nebraska, NDOL is the WIOA Title I grant recipient agency and Justin Schroeder is the State-level EO Officer for state issues related to the grant. The State-level EO Officer also serves as a State-level EO Officer for NDOL and may be contacted at:

Justin Schroeder
State-level EO Officer
Nebraska Department of Labor
550 South 16th Street
PO Box 94600
Lincoln, NE 68509-4600
(402) 471-3712
TDD (800) 833-7352

Service providers are not required to designate an EO Officer. The obligation for ensuring service provider compliance with the nondiscrimination and equal opportunity provisions of WIOA Sec.

[26] 29 CFR §§ 38.28 – 38.33

188 and 29 CFR Part 38 rests with the Governor or local area grant recipient (i.e., Chief Elected Official), as specified in the state's nondiscrimination plan.[27]

(6) Equal Opportunity Notice[28]

Each recipient of WIOA Title I financial assistance must provide initial and continuing notice that it does not discriminate on any prohibited basis.

The notice must be provided to:

- registrants;
- applicants;
- participants;
- applicants for employment and employees;
- unions or professional organizations that hold collective bargaining or professional agreements with the recipient;
- subrecipients that receive WIOA Title I financial assistance from the recipient; and
- members of the public, including those with impaired vision or hearing and those with limited English proficiency.

The notice must contain the specific wording identified in 29 CFR § 38.35, which is provided as APPENDIX II of this policy.

(iii) Publications, broadcasts, and other communications

(A) Publication of the Equal Opportunity Notice[29]

At a minimum, the Equal Opportunity Notice must be:

- posted prominently, in reasonable numbers and places, in available and conspicuous physical locations and on the recipient's web site pages;
- disseminated in internal memoranda and other written or electronic communications with staff;
- included in employee and participant handbooks or manuals regardless of form, including electronic and paper form if both are available;
- provided to each participant and employee; and

[27] 29 CFR § 38.33
[28] 29 CFR § 38.34
[29] 29 CFR § 38.36

- made part of each participant's and employee's file and be a part of both paper and electronic files, if both are maintained.

In addition, the Equal Opportunity Notice must be:

- provided in appropriate formats to registrants, applicants, eligible applicants/registrants, applicants for employment and employees and participants with visual impairments;
- provided to participants in appropriate languages other than English;[30] and
- initially published and provided within 90 calendar days of the latter of January 3, 2017 or the first date the requirements of WIOA Sec. 188 and 29 CFR Part 38 apply to the recipient (i.e., within 90 days of first becoming a recipient).

Where the Equal Opportunity Notice has been given in an alternate format to registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees with a visual impairment, a record that the alternate-format notice has been given must be made a part of the employee's or participant's file.

(B) Printed and electronic materials and verbally-provided information[31]

Recipients must indicate the WIOA Title I financially assisted program or activity in question is an equal opportunity employer/program and that auxiliary aids and services are available upon request to individuals with disabilities. This requirement applies to recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe WIOA Title I financially assisted program or activities or the requirements for participation by recipients and participants. When these materials indicate that the recipient may be reached by voice telephone, the materials must also prominently provide the telephone number of the text telephone (TTY) or other equally effective telecommunications system, such as a relay service, videophone, or captioned telephone used by the recipient.

(C) Information provided through news media[32]

Recipients that publish or broadcast program information in the news media must ensure that the publications and broadcasts state that:

- the WIOA Title I financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I financially assisted program or activity is prohibited by Federal law); and
- auxiliary aids and services are available upon request to individuals with disabilities.

(iv) Orientations

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I financially assisted program or activity, a recipient must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIOA, including the right

[30] 29 CFR § 38.9
[31] 29 CFR § 38.38(a)
[32] 29 CFR § 38.38(b)

to file a complaint of discrimination with the recipient or CRC Director.[33] This information must be communicated in appropriate languages and in formats accessible for individuals with disabilities.[34] When possible, the Equal Opportunity Notice should be provided in print and signed by WIOA Title I program participants and employees of the recipient and retained on file.

(7) Affirmative outreach[35]

Recipients must take appropriate steps to ensure that they are providing equal access to their WIOA Title I financially assisted programs and activities. These steps should involve reasonable efforts to include members of the various groups protected under 29 CFR Part 38, including but not limited to:

- individuals with limited English proficiency;
- individuals with disabilities;
- persons of different sexes and age groups; and
- persons of various racial and ethnic/national origin groups and religions.

(8) Collection and maintenance of EO data[36]

Each recipient must collect data and maintain records the CRC Director finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 and 29 CFR Part 38. The system and format in which the records and data are kept must be designed to allow the Governor and CRC to conduct statistical or other quantifiable data analyses to verify the recipient's compliance with WIOA Sec. 188 and 29 CFR Part 38.

Records must be collected and maintained on:

- program applicants;
- registrants;
- eligible applicants/registrants;
- participants;
- terminees;
- employees; and
- applicants for employment.

Each recipient must record the race/ethnicity, sex, age, and where known, disability status of the groups specified above. Beginning on January 3, 2019, each recipient must also record the

[33] 29 CFR § 38.36
[34] 29 CFR §§ 38.9, 38.15, and 38.39
[35] 29 CFR § 38.40
[36] 29 CFR § 38.41

limited English proficiency and preferred language of each applicant, registrant, participant, and terminee. This collected information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of:

- recordkeeping and reporting;
- determining eligibility, where appropriate, for WIOA Title I financially assisted programs or activities;
- determining the extent to which the recipient is operating its WIOA Title I financially assisted program or activity in a nondiscriminatory manner; and
- other uses authorized by law.

(i) Medical and disability-related information

Any medical or disability-related information obtained about a particular individual, including information that could lead to the disclosure of a disability, must be collected on separate forms. All such information, whether in hard copy, electronic, or both, must be maintained in one or more separate files, apart from any other information about the individual, and treated as confidential. Whether these files are electronic or hard copy, they must be locked or otherwise secured (for example, through password protection).

(ii) Complaints[37]

Each recipient must maintain, and submit to CRC upon request, a log of complaints filed with the recipient that allege discrimination on the basis of:

- race;
- color;
- religion;
- sex (including pregnancy, childbirth, and related medical conditions);
- national origin;
- age;
- disability;
- political affiliation or belief;
- citizenship; or
- participation in a WIOA Title I financially assisted program or activity.

[37] 29 CFR 38.41(c)

The log must include:

- the name and address of the complainant;
- the basis of the complaint;
- a description of the complaint;
- the date the complaint was filed;
- the disposition and date of disposition of the complaint; and
- other pertinent information.

Information that could lead to identification of a particular individual as having filed a complaint must be kept confidential.

Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

A service provider's responsibility for collecting and maintaining the information required under this section may be assumed by the Governor or local area grant recipient, as provided in the state's nondiscrimination plan.

(iii) Information to be provided to CRC

(A) Notification of administrative enforcement actions or lawsuits[38]

Each recipient must promptly notify the CRC Director when any administrative enforcement actions or lawsuits are filed against it alleging discrimination on the basis of:

- race;
- color;
- religion;
- sex (including pregnancy, childbirth, and related medical conditions);
- national origin (including limited English proficiency);
- age;
- disability;
- political affiliation or belief; or
- for beneficiaries, applicants, and participants only, on the basis of citizenship or participation in a WIOA Title I financially assisted program or activity.

[38] 29 CFR § 38.42(a)

This notification must include the:

- names of the parties to the action or lawsuit;
- forum in which each case was filed; and
- relevant case numbers.

(B) Compliance reviews and complaint investigations[39]

Each recipient, as part of a compliance review[40] or monitoring activity[41] conducted or carried out by the CRC Director, must provide the following information:

- the name of any other Federal agency that conducted a civil rights compliance review or complaint investigation, and that found the grant applicant or recipient to be in noncompliance, during the two years before the grant application was filed or CRC began its examination; and
- information about any administrative enforcement actions or lawsuits that alleged discrimination on any protected basis, and that were filed against the grant applicant or recipient during the two years before the application or renewal application, compliance review, or monitoring activity.

This information must include the:

- names of the parties;
- forum in which each case was filed; and
- relevant case numbers.

At the discretion of the CRC Director, recipients may be required to provide, in a timely manner:

- any information and data that the Director considers necessary to investigate complaints and conduct compliance reviews on bases prohibited under the nondiscrimination and equal opportunity provisions of WIOA and 29 CFR Part 38; and
- the particularized information and/or to submit the periodic reports that the CRC Director considers necessary to determine compliance with the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 38.

Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

[39] 29 CFR § 38.42(b)
[40] 29 CFR § 38.63
[41] 29 CFR § 38.65

(iv) Records retention[42]

Each recipient must maintain the following records, whether they exist in electronic form (including email) or hard copy, for a period of not less than three years from the close of the applicable program year:

- records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment; and
- other records as are required under 29 CFR Part 38 or by the CRC Director.

Where a discrimination complaint has been filed or compliance review initiated, every recipient that possesses or maintains any type of hard-copy or electronic record related to the complaint (including records that have any relevance to the underlying allegations in the complaint, as well as records regarding actions taken on the complaint) or to the subject of the compliance review must preserve all records, regardless whether hard-copy or electronic, that may be relevant to a complaint investigation or compliance review, and maintain those records for a period of not less than three years from the date of final action related to resolution of the complaint or compliance review.

(v) Records access[43]

Each recipient must permit access by the CRC Director or the Director's designee during its hours of operation to its premises and to its employees and participants, to the extent that such individuals are on the premises during the course of the investigation, for the purpose of conducting complaint investigations, compliance reviews, or monitoring activities associated with a state's development and implementation of a nondiscrimination plan, and for inspecting and copying such books, records, accounts and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIOA or 29 CFR Part 38.

Asserted considerations of privacy or confidentiality are not a basis for withholding information from CRC and will not bar CRC from evaluating or seeking to enforce compliance with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 and 29 CFR Part 38.

Whenever any information that the Director asks a recipient to provide is in the exclusive possession of another agency, institution, or person, and that agency, institution, or person fails or refuses to furnish the information upon request, the recipient must certify to CRC that it has made efforts to obtain the information and that the agency, institution, or person has failed or refused to provide it. This certification must list the name and address of the agency, institution, or person that has possession of the information and the specific efforts the recipient made to obtain it.

[42] 29 CFR § 38.43
[43] 29 CFR § 38.44

(b) Procedures

(1) Complaint filing[44]

Any individual, or individual's representative, who believes that the individual or any specific class of individuals, has been or is being subjected to discrimination, harassment, or retaliation prohibited under WIOA Sec. 188 or 29 CFR Part 38 may file a written complaint. The complaint may be filed with the recipient's EO Officer or the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, DC 20210.

Generally, a complaint must be filed within 180 days of the alleged discrimination, harassment, or retaliation. However, for good cause shown, the CRC Director may extend the filing time. The time period for filing is for the administrative convenience of CRC, and does not create a defense for the respondent

(i) Required contents

Each complaint must be filed in writing, either electronically or in hard copy, and must contain the following information:

- the complainant's name, mailing address, and, if available, email address (or another means of contacting the complainant);
- the identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- a description of the complainant's allegations, which must include enough detail to allow the CRC Director or the recipient, as applicable, to decide whether CRC or the recipient, as applicable, has jurisdiction over the complaint; the complaint was filed in time; and the complaint has apparent merit, in other words, whether the complainant's allegations, if true, would indicate noncompliance with any of the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 or 29 CFR Part 38; and
- the written or electronic signature of the complainant or the written or electronic signature of the complainant's representative.

A complaint may be filed by completing and submitting CRC's Complaint Information Form and Privacy Act Consent, which may be obtained either from the recipient's EO Officer or from CRC. The forms are available electronically on CRC's website[45] and in hard copy via postal mail upon written request to Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, DC 20210.

(ii) Right to representation

Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.[46]

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[44] 29 CFR § 38.69
[45] The Complaint Information Form and Privacy Act Consent Form are accessible at https://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm.
[46] 29 CFR § 38.71

(2) Complaint processing procedures for recipients[47]

The procedures that a recipient adopts and publishes for processing complaints permitted under WIOA Sec. 188 and 29 CFR Part 38 must state that the recipient will issue a written notice of final action on complaints within 90 calendar days of the date on which the complaint is filed. At a minimum, the procedures must include the following elements:

- initial, written notice to the complainant that contains the following information:
  - an acknowledgment that the recipient has received the complaint;
  - notice that the complainant has the right to be represented in the complaint process;
  - notice of rights contained in 29 CFR § 38.35; and
  - notice that the complainant has the right to request and receive, at no cost, auxiliary aids and services, language assistance services, and that this notice will be translated into the non-English languages as required in 29 CFR §§ 38.4(h) – (i), 38.34, and 38.36.
- a written statement of the issue(s), provided to the complainant, that includes the following information:
  - a list of the issues raised in the complaint; and
  - For each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection;
- a period for fact-finding or investigation of the circumstances underlying the complaint;
- a period during which the recipient attempts to resolve the complaint which must include alternative dispute resolution (ADR), as described in 29 CFR § 38.72(c) and Section II(b)(2)(i);
- a written notice of final action, provided to the complainant within 90 calendar days of the date on which the complaint was filed, that contains the following information:
  - for each issue raised in the complaint, a statement of either:
    - the recipient's decision on the issue and an explanation of the reasons underlying the decision; or
    - a description of the way the parties resolved the issue; and
  - notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the notice of final action is received if the complainant is dissatisfied with the recipient's final action on the complaint.

[47] 29 CFR § 68.72

(i) Alternative Dispute Resolution (ADR)[48]

The recipient's ADR procedures must provide for the following.

- The complainant may attempt ADR at any time after the complainant has filed a written complaint with the recipient, but before a Notice of Final Action has been issued.
- The choice whether to use ADR or the customary process rests with the complainant.
- A party to any agreement reached under ADR may notify the CRC Director in the event the agreement is breached. In such circumstances, the following rules will apply.
    - The non-breaching party may notify with the CRC Director within 30 days of the date on which the non-breaching party learns of the alleged breach; and
    - The CRC Director must evaluate the circumstances to determine whether the agreement has been breached. If the Director determines that the agreement has been breached, the complaint will be reinstated and processed in accordance with the recipient's procedures.

If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC Director as described in 29 CFR §§ 38.69 – 38.71.

(3) Complaint processing procedures for service providers[49]

The Governor or the local area grant recipient (i.e., Chief Elected Official), as provided in the state's nondiscrimination plan, must develop and publish, on behalf of its service providers, the complaint processing procedures required in 29 CFR § 38.72. The service providers must then follow those procedures.

(4) Notice of recipient's lack of jurisdiction[50]

If a recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant, in writing within five business days of making such determination. This notice of lack of jurisdiction must include:

- a statement of the reasons for that determination; and
- notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the notice.

(5) Notice of final action[51]

If the recipient issues a notice of final action before the 90 calendar day period ends, but the complainant is dissatisfied with the recipient's decision on the complaint, the complainant or the complainant's representative may file a complaint with the CRC Director within 30 days after the date on which the complainant receives the notice. If, by the end of 90 calendar days from the

[48] 29 CFR § 38.72(c)
[49] 29 CFR § 38.73
[50] 29 CFR § 38.74
[51] 29 CFR §§ 38.75 and 38.76

date on which the complainant filed the complaint, the recipient has failed to issue a notice of final action, the complainant or the complainant's representative may file a complaint with the CRC Director within 30 calendar days of the expiration of the 90 calendar day period. In other words, the complaint must be filed with the CRC Director within 120 calendar days of the date on which the complaint was filed with the recipient.

Section III. Failure to comply[52]

Whenever the Secretary of Labor finds that a state or other recipient of WIOA Title I financial assistance has failed to comply with the requirements of WIOA Sec. 188 or 29 CFR Part 38, the Secretary must notify the state or recipient and must request that compliance takes place. If within a reasonable period of time, not to exceed 60 days, the state or recipient fails or refuses to comply, the Secretary may refer the matter to the United States Attorney General with a recommendation that an appropriate civil action be instituted or take such other action as may be provided by law.

Once a referral is received or if the United States Attorney General has reason to believe that the state or recipient of WIOA Title I financial assistance is engaged in a pattern or practice of discrimination, the United States Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.[53]

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[52] WIOA Sec. 188(b)
[53] WIOA Sec. 188(c)

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.[54]

1. aid, benefits, service, or training

Aid, benefit, service, or training means WIOA Title I financially assisted services, financial or other aid, training, or benefits provided by or through a recipient or its employees, or by others through contract or other arrangements with the recipient. Aid, benefit, service, or training includes, but is not limited to:[55]

- career services;
- education or training;
- health, welfare, housing, social service, rehabilitation, or other supportive services;
- work opportunities;
- cash, loans, or other financial assistance to individuals; and
- any aid, benefits, services, or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise obtained, in whole or in part, with Federal financial assistance under Title I of WIOA.

2. applicant

Applicant means an individual who is interested in being considered for any WIOA Title I financially assisted aid, benefit, service, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient.[56]

3. financial assistance

Financial assistance means any of the following:[57]

- any grant, subgrant, loan, or advance of funds, including funds extended to any entity for payment to or on behalf of participants admitted to that recipient for training, or extended directly to such participants for payment to that recipient;
- provision of the services of grant making agency personnel, or of other personnel at the grant making agency's expense; or

[54] Additional definitions relating to nondiscrimination and equal opportunity are provided in 29 CFR § 38.4.
[55] 29 CFR § 38.4(b)
[56] 20 CFR § 38.4(c)
[57] 29 CFR § 38.4(x)

- a grant or donation of real or personal property or any interest in or use of such property, including:
    - transfers or leases of property for less than fair market value or for reduced consideration;
    - proceeds from a subsequent sale, transfer, or lease of such property, if the grant making agency's share of the fair market value of the property is not returned to the grant making agency; and
    - the sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:
        - without consideration;
        - at a nominal consideration;
        - at a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;
        - waiver of charges that would normally be made for the furnishing of services by the grant making agency; or
        - any other agreement, arrangement, contract or subcontract (other than a procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under the statute or policy that authorizes assistance by the grant making agency.

4. participant

For purposes of the policy, participant means an individual who has been determined to be eligible to participate in, and who is receiving any aid, benefit, service, or training under, a program or activity financially assisted in whole or in part under WIOA Title I. Participant includes, but is not limited to, individuals receiving any service(s) under state employment service programs, and claimants receiving any service(s) or benefits under state unemployment insurance programs.[58]

5. pass-through entity

The term pass-through entity means a non-Federal entity, like a local board, that provides a subaward to a subrecipient to carry out some or all of the activities permitted or required under a Federal program.[59]

[58] 29 CFR § 38.4(oo)
[59] 2 CFR § 200.74

6. programmatic accessibility

Programmatic accessibility means policies, practices, and procedures providing effective and meaningful opportunity for individuals with disabilities to participate in or benefit from aid, benefits, services, and training.[60]

7. qualified individual with a disability[61]

Qualified individual with a disability means:

- with respect to employment, an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position; or

- with respect to aid, benefits, services, or training, an individual who, with or without auxiliary aids and services, reasonable accommodations, and/or reasonable modifications in policies, practices and procedures, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

8. reasonable accommodation[62]

The term reasonable accommodation means modifications or adjustments:

- to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires;

- that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. these modifications or adjustments may be made to the environment where work is performed or aid, benefits, services, or training are given; or the customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given; and

- that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities.

[60] 29 CFR § 38.4(tt)
[61] 29 CFR § 38.4(ww)
[62] 29 CFR § 38.4(yy)

9. recipient[63]

For purposes of the policy, the term recipient means any entity that receives WIOA Title I funds either directly from the US Department of Labor or through the Governor or another recipient, including, but not limited to:

- local workforce development boards;
- one-stop operators;
- one-stop delivery system partners;
- Job Corps contractors and center operators, excluding the operators of Federally-operated Job Corps centers;
- Job Corps national training contractors;
- outreach and admissions agencies, including Job Corps contractors that perform these functions;
- placement agencies, including Job Corps contractors that perform these functions; and
- other national program recipients, including Native American program recipients; Migrant and Seasonal Farmworker Program recipients; and YouthBuild recipients; and
- other subrecipients, except for service providers.

Individuals participating in WIOA Title I programs are not recipients.

10. service provider

Service provider means any:[64]

- operator of, or provider of aid, benefits, service, or training to:
- program or activity that receives WIOA Title I financial assistance from or through any state or local area grant recipient;
- participant through that participant's ITA; or
- entity that is selected and/or certified as an eligible provider of training services to participants.

[63] 29 CFR § 38.4(zz)
[64] 29 CFR § 38.4(ggg)

11. small recipient[65]

A small recipient is defined as a recipient that:

- serves fewer than 15 program participants during the one grant year (i.e., program year); or
- employs fewer than 15 employees on any given day during one grant year (i.e., program year).

12. subrecipient[66]

The term subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out some or all of the activities permitted or required under a Federal program (e.g., WIOA Title I youth, adult, and dislocated worker programs). The term subrecipient also refers to any entity to which a local board provides a subaward for the administration of some or all of the requirements of the subaward provided to the local board by NDOL for administration of WIOA Title I youth, adult, and dislocated worker activities. Individuals participating in WIOA Title I programs are not subrecipients.

13. WIOA Title I financial assistance

WIOA Title I financial assistance means any of the following, when authorized or extended under WIOA Title I:[67]

- any grant, subgrant, loan, or advance of Federal funds, including funds extended to any entity for payment to or on behalf of participants admitted to that recipient for training, or extended directly to such participants for payment to that recipient;
- provision of the services of Federal personnel, or of other personnel at Federal expense; or
- a grant or donation of Federal real or personal property or any interest in or use of such property, including:
    - transfers or leases of property for less than fair market value or for reduced consideration;
    - proceeds from a subsequent sale, transfer, or lease of such property, if the Federal share of the fair market value of the property is not returned to the Federal Government; and
    - the sale, lease, or license of, and/or the permission to use (other than on a casual or transient basis), such property or any interest in such property, either:
        - without consideration;

[65] 29 CFR § 38.4 (hhh)
[66] 2 CFR § 200.93
[67] 29 CFR § 38.4(y)

- at a nominal consideration;
- at a consideration that is reduced or waived either for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient;
- waiver of charges that would normally be made for the furnishing of government services; or
- any other agreement, arrangement, contract or subcontract (other than a Federal procurement contract or a contract of insurance or guaranty), or other instrument that has as one of its purposes the provision of assistance or benefits under WIOA Title I.

14. WIOA Title I financially assisted program or activity[68]

WIOA Title I financially assisted program or activity means:

- a program or activity, operated by a recipient and financially assisted, in whole or in part, under Title I of WIOA that provides either:
  - any aid, benefit, service, or training to individuals; or
  - facilities for furnishing any aid, benefits, services, or training to individuals;
    - aid, benefit, service, or training provided in facilities that are being or were constructed with the aid of Federal financial assistance under WIOA Title I; or
    - aid, benefit, service, or training provided with the aid of any non-WIOA Title I financial assistance, property, or other resources that are required to be expended or made available in order for the program to meet matching requirements or other conditions which must be met in order to receive the WIOA Title I financial assistance. See the definition of “aid, benefit, service, or training” in this section.

[68] 29 CFR § 38.4(xxx)

APPENDIX II. Example Equal Opportunity Notice[69]

Equal Opportunity is the Law

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: Against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

- deciding who will be admitted, or have access, to any WIOA Title I financially assisted program or activity;
- providing opportunities in, or treating any person with regard to, such a program or activity; or
- making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of Federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

What to do if you believe you have experienced discrimination

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either the:

- recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or
- Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210 or electronically as directed on the CRC Web site at www.dol.gov/crc.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

[69] 29 CFR § 38.35

4.3. Grievances, Complaints, and Appeals

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Administrative Requirements

Effective
May 3, 2023

Supersedes
Grievances and Complaints – WIOA Title I
(effective February 12, 2018)

Grievances and Complaints – WIOA Title I, Change 1

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Local areas must establish and maintain procedures for participants and others to file non-criminal[1] grievances and complaints alleging violations of the requirements of WIOA Title I.[2]

CHANGES

Under this Change 1, minor revisions to the body of the policy have been made for clarity and readability purposes; definitions have been added or updated; and footnotes have been revised for clarity and links have been updated where necessary.

[1] The US Department of Labor established procedures for filing criminal complaints, as described in Section II.
[2] 20 CFR § 683.600(a)

ACTION

This policy supersedes and cancels the State's policy titled Grievances and Complaints – WIOA Title I (effective February 12, 2018). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Each local board must:

- establish local area non-criminal grievance and complaint procedures as described in Sections I and ensure that the procedures comply with the requirements of that section; and

- ensure that all local area and one-stop center staff are familiar with the requirements of Section II(b)(2) regarding procedures for filing criminal complaints.

POLICY

This policy addresses requirements and procedures for:

- non-criminal grievances and complaints regarding alleged violations of the requirements of WIOA Title I; and

- criminal complaints regarding allegations of suspected fraud, program abuse, and criminal conduct involving grantees, recipients, or subrecipients of Federal funds.

This policy does not address requirements pertaining to:

- non-discrimination and equal opportunity;

- non-designation of local areas;

- denial or termination of training provider eligibility for inclusion on Nebraska's Eligible Training Provider List;

- sanctions for substantial violations or performance failures by a local area; or

- required contributions under the state funding mechanism.

Requirements pertaining to issues listed directly above are addressed separately in applicable policies issued by the State.[3]

[3] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

This policy has two sections and one appendix.

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Section I. Non-criminal grievances and complaints

(a) Requirements

Each local area, with regard to their respective WIOA Title I non-criminal grievance and complaint procedures must take the following actions.[4]

1. Information about the procedures must be provided to WIOA Title I program participants and documentation must be recorded in participant case files that the information has been provided.

2. Information about the procedures must be provided to others affected by the local one-stop delivery system, including one-stop partners, job seekers, and employers served by the system.

3. Every entity to which a local area awards (i.e., subawards) WIOA Title I funds for the provision of services to program participants must have access to information about and is fully aware of the procedures.

4. Reasonable efforts must be made to assure that information about the procedures can be understood by participants and others, including youth and those who are limited-English speaking individuals; and these efforts must comply with the language requirements of 29 CFR § 38.9 regarding the provision of services and information in languages other than English.

The remedies that may be imposed under NDOL and local area procedures are limited to:[5]

- suspension or termination of payments under WIOA Title I;

- prohibition of placement of a participant with an employer that has violated any requirement under WIOA Title I;

[4] 20 CFR § 683.600(b)(1)
[5] 20 CFR § 683.600(f)

- reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment, where applicable; and

- other equitable relief, when appropriate.

(b) Local area procedures

Each local board must establish local area non-criminal grievance and complaint procedures and ensure that the procedures provide:

- a process for dealing with grievances and complaints from participants and others affected by the local one-stop delivery system, including one-stop partners and service providers;

- an opportunity for an informal resolution and a hearing, to be completed within sixty (60) calendar days of the filing of the grievance or complaint;

- a process that allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if such a procedure is provided under a collective bargaining agreement covering the parties to the grievance; and

- an opportunity for appeal to NDOL when:

    - no decision is reached within 60 calendar days of the filing of the grievance or complaint according to local area procedures; or

    - a party to the grievance or complaint is dissatisfied with the local decision.

Local non-criminal grievance and complaint procedures must be made available as described in Section I(a).

(c) Appeal procedures[6]

All non-criminal grievances and complaints alleging violations of the requirements of WIOA Title I must be first addressed through local area procedures. If a non-criminal grievance or complaint is initially filed with NDOL:

- the appropriate local area representative will be notified by email within five business days of NDOL's receipt of the grievance or complaint; and

- the individual(s) filing the grievance or complaint will be provided contact information for the appropriate local area representative within five business days, either by email or in writing, and advised that the grievance or complaint must be first filed with the local area according to local area procedures.

[6] 20 CFR § 683.600(d)

An appeal may be submitted to NDOL regarding a non-criminal grievance or complaint when:

- no decision is reached at the local level within 60 calendar days of the filing of the grievance or complaint according to local area procedures; or

- a party to the grievance or complaint is dissatisfied with the local decision.

To file the appeal with NDOL, a written request for informal resolution and a hearing must be submitted to:

Commissioner of Labor
Nebraska Department of Labor
PO Box 94600
Lincoln, NE 68509-4600

A copy of the appeal to NDOL must be provided simultaneously to:

Director
Reemployment Services Division
Nebraska Department of Labor
PO Box 94600
Lincoln, NE 68509-4600

The written request must include:

- a description of the grievance or complaint filed with the local area; and

- the reason for the appeal.

Absent extenuating circumstances, the Commissioner will assign a hearing officer and a hearing will take place within 30 calendar days of the Commissioner's receipt of the written request for a hearing. The hearing officer will issue a decision within 30 calendar days of the hearing, to the extent possible.

(d) Federal appeal procedures[7]

All non-criminal grievances and complaints alleging violations of the requirements of WIOA Title I must be first addressed through local area and state procedures. An appeal may be submitted to the Secretary of Labor (the Secretary) regarding a non-criminal grievance or complaint when:

1. no decision is reached within 60 calendar days of filing an appeal with NDOL according to the procedures described in Section I(c); or

2. a party to the grievance or complaint is dissatisfied with the decision on the state-level appeal filed with NDOL.

[7] 20 CFR § 683.610

If appealing to the Secretary based on:

- the lack of a decision within 60 calendar days of filing a grievance or complaint with NDOL, the appeal to the Secretary must be filed within 120 calendar days of the date the appeal was filed with NDOL; or

- dissatisfaction with the decision on the appeal filed with NDOL, the appeal to the Secretary must be filed within 60 calendar days of receipt of the decision on the appeal filed with NDOL.

An appeal to the Secretary must be submitted by certified mail, return receipt requested, to:

Secretary
US Department of Labor
200 Constitution Avenue NW
Washington, DC 20210
Attention: ASET

A copy of the appeal to the Secretary must be provided simultaneously to the opposing party and:

Regional Administrator, Region 5
Employment and Training Administration
John C. Kluczynski Building
230 South Dearborn Street, 6th Floor
Chicago, IL 60604-1505

Non-criminal grievances and complaints made directly to the Secretary will be referred to the appropriate local area for resolution, except for complaints involving a recipient or subrecipient of WIOA Title I funding that has:[8]

- discharged or in any other manner discriminated against:
    - a participant or any individual in connection with the administration of the WIOA Title I program involved; or
    - any individual because the individual has:
        - filed any complaint or instituted or caused to be instituted any proceeding under or related to WIOA Title I; or
        - testified or is about to testify in any such proceeding or an investigation under or related to WIOA Title I;
- otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of WIOA Title I, including regulations issued under WIOA Title I.

[8] 20 CFR 683.610(e)

Section II. Criminal complaints[9]

(a) Requirements

States, local governments, and grantees of Federal awards may become aware of actual, potential, or suspected:

- fraud;
- gross mismanagement or misuse of program funds;
- conduct violations;
- violations of regulations; and
- abuse in ETA programs and operations provided by ETA grantees.

TEGL 2-12 provides policy and procedures for reporting and investigating allegations of criminal wrongdoing or misconduct to include allegations of suspected fraud, program abuse, and criminal conduct involving grantees, recipients, or subrecipients of Federal funds from US Department of Labor Employment and Training Administration. The Incident Report (IR) form is the official form provided by the US Department of Labor (the Department) for reporting allegations of criminal and other illegal or improper activities in ETA funded programs.[10] Allegations are reported to the Department of Labor Office of the Inspector General (OIG) and the Office of Financial and Administrative Management (OFAM) and the Office of Regional Management. Incidents reported using the IR form may involve allegations regarding:

- fraud;
- misfeasance, nonfeasance, or malfeasance;
- allegations involving misapplication of funds;
- allegations of gross mismanagement;
- allegations of employee and/or participant misconduct; and
- other potential or suspected criminal actions.

No action will be taken against any individual for disclosing information concerning criminal or improper activities or for making a valid complaint to proper authorities. Complainants may remain anonymous. If an individual feels that their position will be compromised by reporting information through the lR system, the individual may send the report directly to the OIG or OFAM.

[9] 20 CFR § 683.620; TEGL 2-12
[10] The IR form is provided as Attachment C to TEGL 2-12 and is accessible at https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-02-12.

(b) Procedures

(1) Grant recipients

As the administrative entity representing the Governor (Nebraska's WIOA Title I grant recipient), NDOL is responsible for following the procedures established under TEGL 2-12.

- NDOL must immediately document allegations, suspicions, and complaints involving possible fraud, program abuse, and criminal misconduct using the IR form.
- In addition, situations involving imminent health or safety concerns or the imminent loss of funds exceeding an amount larger than $50,000 are considered emergencies and must:
    - immediately be reported by NDOL to the OIG and OFAM by telephone; and
    - followed up with a written report in the form of an IR, no later than one working day after the telephone report.

(2) Other parties

Information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately through the Incident Reporting System to either the OIG or the Regional Inspector General at the following addresses.

Department of Labor Office of Inspector General
Office of Investigations
Room S5514
200 Constitution Avenue NW
Washington, DC 20210

Regional Inspector General for Investigations
Region 5
Employment and Training Administration
John C. Kluczynski Building
230 South Dearborn Street, 6th Floor
Chicago, IL 60604-1505

If making a report only to the Regional Inspector General for Investigations, a copy must be provided at the same time to:

Employment and Training Administration
US Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

The hotline number for reporting criminal fraud, waste, abuse or other criminal activity related to WIOA Title I is 1.800.347.3756.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. Assistance listing number

Assistance listing number[11] means a unique number assigned to identify a Federal Assistance Listings, formerly known as the CFDA Number

2. Federal awarding agency

Federal awarding agency[12]means the Federal agency that provides a Federal award directly to a non-Federal entity.

3. Federal program

Federal program means:[13]

(a) all Federal awards which are assigned a single Assistance Listings Number.

(b) When no Assistance Listings Number is assigned, all Federal awards from the same agency made for the same purpose must be combined and considered one program.

(c) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:

(1) Research and development (R&D);

(2) Student financial aid (SFA); and

(3) "Other clusters," as described in the definition of cluster of programs in this section.

4. non-Federal entity

Non-Federal entity[14] means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

5. pass-through entity

Pass-through entity[15] means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

[11] 2 CFR § 200.1
[12] Ibid.
[13] Ibid.
[14] Ibid.
[15] Ibid.

6. recipient

Recipient[16] means an entity, usually but not limited to non-Federal entities that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

7. subrecipient

Subrecipient[17] means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program.

8. subaward

Subaward[18] means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

[16] 2 CFR § 200.1
[17] Ibid.
[18] Ibid.

5. Adult, Dislocated Worker, and Youth

5.1. Program Eligibility and Design

NDOL Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
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Policy category
Adult, Dislocated Worker, and Youth

Effective
August 15, 2025

Supersedes
Program Eligibility for Adults, Dislocated Workers, and Youth, Change 6

Program Eligibility for Adults, Dislocated Workers, and Youth, Change 7

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

Eligibility criteria for WIOA Title IB adult, dislocated worker, and youth programs are defined under 29 USC Chapter 32 Part B and its implementing rules, regulations, and guidance.

CHANGES

The following changes are implemented under this policy.

- Provisions relating to reduction of administrative barriers to improve customer experience, as stated in TEGL 10-23, have been removed due to the rescission of TEGL 10-23 and release of TEGLs 10-23 Change I and Change 2.
- Further, this policy and APPENDIX I have been reorganized and simplified by removing paraphrased versions of Federal and State laws, rules, regulations, guidance, and policies and replacing those provisions with links to those laws, rules, regulations, and guidance, and NDOL policies.

ACTION

NDOL

This policy rescinds the NDOL policy titled *Program Eligibility for Adults, and Dislocated Workers, and Youth, Change 6*. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must ensure that they and their administrative entities and Title IB service providers and staff adhere to the requirements of this policy, as well as all applicable Federal and State laws, rules, regulations, guidance, and policies.

POLICY

This policy establishes eligibility requirements for WIOA Title IB adult, dislocated worker, and youth programs and has two sections and one appendix.

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Section I. Selective Service System requirements for Title IB program participants

To be eligible for Title IB adult, dislocated worker, and youth programs, individuals who are age 18 or older *and* subject to the registration requirements of the Military Selective Service Act (50 USC § 453) must comply with those requirements, in accordance with 29 USC § 3249(h). Information about Selective Service System registration requirements is accessible at https://www.sss.gov/register/who-needs-to-register/.

Section II. Title IB program eligibility requirements

(a) Adult program

To be eligible for career and training services as Title IB adult program participants, individuals must be age 18 or older and must have registered with the Selective Service System as describe above in Section I.[1]

[1] 20 CFR §§ 680.120, 680.130, and 680.210

(b) Dislocated worker program

To be eligible for career and training services as Title IB dislocated worker program participants,[2] individuals must meet at least one of definitions of "dislocated worker" or "displaced homemaker" provided in 29 USC § 3102(15)-(16)[3] and must have registered with the Selective Service System as describe above in Section I.

(c) Youth program

To be eligible youth program services as Title IB youth program participants, individuals must meet one or more of the applicable program eligibility criteria described in 29 USC 3164(a), 20 CFR §§ 681.210 and 681.220, and TEGL 9-22. Subsections (1) and (2) below provide information on factors that must be considered by local boards and their administrative entities and Title IB service providers and staff in relation to youth program eligibility determinations for in-school youth (ISY) and out-of-school youth (OSY).

(1) Factors to consider when determining program eligibility

In addition to youth program eligibility criteria referenced above, the following factors must be considered when determining youth program eligibility.

1. *Low-income individual.* Except as described in subsection (2) below, youth must meet the definition of *low-income individual* provided at 29 USC § 3102(36) to be eligible Title IB youth program eligibility requirements.[4]
    a. *High poverty areas*. Individuals who live in *high-poverty area* census tracts are automatically considered *low-income individuals* for Title IB youth program eligibility purposes, pursuant to 20 CFR §§ 681.250(d) and 681.260.[5]
    b. *Free or reduced-price lunches*. Individuals who are receiving free or reduced-price lunches under the Richard B. Russell National School Lunch Act (42 USC § 1751 et seq.) are automatically considered *low-income individuals*, pursuant to 20 CFR 681.250(d).
    c. *For OSY only*. Only the following youth must be low-income for OSY eligibility:[6]
        i. recipients of secondary school (high school) diplomas or their recognized equivalents *and* are either basic skills deficient *or* an English language learners: and
        ii. those who "require additional assistance to enter or complete an educational program or to secure or hold employment" must be low-income.

    All other youth meeting OSY eligibility under 20 CFR § 681.210(c)(1), (2), (4), (5), (6), (7), and (8) *are not* required to be low-income
2. *Attending or not attending school*. Federal and State definitions relating to schools and attending schools are provided in APPENDIX I.
    a. For purposes of determining WIOA Title IB youth program eligibility, USDOL does not consider providers of WIOA Title IC YouthBuild programs, WIOA Title ID Job Corps programs, adult education programs under WIOA Title II, high school

[2] 20 CFR §§ 680.120, 680.130, and 680.210
[3] NDOL's policy on priority of service provides clarification regarding military spouses as displaced homemakers.
[4] 20 CFR § 681.250(b). Refer to APPENDIX I for a more detailed definition of "low-income individual".
[5] Refer to APPENDIX I for information on "high-poverty area".
[6] 20 CFR § 681.250(a)

equivalency programs, or dropout re-engagement programs to be schools.[7] Therefore, in all cases except the one described directly below, WIOA Title IB youth programs may consider youth to be OSY for purposes of youth program eligibility if they are attending any of the programs previously listed, regardless of the funding source of those programs.

b. *Exception*. Youth attending high school equivalency programs funded by public K12 school systems who are classified by the school systems as still enrolled in school are the exception; they are considered ISY.[8]

3. *Requires additional assistance to complete an educational program or to secure or hold employment* (ISY only). In each local area, not more than five percent of newly enrolled ISY may be eligible based on the "requires additional assistance to complete an educational program or to secure or hold employment" criterion.[9]
    a. As stated in APPENDIX I, local boards define criteria for determining an individual "*requires additional assistance to complete an educational program or to secure or hold employment*".
4. *Requires additional assistance to enter or complete an educational program or to secure or hold employment* (OSY only).
    a. As stated in APPENDIX I, local boards define criteria for determining an individual "*requires additional assistance to enter or complete an educational program or to secure or hold employment*".

(2) Youth program low-income exception

As stated above, youth must meet the definition of *low-income individual* in 29 USC § 3102(36) to meet Title IB youth program eligibility requirements.[10] However, 29 USC § 3164(a)(3) and 20 CFR § 681.250(c) provide exception to the low-income requirement.

- Up to five percent of Title IB youth (ISY and OSY combined) do not have to meet the "low-income individual" criterion, provided they meet all other eligibility criteria for local Title IB youth programs.[11]
- Local Title IB programs must calculate the five percent based on the percentage of newly enrolled youth in the local area's Title IB youth program in a given program year who would ordinarily be required to meet the low-income criteria.

(d) Acceptable source documentation for eligibility determinations

Types of acceptable source documentation for adult, dislocated worker, and youth program eligibility determinations are defined in TEGL 23.19 Change 2, Attachment II. Refer to NDOL's current policies on records management for additional information on acceptable types of source documentation.

[7] 20 CFR § 681.230
[8] Ibid.
[9] 20 CFR § 681.310(b)
[10] 20 CFR § 681.250(b)
[11] 20 CFR § 681.250(c); TEGL 21-16

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy and should be read and understood in the context in which they may be used in applicable Federal and State laws, rules, regulations, guidance, and policies.

1. age of compulsory school attendance

   Concerning Title IB youth programs, individuals who are within the age of compulsory school attendance[12] are individuals who are subject to compulsory school attendance according to Nebraska state law. In Nebraska, individuals ages 6 through 17 are required to attend school, with three exceptions:

   - the individual has obtained a high school diploma;
   - the individual has completed a program of instruction offered by an unaccredited school that is approved by the Nebraska State Board of Education; or
   - has reached 16 years of age and has been legally withdrawn from school.

2. attachment to the workforce

   Attachment to the workforce[13] means having been employed at least 20 or more hours per week for at least 6 of the most recent 36 months in a single occupation. The six months need not be consecutive. An employee of a temporary employment agency, in order to demonstrate attachment to the workforce, must have worked on the same assignment for the same number of weekly hours and duration stated above.

3. attending school

   a. Secondary school

      Attending secondary school is defined under Nebraska state law. Nebraska state law defines attending school[14] as enrollment in and regular attendance at a school approved by the Nebraska State Board of Education, including:

      1. accredited public and private schools;
      2. accredited denominational and parochial schools;
      3. schools that elect not to meet accreditation requirements, including home schools; and
      4. high school equivalency programs, including an alternative school, class, or education program established in accordance with Neb. Rev. Stat. § 79-266 for the benefit of expelled students.

      If an individual is enrolled in the youth program during the summer and is in between secondary school years, the individual is considered an ISY if they are enrolled to continue school in the fall.

[12] TEGL 21-16; Neb. Rev. Stat. § 79-201
[13] This is a term defined by NDOL.
[14] Neb. Rev. Stat. §§ 79-201, 79-202, 79-319, and 79-1601

b. Postsecondary school

Attending postsecondary school[15] means enrollment in credit-bearing postsecondary education classes, including credit-bearing community college classes and continuing education classes. If an individual is enrolled in non-credit-bearing postsecondary classes only, then the individual is not considered to be attending postsecondary school. If an individual is enrolled in the youth program between high school graduation and postsecondary education, the individual is considered an ISY if they are registered for postsecondary education, even if they have not yet begun classes at the time of youth program enrollment.

4. basic skills deficient

An individual who is basic skills deficient is an individual who:[16]

- has English reading or writing skills or computing skills at or below the 8th grade level based on a generally accepted standardized test; or
- 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.

5. deployment

A member of the US Armed Forces is considered to be on deployment on any day on which, pursuant to orders, the member is performing service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time in the housing in which the member resides when on duty at the member's permanent duty station or homeport. If the individual is member of a reserve component of the US Armed Forces and is performing active service pursuant to orders that do not establish a permanent change of station, the housing referred to above is any housing (including the member's residence) that the member usually occupies for use during off-duty time when on duty at the member's permanent duty station or homeport. The Secretary of Defense may prescribe an alternative definition of deployment other than that described above.

A member of the US Armed Forces *is not* on deployment when the member is:

1. performing service as a student or trainee at a school (including Government school);
2. performing administrative, guard, or detail duties in garrison at the member's permanent duty station;
3. unavailable solely because of a hospitalization of the member at the member's permanent duty station or homeport or in the immediate vicinity of the member's permanent residence; or
4. unavailable solely because of a disciplinary action taken against the member.

6. dropout

A dropout[17] is an individual who *is* no longer attending any secondary school *and* has not received a secondary school diploma or recognized equivalent. To clarify, dropout refers only

[15] TEGL 21-16
[16] WIOA Sec. 3(5)
[17] WIOA Sec. 3(54); TEGL 21-16

to an individual who is currently a secondary school dropout. Further, school dropout does not include youth who previously dropped out of secondary school and then subsequently returned. For example, youth who dropped out of high school in 2024 and returned to high school in 2025 prior to enrollment in the youth program *is not a dropout*. Individuals who drop out of postsecondary education *are not* dropouts for purposes of youth program eligibility determination.

7. English language learner

   English language learner[18] means an individual who has limited ability in reading, writing, speaking, or comprehending the English language and:

   - whose native language is a language other than English; or
   - lives in a family or community environment where a language other than English is the dominant language.

8. general announcement

   The term general announcement[19] means an announcement to the public by an employer or employer representative. The general announcement must be made to the public, not just the employees of the employer.

9. high-poverty area

   A high-poverty area is a census tract, a set of contiguous Census tracts, a county, an American Indian Reservation, Oklahoma Tribal Statistical Area (as defined by the US Census Bureau), Alaska Native Village Statistical Area or Alaska Native Regional Corporation Area, Native Hawaiian Homeland Area, or other tribal land as defined by the Secretary of Labor in guidance, that has a poverty rate of at least 25 percent as set every five years using American Community Survey 5-year data. A list of high-poverty area census tracts in Nebraska is provided by the NDOL Reemployment Services Division every five years pursuant to 20 CFR § 681.260. The State's current notice concerning high-poverty area census tracts is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Notices.

10. individual with a disability

    Individual with a disability[20] means an individual with a disability as defined 42 USC § 12102.

11. laid off or layoff

    For determining eligibility as a dislocated worker, laid off or layoff[21] mean an employment relationship is or will be suspended by an employer without cause[22] for more than 180 calendar days.

[18] WIOA Sec. 3(20); TEGL 21-16
[19] Defined by NDOL as permitted under 20 CFR § 680.130(b)(1).
[20] 29 USC § 3102(25)
[21] This is a term defined by NDOL.
[22] Cause, with or without, is a determination made by NDOL's Unemployment Compensation Determinations Unit regarding circumstances surrounding separation from employment.

12. low-income individual

Low-income individuals are individuals who meet one or more of the criteria listed 29 USC § 3102(36). When determining individuals' eligibility for Title IB programs, the following types of payments made or in-kind aid to individuals *are not* considered income when determining low-income eligibility for WIOA Title I programs:

1. allowances, earnings, and payments to individuals participating in programs under 29 USC Subchapter I shall not be considered as income for the 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.[23]
2. reduced price lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
3. benefits and payments made pursuant to 38 USC § 4213;
4. youth are automatically considered low-income individuals if they live in high-poverty areas or receive free or reduced-price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) are automatically considered low-income individuals;[24] and
5. income levels for eligibility determination purposes for individuals with disabilities is based on the individual's own income, rather than his or her family's income.[25]

There are no other income exclusions. For the avoidance of doubt, all other types of payments made to individuals are considered income when determining low-income eligibility for WIOA Title I programs, such as:

- unemployment insurance benefits;
- child support payments; and
- payments made by state-administered plans for old-age assistance.

13. mass layoff

The term mass layoff means a layoff that has occurred when:[26]

- at least 25 workers have been laid off or 25 percent of the employers' workers, whichever amount is smaller; or
- a Worker Adjustment and Retraining Notification (WARN) Act notice has been filed, regardless of the number of workers affected by the announced layoff.

14. notice of termination or layoff from employment

Notice of termination or layoff from employment[27] refers to a written notification from the employer naming one or more individuals and indicating that employment will cease or has ceased for the individuals on a specific date.

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[23] 29 USC § 3241(a)(2)
[24] 20 CFR §§ 681.250(d) and 681.260
[25] 20 CFR § 681.280
[26] Mass layoff is defined by NDOL as permitted under 20 CFR § 682.305.
[27] This is a term defined by NDOL.

15. offender

    Offender is defined under 29 USC § 3102(38).

16. pregnant or parenting

    Pregnant or parenting individual is defined in TEGL 21-16.

17. postsecondary school

    Postsecondary schools include, but are not limited to:

    1. postsecondary institutions that are accredited according to the requirements of the US Department of Education, such as universities, state colleges, and community colleges;[28]
    2. all in-state private postsecondary career schools that are licensed to operate in Nebraska by the Nebraska Department of Education pursuant to the Nebraska Private Postsecondary Career School Act;[29]
    3. out-of-state private postsecondary career schools that are authorized to recruit Nebraska residents by the Nebraska Department of Education pursuant to the Nebraska Private Postsecondary Career School Act.;[30] and
    4. in-state and out-state schools subject to requirements established by Federal Motor Carrier Safety Administration (FMCSA) in relation to FMCSA Entry Level Driver Training (ELDT).[31]

18. requires additional assistance to complete an education program or to secure or hold employment (ISY only)

    Concerning ISY eligibility, local boards must define in local policy their criteria for determining individuals' need for *additional assistance to complete an education program or to secure or hold employment*.[32]

19. requires additional assistance to enter or complete an education program or to secure or hold employment (OSY only)

    Concerning OSY eligibility, local boards must define in local policy their criteria for determining individuals' need for *additional assistance to enter or complete an education program or to secure or hold employment*.[33]

[28] 34 CFR § 106.2
[29] Neb. Rev. Stat. §§ 85-1601 to 85-1658
[30] Ibid.
[31] FMCSA provides information on ELDT regulations at https://www.fmcsa.dot.gov/registration/commercial-drivers-license/entry-level-driver-training-eldt. FMCSA also provides a searchable list of ELDT driver training programs at https://tpr.fmcsa.dot.gov/.
[32] 20 CFR §§ 681.300 and 681.310
[33] Ibid.

20. school

School is defined under Nebraska state law which defines school[34] as a school approved by the Nebraska State Board of Education, including:

1. accredited public and private secondary schools;
2. accredited denominational and parochial secondary schools;
3. schools that elect not to meet accreditation requirements, including home schools; and
4. alternative schools, classes, or education programs established in accordance with Neb. Rev. Stat. § 79-266 for the benefit of expelled students.

21. temporary recall

Temporary recall[35] means a request from an employer to a former worker, who has either received a notice of termination or been terminated from employment, to return to work for 180 or less calendar days, even if the employer still intends to terminate the worker.

22. terminated

For determining eligibility as a dislocated worker, terminated[36] employment is a permanent situation in which the employer lays off an individual without cause[37] and does not plan to rehire the individual. Any documented non-seasonal layoff projected to last 180 or more calendar days constitutes termination of employment. The following circumstances are not considered termination of employment:

1. seasonal unemployment;
2. an end to an assignment through a temporary employment agency;
3. a notice of termination that includes a certain or tentative recall date within 180 calendar days of the initial layoff date; or
4. retirement or other voluntary separation from the workforce.

23. underemployed

The term underemployed is defined in TEGL 19-16.

24. unemployed as a result of general economic conditions in the community in which the individual resides

The term *unemployed as a result of general economic conditions in the community in which the individual resides* must be defined by the local board, provided the definition is reasonable and based on verifiable data.[38]

[34] Neb. Rev. Stat. §§ 79-201, 79-202, 79-319, and 79-1601
[35] This is a term defined by NDOL.
[36] Ibid.
[37] Cause, with or without, is a determination made by NDOL's Unemployment Compensation Determinations Unit regarding circumstances surrounding separation from employment regarding the circumstances surrounding a separation from employment.
[38] Defined by NDOL as permitted under 20 CFR § 680.130(b).

25. unemployed as a result of a natural disaster

Unemployed as a result of a natural disaster[39] means unemployment caused by a major adverse event resulting from natural processes of the Earth or forces other than the acts of human beings, including environmental conditions, such as:

1. floods;
2. droughts;
3. tornadoes;
4. earthquakes; and
5. other natural events beyond an individual's control.

The list provided above is not all inclusive of major adverse events that may be considered natural disasters.

26. unlikely to return to a previous occupation or industry

When determining eligibility as a dislocated worker, an individual is unlikely to return to a previous occupation or industry if job opportunities in the occupation or industry are significantly diminished for an individual based on one or more of the following four criteria, subject to the clarification provided below relating to separating service members and military spouses:[40]

1. official assessments of market demand for products or services in the occupation or industry;
2. local labor market conditions for the industry or occupation;
3. evolution of skill requirements in the occupation or industry and whether an individual's skills have kept pace over time based on a current skills assessment; or
4. impact of technology or trade on the industry or occupation.

Separating service members and military spouses experiencing cessation of employment meet the standard of unlikely to return to a previous industry or occupation.

27. Veteran

Veteran[41] means a person who served in the active military, naval, air, or space service and was discharged or released therefrom under conditions other than dishonorable, as specified in 38 USC § 101(2). Active military, naval, air, or space service includes full-time duty in the National Guard or a Reserve component, except for full-time duty for training purposes (i.e., that which often is referred to as "weekend" or "annual" training).

[39] Ibid.
[40] Defined by NDOL as permitted under 20 CFR § 680.130(b).
[41] 20 CFR § 1010.110; 38 USC § 101(2)

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

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Policy category
Adult, Dislocated Worker, and Youth

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December 11, 2023

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Adult and Dislocated Worker Programs, Change 2 (effective July 11, 2023)

WIOA Title IB Adult and Dislocated Worker Programs

REFERENCE

Federal and state laws, rules, and regulations and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

WIOA Title IB adult and dislocated worker programs must make available and provide career services, training services, supportive services, and follow-up services to adult and dislocated worker program participants.

ACTION

State

This policy supersedes and cancels the State's policy titled Adult and Dislocated Worker Programs, Change 2. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

State policies referenced in this policy are included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies. *State policy manual* refers to the policy manual created and maintained by the NDOL Reemployment Services Quality Control Unit.

Local boards and administrative entities

Local boards and local administrative entities must ensure that basic and individualized career services, training services, supportive services, and follow-up services for adults and dislocated workers are available and accessible through comprehensive American Job Centers in their respective local areas, in accordance with this policy and the State's policy on one-stop delivery systems and one-stop centers, other applicable State policies, and applicable Federal laws, rules, regulations, and guidance.

POLICY

This policy establishes requirements regarding career services, training services, supportive services, and follow-up services for Title IB adult and dislocated worker program participants.

This policy has eight sections and one appendix.

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Section I. Basic and individualized career services

(a) General requirements

Local boards and local administrative entities must ensure that basic and individualized career services, training services, supportive services, and follow-up services are available to and accessible by adult and dislocated worker program participants, which may be provided by:[1]

- one-stop operators or through contracts with service providers that have been approved by local boards;[2] and

- Title IB adult and dislocated worker programs, Title III Wagner-Peyser Employment Service, and other *required* one-stop partner programs, subject to legislative authorization, requirements, and limitations for each partner program.[3]

(b) Basic career services

Basic career services that must be available to and accessible by adult and dislocated worker program participants are described in detail in the State's policy on one-stop delivery systems and one-stop centers.

(c) Individualized career services

Individualized career services must be available to individuals enrolled in adult and dislocated worker programs in order for program participants to obtain or retain employment.[4] Individualized career services are listed in Table 1.

Table 1. Individualized career services[5]

Description
1. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include: a. diagnostic testing and use of other assessment tools; and b. in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals
2. Development of individual employment plans (IEPs) that identify employment goals, appropriate achievement objectives, and appropriate combinations of services for participants to achieve their employment goals, including provision of access to the Eligible Training Provider List (ETPL) and information about ETPs
3. Group [career] counseling
4. Individual [career] counseling
5. Career planning
6. Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for unsubsidized employment or training

[1] WIOA Secs. 134(b)(1) and 134(c)(2); 20 CFR §§ 680.100 and 680.160; TEGL 19-16
[2] 20 CFR § 680.160. Local boards may be providers of career services but only when approved by the local area chief elected official *and* the Governor, in accordance with the requirements of WIOA Sec. 107(g)(2) and 20 CFR § 679.410. Also, refer to the State's policy on procurement for information on subawards with service providers, which is included in the State policy manual.
[3] TEGL 19-16
[4] 20 CFR §§ 680.140(a) and 680.150(b); TEGL 19-16
[5] 20 CFR § 678.430(b)

Description
7. Internships and work experiences, including transitional jobs, that are linked to careers
8. Workforce preparation activities
9. Financial literacy services
10. Out-of-area job search assistance and relocation assistance
11. English language acquisition and integrated education and training programs

(1) Eligibility for individualized career services

Eligibility for individualized career services for adults and dislocated workers must be based on initial assessments of skill levels, as described below and mentioned in the State's policy on one-stop delivery systems and one-stop centers. Initial assessments of skill levels must assess:[6]

- literacy and numeracy skills;
- English language proficiency;
- aptitudes and abilities, including skills gaps; and
- supportive services needs.

(2) Priority of service requirements

Eligibility for individualized career services must be provided according to requirements established in the State's policy on priority of service relating to adults and dislocated workers.

(3) Local policies on individualized career services

Local boards and local administrative entities must establish new or revised policies, processes, and procedures for local Title IB adult and dislocated worker programs that:[7]

- identify the initial assessments[8] to be used to determine eligibility for individualized career services in compliance with Section I(c)(1); and
- require Title IB adult and dislocated worker program staff adhere to established requirements pertaining to initial assessments, eligibility determinations for individualized career services, and priority of service requirements defined in this policy and the State's policy on priority of service relating to adults and dislocated workers.

[6] 20 CFR § 680.150(b); TEGL 19-16
[7] TEGL 19-16
[8] Use of recent previous interviews, evaluations, or assessments by partner programs is permitted for determining when determining if individualized career services are appropriate [20 CFR § 680.220].

Section II. Training services

(a) Types of training services

Training services must be available to adults and dislocated workers who meet eligibility criteria defined in Section II(b) below.[9] Training services that may be funded by Title IB adult and dislocated worker programs are listed in Table 2.

Table 2. Training services for adults and dislocated workers[10]

Type of training service
1. Occupational skills training, including: a. training for nontraditional employment; b. Registered Apprenticeship programs; c. pre-apprenticeships, *provided they include the following elements*:[11] i. training and curricula that aligns with the skill needs of employers in the economy of the State or region involved; ii. access to educational and career counseling and other supportive services, directly or indirectly; iii. hands-on meaningful learning activities that are connected to education and training activities, such as exploring career options and understanding how the skills acquired through coursework can be applied toward a future career; iv. opportunities to attain at least one industry-recognized credential; and v. partnership with one or more Registered Apprenticeship programs that assist in placing individuals who complete pre-apprenticeships in Registered Apprenticeship programs
2. On-the-job training
3. Incumbent worker training, in accordance with WIOA Sec. 134(d)(4) and 20 CFR §§ 680.780, 680.790, 680.800, 680.810, and 680.820
4. Programs that combine workplace training with related instruction, which may include cooperative education programs
5. Training programs operated by the private sector
6. Skills upgrading and retraining
7. Entrepreneurial training
8. Transitional jobs
9. Job readiness training provided in combination with 1 or more of the training services listed in rows 1 through 8 above
10. Adult education and literacy activities, including English language acquisition and integrated education and training programs provided concurrently or in combination with 1 or more of the training services listed in rows 1 through 8 above
11. Customized training conducted with a commitment by employers or groups of employers to employ individuals upon successful completion of the training

(b) Eligibility for training services

Pursuant to WIOA Sec. 134(c)(3)(A), training services may be provided if Title IB adult and dislocated worker program staff determine after conducting an interview, evaluation, or assessment *and* career planning that demonstrates employed, underemployed, and unemployed

[9] 20 CFR § 680.140(a); TEGLs 19-16 and 19-22 Change 1
[10] 20 CFR § 680.200
[11] 20 CFR § 681.480

adults and dislocated workers meet criteria 1 through 6 and criterion 7 in the case of trade-affected workers:[12]

1. are unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services alone;

2. are in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment;

3. have skills and qualifications to successfully participate in training services;

4. have selected programs of training services that are directly linked to in-demand employment opportunities in the applicable local area or the Statewide planning region, or in another area to which the individual is willing to commute or relocate; and

5. are unable to obtain grant assistance from other sources to pay the costs of such training, such as state-funded training, Trade Adjustment Assistance, or Federal Pell Grants established under Title IV of the Higher Education Act of 1965, as amended, *or* require WIOA assistance in addition to other sources of grant assistance, subject to coordination of services requirements established under WIOA Sec. 134(c)(3)(B) and 20 CFR § 680.230, and Section IV(b) below;

6. are determined eligible in accordance with the State's priority of service policy as it pertains to adults and dislocated workers; and

7. in the case of workers who are members of a worker group covered under a petition filed for Trade Adjustment Assistance and are awaiting a determination:

    a. if the petitions are certified, workers then transition to TAA funded training; or

    b. if the petitions are denied, workers continue training under adult or dislocated worker programs.

There is no "income test" for determining eligibility for training services, with one exception. Adult and dislocated worker income must not be considered when determining eligibility for training services funded by Title IB adult and dislocated worker programs, except in relation to priority of service determinations for adults as described in the State's priority of service policy.

(1) Training services eligibility and career services exception

There is no requirement that career services be provided as a condition to receive training services.[13] However, if career services are not provided before training services, local boards and administrative entities must ensure that local Title IB adult and dislocated worker program staff accurately and concisely document in NEworks the circumstances justifying determinations to provide training services without first providing an interview, evaluation or assessment, and career planning services informed by local labor market information and training provider performance information, in accordance with Section II(b)(2) directly below and Section VII.

[12] 20 CFR § 680.210; TEGL 19-16
[13] 20 CFR § 680.220(b); TEGL 19-16

(2) Training services documentation requirements

Adult and dislocated worker case files in NEworks must contain documentation relating to determination of need for training services based on the seven eligibility criteria described above.[14] In addition, if career services are not provided before training services are provided, Title IB adult and dislocated worker program staff must accurately and concisely document in NEworks circumstances justifying determinations to provide training services without first providing an interview, evaluation, and assessment and career planning services informed by local labor market information and training provider performance information.[15] The documentation must be included in case files prior to the provision of training services.

(c) Individual training accounts (ITAs)

Training services for Title IB program participants are typically provided by ETPs listed on the State's ETPL through ITAs.[16] ITAs are payment agreements with ETPs established on behalf of Title IB program participants by Title IB programs to purchase training services from ETP programs selected by participants in consultation with career planners (aka case managers) and discussion of program quality and performance information for programs listed on the ETPL.[17]

(1) ITA limitations

Local boards may establish financial limitations on ITAs,[18] which may be established based on:[19]

- limits for individual Title IB participants based on needs identified in participant IEPs or ISSs, such as participant occupational choices or goals and levels of training needed to succeed in achieving those goals; or

- policy decisions by local boards to establish ranges of amounts and/or a maximum amounts applicable to all ITAs established for Title IB participants.

Title IB program participants may select programs of training services from the ETPL that exceed locally established maximum amounts available for ITAs pursuant to local plans and plan modifications and local policies and procedures, when other sources of funds (other than Title IB programs) are available to supplement ITAs, such as Pell Grants, scholarships, severance pay, and other sources.[20]

Local boards must not establish ITA limitations, such as restricting the availability of ITAs for specific occupations, that undermine requirements that training services be provided in a manner that maximizes consumer choice in the selection of a training provider,[21] in accordance with WIOA

[14] 20 CFR § 680.220(b)
[15] Ibid.
[16] 20 CFR § 680.300
[17] Ibid.
[18] 20 CFR § 680.310(a)
[19] 20 CFR § 680.310(b)
[20] 20 CFR § 680.310(d)
[21] 20 CFR § 680.310(d)

Sec. 107(d)(10)(E), 20 CFR § 680.340, TEGL 19-16, and applicable State policies addressing consumer choice requirements.[22]

ITA limitations must be described in local plans and plan modifications,[23] as well as local policies and procedures, *prior to implementation of limitations*.

(2) ITA payments

Payments to ETPs based on ITAs may be made in a variety of ways, including electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments may be made incrementally through payment of a portion of the costs at different points in the training course. Regardless of methods of payment for ITAs, all payments must be made in a timely manner.

In the event that Title I participants drop out of or fail to complete training services authorized under ITAs, Title IB programs must pay for actual services provided by ETPs to participants, including all training materials provided by ETPs to participants pursuant to ITAs. In other words, formal and informal practices established by local Title IB programs that result in non-payment to ETPs for actual training services and training materials provided are not permitted.

(3) ITA alternatives

Under limited circumstances, local boards may directly provide training services, but only if they've obtained a written waiver from the Governor for this purpose and meet other requirements established under WIOA Sec. 107(g)(1) and 20 CFR § 679.410.[24] Under limited conditions, local boards may contract for training services rather than using ITAs (read subsection (A) directly below).

(A) Contract exceptions to use of ITAs

Training services, when determined appropriate, must be provided either through an ITA, as described above, or through a training contract. Except under limited conditions described in WIOA Sec. 122(h) and 20 CFR § 680.320, training services must be provided by ETPs in accordance with WIOA Sec. 122(d).[25]

As mentioned above, ITAs are the primary method to be used for procuring training services for Title IB program participants. However, training contracts may be used to provide training services instead of ITAs under limited conditions (referred to as training exceptions or contract exceptions).[26] Pursuant to WIOA Sec. 134(c)(3)(G)(ii) and consistent with 20 CFR §§ 680.320, 680.340, and 680.530, local boards may use contracts for training services instead of ITAs under one or more of the following conditions:[27]

[22] James Lambert (Grants Management Specialist, Policy Development, USDOL), meeting with NDOL Quality Control Unit pertaining to consumer choice and supportive services [August 24, 2023]
[23] 20 CFR § 680.310(c)
[24] 20 CFR § 680.300; TEGL 19-16
[25] TEGL 19-16
[26] Ibid.
[27] TEGL 19-16

1. on-the-job training services, which may include paying for the on-the-job training portion of Registered Apprenticeship programs, customized training, incumbent worker training, and transitional jobs;

2. when local boards determine through processes and procedures established under local plans and plan modifications and local policies, processes, and procedures that there are an insufficient number of ETPs in local areas to accomplish the purpose of a system of ITAs, provided such processes and procedures require a public comment period of at least 30 days for interested providers of training services;

3. in order to use training services from programs having demonstrated effectiveness in serving individuals with barriers to employment that are offered by community-based organizations or other private organizations, provided local boards have developed criteria for determining demonstrated effectiveness particularly as it applies to individuals with barriers to employment to be served, which may include:

    a. evaluation of the financial stability of the organizations;

    b. evaluation of documentation on the organizations' demonstrated performance in the delivery of services to individuals with barriers to employment through such means as:

        i. program completion rates;

        ii. attainment rates for skills, certificates, or degrees the programs are designed to provide; and

        iii. placement rates after training in unsubsidized employment and retention in such employment;

    c. how the training programs relate to workforce investment needs identified in local plans and plan modifications;

4. when local boards determine that the most appropriate training could be provided by an institution of higher education or other provider of training services in order to facilitate the training of a cohort of multiple individuals for jobs in in-demand sectors or occupations; or

5. when local boards determine pay-for-performance contracts are suitable, consistent with 20 CFR § 683.500:

    a. No more than 10 percent of the local funds may be spent on pay-for-performance contract strategies as defined in WIOA Sec. 3(47) and consistent with 20 CFR § 683.510.

When electing to use contracts for the provision of training services under conditions 2 through 5 listed above, local boards must ensure that consumer choice requirements established under 20 CFR § 680.340 have been fulfilled.

Local boards may determine that providing training services through a combination of ITAs and contracts for training services is the most effective approach. This combined approach could be

used to support placing participants in programs such as Registered Apprenticeships and other similar types of training.

(4) Local plans and plan modifications and training services

As mentioned above, local plans and plan modifications must describe processes and procedures to be used when selecting non-ETPL training providers for contracted training services in lieu of ITAs;[28] and local policies, processes, and procedures must also be established concerning use of training contracts instead of ITAs, as described in subsection (d) directly below. Further, processes and procedures established under local plans and plan modifications for procurement and selection of contracted non-ETPL training providers must be based on one or more conditions described under paragraphs 2 through 5 in subsection (c) above *and* must adhere to the requirements of the Uniform Guidance pertaining to subawards and subrecipients[29] and all other applicable Federal laws, rules, regulations, guidance, and applicable State policies.

(d) Local policies on training services

In addition to processes and procedures established under local plans and plan modifications, local boards and local administrative entities *must* establish new or revised policies, processes, and procedures for local Title IB adult and dislocated worker programs that:[30]

- identify processes and procedures for determining adult and dislocated worker eligibility for training services in relation to conditions described under paragraphs 2 through 5 in subsection (c) above;

- define requirements pertaining to ITA limitations, payments, and alternatives to ITAs (including exceptions to ITAs), as defined in subsection (c) above;

- require Title IB adult and dislocated worker program staff adhere to established requirements pertaining to training services established in this policy, as well as the State's policy on priority of service; and

- require adherence to the requirements of Uniform Guidance pertaining to procurement and selection of non-ETPL training providers and subawards to subrecipients,[31] as well as all other applicable Federal laws, rules, regulations, guidance, this policy, and the State's policy on procurement.

[28] 20 CFR § 680.310(c)
[29] Refer to 2 CFR §§ 200.317 through 200.327 for Federal procurement standards, especially 2 CFR § 200.322.
[30] TEGL 19-16
[31] Refer to 2 CFR §§ 200.317 through 200.327 for Federal procurement standards, especially 2 CFR § 200.322.

Section III. Supportive services

(a) Availability

Title I adult and dislocated worker supportive services may be provided only:[32]

- to individuals who are participating in career or training services, as defined in WIOA Sec. 134(c)(2)-(3);
- when supportive services are necessary to enable individuals to participate in career services or training activities; and
- when adults and dislocated workers are unable to obtain supportive services through other programs.

It's important to remember that Title IB programs are the "funding source of last resort", in accordance with Section IV(b) below pertaining to coordination of services.

(b) Types of supportive services

Supportive services that may be provided to individuals participating in career services and/or training services may include, but are not limited to:[33]

1. linkages to community services;
2. assistance with transportation;
3. assistance with child care and dependent care;
4. assistance with housing;
5. assistance with educational testing;
6. reasonable accommodations for individuals with disabilities;
7. legal aid services;
8. referrals to health care;
9. assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear;
10. assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes;

[32] 20 CFR § 680.910(a)-(b)
[33] 20 CFR § 680.900(a)(l)

11. payments and fees for employment and training-related applications, tests, and certifications; and

12. needs-related payments, subject to the requirements listed in subsection (1) below.

(1) Needs-related payments

Needs-related payments provide financial assistance to adults and dislocated workers for the purpose of enabling them to participate in training and are a supportive service authorized by WIOA Sec. 134(d)(3). Unlike other supportive services, in order to qualify for needs-related payments a adults and dislocated workers must be enrolled in training.[34] Eligibility requirements for needs-related payments for adult and dislocated workers are defined in subsections (A) and (B) below.

(A) Adult eligibility for needs-related payments

Adults must meet all three criteria listed below in order to receive needs-related payments:[35]

1. unemployed;

2. not qualified for or have ceased to qualify for unemployment compensation; and

3. enrolled in Title I adult program funded training services.

(B) Dislocated worker eligibility

Dislocated workers must meet all of criterion 1 *or* criterion 2 below in order to receive needs-related payments:[36]

1. unemployed and:

    a. are no longer qualified for unemployment compensation or Trade Readjustment Allowance under TAA; *and*

    b. enrolled in a Title I dislocated worker program funded program training services by:

        i. the end of the 13th week after the most recent layoff that resulted in a determination of eligibility as a Title I dislocated worker; or

        ii. if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed six months;

2. unemployed and did not qualify for unemployment compensation or Trade Readjustment Allowance under TAA *and* are enrolled in Title I dislocated worker program funded training services.

[34] 20 CFR § 680.930
[35] 20 CFR § 680.940
[36] 20 CFR § 680.950

(c) Local policies on supportive services

Local boards and local administrative entities, in consultation with one-stop partners and other community service providers, must establish new or revised supportive services policies that ensure resource and service coordination in their local areas.[37] Local policies and procedures on supportive services must:[38]

1. comply with the requirements of 20 CFR Part 680 Subpart G;

2. be developed in consultation with one-stop partners and other community service providers in local areas, as stated above;

3. require resource and supportive service coordination within local areas;

4. include descriptions of how supportive services will be funded by Title I adult or dislocated worker programs when supportive services are not otherwise available from other sources *and* address procedures for referral to such services, including how such services will be funded when they are not otherwise available from partners or other sources; and

5. require accurate information be provided to adults and dislocated workers in usable and understandable formats and languages concerning the availability of supportive services in local one-stop delivery systems, including referrals to supportive services.

Local policies and procedures on supportive services *may*:[39]

1. establish limits on the provision of supportive services;

2. provide one-stop centers with authority to establish limits on the provision of supportive services to adults or dislocated workers, including the maximum amount of funding and maximum duration of funding; and

3. allow individual one-stop centers to grant exceptions to established limits on supportive services.

Section IV. Coenrollment and coordination of services

(a) Coenrollment

Adults and dislocated workers must be coenrolled in partner programs whenever eligibility permits, in accordance with the State's performance accountability policy.

[37] 20 CFR § 680.900
[38] WIOA Sec. 134(c)(2)(A)(ix); 20 CFR §§ 678.430 and 680.900 through 680.970; TEGLs 16-16 and 19-16
[39] 20 CFR § 680.920

(b) Coordination of services

(1) General requirements

Local boards and local administrative entities must ensure that Title IB adult and dislocated worker programs:[40]

- coordinate the provision of services to coenrolled participants, including career, training, and supportive services, with one-stop partners and other entities;
- identify and track funding streams that pay the costs of services provided to coenrolled participants; and
- ensure no duplication of services across programs.

(2) Training services

Funding for training services under Title I adult and dislocated workers is limited to participants who:[41]

- are unable to obtain grant assistance from other sources to pay the costs of their training; or
- require assistance beyond that available under assistance from other sources to cover the costs of training services.

Further, local one-stop delivery system partners, including Title IB adult and dislocated worker programs, must coordinate available training funds and make funding arrangements with local one-stop delivery system partners and other entities pertaining to the requirements stated directly above.[42] Also, local one-stop delivery system partners, including Title IB adult and dislocated worker programs, must consider the availability of other funding sources to pay for the costs of training, such as Temporary Assistance for Needy Families, state-funded training, and Federal Pell Grants, so that Title IB adult and dislocated worker program funds are supplemental to other sources of funding sources.[43]

(3) Pell Grants[44]

(A) Pell Grants awarded

If adult or dislocated worker program participants have been awarded Federal Pell Grants, Pell Grant funding must be applied against the costs of training and education fees the training provider charges to attend training before Title IB adult and dislocated worker program funds are utilized for the costs of training and education fees.

If adult or dislocated worker program participants have been awarded Pell Grants that include assistance for costs of education-related expenses, that assistance must not be used to offset or

[40] 20 CFR § 681.430(b)
[41] 20 CFR § 680.230(a)
[42] 20 CFR § 680.230(b)
[43] Ibid.
[44] 20 CFR § 680.230(c)

reduce available Title IB adult and dislocated worker program funding for costs of training and education fees. In other words, Pell Grant assistance disbursed to adult and dislocated worker participants for education-related expenses belongs solely to participants. Title IB adult and dislocated worker programs are still permitted to provide supportive services to supplement Pell Grant assistance for education-related expenses if Pell Grant assistance for education-related expenses are insufficient.

(B) Pell Grants pending

Adult and dislocated worker program participants may enroll in training funded by Title IB adult and dislocated worker programs while applications for Pell Grants are pending as long as the Title IB adult and dislocated worker programs have made arrangements with training providers and participants regarding allocation of Pell Grant assistance in the event that Pell Grants are subsequently awarded. In other words, training providers must reimburse Title IB adult and dislocated worker programs for funds used to underwrite costs of training and education fees whenever such costs are subsequently covered by Pell Grants. As stated above, Pell Grant assistance disbursed on behalf of adult and dislocated worker participants for education-related expenses belongs solely to participants; and Title IB adult and dislocated worker programs are still permitted to provide supportive services to supplement Pell Grant assistance for education-related expenses if Pell Grant assistance for education-related expenses is insufficient.

(C) Mandatory disclosure and notification to ETPs and participants pertaining to Pell Grants

Prior to establishment of ITAs and enrollment in training services, ETPs and adult and dislocated worker program participants must be advised of the requirements described above in Sections IV(b)(3)(A) and IV(b)(3)(B). This mandatory disclosure and notification requirement also applies to adult and dislocated worker program participants who are enrolled in Title IB adult and dislocated worker programs based on reverse referrals from training providers.

(c) Local policies on coenrollment and coordination of services

Local boards and local administrative entities must establish new or revised policies, processes, and procedures for local Title IB adult and dislocated worker programs that ensure resource and service coordination in their local areas, which must:[45]

- adhere to coenrollment requirements for adults and dislocated workers established under the State's performance accountability policy;
- require coordination of services for coenrolled participants with one-stop partners and other entities, including career, training, and supportive services;
- require identification and tracking of funding streams that pay the costs of services provided to coenrolled participants;
- ensure no duplication of services across one-stop delivery system partner programs; and

[45] 20 CFR § 680.900

- require compliance with Section IV(b)(3) concerning Pell grant assistance and mandatory disclosure and notification to ETPs and participants.

Section V. Follow-up services

(a) Requirements

Follow-up services must be available for a minimum of 12 months to adults and dislocated workers who are placed in unsubsidized employment, beginning on the first day of unsubsidized employment, unless participants decline follow-up services or cannot be located or contacted.

(b) Types of follow up services

Types of follow-up services must be based on the needs of adults and dislocated workers following placement in unsubsidized employment and may differ in order to assist with retention of unsubsidized employment. Follow-up services for adults and dislocated workers include but are not limited to:[46]

- counseling about the workplace, including counseling pertaining to maintenance or advancement in unsubsidized employment, consistent with individual strengths, resources, priorities, concerns, abilities, capabilities, and interests;
- counseling on resolving work-related issues following placement in unsubsidized employment;
- provision of referrals to other programs, services, and community resources to support retention in unsubsidized employment; and
- provision of other forms of support pertaining to needs directly relating to retention in unsubsidized employment, such as assistance with costs of tools and uniforms and other types of services described above in Section III(b), excluding needs-related payments.

During follow-up, case managers should obtain information and acceptable source documentation when necessary to support performance reporting for adult and dislocated worker program outcomes. Refer to the State's policy on performance accountability for information on adult and dislocated worker program performance indicators.

(1) Policy clarification: Follow-up services v. supportive services[47]

Supportive services may be provided only to participants who are receiving participant-level services (i.e., career and training services) and are provided to enable individuals to participate in and receive adult and dislocated worker program services prior to exiting.

Follow-up services are provided after a participant is placed in unsubsidized employment and no longer needs participant-level services. In other words, follow-up services are designed to help

[46] 20 CFR § 678.430(c); TEGL 16-16
[47] Gerardo Lara, email to USDOL Region V states pertaining to follow-up services [accessed September 28, 2023]

adult and dislocated workers retain unsubsidized employment, earn wage gains, or advance within their occupation or career pathway.

There are two distinctions to be understood when it comes supportive services and follow-up services: purpose and timing. While there may not be a difference in the nature of these services, there may be a difference relating to recording and reporting of such services. For example, transportation-related services like a bus pass can be a supportive service and follow-up service but must be recorded and documented differently.

- Bus passes provided to enable individuals to participate in career or training services must be recorded and documented as supportive services.

- Bus passes provided as follow-up services to enable individuals to travel and from to worksites to assist them with retention of their unsubsidized employment must be recorded and documented as follow up services.

(c) Documenting follow-up services

Case managers must document provision of follow-up services and attempts to provide follow-up services in NEworks as follows.

1. Activity codes for actual follow-up services provided must be recorded.

2. Case notes for actual follow-up services provided must be recorded.

3. Acceptable source documentation for actual follow-up services provided must be uploaded.

4. When participants decline follow-up services or cannot be located or contacted:

    a. case notes documenting the decline must be recorded;

    b. supporting documentation must be uploaded whenever available; and

    c. attempts to provide follow-up services must continue during the mandatory 12-month follow-up period and be documented, preferably monthly but no less frequently than quarterly, unless the participants have declined follow-up services.

In addition to the requirements listed above, documenting follow-up services must also comply with Section VII of this policy.

(d) Local policies on follow-up services

Local boards and local administrative entities must establish new or revised policies, processes, and procedures for Title IB adult and dislocated worker program follow-up services that ensure resource and service coordination in their local areas, which must comply with the requirements of Section V(a)-(c) of this policy, including:

- required and permitted types of follow-up services;

- duration and scope of follow-up services; and

- requirements that Title IB adult and dislocated worker program staff adhere to new or revised local policies, processes, and procedures pertaining to follow-up services.

Section VI. Privacy

Local boards and local administrative entities must ensure that Title IB adult and dislocated worker programs and staff adhere to the confidentiality requirements of the Family Educational Rights and Privacy Act, established under Section 444 of the General Education Provisions Act,[48] including requirements regarding circumstances requiring written consent for disclosure of personally identifiable information from education records. Further, local boards and local administrative entities must ensure that Title IB adult and dislocated worker programs and staff adhere to requirements established in applicable State policies addressing protection of personally identifiable information.

(a) Local policies on privacy and personally identifiable information (PII)

Local boards and local administrative entities *must* establish new or revised policies, processes, and procedures for local Title IB adult and dislocated worker programs that require Title IB adult and dislocated worker programs comply with requirements of:

- the Family Educational Rights and Privacy Act, established under Section 444 of the General Education Provisions Act; and

- applicable State policies addressing protection of personally identifiable information.

Section VII. Documentation of adult and dislocated worker program services

In accordance with WIOA Sec. 185(a), all Title I adult and dislocated worker participant case files must include accurate, concise, and timely documentation of services provided by case managers, including activities recorded in NEworks, supporting case notes, and acceptable source documentation. This documentation is not only mandatory pursuant to WIOA Sec. 185(a) but is essential to accurate performance reporting for the State and local areas.

Local boards and local administrative entities must establish new or revised policies, processes, and procedures for local Title IB adult and dislocated worker programs that require the programs comply with requirements of this Section VII, as well as Section II(b)(2).

Section VIII.Technical assistance

Technical assistance on this policy is available to all local boards and local administrative entities. Requests for technical assistance must be sent to the policy mailbox at ndol.wioa_policy@nebraska.gov.

[48] 20 USC § 1232g; 34 CFR Part 99

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. community-based organization

Community-based organization means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and has demonstrated expertise and effectiveness in the field of workforce development.[49]

2. comprehensive American Job Center (American Job Center or AJC)

A comprehensive American Job Center is a physical location where jobseekers, workers, and employers can access programs, services, and activities from all required one-stop partners.

3. education fees

Education fees refers to fees that are assessed by ETPs as part of the cost of attending training services, such as laboratory, library, and other fees, including drug-testing and exam fees.[50] Education fees does not include education-related expenses.

4. education-related expenses

Education-related expenses refers to expenses students may incur independent of costs of training services, such as housing, food, transportation, etc.

5. Eligible Training Provider (ETP)

An ETP is a training provider that meets the eligibility criteria defined in the State's policy on ETPs and is therefore included on the State's ETPL.

6. Eligible Training Provider List (ETPL)

ETPL refers the State's list of ETPs who are authorized to receive funding through ITAs for the provision of programs of training services.

7. in-demand industry sectors or occupations

The term in-demand industry sectors or occupations refers to:[51]

- in-demand industry sectors that have substantial current or potential impact (including jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economies, as applicable, and contribute to the growth or stability of other supporting businesses or growth of other industry sectors; or

[49] WIOA Sec. 3(10)
[50] 20 CFR § 680.230(c)
[51] WIOA Sec. 3(23)

- in-demand occupations that currently have or are projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in industry sectors that have a significant impact on the state, regional, or local economies.

8. institution of higher education

Institution of higher education means an educational institution that:[52]

a. admits, as regular students, only persons having a certificate of graduation from a school providing secondary education (or recognized equivalent) or persons who have completed a secondary school education in a home school setting that is treated as a home school or private school under State law;

b. is legally authorized within the state to provide a program of education beyond secondary education;

c. provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward a bachelor's degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary of Education (Secretary);

d. is a public nonprofit or other nonprofit institution; and

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

9. program of training services

The term program of training services refers to programs that are included on the State's ETPL and means one or more courses or classes or a structured regimen that leads to one of the following:[53]

a. industry-recognized certificate or certification;

b. license recognized by the Federal government, State of Nebraska, or another state;

c. postsecondary diploma;

d. associate or baccalaureate degree;

e. secondary-school diploma or GED earned in conjunction with occupational skills training;

[52] WIOA Sec. 3(28); 20 USC §§ 1001, 1002(a)(1), and 1091(d)
[53] 20 CFR § 680.420

f. employment; or

g. measurable skills gains toward employment.

10. supportive services

The term *supportive services* refers to services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in career and/or training services authorized under WIOA.[54]

11. underemployed

In addition to individuals who are unemployed, a significant number of job seekers are *underemployed*. Examples of individuals who are *underemployed*[55] include those who:

a. meet the definition of low-income individual in WIOA Sec. 3(36);

b. are employed less than full-time and are seeking full-time employment;

c. are employed in a position that is inadequate with respect to their skills and training;

d. have current job earnings are not sufficient compared to their job earnings from previous employment;

e. were laid off from a job two years ago and has been unemployed since they were laid off;

f. were laid off over a year ago but have not been able to find comparable work and have struggled to find stability; and

g. were laid off but have been working multiple jobs in order to obtain wages comparable to their previous income through the combination of the multiple jobs.

The list above is not all inclusive of circumstances that may contribute to underemployment.

[54] WIOA Secs. 3(59)

[55] TEGL 19-16; Dawn Carrillo, email confirming meeting with Chris Mendoza (USDOL Region V Federal Project Officer) pertaining to the definition of *underemployed* [accessed July 14, 2023]

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Adult, Dislocated Worker, and Youth

Effective
July 1, 2025

Supersedes
Youth Program, Change 3

Youth Program, Change 4

REFERENCE

Federal and state laws, rules, regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

WIOA Title I youth programs must provide high-quality services for all eligible youth and young adults, beginning with career exploration and guidance, continued support for educational attainment, opportunities for skills training in in-demand industries and occupations, culminating with a good job along a career pathway, enrollment in postsecondary education, or participation in Registered Apprenticeship programs.[1]

CHANGES

Under this policy, the following changes have been made.

1. Wherever possible, sections have been simplified to link directly to Federal and State laws, rules, regulations, and guidance, in lieu of the restated and paraphrased language used in the rescinded policy.

[1] TEGL 8-15

2. The due date for annual submission of local board youth service provider lists has been change to June 1 of each calendar year.

ACTION

State

This policy rescinds NDOL's policy titled *Youth Program, Change 3*. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Local boards

Local boards must ensure local area compliance with Sections I, II, and III of this policy.

POLICY

This policy identifies requirements for selection and procurement of youth service providers, youth program design, and youth program services that must be made available through local WIOA Title IB youth programs. This policy has three sections and one appendix.

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Section I. Service provider selection and procurement

(a) Subawards or contracts to youth service providers

Subawards or contracts to youth service providers to carry out some or all of local area youth workforce investment activities must comply with requirements of 29 USC § 3153(a), 2 CFR Parts 200 and 2900, 20 CFR § 681.400, as well as all other relevant Federal, State, and local laws rules, regulations, and guidance concerning procurement practices.

(b) Direct provision of youth program services

Pursuant to 20 CFR § 681.400(a) and TEGL 21-16, local boards may determine that local area grant recipients (i.e., CEOs) or designated fiscal agents may directly provide some or all youth workforce investment activities, in which case competitive procurement requirements do not apply.

(c) Pay-for-performance contract strategies for youth program services

As permitted under 20 CFR § 681.420(i), local boards may implement WIOA pay-for-performance contract strategies for youth program services in accordance with 20 CFR Part 683 Subpart E.

Section II. Program design

(a) Framework

Local boards must design frameworks for their local WIOA Title IB youth programs, in compliance with requirements of 29 USC § 3164(c), 20 CFR § 681.420, and TEGL 21-16. It is important to note that 20 CFR § 681.420(g) requires local boards to provide opportunities for parents, participants, and other members of the community with experience working with youth to be involved in the design and implementation of local Title IB youth programs, in accordance with 20 CFR § 681.650.

(b) Privacy and confidentiality

Local boards must adhere to requirements of 29 USC § 3341; 20 CFR § 683.220; 34 CFR Part 99; as well as all other applicable Federal and State laws, rules, regulations, regulations, and guidance concerning privacy and confidentiality protections for Title IB program participants.

(c) Occupational skills training funding

Under 20 CFR § 680.230(a), the availability of Title IB funding of occupational skills training for youth program participants is limited to participants who:

- are unable to obtain grant assistance from other sources to pay for costs of training; or
- require assistance beyond that available under grant assistance from other sources to pay for the costs of training.

(d) Coenrollment

As required under NDOL's performance accountability policy:

- Title IB program participants must be coenrolled in partner programs whenever eligibility permits; and

- ISY ages 18 through 21 must be coenrolled in Title IB adult or dislocated worker programs *before* ITA funds can be used for occupational skills training provided by an eligible training provider on Nebraska's Eligible Training Provider List.[2]

(e) Coordination of services

Local boards must ensure that their local Title IB program operators identify and track funding streams that pay the costs of services provided to individuals who are participating in Title IB programs *and* are concurrently coenrolled. This is necessary to ensure deduplication of services, in accordance with 20 CFR § 681.430(b). Further, local Title IB youth programs and training providers must coordinate funds available to pay for training, especially in relation to Pell Grants. Refer to 20 CFR § 680.230 for guidance on coordination of Title IB funding of training services, including coordination with Pell Grant funding.

(f) Duration of services

Local Title IB youth programs must provide services to youth participants as long as necessary to ensure successful preparation to enter postsecondary education and/or unsubsidized employment, as required under 20 CFR § 681.450.

(g) Expenditures

Local boards must ensure that their respective Title IB youth program service providers adhere to expenditure requirements established under 29 USC § 3164(c)(4); 20 CFR Part 681 Subpart C; TEGLs 8-15, 21-16, and 9-22; as well as all other applicable Federal and State laws, rules, regulations, and guidance applicable, especially those concerning:

1. use of funds for individuals prior to youth program participation;
2. OSY expenditure requirements;
3. work-experience priority; and
4. participant work-experience compensation requirements (described in greater detail in subsection (1) below).

(1) Participant work-experience compensation

When compensating youth participants with wages or stipends for work experience, youth service providers and employers of record are expected to adhere to Internal Revenue Service (IRS) guidelines.[3] Understanding the difference between a stipend and wage has specific implications in relation to IRS deductions.

The classification of a participant, specifically the employer/employee relationship, is a key factor used by the IRS to determine whether withholding taxes is applicable. Other related factors which impact payments in the form of wages or stipends associated with work experience are that they are counted as earnings when a participant is currently collecting Unemployment Insurance (UI). The income from these wages or stipends may affect the amount and duration of a participant's UI

[2] Nebraska's Eligible Training Provider List is accessible through the NEworks homepage by clicking on *Training Services* in the "Job Seekers" column, then clicking on *ETPL Approved Programs* on the next page.
[3] Resources pertaining to IRS guidelines and participant compensation are available on the WorkforceGPS Our Journey Together: Work Experience Activities Brief page which is accessible at https://youth.workforcegps.org/resources/2018/10/30/15/56/Work-Experience-Activities.

claim in the same manner as regular wages. Compensation may include the following, as described in the following subsections:

- wages;
- stipends;
- incentive payments; and
- withholdings.

(A) Wages

A wage is generally a payment for services rendered where an employer/employee relationship exists. This form of compensation is usually paid through a payroll system and subject to taxes applicable to the employer of record and participants. Paying a wage usually indicates that a local youth program views the youth as an employee or a trainee. Paid work experiences and internships may fall under the Fair Labor Standards Act (FLSA). FLSA requires that individuals be compensated under the law for the services they perform for an employer. To determine whether a paid work experience or internship falls under FLSA, contact USDOL's Wage and Hour Division located at 222 South 15th Street, Suite 504A, Omaha, NE 68102, phone 402.221.4682 or 866.487.9243.

(B) Stipends

A stipend is an allowable payment for participation in activities such as work experience or classroom activities, including work readiness or employability skills training. Local youth programs must have written policies and procedures guiding the payment of classroom-based stipends, according to on local program design and participant needs. Local policies on stipends must ensure that payments align with the requirements of 2 CFR Part 200.

(C) Incentive payments

Incentive payments to youth participants are permitted for recognition and achievements directly tied to training activities and work experiences. The local youth program must establish written policies and procedures governing the award of incentives and must ensure that incentive payments are:

1. tied to the goals of the program;
2. outlined in writing before the commencement of the stipend program;
3. aligned with the program's organizational policies; and
4. made in compliance with the requirements of 2 CFR Part 200.

It is also allowable to provide incentives post-exit or during follow-up if the local board has established written to address the purpose of offering such incentives, specifically to induce behavior toward achievement of a specific goal. In order for a post-exit or follow-up incentive to be effective, participants must (1) be aware of the existence of such incentive and (2) understand the terms and standards of the incentive to improve the likelihood of success and lead to a successful outcome or achievement of grant performance measures.

(D) Withholdings

The classification of participants, specifically the employer/employee relationship, is a key factor used by the IRS to determine whether withholding taxes is applicable. When determining whether

to pay taxes on wages, stipends, and incentives, youth service providers and employers of record are expected to adhere to IRS guidelines.[4] IRS publication 525 provides information on taxable and non-taxable income.

(h) Youth service provider lists

Pursuant to TEGL 21-16, NDOL is required to publish a list of Nebraska's local Title IB youth service providers for each program year. NDOL publishes local youth service provider lists annually. The following requirements and timelines apply to submission of local Title IB youth service provider lists.

1. Local boards (or their designees) must submit to ndol.wioa_policy@nebraska.gov lists of their local Title IB youth service providers ***no later June 1 for each upcoming program year***.
2. Title IB youth service provider lists must:
    a. be prepared using the youth service provider list form provided by NDOL; and
    b. submitted to ndol.wioa_policy@nebraska.gov.
3. If local board Title IB youth service providers change during a given program year, local boards must submit revised youth service provider lists within 30 days of changes.

Section III. Required Title IB youth program elements

Local boards must ensure that their respective Title IB youth programs make available all youth program elements to all eligible youth participants, pursuant to and in accordance with 29 USC 3164(c)(2), 20 CFR Part 681 Subpart C, and TEGLs 21-16 and 09-22.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[4] Resources on wages pertaining to participant compensation are available on the WorkforceGPS Our Journey Together: Work Experience Activities Brief page, which is accessible at https://youth.workforcegps.org/resources/2018/10/30/15/56/Work-Experience-Activities

APPENDIX I. Definitions

Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. Community-based organization is defined under 29 USC § 3102.
2. In-demand industry sector or occupation is defined under 29 USC § 3102.
3. Individuals with barriers to employment is defined under 29 USC § 3102.
4. Institution of higher education is defined under 20 USC § 1001(a) and 29 USC § 3102.
5. Objective assessment is defined under 29 USC § 3164(c)(1) and 20 CFR § 681.420(a)(1).

5.2. Training

NDOL Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Adult, Dislocated Worker, and Youth Effective August 5, 2025 Rescinds Eligible Training Providers

Eligible Training Provider List, Change 1

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

In accordance with 29 USC § 3152 and 20 CFR Part 680 Subpart D, NDOL has established Nebraska's statewide Eligible Training Provider List (the ETPL).[1] The ETPL is a list of eligible training providers and Registered Apprenticeship Programs (RAPs) that may receive reimbursement for provision of training services to eligible WIOA Title IB adult, dislocated worker, and youth program participants.

CHANGES

This policy has been reorganized and revised for clarity and understandability. Also, Section II has been revised concerning processes for addition, maintenance, and removal of RAPs on the ETPL.

[1] The ETPL is accessible on NEworks. On the NEworks homepage under the *Job Seekers* column, click on *Training Services*, then click on *ETPL Approved Programs* on the next page.

ACTION

NDOL

This policy rescinds the NDOL policy titled *Eligible Training Provider List*. Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Training providers

Section I describes training provider and training program eligibility criteria, processes, performance reporting requirements, and eligibility denial and termination requirements.

Registered Apprenticeship Programs (RAPs)

Processes for addition, maintenance, and removal of RAPs on the ETPL are addressed in Section II of this policy.

Local boards

Local boards must ensure that they, as well as their administrative entities and Title IB service providers and staff, adhere to the requirements of this policy, including Sections I(d)(4), I(e), and IV(b).

POLICY

This policy includes five sections.

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Section I. Training providers and training programs

(a) Eligibility criteria

Training provider and training program eligibility for ETPL inclusion is determined based on characteristics of the providers and programs, as described below in subsections (1) and (2).

(1) Training providers

Pursuant to 29 USC § 3152(a)-(b), 20 CFR Part 680 Subpart D, TEGL 8-19, and other applicable Federal and State laws, rules, regulations, guidance, and policies cited below, training providers must meet the following eligibility criteria to be considered for ETPL inclusion.

1. Training providers must provide information about their organizations and primary representatives.
2. Training providers must be accredited, licensed, or authorized by applicable governing authorities to provide training services to Nebraska residents. For example:
    a. Governing authorities for four-year universities and colleges and community colleges are their respective accrediting higher education authorities.
    b. Governing authorities for private postsecondary career schools may include but not be limited to:
        i. Nebraska Department of Education in relation to private postsecondary career schools:[2]
            (a) operating in Nebraska; or
            (b) operating outside of Nebraska but providing training services to Nebraska residents;
        ii. Nebraska Department of Motor Vehicles and Federal Motor Carrier Safety Administration (FMCSA) in relation to FMCSA Entry Level Driver Training (ELDT).[3]
    c. If training providers contract with third parties to provide training services for a training program *and* those third parties are the entities that award the resulting credentials, the third parties must be accredited, licensed, or authorized by applicable governing authorities to provide training services to Nebraska residents.[4]
3. Training providers that operate as private postsecondary career schools must have been in operation for at least 12 months, at the time of application, as accredited, licensed, or authorized providers of training services to Nebraska residents.[5]
    a. Supporting documentation is required.
4. Training providers must provide information about their participation or non-participation in the Federal Pell Grant Program.
5. Training providers must not be debarred, suspended, or otherwise excluded from or ineligible for participation in Federal programs or activities pursuant to 2 CFR Part 180.

[2] Nebraska Administrative Code, Title 29, Chapter 41
[3] FMCSA provides information on ELDT regulations at https://www.fmcsa.dot.gov/registration/commercial-drivers-license/entry-level-driver-training-eldt. FMCSA also provides a searchable list of ELDT driver training programs at https://tpr.fmcsa.dot.gov/.
[4] 29 USC § 3152(b)(1)(E)
[5] This is a requirement established by NDOL, as permitted under 29 USC § 3152(b)(1)(J).

6. Training providers must:
    a. comply with the requirements of 29 USC § 3248, 29 CFR Part 38, and the Americans with Disabilities Act, as amended;
    b. provide physical and programmatic accessibility to their training programs for:
        i. individuals who are employed; and
        ii. individuals with barriers to employment, including individuals with disabilities;
    c. submit program performance data:
        i. initially to NDOL as described in Section I(b)(1); and
        ii. annually to NDOL as described in Section I(b)(2).
7. Training providers must provide all additional information and documentation requested by NDOL pertaining to training provider and training program eligibility.
8. In addition to eligibility requirements described above, NDOL may consider other factors described in 29 USC § 3152(b) and 20 CFR § 680.460(f) when determining training provider eligibility.

(2) Training programs

In accordance with 29 USC § 3152, 20 CFR § 680.450(e), and TEGL 8-19, training programs must meet one or more of the following eligibility criteria described below to be considered for ETPL inclusion.

1. Training programs must provide courses or classes that lead to one or more of the following outcomes:
    a. industry recognized certificates or certifications;
    b. licenses recognized by the Federal government, the State, or other states;
    c. associate or baccalaureate degrees;
    d. postsecondary certificates or diplomas;
    e. high school diplomas or GEDs *earned in conjunction with occupational skills training*; or
    f. employment.
2. Training providers must submit complete ETPL program applications in NEworks that include:[6]
    a. thorough program descriptions;
    b. information about business partnerships pertaining to training programs;
    c. current cost information for training programs;
    d. identification of all locations where training programs are offered;
    e. information concerning alignment of training programs with in-demand occupations in Nebraska;[7] and
    f. other information required in the NEworks ETPL program application.
3. Training program applications will not be considered if they result in multiple outcomes (certificates of completion, diplomas, associate degrees, etc.).
    a. Separate program applications must be submitted for each potential outcome, in accordance with TEGL 3-18.
4. Training providers must provide training program performance information as described in Section I(c) of this policy.

[6] TEGL 08-19

[7] Data on in-demand occupations in Nebraska are accessible at https://neworks.nebraska.gov/vosnet/gsipub/documentView.aspx?enc=oduMpwMRTIQnt7W7WO2/Ew==.

5. Training providers must provide all additional information and documentation requested by NDOL pertaining to training program eligibility.
6. In addition to eligibility requirements described above, NDOL may consider other factors described in 29 USC § 3152(b) when determining training program eligibility.

Initial eligibility may be granted for up to one year, in accordance with 29 USC § 3152(b)(4)(B), 20 CFR § 680.450(g), and TEGL 8-19.

Continued eligibility may be granted for up to two years, in accordance with 20 CFR 680.460 and TEGL 8-19.

(3) Ineligible training programs

Work-based training services described under 20 CFR § 680.530(a) are not included in the ETPL. Further, training programs associated solely with occupations resulting in commission-only earnings are not eligible for inclusion in the ETPL. This is a requirement established by NDOL, as permitted under 29 USC § 3152(b)(1)(J).

(b) Eligibility processes

(1) Initial eligibility: Training providers and training programs

1. Training providers
    a. Training providers interested in ETPL inclusion must first register for a "provider account" on NEworks and provide information as described in Section I(a)(1).
        i. A video on how to register for provider accounts is available upon request by emailing ndol.etpl@nebraska.gov.
    b. Initial eligibility determinations for training providers:
        i. are based on information provided within their NEworks provider accounts and other information requested by the ETPL Unit, in accordance with Section I(a)(1); and
        ii. begin once the ETPL Unit receives all required information described in Section I(a)(1) of this policy.
    c. Absent extenuating circumstances, the ETPL Unit issues eligibility determinations to new training providers by email within 15 calendar days of its receipt of all required information.
2. Training programs
    a. If new training providers have been determined eligible for ETPL inclusion, they must then submit training program applications for eligibility determination.
        i. A video on how to submit training program applications is available upon request by emailing ndol.etpl@nebraska.gov.
    b. Initial eligibility determinations for new training programs:
        i. are based on information provided within NEworks training program applications and other information requested by the ETPL Unit, in accordance with Sections I(a)(2) and I(c)(1); and
        ii. begin once the ETPL Unit receives all required information described in Sections I(a)(2) and I(c)(1) of this policy.
    c. Absent extenuating circumstances, the ETPL Unit issues eligibility determinations for training programs by email within 30 calendar days of its receipt of all required information.

(2) Continued eligibility: Training providers and training programs

During the 30-day period preceding the expiration date of eligibility for training programs, training providers must:

- update their NEworks provider accounts, as necessary; and
- resubmit training program applications for programs with expiring ETPL eligibility.

While determining continued eligibility for training programs, the ETPL Unit also evaluates training providers for continued eligibility to ensure both training providers and training programs continue to meet all eligibility requirements described in Sections I(a)(1), I(a)(2), and I(c)(2) of this policy.

Absent extenuating circumstances, NDOL issues continued eligibility determinations for training providers and training programs within 30 calendar days of its receipt of all required information.

(c) Eligibility performance reporting requirements

(1) Performance reporting: *Initial eligibility*

As stated in Sections I(a)(2) and I(c)(1) of this policy, training providers applying for initial eligibility for new training programs must submit initial training program performance data for their programs to the ETPL mailbox (ndol.etpl@nebraska.gov), in accordance with Section I(b)(1) of this policy. Types of acceptable performance data for training program initial eligibility purposes may include, but are not limited to:[8]

- academic research suggesting the selected training strategy for the programs is effective in relation to the minimum performance standards described in Section I(c)(2)(A) of this policy; or
- other data relating to employment, earnings, or credential attainment among students in the applicable program.

Failure to submit required initial training program performance data will result in delayed or denied initial eligibility.

(2) Performance reporting: *Continued eligibility*

To obtain or maintain continued eligibility for ETPL inclusion, in accordance with 20 CFR § 680.460 and Section I(b)(2) of this policy, training providers must submit training program performance data to NDOL for each reporting period no later than August 31 of each calendar year using the training program performance reporting tool provided by NDOL through NEworks. ("Reporting period" means the 12-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.)

(A) Training program performance reporting tool

NDOL's performance reporting tool is provided as an .xlsx file to be downloaded by training providers from NEworks, populated with training program performance data, and then uploaded to NEworks. Using the tool, the following data must be reported for *all students* enrolled in or

[8] 20 CFR §§ 680.460(h)(1) and 680.490; TEGL 8-19, Attachment III

exiting training programs during reporting periods. ("Enrollment" status for training programs is determined by each training provider in accordance with their organizational standards.)

1. *Social Security Numbers (SSNs).* SSNs must be provided for all students.
    a. Missing SSNs will result in error messages and upload failures.
    b. If SSNs are not available, *unique nine-digit all-numeric* student identifiers must be used.
    c. Note. Use of invalid SSNs and unique student identifiers will negatively affect training program performance outcomes. (Minimum performance standards for training programs are described below in subsection (C).)
2. *Start date.* Training program start dates must be provided for all students.
    a. Start dates must be provided in MM/DD/YYYY format and cannot be future dates.
    b. Missing or invalid start dates will result in error messages and upload failures.
3. *Status.* Training program status must be provided for all students (selection options: enrolled, completed, withdrew, transferred).
    a. If status is not selected, status will default to *enrolled*.
4. *Exit date.* Training program exit dates must be provided for all students (selection options: completed, withdrew, transferred).
    a. Exit dates must be provided in MM/DD/YYYY format and cannot be future dates or earlier than start dates.
    b. Missing or invalid exit dates will result in error messages and upload failures.
5. *Credential status.* Credential status must be provided for all students (selection options: yes, no, unknown).

(B) Training program performance calculations

Training program performance is calculated for each reporting period based on seven factors:

1. total number of students enrolled (reported to NDOL by training providers);
2. total number of students exited (reported to NDOL by training providers);
3. total number of program completers (reported to NDOL by training providers);
4. credential rate (reported to NDOL by training providers);
5. employment rate 6 months after program exit (determined through NDOL wage matching systems);
6. employment rate 12 months after program exit (determined through NDOL wage matching systems); and
7. median earnings 6 months after program exit (determined through NDOL wage matching systems).

(C) Training program minimum performance standards

Training programs must meet the following minimum performance standards for all students for each reporting period:

1. 50 percent or more of all students who enrolled in and exited programs attained a credential;
2. 50 percent or more of all students who enrolled in and exited programs are employed 6 months after program exit;
3. 50 percent or more of all students who enrolled in and exited programs are employed 12 months after program exit; and

4. median earnings 6 months after program exit for all students who enrolled in and exited programs are at least $6,240.

Training programs that fail to meet minimum performance standards for three consecutive reporting periods will be denied continued eligibility. However, prior to denying continued eligibility, the ETPL Unit will provide technical assistance to training providers to ensure training programs are not removed from the ETPL erroneously due to:

- performance reporting errors;
- effects of small cohort sizes; and
- other extenuating circumstances.

(3) Performance reporting: Federal

NDOL is required under 29 USC § 3141(d) to report training program performance outcomes annually to the US Department of Labor (USDOL) by October 1 of each calendar year (or the next business day if October 1 falls on a weekend or holiday). Training program performance data is reported in aggregate. Student-level data *does not* appear in training program performance reports submitted by NDOL to USDOL, in compliance with requirements established under 24 CFR Part 99 (the Family Educational Rights and Privacy Act, aka FERPA) and other applicable Federal and State laws, rules, regulations, guidance, and policies, including NDOL policies concerning protection of personally identifiable information.

(d) Eligibility denial or termination

NDOL is solely responsible for making determinations on denial or termination of ETPL eligibility and does so based on:[9]

1. 29 USC Chapter 32, including 29 USC § 3248, and its implementing rules, regulations, and guidance; other applicable Federal and State laws, regulations, rules, guidance, and policies; and this policy;
2. eligibility documentation; and
3. if applicable, compliant supplemental criteria, information, and performance requirements established by local boards under local policies.

(1) Reasons for denial or termination

Training provider and/or training program inclusion in the ETPL must be denied or terminated under certain conditions, pursuant to 29 USC § 3152(f) and 20 CFR § 680.480.

1. NDOL must deny or terminate ETPL inclusion when training providers and/or training programs do not meet eligibility requirements described in Section I of this policy.
2. NDOL must terminate eligibility of training providers for a period of not less than two years *and* require repayment of WIOA Title IB funds they received during any period of noncompliance based on the following substantial violations:[10]
    a. intentionally supplying inaccurate information *or* individuals providing information on behalf of training providers intentionally supplying inaccurate information;

[9] 20 CFR § 680.480
[10] Ibid.

   b. substantially violating any applicable provision of 29 USC Chapter 32 Subchapter 1, including 29 USC § 3248, 29 CFR Part 38, and the Americans with Disabilities Act, as amended;[11] or
   c. refusing to submit timely and accurate training program performance data as required under Section I(c) of this policy.
3. NDOL must terminate the eligibility of training providers for other substantial violations relating to:
   a. applicable provisions of 29 USC Chapter 32 and its implementing rules, regulations, and guidance;
   b. other applicable Federal and State laws, rules, regulations, guidance, and policies;
   c. this policy; and
   d. if applicable, compliant supplemental criteria, information and performance requirements established by local boards under local policies.

Remedies and penalties prescribed under applicable provisions of 29 USC Chapter 32 and its implementing rules, regulations, and guidance; other applicable Federal and State laws, rules, regulations, guidance, and policies; and this policy supplement but do not supplant other civil and criminal remedies and penalties available under other provisions of law, pursuant to 29 USC § 3152(f)(2).

(2) Processes for training provider or training program denial or termination based on ineligibility

If the ETPL Unit determines training providers or training programs are not eligible for ETPL inclusion based on condition 1 as described above in Section I(d)(1), the ETPL Unit notifies training providers by email that eligibility has been denied or terminated based on ineligibility *and* provides reasons for denial or termination and copies of applicable NDOL policies.

Training providers may appeal decisions to deny or terminate ETPL participation, in accordance with Section III of this policy.

(3) Processes for training provider removal based on substantial violations

Pursuant to 20 CFR §§ 680.460(l) and 680.480, the Commissioner of Labor, NDOL Office of the General Counsel, and NDOL Reemployment Services Division Director (collectively, the Review Panel) investigate allegations of substantial violations based on conditions 2 and 3 described in Section I(d)(1) above by:

- reviewing all available documentation addressing allegations of substantial violations, as well as applicable Federal and State laws, rules, regulations, guidance, and policies; and applicable NDOL policies; and
- interviewing program staff and complainants involved, whenever possible.

If the Review Panel determines allegations of substantial violations are valid, NDOL issues written notice to training providers of its intent to remove them from the ETPL *and* impose time-based and financial sanctions, as described in Section I(d)(1) in relation to substantial violations. NDOL also provides copies of applicable NDOL policies and supporting documentation provided to

[11] When determining substantial violations, NDOL must take into account exceptional circumstances beyond training provider or RAP sponsor control, such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues, in accordance with 20 CFR § 680.460(l)(1).

NDOL in relation to the Review Panel's investigation and advises training providers of their right to appeal, as described below in Section III.

(4) Denial or termination of training providers and training programs by local boards

Local boards may deny or terminate training provider and training program eligibility in their local areas as described in Section IV(b)(1) of this policy. However, as stated in Section IV(b)(1) of this policy, local boards *are prohibited* from imposing additional requirements upon RAPs beyond those established under 29 USC Chapter 32 Subchapter 1 and its implementing laws, rules, regulations, guidance, and policies, including 20 CFR § 680.150(a); and Section II of this policy.

If local boards deny or terminate local ETPL eligibility for training providers or training programs, training providers may appeal the denial or termination according to the process described in Section III of this policy.

(e) Participants enrolled in training programs and RAPs that have been removed from the ETPL

If training programs or RAPs are removed from the ETPL due to *substantial violations* as described in Sections I(d)(1) and II(c)(2), Title IB program participants *cannot* use their established individual training accounts (ITAs) to continue participation in the removed programs. If impacted participants wish to continue receiving Title IB training services, local Title IB program case managers must *immediately* assist participants with transition to other training programs or RAPs selected by the impacted participants.

If training programs or RAPs are removed from the ETPL for reasons *other than substantial violations* (including voluntary withdrawal from ETPL inclusion), Title IB participants who are participating in the removed training programs or RAPs *may* complete training through those programs using established ITAs. However, the established ITAs cannot be modified or extended as they relate to the removed training programs or RAPs. If impacted participants wish to transition to other training programs or RAPs listed on the ETPL, Title IB program case managers must *immediately* assist the participants with transition to other ETPL programs selected by the participants.

The ETPL Unit notifies local boards and administrative entities by email whenever training programs or RAPs are removed from the ETPL and provides appropriate guidance to local boards and administrative entities.

Section II. Registered Apprenticeship Programs (RAPs)

RAPs are structured training models that combine on-the-job learning (i.e., on-the-job training) with related technical instruction (i.e., occupational skills training) to develop skilled workers.[12] RAPs *always* offer career pathways in in-demand occupations that allow individuals to gain practical experience, receive mentorship, and earn nationally recognized credentials, all while being paid.[13]

[12] TEGLs 13-16, 13-16 Change 1, 08-19, and 08-19 Change 1
[13] TEGL 8-19 Change 1

(a) In-state RAPs

RAPs registered by the USDOL Office of Apprenticeship in Omaha are automatically eligible for placement on the ETPL.[14] The ETPL Unit conducts outreach to RAPs registered by the Omaha Office in real time, rather than conducting semi-annual outreach as described in TEGLs 13-16 Change 1 and 08-19 Change 1, through coordination with the State Director of the Omaha Office, Specifically, the State Director includes the ETPL Unit on emails when issuing new or revised RAP standards to sponsors. Following receipt of standards, the ETPL Unit conducts outreach by email to each RAP sponsor and provides technical assistance to the sponsor by promoting and providing information on the benefits of ETPL placement.

(b) National RAPs

A RAP registered by the National USDOL Office of Apprenticeship is automatically eligible for placement on the ETPL, provided the National RAP: [15]

- has an operational presence in Nebraska; or
- provides on-line instruction that is available to Nebraska residents.

Unlike the process for in-state RAPs described in subsection (a) above, a representative from a National RAP *or* a representative from the USDOL Office of Apprenticeship may initiate contact with the ETPL Unit concerning placement of the National RAP on the ETPL.[16] If a National RAP contacts the ETPL Unit directly about placement on the ETPL, the ETPL Unit contacts the State Director of the Omaha Office and requests confirmation of registration. If the State Director is unable to confirm registration, the ETPL Unit contacts the USDOL Office of Apprenticeship Multi-State Navigator and requests confirmation.

Once registration status is confirmed *and* the ETPL Unit receives confirmation that the National RAP has an operational presence in Nebraska *or* provides on-line instruction that is available to Nebraska residents, the ETPL Unit provides an information sheet to the sponsor for completion. The information sheet asks for the following information necessary to add the National RAP to the ETPL:

1. RAP ZA number
2. name of RAP sponsor and sponsor contact information, physical address, and FEIN
3. occupations included in the RAP
4. RAPIDS and ONET-SOC codes for RAP occupation(s)
5. number of active apprentices
6. description of methods and lengths of instruction for each of the included occupations:
    a. *method* refers to whether the program is time-based, competency-based or hybrid, *and* whether the program is in-person, virtual, or uses blended methods (i.e., combination of in-person and virtual)
    b. *length of instruction* refers to the number of hours required to complete the RAP, which may be expressed as a range
7. name, contact information, and physical address of related technical instruction provider(s) if different from the program sponsor

[14] 20 CFR § 680.470; TEGLs 13-16, 13-16 Change 1, 08-19, and 08-19 Change 1
[15] TEGL 8-19 Change 1
[16] TEGL 8-19 Change 1

(c) Addition, maintenance, and removal of RAPs

(1) Addition and maintenance

The ETPL Unit is solely responsible for the addition and maintenance of all RAPs on the ETPL.[17] RAPs remain on the ETPL:[18]

- as long as they remain registered with the USDOL Office of Apprenticeship *and* confirm at least biennially by email that they want their RAPs to remain on the ETPL (ETPL Unit initiates the confirmation process);
- until RAP sponsors contact the ETPL Unit by email at ndol.etpl@nebraska.gov and request removal of their RAPs from the ETPL; or
- until RAPs are deregistered *or* they've been removed in accordance with subsection (2) below.

(2) Removal of RAPs from the ETPL

(A) Reasons for removal

Placement of RAPs on the ETPL must be denied or terminated under certain conditions, pursuant to 29 USC § 3152(f) and 20 CFR § 680.470.

1. NDOL must deny or terminate ETPL placement of RAPs on the ETPL if they have been deregistered by the USDOL Office of Apprenticeship.
2. NDOL must remove RAPs from the ETPL for a period of not less than two years *and* require repayment of WIOA Title IB funds they received during any period of noncompliance based on the following substantial violations:[19]
    a. intentionally supplying inaccurate information *or* individuals providing information on behalf of RAP sponsors intentionally supplying inaccurate information;
    b. substantially violating any applicable provision of 29 USC Chapter 32 Subchapter 1, including 29 USC § 3248; 29 CFR Part 38, and the Americans with Disabilities Act, as amended;[20] or
3. NDOL must remove RAPs from the ETPL for other substantial violations relating to:
    a. applicable provisions of 29 USC Chapter 32 and its implementing rules, regulations, and guidance;
    b. other applicable Federal and State laws, regulations, rules, guidance, and policies; and
    c. this policy.

[17] This is process established by NDOL to ensure minimal burden is placed upon sponsors of RAPs, in accordance with TEGL 13-16.
[18] 20 CFR § 680.470; TEGL 13-16
[19] Ibid.
[20] When determining substantial violations, NDOL must take into account exceptional circumstances beyond training provider or RAP sponsor control, such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues, in accordance with 20 CFR § 680.460(l).

Remedies and penalties prescribed under applicable provisions of 29 USC Chapter 32 and its implementing rules, regulations, and guidance; other applicable Federal and State laws, rules, regulations, guidance, and policies; and this policy supplement but do not supplant other civil and criminal remedies and penalties available under other provisions of law, pursuant to 29 USC § 3152(f)(2).

(B) Process for removal

If NDOL denies or terminates placement of a RAP on the ETPL based on conditions described in subsection (A) above, NDOL notifies the RAP sponsor by email that eligibility has been denied or terminated *and* provides the reason(s) for denial or termination, copies of applicable NDOL policies, and supporting documentation provided to NDOL by the USDOL Office of Apprenticeship.

RAPs may appeal decisions to deny or terminate ETPL placement in accordance with Section III below.

Section III. Process for appeals

In accordance with 20 CFR § 680.480(b), (d), and (e) and TEGL 8-19, training providers may appeal denial or termination of ETPL eligibility *and* RAPs may appeal removal from the ETPL. To appeal, training providers and RAPs must submit written requests for hearings to the Commissioner of Labor to the address below within 30 calendar days of notification of denial or termination of eligibility *or* removal from the ETPL in the case of RAPs.

Commissioner of Labor
Nebraska Department of Labor
PO Box 94600
Lincoln, NE 68509-4600

Absent extenuating circumstances, the Commissioner will assign a hearing officer and a hearing will take place within 30 calendar days of the Commissioner's documented receipt of the request for a hearing. The hearing will include the:

1. statement of reason(s) for denial or termination of training provider eligibility or RAP removal, as applicable; and
2. an appeal by submitted by the training provider or RAP describing why:
    a. the decision should be reversed; or
    b. a compromise established.

The Commissioner will render a final judgment that will include the length of time a training provider will remain ineligible *or* the length of time a RAP will be removed from the ETPL, financial sanctions to be imposed, and conditions under which reinstatement of eligibility or placement is justified. Decisions issued under this appeal process are not eligible for appeal to the Secretary of Labor, in accordance with 20 CFR § 683.630(b)(3).

Section IV. NDOL and local boards: ETPL roles and responsibilities

(a) NDOL

NDOL roles and responsibilities regarding the ETPL are defined in applicable provisions of 20 CFR Part 680 Subpart D.

(b) Local boards

Local board roles and responsibilities regarding the ETPL are defined in applicable provisions of 20 CFR Part 680 Subpart D. Subsections (1) through (3) below provide clarifying information relating to certain local board roles and responsibilities pertaining to:

- local board supplemental ETPL criteria and information requirements;
- consumer choice and consultation requirements; and
- reimbursement to training providers and RAPs for training services.

(1) Local board supplemental ETPL criteria and information requirements

Local boards may supplement the criteria and information requirements established under Section I of this policy in order to support informed consumer choice and the achievement of local performance indicators, in accordance with 20 CFR § 680.510. However, as stated in Section I(d)(4) above and in 20 CFR § 680.150(a), local boards *are prohibited* from imposing additional requirements upon RAPs beyond those established under 29 USC Chapter 32 Subchapter 1 and its implementing laws, rules, regulations, guidance, and policies and Section II of this policy

(2) Consumer choice and consultation requirements

Local boards must ensure that they and their administrative entities and local Title IB service providers and staff adhere to consumer choice and consultation requirements described in 20 CFR § 680.340.

(3) Reimbursement to training providers and RAPs for training services

Local boards must ensure that their administrative entities and Title IB service providers reimburse training providers and RAPs for actual training services and materials provided to Title IB program participants, including actual training services and materials provided to participants that drop out of or do not complete training services authorized under ITAs.

Formal and informal practices established by local boards, administrative entities, and local Title IB service providers and staff that result in or permit non-payment for actual training services and materials provided to local Title IB participants are strictly prohibited.

Section V. Technical assistance

NDOL provides technical assistance to training providers, RAPs, and local areas upon request concerning the requirements of this policy. Requests for technical assistance must be submitted by email to ndol.etpl@nebraska.gov.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Adult, Dislocated Worker, and Youth

Effective
May 3, 2023

Supersedes
On-the-job Training (OJT), Change 2
(effective April 10, 2019)

On-the-job Training (OJT), Change 3

REFERENCE

Federal and state laws, rules, and regulations, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Under WIOA, work-based training is employer driven with the goal of unsubsidized employment after training for WIOA Title I (youth, adult, and dislocated worker) program participants. On-the-job training (OJT) is one of several types of work-based training. OJT is provided through contracts with employers or sponsors of Registered Apprenticeship programs.[1]

CHANGES

Under this Change 4, paragraph 1 of Section I(c)(1) has been revised to clarify requirements relating to employed worker eligibility for OJT. In addition, footnotes have been revised for clarity and links have been updated, where necessary.

[1] 20 CFR § 680.700(a)

ACTION

This policy supersedes and cancels the State's On-the-job Training (OJT) policy, Change 2 (effective April 10, 2019). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Each local board must:

- establish and document, in its local plan or local policy on OJT, methods for determining OJT duration as described in Section I(a)(3);
- establish and document, in its local plan or local policy on OJT, local area criteria and procedures for determining that an eligible employed worker is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment as described in Section I(c)(1)(i);
- provide for continual oversight and monitoring to make certain that Title I funds are utilized to provide participants with the OJT necessary to successfully retain employment as described in Section I(c)(2); and
- document the factors used when deciding to increase the employer-reimbursement rate above 50 percent (but not more than 75 percent)[2] as described in Section II(a)(1).

POLICY

This policy establishes requirements for OJT, including training, employer, and contract requirements; permitted and prohibited uses of Title I funds for OJT; and appeal and grievance procedures relating to OJT.

This policy has three sections and two appendices.

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[2] 20 CFR § 680.730(b); TEGL 19-16

Section I. Requirements for OJT

OJT is provided under contracts with employers or sponsors of Registered Apprenticeship programs, operating in the public, private nonprofit, or private sectors. During OJT, occupational skills training is provided for participants according to the terms and conditions and training plans defined in OJT contracts. The employer is reimbursed for a portion of the participants wages to compensate for the extraordinary costs of providing training and supervision related to the OJT. Except as described in Section I(c)(1), OJT is intended for unemployed participants as a method for providing training necessary to successfully retain employment. In its design of local OJT programs, local boards are strongly encouraged to refer to and use the *Strategies for Implementing OJT Simply and Effectively* resource guide developed by the US Department of Labor Employment and Training Administration.[3]

(a) Training requirements

(1) In-demand industry sectors and occupations

OJT must be directly linked:[4]

- to an in-demand industry sector or occupation in the local area, planning region, or in another area to which the participant is willing to relocate; or
- upon approval of the local board, to an occupation determined by the local board to be in a sector of the economy that has a high potential for sustained demand or growth in the local area.

(2) Wages, benefits, and working conditions[5]

Participants in OJT must be compensated at the same wage rates, including periodic increases, as trainees or employees who:

- are similarly situated in similar occupations by the same employer; and
- have similar training, experience, and skills.

In addition, OJT wage rates must comply with all applicable Federal and state laws, including laws relating to minimum hourly wages; and participants in OJT must be provided benefits and working conditions comparable to those of other trainees or employees working a similar length of time and doing the same type of work for the employer.

(3) OJT duration[6]

Each local board must establish and document, in its local plan or local policy on OJT, methods for determining OJT duration. The duration of OJT must be limited to the period of time required

[3] Accessible at https://www.workforcegps.org/events/2016/05/02/13/26/Strategies_for_Implementing_OJT-Simply_and_Effectively.
[4] WIOA Sec. 134(c)(3)(G)(iii)
[5] WIOA Secs. 181(a)(1) and 181(b)(5); 29 USC § 206(a)(1); 20 CFR § 683.275; Neb. Rev. Stat. §§ 48-1201 to 48-1209.01
[6] 20 CFR § 680.700(c)

for the participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the:

- skills required for the occupation;
- academic and occupational skill level of the participant, which must be based on a skills-gap assessment;
- prior work experience of the participant; and
- participant's individual employment plan (IEP) or individual service strategy (ISS), as applicable.

(4) Training plan[7]

An OJT training plan must be (a) established for each participant placed in OJT and (b) based on the skills to be acquired during OJT. In addition, each OJT training plan must be unique and tailored to the specific training needs of the participant. There is no need for detailed descriptions of the training methods to be used. The training plan should focus on the skills and competencies to be attained, not the manner in which skills will be developed or the individual tasks to be performed.

(b) Employer requirements

(1) Pre-award (pre-OJT contract) review[8]

Prior to entering into an OJT contract with an employer (a) local area staff must conduct a pre-award review and (b) the employer must successfully complete the pre-award review. The purpose of the pre-award review is to determine whether the employer is qualified and capable of providing OJT that complies with the requirements of an OJT contract, this policy, and the applicable provisions of WIOA and its implementing rules, regulations, and guidance. The pre-award review must be conducted and documented as described in APPENDIX II.

(2) Records retention[9]

Each employer providing OJT must maintain records relating to the participant and the OJT for a period of no less than three years from the close of the applicable program year, or longer if any litigation or audit has begun or any claim is instituted which involves these records. In that case, the employer must retain the records for a period of no less than three years from the conclusion or resolution of the litigation, audit findings, or claim. The employer must allow access to those records for authorized entities, including local area staff performing oversight and monitoring activities described in Section I(c)(2).

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[7] For an example of an effective training plan, refer to Strategies for Implementing OJT Simply and Effectively, which is accessible at https://www.workforcegps.org/events/2016/05/02/13/26/Strategies_for_Implementing_OJT-Simply_and_Effectively.

[8] 20 CFR § 683.260(b)

[9] The State's policy on records management provides information on records retention requirements and is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

(3) Employer performance

Employers providing OJT are not subject to the eligibility and performance reporting requirements established by NDOL for eligible training providers and are not included on Nebraska's Eligible Training Provider List.[10]

(4) Ineligible employers[11]

1. If it is determined during a pre-award review that an employer's business, or any part of its business, has relocated and employees at the employer's other location(s) were laid off as a result of the relocation, the employer is not eligible to receive Title I funds for the provision of OJT until the employer has been in operation at its current location at least 120 calendar days.

2. Any employer that does not agree to an OJT contract that includes all of the elements described in Table 1 of Section I(c) is not eligible to receive Title I funds for the provision of OJT.

3. Local boards must not enter into an OJT contract with an employer that has:

    a. failed to successfully complete the pre-award review procedures described in APPENDIX II; or

    b. exhibited a pattern of failing to provide OJT 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.

(c) Contract requirements[12]

OJT contracts must, at a minimum, address the elements described in Table 1 and be procured in accordance with all Federal, state, and local procurement requirements and policies.

Table 1. Required OJT contract elements

Element	Description
OJT occupation	The occupation for which OJT will be provided must be described and must comply with the requirements of Section I(a).
OJT wage, benefits, and working conditions	The OJT wage, benefits, and working conditions must be defined and must comply with the requirements of Section I(a)(2).
OJT duration	The duration of the OJT must be defined and must comply with the requirements of Section I(a)(3).
Training plan	A training plan, as described in Section I(a)(4), must be included and must consist of: • comprehensive list of the occupational skills the participant will acquire during OJT, which must be directly linked to the OJT occupation; and • if classroom training is part of the OJT, a clear description of the classroom training to be provided, which must be directly linked to the OJT occupation.

[10] 20 CFR § 680.530(a)
[11] WIOA Secs. 181(d) and 194(4); 20 CFR §§ 680.700(b) and 683.260
[12] 20 CFR §§ 680.700 and 680.710 and Strategies for Implementing OJT Simply and Effectively (accessible at https://www.workforcegps.org/events/2016/05/02/13/26/Strategies_for_Implementing_OJT-Simply_and_Effectively).

Element	Description
Recordkeeping and record retention	Provisions describing the employer's responsibilities with regard to recordkeeping and maintenance must be included and must comply with the requirements of Section I(b)(2).
Justification for OJT for employed participant	If the OJT participant is an eligible employed worker, the contract must include a justification of the participant's need for OJT, which must comply with the requirements of Section I(c)(1).
Employer reimbursement	Employer reimbursement must be defined and must comply with the requirements of Section II(a), including subsection (1).

Recontracting with an employer is allowable and desirable when the employer has demonstrated a high success rate with regard to successful completion of OJT by participants and retention of those participants.

(1) Contracts for employed participants

While OJT is intended for unemployed participants, OJT contracts may be established for eligible employed workers when all of the following requirements are met:[13]

1. the employed worker is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment;[14]

2. requirements for a pre-award review (Section I(b)(1)) and OJT contract requirements (Section I(c)) are met; and

3. the OJT relates to one or more of the following factors:

    a. introduction of new technologies;

    b. introduction to new production or service procedures;

    c. upgrading to a new job that requires additional skills;

    d. workplace literacy; or

    e. other appropriate purposes identified by the local board.

(i) Determining self-sufficient wages

Determining that an eligible employed worker is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment must be based on criteria and procedures established under the local board's policy on OJT.

(2) Oversight and monitoring

The local board must provide for oversight and continual monitoring[15] of OJT contracts to ensure that Title I funds provided through OJT contracts are utilized to provide participants with the

[13] 20 CFR § 680.710
[14] Refer to Section I(c)(1)(i) regarding determining self-sufficient wage.
[15] 20 CFR § 683.410(a)

training necessary to successfully retain employment. At a minimum, oversight must be based on the requirements of the OJT contract, this policy, and applicable provisions of WIOA and its implementing rules and regulations and must include monitoring of:

- participant progress;
- working conditions;
- compensation made and benefits provided to the participant;
- invoicing by and reimbursement to the employer; and
- recordkeeping and record retention by the employer, including records describing wages, benefits, time and attendance records, and other personnel records generated and maintained by the employer for other trainees or employees.

Section II. Use of OJT funds

(a) Payments to employers[16]

Reimbursement of a portion of participant wages to employers providing OJT constitutes compensation for the extraordinary costs associated with training the participants and potentially lower productivity of the participant while in OJT. (Employers are not required to document the extraordinary costs.) Employers may be reimbursed up to 50 percent of the wages paid to participant during OJT. The 50 percent employer-reimbursement rate may be increased to 75 percent by the local board as described in Section II(a)(1).

Co-enrollment may assist in making additional funds available for OJT.[17] For example, Title I allows up to 75 percent reimbursement to employers for OJT, while the Trade Adjustment Assistance (TAA) program allows reimbursement up to 50 percent. For OJT approved training for a co-enrolled TAA participant, the TAA program may reimburse employers up to 50 percent, and Title I may reimburse employers up to an additional 25 percent to bring the total reimbursement to employers up to 75 percent to align TAA program benefits with Title I program benefits.

(1) Increased employer-reimbursement rate[18]

Local boards may increase the employer percentage reimbursement rate to an amount of up to 75 percent of the wage rate of a participant for OJT if local boards approve the increase and take into account the:

1. characteristics of participants taking into consideration whether they are individuals with a barrier to employments;[19]

[16] 20 CFR § 680.720
[17] TEGL 19-16
[18] WIOA Sec. 134(c)(3)(H); 20 CFR § 680.730; TEGL 19-16
[19] The term individual with a barrier to employment is defined in WIOA Sec. 3(24) and in APPENDIX I.

2. size of the employer, with an emphasis on small businesses;

3. quality of employer-provided training and advancement opportunities (e.g., whether the OJT will lead to an industry-recognized credential); and

4. other factors local boards may determine appropriate, including the:

    a. number of participants involved in the OJT;

    b. wage and benefit levels of the participants, at the beginning of OJT and after completion; and

    c. relative benefit of the training to the competitiveness of participants.

Local boards must document factors used when deciding to increase the employer-reimbursement rate.

(b) OJT and Registered Apprenticeship programs[20]

OJT funds may be use for the OJT portion of Registered Apprenticeship programs (also known as related technical instruction). OJT contracts may be entered into with sponsors of Registered Apprenticeship programs, provided that employers meet the requirements established in Section I(b). Depending on the length of the Registered Apprenticeship programs and requirements or limitations of local board policies on OJT, OJT funds may be used for some or all OJT required under Registered Apprenticeship programs.

(c) OJT and ITA funds[21]

OJT funds and Individual Training Account (ITA) funds may be used in combination when placing participants into OJT, including training services provided under pre-apprenticeship programs and Registered Apprenticeship programs.

(d) Prohibited uses[22]

Funds provided for OJT under Title I must not be used for any business or part of a business that has relocated until 120 calendar days after the date the business commences operations at its new location. This prohibition on use of OJT funds applies when the relocation of the business, or part of the business, results in a loss of employment for any employee of the business at the original location; provided that the original location is within the United States.[23] If the Secretary of the US Department of Labor (Secretary) determines that a violation of this prohibition has occurred, the Secretary must require repayment to the United States an amount equal to the amount expended in violation of the prohibition.

[20] 20 CFR § 680.740; TEGL 19-16
[21] 20 CFR §§ 680.320 and 680.750
[22] WIOA Secs. 181(d)(2) – (3) and 194(4); 20 CFR § 683.260
[23] Refer to Section I(b)(4) for additional information on this prohibition.

Section III. Appeal and grievance procedures

(a) Denial of employer eligibility to provide OJT

An employer that has been denied eligibility as an OJT provider may file a complaint through the local board's established grievance procedures. An appeal may be made to the State according to the procedures described in the State's policy on grievances and complaints if the complainant:[24]

- does not receive a determination on a complaint filed at the local level within 60 calendar days of filing; or
- is dissatisfied with the local-level determination.

(b) Displacement of regular employees and participants

An OJT participant must not displace any current employee of the employer providing OJT. Displacement includes any partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits. Regular employees and OJT participants alleging such a displacement may file a complaint through the local board's established grievance procedures.

An appeal may be made to the State according to the procedures described in the State's policy on grievances and complaints if the complainant:

- does not receive a determination on a complaint filed at the local level within 60 calendar days of filing; or
- is dissatisfied with the local-level determination.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[24] 20 CFR §§ 683.270 and 683.600

APPENDIX I. Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. Terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. displaced homemaker

The term displaced homemaker[25] means an individual who has been providing unpaid services to family members in the home and who:

- (a) has been dependent on the income of another family member but is no longer supported by that income or (b) is the dependent spouse of a member of the Armed Forces on active duty (as defined in Section 101(d)(1) of Title 10, United States Code) and whose family income is significantly reduced because of:
    - a deployment (as defined in Section 991(b) of Title 10, United States Code, or pursuant to paragraph (4) of such section);
    - a call or order to active duty pursuant to a provision of law referred to in Section 101(a)(13)(B) of Title 10, United States Code;
    - a permanent change of station; or
    - the service-connected (as defined in Section 101(16) of Title 38, United States Code) death or disability of the member; and
- (B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Refer to the following States policies for additional information on displaced homemakers:

- Priority of Service; and
- Program Eligibility for Adults, Dislocated Workers, and Youth.

2. individual with a barrier to employment

The term individual with a barrier to employment[26] means a member of one or more of the following populations:

(a) displaced homemakers;

(b) low-income individuals;

[25] WIOA Sec. 3(16)
[26] WIOA Sec. 3(24)

(c) Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in WIOA Sec. 166;

(d) individuals with disabilities, including youth who are individuals with disabilities;

(e) older individuals;

(f) ex-offenders;

(g) homeless individuals (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6))), or homeless children and youths (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));

(h) youth who are in or have aged out of the foster care system;

(i) individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;

(j) eligible migrant and seasonal farmworkers, as defined in WIOA Sec. 167(i);

(k) individuals within two years of exhausting lifetime eligibility under part A of Title IV of the Social Security Act (42 USC 601 et seq.);

(l) single parents (including single pregnant women);

(m) long-term unemployed individuals; and

(n) such other groups as the Governor determines to have barriers to employment.

3. on-the-job training

The term on-the-job training[27] (OJT) means training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- provides knowledge or skills essential to the full and adequate performance of the job;
- is made available through a program that provides reimbursement to the employer of up to 50 percent of the participant's wage rate for the extraordinary costs of providing the training and additional supervision related to the training; and
- 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 participant's IEP or ISS, as appropriate.

[27] WIOA Sec. 3(44)

4. pass-through entity

   The term pass-through entity means a non-Federal entity, like a local board, that provides a subaward to a subrecipient, like an employer providing OJT, to carry out some or all of the activities permitted or required under a Federal program.[28]

5. pre-apprenticeship program

   A pre-apprenticeship program[29] is a program designed to prepare individuals to enter and succeed in a Registered Apprenticeship program. A pre-apprenticeship program should include the following elements:

   - training and curriculum that aligns with the skill needs of employers in the economy of the state or region involved;
   - access to educational and career counseling and other supportive services, directly or indirectly;
   - hands-on, meaningful learning activities that are connected to education and training activities, such as exploring career options, and understanding how the skills acquired through coursework can be applied toward a future career;
   - opportunities to attain at least one industry-recognized credential; and
   - a partnership with one or more Registered Apprenticeship programs that assist in placing individuals who complete the pre-apprenticeship program in a Registered Apprenticeship program.

6. Registered Apprenticeship program

   A Registered Apprenticeship program is an apprenticeship program that is registered with the US Department of Labor Office of Apprenticeship.

7. subaward

   The term subaward[30] means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out some or all of the activities permitted or required under a Federal award received by the pass-through entity. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

[28] 2 CFR § 200.74
[29] 20 CFR § 681.480. TEN 13-12 provides additional information on quality pre-apprenticeship programs and is accessible at https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-13-12.
[30] 2 CFR § 200.92

8. subrecipient

   The term subrecipient[31] means a non-Federal entity that receives a subaward from a pass-through entity to carry out some or all of the activities permitted or required under a Federal program (e.g., Title I youth, adult, and dislocated worker programs). The term subrecipient also refers to any entity to which a local board provides a subaward for the administration of some or all of the requirements of the subaward provided to the local board by NDOL for administration of Title I youth, adult, and dislocated worker activities. The term subrecipient does not include an individual that is a participant in the program.

[31] 2 CFR § 200.93

APPENDIX II. Pre-award review procedures

Local area staff must conduct a pre-award review to determine an employer's eligibility to provide OJT prior to entering into an OJT contract with the employer. The pre-award review must be documented using the Employer Assurances and Certifications for On-the-Job Training form provided as part of this appendix.

The pre-award requirements described in this appendix must be completed and documented jointly by local area staff and the employer.[32] If the employer has signed an Employer Assurances and Certifications for On-the-Job Training form and an OJT contract within the preceding six months, the employer is not required to execute a new Employer Assurances and Certifications for On-the-Job Training form in order to enter into a new OJT contract for placement of another participant.

1. The pre-award review must include:

    a. verification of the employer's period of operation at its current location:

        i. if at its current location less than 120 calendar days proceed as described below in item 2;

    b. review and discussion of the Employer Assurances and Certifications for On-the-Job Training form by local area staff with the employer, either in person or by phone; and

    c. completion of the Employer Assurances and Certifications for On-the-Job Training form, including the employer's signature.

2. If the employer has relocated from another area in the United States, local area staff must verify that employees at the employer's other location(s) have not been laid off as a result of the relocation.[33] To perform this verification, local area staff must complete steps 2.a. and 2.b.

    a. Collect from the employer the:[34]

        i. names under which the employer does or has done business, including predecessors and successors in interest;[35]

        ii. information confirming whether WIOA Title I assistance is sought in connection with past or impending job losses at other facilities owned or operated by the employer, including predecessor and successors in interest; and

        iii. name, title, and address of the company official certifying the accuracy of collected information.

[32] 20 CFR § 683.260(b)
[33] WIOA Sec. 181(d)(2). Refer to Sections I(b)(4) and II(d) of the policy for information on this restriction.
[34] 20 CFR § 683.260(b)
[35] The phrase predecessors and successors in interest refers to previous and current persons or entities who held or hold rights or interests in the employer's business.

b. Consult with the Program Coordinator for NDOL's Rapid Response Program to determine and document whether WARN notices relating to the employer have been filed.[36]

Local area staff may also consult with labor organizations and others in the local area(s) from which the business relocated.[37]

As stated in Section I(b)(4) of the policy, if the employer's business, or any part of its business, has relocated and employees at the employer's other location(s) were laid off as a result of the relocation, the employer is not eligible to receive WIOA Title I funds for the provision of OJT until the employer has been in operation at its current location at least 120 calendar days.

3. The completed and signed Employer Assurances and Certifications for On-the-Job Training form must be incorporated into and made part of the OJT contract.

[36] 20 CFR § 683.260(b)
[37] Ibid.

Employer Assurances and Certifications for On-the-job Training

The assurances and certifications in this document detail specific requirements regarding on-the-job training (OJT) under the Workforce Innovation and Opportunity Act of 2014 that apply to <insert employer/business name> (Employer) as a provider of OJT. The assurances and certifications herein do not limit in any way the responsibilities of Employer. Employer is subject to all applicable Federal and state laws, rules, regulations, policies, and procedures with regard to the provision of OJT to an individual participating in the OJT. By signing this document, Employer assures and certifies, as applicable, that Employer will abide by the requirements, limitations, and restrictions described herein, in addition to all applicable Federal and state laws, rules, regulations, policies, and procedures.

Assurances

1. Employer assures that during OJT:

    a. an individual participating in OJT will be compensated at the same rates, including periodic increases, as other trainees or employees who are similarly situated in similar occupations by Employer and who have similar training, experience, and skills;

    b. the compensation rate for an individual participating in OJT will comply with all applicable Federal and state laws and not be less than the higher of the Federal minimum wage rate, state minimum wage, or local minimum wage; and

    c. an individual participating in OJT will be provided benefits and working conditions comparable to those of other trainees or employees working a similar length of time and doing the same type of work for Employer.

2. Employer assures that:

    a. an individual participating in OJT is not displacing (including partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any current employee of the employer as of the date of the individual's participation in OJT;

    b. the placement of an individual participating in OJT is not impairing existing contracts for services or collective bargaining agreements, or, if the placement is inconsistent with a collective bargaining agreement, the appropriate labor organization and Employer have provided written agreement with the placement before the placement begins;

    c. no other employee of Employer is on layoff from the same or any substantially equivalent job;

    d. Employer has not terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy with the participant;

    e. Employer has not created a position for the participant within a promotional line that infringes in any way on the promotional opportunities of current employees (as of the individual's date of participation in OJT); and

    f. regular employees and individuals participating in OJT who are alleging displacement are informed of their right to file a complaint according to the grievance procedures described in the State's current policy on OJT.

3. Employer assures that it will abide by all applicable Federal and state health and safety standards and that workers' compensation coverage will be provided for an individual participating in OJT as required under the Nebraska Workers' Compensation Act (Neb. Rev. Stat. §§ 48-101 through 48-1,118).

4. Employer assures that it will not discriminate against any individual participating in OJT on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, citizenship or status as a lawfully admitted immigrant authorized to work in the United States.

5. Employer assures that Employer will not discriminate against any individual participating in OJT with respect to the terms and conditions affecting, or rights provided to, the individual solely because of the individual's status as an OJT participant.

6. Employer assures that no individual participating in OJT will carry out the construction, operation, or maintenance of any part of any facility that is or will be used for religious instruction or as a place for religious worship.

7. Employer assures that no funds provided under an OJT contract will be used to encourage or induce the relocation of a business, or part of a business, that results in a loss of employment for any employee at the original location of the business.

8. Employer assures that no individual in a decision-making capacity within Employer's business, including any member of the Nebraska Workforce Development Board or a local workforce development board, will engage in any activity that creates a conflict of interest with regard to any OJT, including participation in (i) the selection, award, or administration of an OJT contract; and (ii) decisions relating to any matter which would provide any direct financial benefit to that individual or that individual's immediate family.

9. Employer assures that no funds provided to Employer for OJT will be used to directly or indirectly assist, promote or deter union organizing.

10. Employer assures that it will not charge any individual, including an individual participating in OJT, a fee for referral or placement of an individual in OJT.

11. Employer assures that it will not require or permit an individual participating in OJT to engage in any political activities as part of or during OJT.

12. Employer assures that, after an individual's completion of OJT, Employer intends to (i) retain the individual in the occupation for which the individual was trained and (ii) continue to compensate the individual at the hourly wage rate specified in the OJT contract or at a higher rate. Employer's retention of the individual is subject to Employer's right to terminate the individual for normal business or personnel reasons. However, "normal business or personnel reasons" does not include termination of the individual in order to enter into another OJT contract to train a new individual through OJT.

Certifications

13. Employer certifies that neither it, nor any of its principals, is (i) debarred, suspended, excluded, or declared ineligible by any Federal department or agency with regard to use of Federal funds; or (ii) proposed for debarment, suspension, exclusion, or ineligibility by any Federal department or agency with regard to use of Federal funds; or (iii) voluntarily excluded with regard to use of Federal funds.

14. Employer certifies that it complies with all Federal, state, and local laws regarding taxation and licensing, including the Nebraska Employment Security Law.

15. Employer certifies that it complies with the requirements of the Davis-Bacon Act, with regard to compensation of any individual including an individual participating in OJT, who is working as a laborer and/or mechanic in any construction, alteration or repair (including painting and decorating) of public buildings or works. Employer further certifies that all such individuals will be compensated in compliance with the Davis-Bacon Act.

16. Employer certifies that it has registered with and is using a Federal immigration verification system, as required under Neb. Rev. Stat. § 4-114, to determine the work eligibility status of all new employees physically performing services within the State of Nebraska.

Signature of authorized signatory for Employer Date

Printed name of authorized signatory for Employer

Employer's business name, complete address, and phone number

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Adult, Dislocated Worker, and Youth

Effective
May 3, 2023

Supersedes
Work-based Training
(effective April 6, 2018)

Work-based Training, Change 1

REFERENCE

Federal and state laws, regulations, rules, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Work-based training is an effective training strategy that provides additional opportunities for employers and adults and dislocated worker program participants.

CHANGES

Under this Change 1, footnotes have been revised for clarity and links have been updated, where necessary.

ACTION

This policy supersedes and cancels the State's policy title Work-based Training (effective April 6, 2018). Questions and comments on this policy may be submitted to the policy mailbox at ndol.wioa_policy@nebraska.gov.

Each local board must:

- if it uses transitional jobs as part of its service delivery strategy, implement a policy addressing the requirements stated in Section I(a)(1);
- if it uses customized training as a service strategy, implement a policy addressing the requirements stated in Section II(a);
- if it uses incumbent worker training as a service strategy, implement a policy addressing the requirements stated in Section II(b); and
- ensure that funds provided to employers for work-based training are not used to directly or indirectly engage in prohibited activities described in Section IV.

POLICY

This policy establishes requirements concerning work-based training opportunities, including:

- internships, work experiences, and transitional jobs for adults and dislocated workers;
- customized and incumbent worker training services for employers; and
- Registered Apprenticeship programs.

Requirements regarding on-the-job training (OJT) and work-based training for youth are addressed separately in the State's OJT and youth program policies.[1]

This policy is organized into four sections.

Section I. Work-based training services for adults and dislocated workers 3
(a) Internships and work experiences 3
Section II. Work-based training services for employers 4
(a) Customized training 4
(b) Incumbent worker training 6
Section III. Registered Apprenticeship programs 8
Section IV. Prohibited activities 9

[1] The State policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

Section I. Work-based training services for adults and dislocated workers

(a) Internships and work experiences

An internship or work experience:[2]

- is a planned, structured learning experience that takes place in a workplace for a limited period of time;
- may be paid or unpaid, as appropriate and consistent with laws such as the Fair Labor Standards Act (FLSA);[3] and
- may be arranged within the public, private, or non-profit sectors.

Labor standards apply in any work experience setting where an employee-employer relationship exists as defined by FLSA.[4]

(1) Transitional jobs

Transitional jobs:[5]

- provide a participant with work experience that takes place within the context of an employee-employer relationship, with the local program provider generally acting as the employer;
- are time-limited work experiences that are wage-paid and subsidized up to 100 percent and in the public, private, or non-profit sectors;
- are only available for adults and dislocated workers with barriers to employment who are chronically unemployed or have inconsistent work history.

Transitional jobs must be combined with other career services and supportive services and must be designed to:

- establish a work history for the participant;
- demonstrate success in the workplace; and
- develop skills that lead to entry into and retention in unsubsidized employment.

There is no requirement that the employer retain the individual upon completion of the transitional job; however, retention is preferred for the benefit of the worker and employer when appropriate.

[2] 20 CFR § 680.180
[3] Information on FLSA is accessible at https://www.dol.gov/agencies/whd/compliance-assistance/handy-reference-guide-flsa.
[4] Ibid.
[5] 20 CFR §§ 680.190 and 680.195; TEGL 19-16

(A) Funding

A local board may use up to 10 percent of the combined total of its adult and dislocated worker allocations for a program year for transitional jobs.[6]

(B) Local policy

If a local board uses transitional jobs as part of its service delivery strategy,[7] it must identify appropriate employers and implement a local policy that:

- establishes the amount of reimbursements for the jobs (up to 100 percent of the wage);
- defines what supportive services must be included;
- establishes limits on the duration of the transitional job; and
- defines and identifies individuals who are chronically unemployed or have an inconsistent work history, such as long-term unemployed individuals, ex-offenders, and individuals who are currently receiving or have exhausted Temporary Assistance for Needy Families (TANF) benefits.

Section II. Work-based training services for employers

(a) Customized training

Customized training is training:[8]

- designed to meet the special requirements of an employer or group of employers; and
- conducted with a commitment by the employer or employers to employ an individual or group of individuals upon successful completion of the training.

Customized training of eligible employed individuals may be provided for an employer or group of employers when the:[9]

- employee or group of employees are not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment;

[6] 20 CFR § 680.195
[7] 20 CFR § 680.195; TEGL 19-16
[8] WIOA Sec. 3(14); 20 CFR § 680.760
[9] 20 CFR § 680.770

- training relates to:[10]
    - introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or workplace literacy; or
    - other appropriate purposes identified by the local board.

(1) Funding

The employer or group of employers receiving work-based training services must pay for a significant portion of the cost of customized training, taking into account:[11]

- the size of the employer or group of employers; and
- other factors, including the:
    - number of employees participating in training;
    - wage and benefit levels of participating employees, at present and anticipated upon completion of the training;
    - relation of the training to the competitiveness of the participating employees; and
    - other employer-provided training and advancement opportunities.

In the case of an employer or group of employers located in multiple local areas in the state, the employer or group of employers receiving work-based training services must pay a significant portion of the cost of the training as determined by NDOL, taking into account the size of the employer or group of employers and other factors NDOL determines appropriate.

(2) Local policy

If a local board uses customized training as part of its service delivery strategy, it must implement a policy for determining what constitutes the employer's payment of a significant portion of the cost of training, taking into account the:[12]

- size of the employer; and
- other factors the local board determines are appropriate, which may include the:
    - number of employees participating in training;
    - wage and benefit levels of participating employees, at present and anticipated upon completion of the training;

[10] 20 CFR § 680.710(c)
[11] TEGL 19-16
[12] Ibid.

- relation of the training to the competitiveness of the participating employees; and
- other employer-provided training and advancement opportunities.

(b) Incumbent worker training

Incumbent worker training (IWT) is training designed to meet the special requirements of an employer or group of employers. IWT must not be used to provide occupational training for new hires.[13] IWT services may be provide to either:

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

IWT services must be conducted with a commitment by the employer to retain or avert the layoffs of the workers trained.

(1) Employer eligibility

The local board must determine an employer's eligibility for IWT services based on the following factors to evaluate whether IWT services would increase the competitiveness of the workers only or the workers and employer:[14]

- characteristics of the workers to be trained;
- whether IWT improves the labor market competitiveness of the workers only or the workers and employer; and
- other factors, including:
  - employer size;
  - number of workers to be trained;
  - wages and benefits, both pre- and post-training increases;
  - existence of other training and advancement opportunities provided by the employer;
  - credentials and skills to be gained as a result of IWT;
  - layoffs averted as a result of IWT; or
  - utilization of IWT services as part of a larger sector and/or career pathway strategy.

[13] 20 CFR § 680.790; TEGL 19-16
[14] WIOA Sec. 134(d)(4)(A)(ii); 20 CFR § 680.810; TEGL 19-16

(2) Worker eligibility

For an employer to receive IWT services, the workers to be trained must: [15]

- be employed by the employer;
- meet FLSA requirements for an employer-employee relationship; and
- have an established employment history with the employer of six months or more, with the following exception.

In the event that IWT is being provided to a cohort of workers, not every worker in the cohort must have an established employment history with the employer of six months or more, as long as a majority of workers being trained meet the employment history requirement.

A worker does not have to meet eligibility requirements for career and training services unless the worker is enrolled as a participant in the local adult or dislocated worker program.

(3) Funding

The local board may reserve up to 20 percent of its combined total of adult and dislocated worker allocations for a program year for IWT services.[16] This 20 percent may be used for IWT activities that are programmatic in nature. Administrative IWT activities must be paid out of the local board's administrative funds.

(A) Cost-sharing requirements

Employers participating in IWT must pay the non-Federal share of the cost of providing training to their incumbent workers.[17] The minimum amount of the employer's non-Federal share depends on the size of the employer and must not be less than:

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

The employer share must be reported by the local board as program income in its quarterly financial reports.[18]

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[15] 20 CFR § 680.780; TEGL 19-16. The State's adult and dislocated worker program policy provides information on eligibility requirements for career and training services and is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

[16] WIOA Sec. 134(a)(3)(A)(i); 20 CFR §§ 680.790, 680.800, 682.210(b), and 682.320(b)(4); TEGL 19-16

[17] WIOA Secs. 134(d)(4)(C) and 134(d)(4)(D)(i)-(iii); 20 CFR § 680.820; TEGL 19-16

[18] The State's policy on program funding provides information pertaining to requirements for program income reporting and is included in the State policy manual which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

(4) Local policy

If a local board uses IWT as part of its service delivery strategy, it must implement a policy, which must comply with the requirements established under 20 CFR §§ 680.780 through 680.820 and TEGL 19-16 and must:[19]

- establish methods for determining which employers and workers are eligible for incumbent worker services;
- establish methods for determining the non-Federal share of the cost of IWT services, which must include consideration of:
    - wage and benefit levels of the employees, pre- and post-training;
    - relationship of IWT to the competitiveness of the workers and employer; and
    - availability of other employer-provided training and advancement opportunities;
- establish methods for payment of the non-Federal share of the cost of IWT, which may be done through both cash payments and fairly evaluated in-kind contributions and may include the wages the employer pays to the worker trainee while the worker is attending training;
- define processes for documenting the six-month work-history requirement; and
- require a contract between the local board and the employer that:
    - defines the scope of IWT services;
    - identifies the non-Federal share of the cost of IWT to be paid by the employer; and
    - describes the process for documenting the six-month work-history requirement with the employer.

Local IWT policies must be consistent with local plans and career pathways and sector strategy approaches for in-demand occupations.

Section III. Registered Apprenticeship programs

As an earn-and-learn strategy, Registered Apprenticeship (RA) offers job seekers immediate employment opportunities that pay sustainable wages and offer advancement along a career pathway.[20] Graduates of RA programs receive nationally-recognized, portable credentials, and their training may be applied toward further postsecondary education. WIOA funds may be used to support RA programs through the services listed in Table 1.

[19] 20 CFR § 680.780; TEGL 19-16
[20] 20 CFR § 680.740; TEGL 13-16

Table 1. WIOA services supporting RA

Service	Method of support
Youth occupational skills training (OST)	Youth program funds may be used for RA as an OST option for youth ages 16 – 24.
Individual training accounts (ITAs)	ITAs can be used to support: ▪ the educational portion (i.e., related instruction component) of the RA for eligible apprentices, provided the RA program is included on the ETPL; and ▪ pre-apprenticeship training in preparation for formal RA, provided the pre-apprenticeship program is on the ETPL.
On-the-job training (OJT)	OJT contracts may be entered into with RA program sponsors, or employers participating in RA programs, for the OJT portion of the program. Depending on the length of the program and the requirements of State and local OJT policies, WIOA funds may cover some or all of the OJT. If WIOA-funded, the OJT portion of an RA program must be conducted according to the requirements of 20 CFR §§ 680.700 and 680.710 and State and local policies on OJT.
Supportive services	WIOA funds may support a variety of supportive services for apprentices, including books, supplies, child care, transportation, tools, and uniforms, subject to the requirements and limitations of 20 CFR § 680.900 through 680.970 and state and local policies on supportive services.
Contracted classes for training cohorts for related instruction	In certain cases, a local board may, instead of using ITAs, contract with an ETP to train a cohort of potential apprentices in in-demand industry sectors or occupations, provided the apprentices (or potential apprentices) meet the youth, adult, or dislocated worker eligibility requirements for training services. Such a contract must adhere to the procurement standards found in the Uniform Guidance and the requirements of the State's adult and dislocated worker program policy. A local board may also use incumbent worker training funds to provide training to a cohort of apprentices.
Customized training	A local board can support RA program sponsors and apprentices through customized training agreements.
Incumbent worker training	A local board may use up to 20 percentage of the local allocations for adult and dislocated worker programs to pay the Federal share of the cost of incumbent worker training, enabling current workers to remain on the job while in training provided through an RA program.

Section IV. Prohibited activities

Funds provided to employers for work-based training must not be used to directly or indirectly:

- assist, promote, or deter union organizing;[21] or
- aid in the filling of a job opening which is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.[22]

[21] 20 CFR § 680.830
[22] 20 CFR § 680.840

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

6. Jobs for Veterans State Grant program

NDOL Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16th Street Lincoln, NE 68508 402.471.9000 ndol.wioa_policy@nebraska.gov	Policy category Jobs for Veterans State Grant Program Effective September 5, 2025 Rescinds None

Jobs for Veterans State Grants Program (JVSG) and Roles and Responsibilities of American Job Center (AJC) Staff Serving Veterans

REFERENCE

Federal and State of Nebraska (State) laws, rules, regulations, guidance, and policies relied upon for development of this policy are cited in footnotes or elsewhere. NDOL policies cited in this policy are included in the state policy manual.

BACKGROUND

The US Department of Labor Employment and Training Administration (ETA) and Veterans Employment and Training Service (VETS) issued TEGL 03-24 and VPL 05-24, which:

- identify and consolidate roles, responsibilities, and duties JVSG staff are expected to perform in collaboration with AJC staff providing WIOA services to Veterans; and
- emphasize statutory JVSG staff duties and staffing flexibilities to maximize integration of services and collaboration within AJCs.

ACTION

NDOL

Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

NDOL-administered programs

NDOL administrators of the following programs must ensure that they and their program staff adhere to the requirements of this policy, as well as all applicable Federal and State laws, rules, regulations, guidance, and policies.

- Jobs for Veterans State Grant program (JVSG);
- Title III Wagner-Peyser Employment Service (Wagner-Peyser), including the Monitor Advocate System;
- Trade Adjustment Assistance program (TAA); and
- National Dislocated Worker Grant programs (DWGs).

Local boards

Local boards must ensure that they and their local administrative entity staff and Title IB service providers and their staff adhere to the requirements of this policy, as well as all applicable Federal and State laws, rules, regulations, guidance, and policies.

POLICY

This policy provides information concerning JVSG staff roles and responsibilities and JVSG coordination of WIOA services for Veterans and has three sections.

Section I. JVSG roles and responsibilities 2
(a) Overview 2
(b) JVSG staff: General roles and responsibilities 2
(c) JVSG staff: Limitations and requirements 3
Section II. AJC staff roles and responsibilities 3
Section III. JVSG staff integration in AJCs 4

Section I. JVSG roles and responsibilities

(a) Overview

JVSG is a required one-stop partner[1] pursuant to 29 USC § 3151(b)(1)(B). Therefore, JVSG services must be accessible through all Nebraska AJCs and throughout all Nebraska local area one-stop delivery systems. TEGL 03-24 and VPL 05-24 clarify statutory duties of JVSG staff to ensure that:

- eligible individuals receive the best combination of services;
- Local Veterans Employment Representatives (LVER) conduct targeted outreach to assist employers in fulfilling their workforce needs with job-seeking veterans, as described under 38 USC § 4104; and
- Disabled Veterans Outreach Program (DVOP) specialists devote time to provide individualized career services to those most in need, as described under 38 USC § 4103A.

ETA and VETS jointly developed Section IX of VPL 05-24, "AJC Staff Roles in JVSG." TEGL 03-24 highlights that section for ETA grantees and incorporates VPL 05-24 for grantee knowledge and awareness of the requirements applicable to JVSG and DVOP and LVER staff. Throughout this policy, the term "AJC staff" refers to USDOL-funded program staff who work in AJCs, other than those staff funded by JVSG.

(b) JVSG staff: General roles and responsibilities

(1) DVOP roles and responsibilities

DVOP specialists provide individualized career services and facilitate placements to meet the employment needs of eligible Veterans and eligible persons.[2]

1. DVOPs must deliver those services to eligible veterans in the following priority order:
    a. first, to special disabled veterans;
    b. second, to other disabled veterans; and
    c. third, to other eligible veterans in accordance with priorities determined by the Secretary of Labor.
2. DVOP specialists must limit their activities to providing services to eligible populations that are:
    a. interested in receiving one or more individualized career services; and
    b. meet at least one of the following two criteria:
        i. are defined as an eligible veteran or eligible person and are experiencing at least one of the qualifying employment barriers defined in Section VI.A.1 of VPL 05-24; or
        ii. are members of additional populations eligible for DVOP specialist services as authorized by the current annual appropriations act, as outlined in Section VI.A.2. of VPL 05-24.
3. Further, DVOP specialists should engage with local area one-stop delivery system service providers to:
    a. maximize the number of individuals referred by service providers, who are both eligible for and could benefit from DVOP specialist services; and
    b. enhance outcomes for individuals that DVOP specialists refer to other providers.

[1] Required one-stop partners are listed under 29 USC § 3151(b)(1)(B). Refer to NDOL's policy on MOUs and local funding mechanisms for additional information applicable to required-one-stop partners.
[2] 38 USC § 4103A; TEGL 03-24; VPL 05-24

c. strengthen community awareness concerning the array of services available through the statewide one-stop delivery system.

Refer to TEGL 03-24 and VPL 05-24 for:

- definitions of *qualifying employment barriers* and *additional populations*;
- information on JVSG participant eligibility and privacy; and
- descriptions of DVOP case management and individualized career services.

(2) LVER roles and responsibilities

Pursuant to 38 USC § 4104(b), TEGL 03-24, and VPL 05-24, LVER principal duties are to:

- conduct targeted outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and
- facilitate employment, training, and placement services furnished to veterans in a state under the applicable state employment service delivery systems.

(c) JVSG staff: Limitations and requirements

In accordance with 38 USC §§ 4103A(d) and 4104(c), JVSG staff are prohibited from performing duties that detract from their ability to meet the employment needs of eligible veterans and other eligible populations with qualifying employment barriers. AJC staff will continue to provide priority of service to other Veteran populations as described in VPL 07-09 and TEGL 10-09.

JVSG staff must not be placed in a situation where they are at risk of performing duties that fall outside of their roles and responsibilities, including but not limited to the following duties.[3]

1. DVOPs and LVERs must not be required at any time to:
    a. perform AJC front desk duties, including greeting incoming customers, conducting intake, or screening customers for eligibility;
    b. check in customers at job/resource fairs; however:
        i. DVOPs may attend such events to network with other resource providers; and
        ii. LVERs may attend such events to network with employers.
    c. determine customer eligibility for other services.
2. DVOPs must not:
    a. serve individuals who have not been screened for eligibility and entered into the state's management information system (NEworks[4]);
    b. administer job preparation workshops if any of the workshop participants are not DVOP-eligible populations; or
    c. be assigned to monitor or control foot traffic during AJC events, unless the event is for DVOPs' current participants only.

Section II. AJC staff roles and responsibilities

This section highlights areas of TEGL 03-24 and VPL 05-24 critical to coordination between AJC staff and JVSG staff. Because JVSG is a required one-stop partner pursuant to WIOA Sec. 121(b)(1)(B)(viii) (i.e., 29 USC § 3151(b)(1)(B)(viii)), AJC staff play an important role in the JVSG program. AJC intake staff determine the service needs of incoming customers and screen them for eligibility and referral to appropriate program staff for services. The following subsections describe AJC staff responsibilities concerning JVSG.

1. *AJC staff services to Veterans*. AJC intake staff must refer Veterans and covered persons who are not eligible for (or who do not want or need DVOP specialist services) to other workforce programs, as appropriate.
2. *Screening and referring customers*. Appropriate initial screening can enhance customer experience by ensuring customers are initially referred to the program(s) best positioned to meet their needs. In carrying out JVSG programs, this screening also helps ensure that DVOP specialists deliver individualized career services to eligible customers as required by statute. Where a DVOP specialist is available to accept a new customer, each incoming customer must be screened and referred in accordance with this section.

[3] 38 USC § 4103A; TEGL 03-24; VPL 05-24
[4] NEworks is Nebraska's management information system of record with USDOL.

a. *Identify customer interests and needs*. Not all customers who are eligible for DVOP services are interested in receiving them. Prior to referring a customer to a DVOP specialist, intake staff must affirm the customer's interest in receiving one or more individualized career services. This may be done, for example, by showing a list of available DVOP-provided individualized career services and asking whether they are interested in learning more. A customer who does not need or wish to receive any of these services must not be referred to a DVOP specialist at that time.
b. *Ascertain customer eligibility*. AJC staff must determine whether a customer meets the eligibility criteria described in Section VI.A of VPL 05-24 before referral to a DVOP specialist.
c. *When a DVOP Specialist is unavailable*. If a DVOP specialist is not immediately available to accept a new participant, the AJC staff should provide appropriate services and referrals to meet the needs of the individual and to satisfy priority of service requirements, as described in VPL 07-09 and TEGL 10-09. AJC staff should inform the customer of the opportunity to make an appointment to see the DVOP specialist and/or be seen by other staff. The eligible customer may choose to make an appointment with the DVOP specialist at any point thereafter, even if they are participating in other workforce development program services. DVOP specialists are considered "unavailable" when they:
    i. have a full caseload (as determined by the NDOL);
    ii. are not present (physically or virtually); or
    iii. are in a meeting at the moment when a customer would otherwise be referred.
d. *Department of Veterans Affairs Veteran Readiness and Employment (VR&E) program participants*. Because not all VR&E participants are eligible for DVOP services, there is no exception to the screening requirement for VR&E participants. They must be screened for eligibility based on the criteria described in Section VI of VPL 05-24 prior to being referred for DVOP services.
e. *Documentation*. VETS does not require documentation of JVSG participants' eligibility at any point. USDOL-funded programs must adhere to the requirements of their authorizing legislation concerning eligibility for their respective programs.
f. *Eligibility screening and referral through state management information systems*. Although this section speaks to the AJC intake staff duties, states may use an online system to screen customers for eligibility for DVOP services and to refer those who are eligible to an available DVOP specialist, subject to the following requirements.[5]
    i. Eligibility screening must include ascertaining the customer interest in receiving individualized career services, as well as the eligibility criteria listed in Section VI of VPL 05-24.
    ii. NDOL must apply a process to ensure that DVOP specialists do not receive more participant referrals than they have the capacity to serve. This process may be automated based on the DVOP specialist's current caseload, and/or it may include a manual override or intervention function to divert excess referrals to other AJC staff.

Section III. JVSG staff integration in AJCs

ETA and VETs champion cross-program collaboration and integration as a best practice that leads to the most effective and efficient service delivery to both jobseekers, workers, and employers. As stated in TEGL 03-24 and VPL 05-24, JVSG program legislation requires that JVSG staff be integrated into Nebraska's statewide one-stop delivery systems.

DISCLAIMER

This policy is based on NDOL's reading of applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional laws, rules, regulations, guidance, and policies are issued.

[5] NEworks is Nebraska's management information system of record with USDOL

7. Rapid Response

State Policy **Workforce Innovation and Opportunity Act (WIOA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Rapid Response

Effective
May 3, 2023

Supersedes
Rapid Response Services
(effective August 23, 2019)

Rapid Response Services, Change 1

REFERENCE

Federal and state laws, rules, and regulations and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

Rapid Response plays an important role in providing customer-focused services to dislocated workers and employers, promoting economic development and vitality, and delivering critically important solutions to workers and businesses in transition.

CHANGES

Under this Change 4, footnotes have been revised for clarity and links have been updated, where necessary. In addition, contact information for technical assistance has been updated in Section III.

ACTION

This policy supersedes and cancels the State's policy titled Rapid Response Services (effective August 23, 2019). Questions and comments on this policy may be submitted in writing to the policy mailbox at ndol.wioa_policy@nebraska.gov.

The State's Rapid Response activities must be conducted in accordance with the requirements of this policy and the State's Rapid Response Manual.[1]

POLICY

This policy defines:

- purposes and types of Rapid Response services;
- circumstances when Rapid Response services must be delivered; and
- Rapid Response roles and responsibilities.

This policy is organized into three sections.

Section I. Rapid Response purposes and services....2
(a) Purposes....2
(b) Required Rapid Response services....3
Section II. Circumstances requiring Rapid Response....5
Section III. Rapid Response roles and responsibilities....5

Section I. Rapid Response purposes and services

(a) Purposes

The purposes of Rapid Response are to promote economic recovery and vitality by:

- developing an ongoing, comprehensive approach to identifying, planning for, responding to layoffs and dislocations; and
- preventing or minimizing the impact of layoffs and dislocations on workers, businesses, and communities.

A successful Rapid Response system includes:[2]

- informational and direct reemployment services for workers, including information and support for filing unemployment insurance claims, information on the impacts of layoff on

[1] The Rapid Response Manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/ManualsPlansReports.
[2] 20 CFR §§ 682.300(b)(1)-(4); TEGL 19-16

health coverage or other benefits, information on and referral to career services, reemployment-focused workshops and services, and training;

- delivery of solutions to address the needs of businesses in transition, provided across the business lifecycle (expansion and contraction), including comprehensive business engagement and layoff aversion strategies and activities designed to prevent or minimize the duration of unemployment;

- convening, brokering, and facilitating the connections, networks, and partners to ensure the ability to assist dislocated workers and their families, such as home heating assistance, legal aid, and financial advice; and

- strategic planning, data gathering and analysis designed to anticipate, prepare for, and manage economic change.

(b) Required Rapid Response services

Rapid Response services must include:[3]

1. layoff aversion activities, as applicable;

2. immediate and on-site contact with the employer, representatives of the affected workers, and the local community, including an assessment of and plans to address the:

    a. layoff plans and schedule of the employer;

    b. background and probable assistance needs of the affected workers;

    c. reemployment prospects for workers; and

    d. available resources to meet the short and long-term assistance needs of the affected workers;

3. provision of information and access to unemployment compensation benefits and programs, such as short-time compensation, comprehensive one-stop delivery system services, and employment and training activities, including information on the TAA program, Pell Grants, the GI Bill, and other resources;

4. delivery of other necessary services and resources including workshops and classes, use of worker transition centers, and job fairs, to support reemployment efforts for affected workers;

5. partnership with local workforce development boards (local boards) and local area chief elected officials (CEOs) to ensure a coordinated response to the dislocation event and, as needed, obtain access to state or local economic development assistance, which may include the development of an application for a National Dislocated Worker Grant;

6. provision of emergency assistance adapted to the particular layoff or disaster;

[3] 20 CFR § 682.330; TEGL 19-16

7. as appropriate, development of systems and processes for:

    a. identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion;

    b. analyzing, and acting upon, data and information on dislocations and other economic activity in the state, region, or local area; and

    c. tracking outcome and performance data and information related to the activities of the rapid response program;

8. developing and maintaining partnerships with other appropriate Federal, state and local agencies and officials, employer associations, technical councils, other industry business councils, labor organizations, and other public and private organizations, as applicable, in order to:

    a. conduct strategic planning activities to develop strategies for addressing dislocation events and ensuring timely access to a broad range of necessary assistance; and

    b. develop mechanisms for gathering and exchanging information and data relating to potential dislocations, resources available, and the customization of layoff aversion or rapid response activities, to ensure the ability to provide rapid response services as early as possible;

9. delivery of services to worker groups for which a petition for TAA has been filed;

10. provision of additional assistance to local areas that experience disasters, mass layoffs, or other dislocation events for the provision of direct career services to participants if there are not adequate local funds available to assist the dislocated workers;

11. provision of guidance and financial assistance as appropriate, in establishing a labor-management committee (if voluntarily agreed to by the employee's bargaining representative and management), which may devise and oversee an implementation strategy that responds to the reemployment needs of the workers, such as:

    a. provision of training and technical assistance to members of the committee; and

    b. funding the operating costs of a committee to enable it to provide advice and assistance in carrying out rapid response activities and the design and delivery of WIOA-authorized services to affected workers.

Section II. Circumstances requiring Rapid Response

Rapid Response services must be delivered when one or more of the following circumstances occur:[4]

- announcement or notification of a permanent closure, regardless of the number of workers affected;
- announcement or notification of a mass layoff;
- a mass job dislocation resulting from a natural or other disaster; or
- the filing of a Trade Adjustment Assistance (TAA) petition.

A mass layoff occurs when at least one of the following conditions have been met:[5]

- layoff affects 50 or more workers;[6] or
- Worker Adjustment and Retraining Notification (WARN) Act notice has been filed, regardless of the number of workers affected by the layoff.

Section III. Rapid Response roles and responsibilities[7]

Using funds reserved by the Governor from the state's allotment of dislocated worker funds, Rapid Response activities are carried out by the State (or its designee(s)[8]) in conjunction with local boards, chief elected officials, and other workforce system shareholders. Delivery of Rapid Response services must be carried out in accordance with the State's Rapid Response Manual[9]

For Rapid Response technical assistance, send an email to ndol.rapidresponse@nebraska.gov.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

[4] 20 CFR § 682.302(a)-(d); TEGL 19-16
[5] 20 CFR § 682.305(b)-(c); TEGL 19-16
[6] Only the State is permitted to define mass layoff differently [20 CFR § 682.305(a)-(b); TEGL 19-16]
[7] WIOA Secs. 133(a)(2) and 134(a)(2); 20 CFR § 682.310; TEGL 19-16
[8] Designees are permitted under 20 CFR 682.310(a).
[9] The Rapid Response Manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/ManualsPlansReports.

7. Trade Adjustment Assistance

State Policy **Trade Adjustment Assistance (TAA)**

Nebraska Department of Labor (NDOL)
Division of Reemployment Services
550 South 16th Street
Lincoln, NE 68508
402.471.9000
ndol.wioa_policy@nebraska.gov

Policy category
Trade Adjustment Assistance

Effective
August 29, 2023

Supersedes
Trade Adjustment Assistance Program, Change 3
(effective May 3, 2023)

Trade Adjustment Assistance Program, Change 4

REFERENCE

Federal and state laws, rules, and regulations and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

BACKGROUND

The Trade Adjustment Assistance program (TAA) is a Federal program that assists US workers who have lost or may lose their jobs because of foreign trade. TAA provides trade-affected workers with opportunities to obtain the skills, credentials, resources, and support necessary for reemployment. TAA benefits available to eligible workers vary depending on whether the workers are covered by the provisions of statutes authorizing the 2002 program, 2009 program, 2011 program, 2015 program, or Reversion 2021. In addition to the benefits provided under the applicable Federal TAA program, trade-affected workers are generally eligible for basic and individualized career services provided at or through American Job Centers by NDOL TAA.

CHANGES

Under this Change 4, APPENDIX I has been revised to indicate that use of funding for employment services is now allowable, pursuant to TEGL 24-20 Change 1.

ACTION

This policy supersedes and cancels the policy titled Trade Adjustment Assistance Program, Change 2. Questions and comments on this policy may be submitted in writing to the Trade program mailbox at ndol.tradeact@nebraska.gov.

NDOL must administer TAA in accordance with applicable authorizing Federal statutes and directives and guidance issued by the US Department of Labor regarding the 2002, 2009, 2011, and 2015 programs and Reversion 2021.

POLICY

This policy:

- establishes requirements regarding mandatory co-enrollment of eligible TAA participants in local WIOA Title I dislocated worker programs;
- establishes a revised expenditure cap on TAA funded training services;
- establishes a process for TAA staff to submit requests to exceed the expenditure cap on TAA funded training services;
- establishes a process for TAA participants to appeal denied request to exceed the established expenditure cap on TAA funded training services; and
- identifies statutes, directives, and guidance issued by the US Department of Labor governing NDOL's implementation of TAA.

This policy has three sections and three appendices.

Section I. TAA authorizing statutes, directives, and guidance 3
Section II. Co-enrollment of TAA participants and coordination of services....3
Section III. Expenditure cap for TAA funded training services 3
(a) Submitting requests to exceed the expenditure cap....3
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APPENDIX I. Side-by-side comparison of TAA benefits under the 2002, 2009, 2011, and 2015 programs and Reversion 2021....5
APPENDIX II. Trade Adjustment Assistance for Workers Programs: Amending statutes....9
APPENDIX III. Directives and guidance for Trade Act programs....10

Section I. TAA authorizing statutes, directives, and guidance

The original authorizing statute for TAA is the Trade Act of 1974. The Trade Act has been amended many times since its enactment in January 1975.[1] NDOL implements TAA in accordance with the statutes, directives, and guidance identified in APPENDIX II and APPENDIX III.

Section II. Co-enrollment of TAA participants and coordination of services

Participants enrolled in TAA must be co-enrolled, if eligible, in the applicable local Title I dislocated worker program.[2] Further, TAA staff and local Title I dislocated worker program staff must coordinate service delivery and use of funding.

Section III. Expenditure cap for TAA funded training services

NDOL has established an expenditure cap for TAA funded training services.

- No more than $25,000 may be expended for TAA funded training services for an individual TAA participant.
- Costs for allowable travel *are* included in the calculation of the $25,000 expenditure cap.
- Costs for allowable relocation, job search assistance, etc., *are not* included in the calculation of the $25,000 expenditure cap.

(a) Submitting requests to exceed the expenditure cap

All requests to exceed the expenditure cap for TAA funded training services must be approved based on dollar amount by either the Director of NDOL's Reemployment Services Division or the Commissioner of Labor.

- The Director authorizes excess expenditures up to $5,000.
- The Commissioner authorizes excess expenditures exceeding $5,000.

TAA staff must submit requests to exceed the cap by email to ndol.tradeact@nebraska.gov.

[1] Refer to APPENDIX II for list of statutes amending the Trade Act of 1974.
[2] 20 CFR § 618.325. The State's policy on performance accountability addresses co-enrollment requirements and is included in the State policy manual, which is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

(b) Appealing denied requests to exceed the expenditure cap

TAA participants who wish to appeal denial of a request to exceed the expenditure cap on TAA funded training services must submit a written request for a hearing to the Commissioner of Labor within 20 calendar days of notification of denial. Written requests for a hearing must be sent to:

Commissioner of Labor
Nebraska Department of Labor
PO Box 94600
Lincoln, NE 68509-4600

Absent extenuating circumstances, the Commissioner will assign a hearing officer and a hearing will take place within 20 calendar days of the Commissioner's receipt of the written request for a hearing. The hearing will include:

- a statement of the reasons why the request to exceed the expenditure cap was denied; and
- an appeal by the participant describing why the decision should be reversed or a compromise established.

DISCLAIMER

This policy is based on NDOL's reading of the applicable laws, rules, regulations, and guidance released by the Federal government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

APPENDIX I. Side-by-side comparison of TAA benefits under the 2002, 2009, 2011, and 2015 programs and Reversion 2021[3]

Benefit	2002 program	2009 program	2011/2015 programs	2021 program
Group eligibility Defines the worker group that is eligible to apply for and potentially receive benefits through the TAA program	Manufacturing sector workers ONLY Workers who have lost their jobs because their company's decline in production and/or sales was due to increased imports or to the outsourcing of jobs to a country with which the U.S. has a Free Trade Agreement	• Manufacturing sector workers • Service sector workers Public sector workers ITC workers (those who work for a firm that has been identified by the International Trade Commission as a domestic industry that has been injured/is a party to a market disruption) Workers who have lost their jobs because their company's decline in production and/or sales was due to increased imports or to outsourcing to ANY country	• Manufacturing sector workers • Service sector workers ITC workers (those who work for a firm that has been identified by the International Trade Commission as a domestic industry that has been injured/is a party to a market disruption) Workers who have lost their jobs because their company's decline in production and/or sales was due to increased imports or to outsourcing to ANY country	Manufacturing sector workers ONLY No ITC-based certifications Workers who have lost their jobs because their company's decline in production and/or sales was due to increased imports or to outsourcing to limited countries No adversely affected incumbent workers.
Trade Readjustment Allowances (TRA) Income support available in the form of weekly cash payments to workers who are enrolled in a full-time training course	Up to 104 weeks of TRA available to workers enrolled in full-time training OR Up to 130 weeks of TRA available to workers enrolled in remedial training Must enroll in training within 8 weeks of certification or 16 weeks of layoff	Up to 130 weeks of TRA available to workers enrolled in full-time training OR Up to 156 weeks of TRA available to workers enrolled in remedial training Must enroll within 26 weeks of either certification or layoff	Up to 130 weeks of TRA available to workers enrolled in full-time training, the last 13 of which are only available if needed for completion of a training program and training benchmarks are met Must enroll within 26 weeks of either certification or layoff	Up to 130 weeks of TRA available to workers enrolled in full-time training, the last 13 of which are only available if needed for completion of a training program and training benchmarks are met Must enroll within 8 weeks of certification or 16 weeks of layoff

[3] U.S. Department of Labor, "Side-by-Side Comparison of TAA Program Benefits under the 2002 Program, 2009 Program, 2011 Program, 2015 Program, and Reversion 2021," https://www.dol.gov/sites/dolgov/files/ETA/tradeact/pdfs/side-by-side.pdf (accessed April 28, 2023)

Benefit	2002 program	2009 program	2011/2015 programs	2021 program
Training waivers Basic TRA is payable if an individual participates in TAA training OR is under a waiver of the requirement to participate in training. Training may be determined not feasible or appropriate and waived as a requirement for basic TRA eligibility for the following reasons:	1. The worker will be recalled to work reasonably soon 2. The worker has marketable skills for suitable employment and a reasonable expectation of employment in the foreseeable future 3. The worker is within two years of eligibility for a pension or social security 4. The worker is unable to participate in or complete training due to a health condition 5. No training program is available 6. An enrollment date is not immediately available	1. The worker will be recalled to work reasonably soon 2. The worker has marketable skills for suitable employment and a reasonable expectation of employment in the foreseeable future 3. The worker is within two years of eligibility for a pension or social security 4. The worker is unable to participate in or complete training due to a health condition 5. No training program is available 6. An enrollment date is not immediately available	1. The worker is unable to participate in or complete training due to a health condition 2. No training program is available 3. An enrollment date is not immediately available	1. The worker is unable to participate in or complete training due to a health condition 2. No training program is available 3. An enrollment date is not immediately available
Training funding Funds to states to pay for TAA training.	$220 Million Statutory Cap Applies to Training Funds Only	$575 Million Statutory Cap Applies to Training Funds Only	$575 Million (2011) $450 Million (2015) Statutory Cap Applies to Training, Job Search and Relocation Allowances, Case Management and Employment Services, and related State Administration	$220 Million Statutory Cap Applies to Training Funds Only
State administration funding Funds to states to pay for state administration of TAA benefits, not administration of TRA or ATAA/RTAA (covered by UI Funding Agreement)	An additional 15% above the amount provided for training is available for State Administration	An additional 15% above the amount provided for training is available for State Administration, and Case Management and Employment Services	No more than 10% of the amount provided may be spent for State Administration	Funding available for state administration
Job search and relocation allowances funding Funds to states to pay allowances	Additional funds are available for job search and relocation allowances	Additional funds are available for job search and relocation allowances	Included in training funding	Additional funds are available for job search and relocation allowances

Benefit	2002 program	2009 program	2011/2015 programs	2021 program
Case management funding Funds to states to pay for TAA case management and employment services	No funds are available for TAA Case Management and Employment Services	• At least 1/3 of these funds must be used for TAA Case Management and Employment Services • States also receive $350,000/year for TAA case management and employment services	• No less than 5% of the amount provided may be spent for TAA Case Management and Employment Services • DOL may recapture unobligated funds and redistribute funds, as needed	Use of funding for employment services is allowable.[4]
Job search allowances A cash allowance provided to workers who cannot find an available job within the commuting area (e.g., 50 miles); used to cover transportation costs, etc.	90% of allowable job search costs, up to a maximum of $1,250	100% of allowable job search costs, up to a maximum of $1,500	90% of allowable job search costs, up to a maximum of $1,250	90% of allowable job search costs, up to a maximum of $1,250
Relocation allowances A cash allowance provided to workers who have to accept a job outside of their commuting area and relocate	90% of allowable relocation costs, plus an additional lump sum payment of up to $1,250	90% of allowable relocation costs, plus an additional lump sum payment of up to $1,250	90% of allowable relocation costs, plus an additional lump sum payment of up to $1,250	90% of allowable relocation costs, plus an additional lump sum payment of up to $1,250.
Alternative Trade Adjustment Assistance (ATAA)/Reemployment Trade Adjustment Assistance (RTAA) A wage supplement provided to eligible workers over the age of 50 that supplements a portion of the wage difference between their new wage and their old wage (up to a specified maximum amount).	Alternative Trade Adjustment Assistance (ATAA) • Requires a separate group certification • Available to workers earning less than an annual salary of $50,000 • Maximum total ATAA benefit of up to $10,000 • Reemployed within 26 weeks of separation • Reemployed in full time employment • Training benefit NOT available	Reemployment Trade Adjustment Assistance (RTAA) • Does not require a separate group certification • Available to workers earning less than an annual salary of $55,000 • Maximum total income support (RTAA and TRA) benefit of $12,000 • Reemployed with no deadline • Reemployed in full-time or part-time employment in combination with approved training • Training benefit is also available	Reemployment Trade Adjustment Assistance (RTAA) • Does not require a separate group certification • Available to workers earning less than an annual salary of $50,000 • Maximum total income support (RTAA and TRA) benefit of $10,000 • Reemployed with no deadline • Reemployed in full-time or part-time employment in combination with approved training • Training benefit is also available	Alternative Trade Adjustment Assistance (ATAA) • Requires a separate group certification • Available to workers earning less than an annual salary of $50,000 • Maximum total ATAA benefit of $10,000 • Reemployed within 26 weeks of separation • Reemployed in full time employment • Training benefit NOT available

[4] TEGL 24-20 Change 1

Benefit	2002 program	2009 program	2011/2015 programs	2021 program
Health Coverage Tax Credit (HCTC) A tax credit offered to eligible TAA recipients to help pay for qualified health insurance premiums of the worker and their family	72.5% of qualifying health insurance premium costs (refer to http://www.irs.gov/Individuals/HCTC)	72.5% of qualifying health insurance premium costs (refer to http://www.irs.gov/Individuals/HCTC)	72.5% of qualifying health insurance premium costs (refer to http://www.irs.gov/Individuals/HCTC)	72.5% of qualifying health insurance premium costs (refer to http://www.irs.gov/Individuals/HCTC)

APPENDIX II. Trade Adjustment Assistance for Workers Programs: Amending statutes[5]

Year	Law Amending Trade Act of 1974	TAA program, as Amended by this law	Effective dates of amendments	Explanation
2002	Trade Adjustment Assistance Reform Act of 2002 (TAA Reform Act)	The Trade Act of 1974, title II, chapter 2, as amended in 2002 by the TAA Reform Act (2002 TAA Program)	Applies to petitions filed between November 4, 2002 and May 18, 2009 and on or after February 15, 2011 through October 20, 2011* **Some workers covered under these petitions may receive 2011 TAA Program benefits*	The President signed into law the Trade Adjustment Assistance Reform Act of 2002 (TAA Reform Act) on August 6, 2002. It reauthorized the TAA Program through fiscal year 2007.
2009	Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA)	The Trade Act of 1974, Title II, Chapter 2, as amended in 2009 by the TGAAA (2009 TAA Program)	Applies to petitions filed between May 18, 2009 and February 14, 2011	The President signed into law the ARRA, which contained the TGAAA, on February 17, 2009. The Omnibus Trade Act of 2011 (Public Law 111-344) extended the 2009 Amendments for six weeks
2011	Trade Adjustment Assistance Extension Act of 2011 (TAAEA)	Trade Act of 1974, title II, chapter 2, as amended in 2011 by the TAAEA)	Applies to petitions filed on or after October 21, 2011* **Some workers covered under petitions filed on or after February 15, 2011 through October 20, 2011 may be eligible for 2011 TAA Program benefits*	The President signed into law the TAAEA on October 21, 2011.
2015	Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)	Trade Act of 1974, title II, chapter 2, as amended in 2015 by the TAARA 2015 (2015 Program)	Applies to petitions filed between June 29, 2015* and June 30, 2021 **OTAA will:* • *automatically reconsider negative determinations (denials) of petitions filed on or after January 1, 2014, and before June 29, 2015;* • *investigate petitions filed during that period for which a determination has not yet been issued; and* • *make a determination under the 2015 Program criteria.*	The President signed into law the TAARA 2015 on June 29, 2015.
Reversion 2021	Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)	Trade Act of 1974, title II, chapter 2, as amended in 2015 by the TAARA 2015 (2015 Program)	Applies to petitions filed on or after July 1, 2021	TAARA 2015, at Section 406, includes a provision that creates a modified version of the TAA Program, Reversion 2021, effective for all petitions filed on or after July 1, 2021.

[5] U.S. Department of Labor, "TAA Statutes," https://www.dol.gov/agencies/eta/tradeact/laws/statutes (accessed August 29, 2023)

APPENDIX III. Directives and guidance for Trade Act programs

The current listing of directives and guidance for Trade Act programs is accessible at https://www.dol.gov/agencies/eta/tradeact/law/directives.