

Greater Nebraska WIOA Title IB Policies

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Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 7/1/2017
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**Administrative Cost Limitations and Fiscal Management
(3/14/2024)**

Reference

Workforce Innovation and Opportunity Act (WIOA) Section 3, Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule, 2 CFR Part 200, 20 CFR § 683.205, 683.215, TEGL 12-14, Nebraska Department of Labor Policy on WIOA Title IB Program Funding

Purpose

This policy defines administrative cost limitations and fiscal management requirements.

Background

CEOs, local fiscal agents, and local workforce development boards (local boards) must adhere to requirements established in this policy; WIOA Sec. 107; rules, regulations, and guidance that implement WIOA; as well as all other applicable Federal and State laws, rules, regulations, guidance, and policy.

Policy

Administrative Cost Limitations

Limit

For each fiscal year, not more than 10 percent of the amount of program funds (Adult, DLW, & Youth) may be used by the local board for the administrative costs of carrying out youth workforce development activities or adult and dislocated worker employment and training activities.¹

Cost of Administration

The costs of administration, or “administrative costs,” are expenditures incurred by the Chief Elected Officials Board, Greater Nebraska Workforce Development Board, Administrative Entity, program service providers, and One-Stop Operator that are associated with the following functions:

1. Performing overall general administrative functions and coordination of those functions under Title IB of WIOA:
 - Accounting, budgeting, financial, and cash management functions;
 - Procurement and purchasing functions;
 - Property management functions;
 - Personnel management functions;
 - Payroll functions;

¹ WIOA Section 128(b)(4)(A)

- Coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;
 - Audit functions;
 - General legal services functions; and
 - Fiscal agent responsibilities
2. Performing oversight and monitoring responsibilities related to WIOA administrative functions;
 3. Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;
 4. Travel costs incurred for official business in carrying out administrative activities or the overall management of the WIOA system; and
 5. Costs of information systems related to administrative functions (for example, personnel, procurement, purchasing, property management, accounting, and payroll systems) including the purchase, systems development, and operating costs of such systems.²

These costs can be both personnel and non-personnel, and both direct and indirect.

Activities that can be Administrative, Programmatic, or Both

Awards to sub-recipients or contractors that are solely for the performance of administrative functions are classified as administrative costs.³

Personnel and related non-personnel costs of staff that perform both administrative functions specified in 20 CFR § 683.215(b) (the bulleted list above) and programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods.⁴

Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost are to be charged as a program cost. Documentation of such charges must be maintained.⁵ These charges are most commonly found on invoices and accounts payable documents.

Except for awards to local area or contractors that are solely for the performance of administrative functions, all costs incurred for functions and activities of sub-recipients (other than a sub-recipient appointed pursuant to 107(d)(12)(B)(i)(II)) and contractors are program costs.⁶

Continuous improvement activities are charged to the administration or program category based on the purpose or nature of the activity to be improved.⁷

Costs of the following information systems including the purchase, systems development, and operational cost (e.g. data entry) are charged to the program category:

- Tracking and monitoring of participant and performance information;
- Employment statistics information, including job listing information, job skills information, and demand occupation information;
- Performance and program cost information on eligible providers of training services, youth activities, and appropriate education activities;

² 20 CFR § 683.215(b)

³ 20 CFR § 683.215(c)(1)

⁴ 20 CFR § 683.215(c)(2)

⁵ 20 CFR § 683.215(c)(3)

⁶ 20 CFR § 683.215(c)(4)

⁷ 20 CFR § 683.215(c)(5)

- Local area performance information; and
- Information relating to supportive services and unemployment insurance claims for program participants.⁸

Streamlining

Where possible the local area makes every effort to streamline services in order to reduce administrative costs by minimizing duplication and effectively using information technology to improve services.

Direct & Indirect Costs under the Uniform Guidance

Identification with the federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect Facilities and Administration (F&A) costs of federal awards. Typical costs charged directly to a federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials, and other items of expense incurred for the federal award. If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also include extraordinary utility consumption, the cost of materials supplied from stock, services rendered by specialized facilities, or other institutional service operations.⁹ Administrative costs are allowable when they are included in the approved budget or have prior approval by the federal awarding agency.

There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of federal awards.¹⁰ Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.¹¹

Administrative Costs may be Associated with Direct Costs

Direct costs are those costs that can be specifically identified to a federal award, project, or activity; or that can be directly assigned to such activities relatively easily with a high degree of accuracy.¹² Examples of direct costs include direct labor and related fringe benefit costs, direct material, supplies, consultants, sub-awards, and travel.¹³

The salaries of administrative and clerical staff should normally be treated as indirect (facilities & administrative (F&A)) costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- Administrative or clerical services are integral to a project or activity;
- Individuals involved can be specifically identified with the project or activity;
- Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- The costs are not also recovered as indirect costs.¹⁴

⁸ 20 CFR § 683.215(c)(6)

⁹ 2 CFR § 200.413(b)

¹⁰ 2 CFR § 200.412

¹¹ 2 CFR § 200.413(a)

¹² Id.

¹³ 2 CFR § 200.413(b), Appendix IV B.3.b(4)

¹⁴ 2 CFR § 200.413(c)

Administrative Costs may be Associated with Indirect Costs

The Uniform Guidance provides that indirect (F&A) costs mean those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish several pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on a basis that will produce an equitable result in consideration of relative benefits derived.¹⁵

Indirect costs are costs not directly identified with a single final cost objective (grant), but instead relate to two or more final cost objectives/grants.¹⁶ Such costs cannot be economically traced to each grant so they must be placed in a cost pool to be allocated on a causal-beneficial basis to the final cost objective or grant.

One-Stop Administrative Cost Limits

In a One-Stop environment, administrative costs borne by other sources of funds, such as the Wagner-Peyser Act, are not included in the administrative cost limit calculation. Each program's administrative activities are chargeable to its own grant and subject to its administrative cost limitations.¹⁷

The costs of negotiating a memorandum of understanding or infrastructure agreement under Title IB of WIOA are excluded from administrative cost limitations.¹⁸

Fiscal Management

Fiscal Agent and Accounting Method

Nebraska Department of Labor acts as the fiscal agent for the Greater Nebraska Workforce Development Board. The responsibilities of the Fiscal Agent include:

- Receive funds
- Ensure sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget circulars, WIOA and the corresponding Federal Regulations and State policies
- Respond to audit financial findings
- Maintain proper accounting records and adequate documentation
- Prepare financial reports
- Provide technical assistance to subrecipients regarding fiscal issues

The Greater Nebraska Chief Elected Officials Board has also designated Nebraska Department of Labor to procure contracts and/or obtain written agreements.

Nebraska Department of Labor follows Generally Accepted Accounting Principles (GAAP) and utilizes a cash accounting method. Greater Nebraska applies a First In First Out (FIFO) policy, in which unexpended obligational authority must be expended before the expenditure of any subsequent year's (new) obligational authority. Accounting activities include:

- Accounts Payable Function: Finance enters all accounts payable detail into the state accounting system. The State pays these invoices from a fund which is where the funds are deposited that

¹⁵ 2 CFR § 200.56

¹⁶ 2 CFR Part 200, Appendix IV A.1

¹⁷ 20 CFR § 683.205(a)(4)

¹⁸ 20 CFR § 683.205(a)(5)

have been requested. Prior to the document being paid Accounting staff reviews the document to ensure that the correct vendor, amount, and coding has been entered into the state accounting system.

- Cash Disbursements: Entries include the entry date, the invoice date payee, payment number (automatically created by the system), document number (automatically created by the system), amount for each invoice paid by NDOL as well as the coding. Payments are issued daily.
- Draw Down: State Finance completes all drawdowns on behalf of Nebraska Dept of Labor based on daily transactions.
- Payroll Journal: Each employee enters their own time into the state system based on what grants or projects they work on. Hours coded to State Admin are split on a percentage during the bi-weekly payroll process.

Payment Process

Greater Nebraska has established written procedures for reviewing, approving, and tracking all direct expenditures. All direct expenditures must be recorded in the case management system of record utilizing the Individual Funds Tracking module, as well as the Expense Record tracking spreadsheet.

Service Authorization

Service Authorizations for direct expenditures must be approved prior to all payments. Case Managers must submit service authorizations and supporting documentation to their Manager for review and approval. Supporting documentation is identified in the Greater Nebraska Operations Manual. All training expenses must include a Training Justification and either an Individual Training Account or a Training Contract. The service authorization must also be accompanied by an activity, voucher, and corresponding case note.

Managers must review all Service Authorization and documentation for accuracy, prior to approving vouchers. Approved Service Authorizations are forwarded to the Greater Nebraska inbox for monitoring by the Greater Nebraska Program Coordinator. The Greater Nebraska Program Coordinator reviews all direct expenditures throughout the process to ensure potential disallowed costs are identified prior to payment.

All Service Authorizations are recorded in the Greater Nebraska Expense Record for tracking purposes. Open Service Authorizations are reviewed monthly to identify potential missing invoices or obligations. Greater Nebraska utilizes this tracker to project funds remaining by program for the fiscal year.

Billing Packets

Billing Packets follow the same review process as Service Authorizations. Case Managers must submit Billing Packets and supporting documentation to their Manager for review and approval. Managers must review all Billing Packets and documentation for accuracy, prior to approving for payment. Approved Billing Packets are forwarded to the Greater Nebraska inbox. The Greater Nebraska Program Coordinator conducts monitoring of each Billing Packet to identify and resolve potential disallowed costs prior to forwarding to Finance for payment.

All Billing Packets are recorded in the Greater Nebraska Expense Record and reviewed weekly for timeliness of payments issued by Finance.

Payments

Title IB funds allocated to local areas are available for expenditure by local boards during the first Program Year and one succeeding Program Year. This two-year period is referred to as the period of performance. During a period of performance, local boards must first expend funds with the shortest period of availability (i.e., first in first out) unless otherwise authorized in NDOL's grant agreement issued to NDOL by a Federal Contracting Officer, in compliance with the Federal Acquisition Regulations.¹⁹

Finance conducts a final review of each expenditure prior to entering for payment. Finance provides the Greater Nebraska Program Coordinator with a General Ledger (GL) for all program payments weekly. Payments are reviewed by the Program Coordinator for accuracy and recorded in the Expense Record. Direct Expenditures are sent to Case Managers for recording of payment in the case management system of record Individual Funds Tracking module. Finance records all expenditures, including administrative, program, direct, and indirect in the General Ledger.

Improper Payments

An improper payment is defined as a payment that should have not been made or that were made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. All payments identified as improper by either USDOL or Nebraska Department of Labor must be refunded (including interest) to the Federal Government in accordance with instructions from the agency that determined the costs are unallowable, unless Federal statute or regulation directs otherwise.²⁰

Incorrect amounts are overpayments or underpayments that are made to eligible recipient, including:

- inappropriate denials of payment or service;
- any payment that does not account for credit for applicable discounts;
- payments that are for an incorrect amount; and
- 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).

Expenditures identified as improper payments must be recovered from any subgrantee or contractor. Improper payments must be paid back using non-Federal funds within the timeline designated by the agency that determined the costs are unallowable.

Program Income²¹

Program Income is gross income earned that is directly generated by a supported activity or earned as a result of the WIOA Title IB award during the period of performance. Program Income does not increase the amount of funds authorized for the subaward. It is considered additional revenue available for use in support of allowable subaward activities. Program Income includes, but is not limited to, income from the following:

¹⁹ 20 CFR 683.110(c)

²⁰ 2 CFR 200.410

²¹ 2 CFR 200.80

<p>1. Income from the:²²</p> <ul style="list-style-type: none"> a. use or rental of real or personal property acquired under Federal awards b. sale of commodities or items fabricated under a Federal award c. license fees and royalties on patents and copyrights, subject to the requirements of 37 CFR Part 401 d. principal and interest on loans made with Federal award funds
<p>2. Any excess of revenue over costs incurred for services provided through the use of WIOA Title IB funds by a governmental or non-profit entity²³</p>
<p>3. Revenue resulting from employers' use of local area services, facilities, or equipment to provide employment and training activities to incumbent workers²⁴</p>
<p>4. Interest income earned on funds received under WIOA Title IB²⁵</p>
<p>5. Income from fees for services performed, including fees charged for the following business services:²⁶</p> <ul style="list-style-type: none"> a. Customized screening and referral of qualified participants in training services to employers b. Customized services to employers, employer associations, or other employer organizations on employment-related issues c. Customized recruitment events and related services for employers including targeted job fairs d. Human resource consultation services, including assistance with: <ul style="list-style-type: none"> i. Writing/reviewing job descriptions and employee handbooks ii. Developing performance evaluation and personnel policies iii. Creating orientation sessions for new workers iv. Honing job interview techniques for efficiency and compliance v. Analyzing employee turnover vi. Creating job accommodations and using assistive technologies vii. Explaining labor and employment laws to help employers comply with discrimination, wage/hour, and safety/health regulations e. Customized labor market information for specific employers, sectors, industries or clusters f. Developing and implementing industry sector strategies (including strategies involving industry partnerships, regional skills alliances, industry skill panels, and sectoral skills partnerships) g. Customized assistance or referral for assistance in the development of a registered apprenticeship program h. Developing and delivering innovative workforce investment services and strategies for area employers, including career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or another employer use i. Assistance to area employers in managing reductions in force in coordination with Rapid Response activities and strategies for aversion of layoffs, including strategies like early identification of firms at risk of layoffs, use of feasibility studies to assess needs of and options for at-risk firms, and delivery of employment and training activities to address risk factors j. Marketing of business services to appropriate area employers, including small and mid-sized employers k. Assisting employers with accessing local, State, and Federal tax credits

²² 2 CFR 200.80

²³ 20 CFR § 683.200(c)(7)

²⁴ 20 CFR § 683.200(c)(9)

²⁵ 20 CFR § 683.200(c)(8)

²⁶ 20 CFR § 678.435(b) – (c) and 678.440.

Program income must be reported on an accrual basis and cumulatively by fiscal year of appropriation.²⁷ In addition, the following uniform administrative requirements apply to the use of Title IB funds regarding program income:²⁸

- The addition method described at 2 CFR § 200.307 must be used for all program income earned.
 - When the cost of generating program income has been charged to the program, the gross amount earned must be added to the program under which it was earned.
 - When the cost of generating program income has not been charged to the program, the cost of generating program income must be subtracted from the amount earned in order to establish the net amount of program income available for use.
- Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income.
- Revenue resulting from employers' use of local area services or facilities or equipment to provide employment and training activities to incumbent workers must be included in program income.
- Interest income earned on local area Title IB funds must be included in program income.

Interest earned on WIOA Title IB funds may be retained and shall be used to pay for WIOA Title IB expenditures. The local area must use funds available from program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before invoicing NDOL for disbursements.²⁹ Interest earned shall be accounted for as Program Income for reporting purposes. Retention of records for reported income after the applicable period of performance starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

Cost Principles and Allowable Costs

All costs must be documented according to written policies and procedures, and be necessary, reasonable, allowable, and allocable to the grant in accordance with 2 CFR 200.403-405. Certain costs are allowable only if approval is granted prior to incurring the cost. These costs include those identified in 2 CFR 200.407, as well as the Procurement Policy, Training Limits Policy, and Supportive Service Policy. Costs not identified in written policy must be submitted to the Greater Nebraska administrative entity for approval.

To determine the allowability of a cost, it must meet the guiding factors found in the Uniform Guidance:

- Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- Be consistent with principles and procedures that apply uniformly to both federally financed and other activities of the organization.
- Be accorded consistent treatment.
- Be determined in accordance with generally accepted accounting principles (GAAP).
- Not to be included as a cost or used to meet cost-sharing or matching requirements of any other federally-financed program in either the current or a prior period.
- Be adequately documented.
- Cost must be incurred during the approved budget period.³⁰

²⁷ 20 CFR 683.300(c)(5)

²⁸ 20 CFR 683.200(c)(6)-(9)

²⁹ 2 CFR 200.305(b)(5)

³⁰ 2 CFR 200.403

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.
- Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.³¹

Expenditures must be only made for activities permitted by the applicable regulations, terms and conditions of the individual award, and in accordance with the NDOL's policies and procedures.

Greater Nebraska will follow the cost principles detailed at subpart E and appendices III through IX of 2 CFR part 200, including exceptions identified by the Department of Labor at 2 CFR part 2900.

Expenditure Requirements

The WIOA Youth Program focuses primarily on out-of-school youth, requiring local areas to expend a minimum of 75% of WIOA youth funds on them.

The WIOA Youth Program also includes 14 program elements that are required to be made available to youth participants. WIOA prioritizes work experience through a 20% minimum expenditure rate for the work experience program element. This requirement is applied to in-school youth and out-of-school youth combined.

Greater Nebraska tracks expenditures for out-of-school youth formula funds, out-of-school youth work experience, in-school youth formula funds, and in-school youth work experience separately to ensure expenditure rates fall within the requirements.

Funds Transfer

Local areas may transfer up to 100 percent of a Program Year allocation between adult and dislocated worker programs.³² To transfer funds between adult and dislocated worker programs, chairs of local boards, or their designees, must submit complete, compliant, and signed transfer request forms³³ and receive NDOL's written approval of requests before transfers will be made. When requesting transfers, chairs of local boards, or their designees, must submit a usable version of the State provided funds-transfer request form. Signed transfer request forms must be submitted to the Nebraska Department of Labor Reemployment Services Division Director, Reemployment Services Quality Control Unit Administrator, and WIOA Policy shared inbox with the following information:

³¹ 2 CFR 200.404

³² 20 CFR 683.130(a)

³³ 20 CFR 681.130(c)

1. from and to which programs the transfer is requested;
2. total amount to be transferred;
3. from which Program Year and/or Fiscal Year of annual funding allocation are you requesting the transfer and in what amounts, subject to confirmation by NDOL's Finance Division that such funds are available for transfer;
4. narrative description of how the transfer will meet the employment and service needs of job seekers, workers, and employers in the local area, in accordance with Federal and State laws, rules, regulations, guidance, and policies;
5. provision of demographic information for job seekers and workers in the local area supporting the narrative description described in item 4, which must be based on data derived from NEworks;
6. provision of current labor market information for employer needs in the local area supporting the narrative description described in item 4, which must be based on current labor market information available through NEworks;
7. narrative description of how the transfer of funds is consistent with the broader goals and strategies described in the current state plan and current local plan supporting the employment and service needs of the job seekers, workers, and employers described in item four;
8. provision of current data on the number of enrollments for the local area's adult and dislocated worker programs during the 8 most recently completed performance quarters preceding the date of the request, which must be based on data derived from NEworks pertaining to those quarters;
9. narrative description of whether the local area, in accordance with Federal and State laws, rules, regulations, guidance, and policies:
 - a. met adjusted levels of performance for each of the adult and dislocated worker programs, as determined annually by NDOL, for the previous two completed Program Years preceding the date of the request; and
 - b. provided a detailed explanation of reasons the local area did not meet adjusted levels of performance for each of the adult and dislocated worker programs, as determined annually by NDOL, for the previous two completed Program Years preceding the date of the request;
10. narrative description of how career and training services will continue to be made available to both adults and dislocated workers, in accordance with Federal and State laws, rules, regulations, guidance, and policies subsequent to the funds transfer.

Reporting

Each local board's fiscal agent must submit quarterly financial reports and acceptable supporting documentation according to the requirements, procedures, and timelines described in State policy. Financial data provided by local areas in quarterly financial reports, including acceptable supporting documentation, are used to support NDOL's mandatory quarterly submission of ETA-9130 Financial Report forms regarding State and local area use of Title IB program funds.³⁴

Greater Nebraska's fiscal agent prepares all expenditure reports, which are provided to the State for compilation into 9130 Quarterly Expenditure reports and Grant Closeout reports. Expenditure data is provided by budget line item for inclusion into the appropriate Grant Award data. Quarterly financial reports include financial data and acceptable supporting documentation detailing local area

³⁴ WIOA Sec. 185(e)(1) – (2); 20 CFR § 683.300(a); TEGL 20-19

obligations, program income, indirect costs, expenditures (including training expenditures), disbursements, cash on hand, and matching funds.³⁵

The State has set the following 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

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor’s submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
- 45-2-7 Policy and Notices
- 45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska’s reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

³⁵ 20 CFR § 683.300(c)(4) – (5); TEGL 20-19

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
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Adult, Dislocated Worker, & Youth Eligibility (3/14/2024)

Reference

Workforce Innovation and Opportunity Act (WIOA) 134, 194(12), 194(1), 189(h); 20 CFR §§ 680.120-683.285; TEGL 19-16, TEGL 23-14, TEGL 21-16; Nebraska Department of Labor (NDOL) Program Eligibility for Youth, Adults, and Dislocated Workers Policy

Purpose

The purpose of this policy is to provide guidelines regarding the eligibility criteria for WIOA Title IB Adult, Dislocated Worker (DLW) and Youth programs.

Background

Eligibility criteria for WIOA Title I adult, dislocated worker, and youth programs are defined under the provisions of WIOA and its implementing rules, regulations, and guidance, as well as other applicable Federal rules, regulations, and guidance.

Policy

Eligibility is determined based on information collected during registration. These criteria follow the participant through the entire course of WIOA programs and services attached to that application. If the participant’s circumstances change during the WIOA registration cycle (such as a change in economic status, employment status, etc.), the participant remains eligible.

Eligibility for services should not be construed as a guarantee of services. The WIOA program is not an entitlement program.

Employment and training opportunities must be provided to Adults, DLWs, and Youth who can benefit from, and are most in need of, such opportunities.

Section 1. General Eligibility Requirements

All Adults, Dislocated Workers, and Youth must meet the following general eligibility criteria¹:

- Citizens or nationals of the United States; or
- Lawfully admitted permanent resident non-citizen, refugees, asylees, parolees, or other immigrants authorized to work in the United States by the Secretary of Homeland Security, or the Secretary’s designee.

¹ 20 CFR 683.285(a)(5)

All individuals who are male and age 18 or older have complied with the requirements of the Military Selective Service Act.²

In addition to the general eligibility requirements described in this section, and program specific eligibility requirements described in Sections 2-4, there are program specific priority of service requirements for adult, dislocated worker, and youth programs. Greater Nebraska maintains a separate Priority of Service Policy outlining these requirements.

Section 2. Adult Program Eligibility

To be eligible for career services through the Adult program, an individual must be age 18 or older³ and meet the general eligibility criteria in section one.

Section 3. Dislocated Worker Program Eligibility⁴

To be eligible for career and training services through the DLW program, an individual must meet the general eligibility criteria in section one and the criteria outlined in one of the following five categories.

Category 1- Ordinary Layoff

This eligibility category covers an individual who has been terminated or laid off, or who has received a notice of termination or layoff from employment, but not because of a permanent closure or mass layoff, and is either:

- eligible for or has exhausted entitlement to unemployment compensation; or
- has been employed long enough to demonstrate an attachment to the workforce even if not eligible for unemployment compensation due to:
 - insufficient earnings; or
 - having performed services for an employer that is not covered under state unemployment compensation laws.

The individual must also be unlikely to return to a previous industry or occupation.

Category 2- Permanent Closure or Mass Layoff

This eligibility category covers an individual who has been dislocated because of a permanent closure or mass layoff, meaning an individual who:

- has been terminated or laid off, or has received a notice of termination or layoff, from employment because of any permanent closure of or any substantial layoff at a plant, facility, or enterprise; or
- is employed at a facility at which the employer has made a general announcement that the facility will close within 180 calendar days; or
- for purposes of eligibility to receive services other than training services, career services, or supportive services, is employed at a facility at which the employer has made a general announcement that the facility will close.

Category 3- Conditions Affecting Self-employment

This eligibility category covers a self-employed individual, including family members and farm workers or ranch hands, who are:

- unemployed as a result of a natural disaster, including, but not limited to:
 - floods;
 - droughts;

² 50 USC 3801 et seq; WIOA Sec. 189(h)

³ 20 CFR 680.120

⁴ WIOA Sec. 3(15); 20 CFR 680.120; TEGL 19-16

- tornadoes;
- earthquakes;
- events defined as a disaster by State or Federal declaration
- other natural events beyond an individual's control identified as major adverse events resulting from natural processes of the Earth or forces other than acts of human beings
- unemployed as a result of general economic conditions in the community in which the individual resides. The term general economic conditions is defined as one or more of the following:
 - A business lost due to the closure or substantial layoff of a primary supplier or primary customer affecting the self-employed individual's products or services;
 - A business lost because the product/occupation has little demand within the community or has been declining;
 - A business lost because of increased non-labor production costs which are out of the control of management (i.e., energy costs);
 - A business lost because of the illicit or unlawful actions of others at no fault of the individual

Category 4- Displaced Homemaker⁵

This eligibility category covers an individual who is dislocated as a displaced homemaker, meaning the individual has been providing unpaid services to family members in the home and:

- has been dependent on the income of another family member but is no longer supported by that income; or
- is the dependent spouse of a member of the US Armed Forces on active duty and whose family income is significantly reduced because of a:
 - deployment;
 - call or order to active duty; or
 - permanent change of duty station; or
 - the service-connected disability of the service member.

The individual must also be unemployed or underemployed and experiencing difficulty in obtaining or upgrading employment. Underemployed individual means an individual who is employed:

- less than full-time who is seeking full-time employment;
- in a position that is inadequate with respect to their skills and training;
- who meets the definition of a low-income individual; or
- whose current job earnings are not sufficient compared to their previous earnings from previous employment.

Category 5- Service Member or Military Spouse⁶

Service Member

This eligibility category covers a service member who has separated or is separating from the US Armed Forces with a discharge that is anything other than dishonorable (honorable, general, entry-level, other than honorable, and bad conduct discharges; dismissal [officer discharge]) and:

- has received a notice of separation, a Form DD-214 from the Department of Defense, or other documentation showing a separation or imminent separation from the US Armed Forces;
- is eligible for or has exhausted unemployment compensation; and
- is unlikely to return to a previous industry or occupation.

⁵ WIOA Sec. 3(16)(A)-(B); 20 CFR 680.630(d)

⁶ 20 CFR 680.660; WIOA Sec. 3(15)(A)(i) A)(ii)(I) or (II); TEGL 19-16

A basic requirement to qualify as a dislocated worker is that the 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, falls within the scope of the termination component of the definition of dislocated worker. The separating military service member must also satisfy other criteria for dislocated worker program eligibility, including the requirement that the individual is *unlikely to return to a previous industry or occupation*. Additionally, under the priority of service provisions of the Jobs for Veterans Act, separating military service members who upon discharge meet the eligibility criteria for dislocated worker programs are afforded priority over individuals who are not *Veterans*.⁷

Military Spouse

This eligibility category also applies to military spouses, meaning:⁸

- individuals who are married to active-duty service members, including National Guard or Reserve personnel on active duty; and
- surviving spouses of active-duty service members who lost their lives while on active-duty service in Afghanistan, Iraq, or other combat-related areas.

An individual who is the spouse of a member of the US Armed Forces on active duty is a dislocated worker if that individual:

- has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in the duty station of the service member; or
- is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Displaced homemakers⁹

Military spouses may qualify to be served as a dislocated worker if they meet the definitional requirements for displaced homemaker. Surviving *military spouses* of *Veterans* and military service members may be served with dislocated worker funds. If a surviving *military spouse* of a *Veteran* or military service member qualifies generally as a dislocated worker or specifically as a displaced homemaker, they can be served under the dislocated worker program. If the surviving *military spouse* does not meet those requirements, they can be served under the adult program. Under either program, a surviving *military spouse* of a *Veteran* must receive priority of service over *non-covered persons* if they qualify for priority as an *eligible spouse*.

Cessation of employment¹⁰

When a *military spouse* is unable to continue an employment relationship because of a military service member's permanent change of military station or the *military spouse* loses employment as a result of the military service member's discharge from the military, then the cessation of employment meets the termination component of the definition of dislocated worker. The *military spouse's* cessation of employment due to the military service member's permanent change of military station or their discharge from the military can also be considered to meet the *unlikely to return to a previous industry or occupation* criterion of the definition of dislocated worker. This criterion of the definition of dislocated worker recognizes the breadth of job types and considers whether the individual is likely to return to either their prior industry or (not "and") occupation. The standard for determining the likelihood of return is not absolute and is a matter of judgment based on relevant circumstances. In

⁷ TEGL 22-04 and 19-16

⁸ TEGL 22-04

⁹ TEGL 22-04

¹⁰ TEGL 22-04 and 22-04 Change 1

the majority of cases, the circumstances in which *military spouses* are required to leave a job/occupation as a result of the military service member's transfer do not position the spouse to return immediately to their previous industry or occupation, particularly at the same level for one or more of following reasons.

- Spouses are generally not resuming employment with the same employer.
- Even if a *military spouse* resumes employment with the same employer, the 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.
- 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.
- 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.
- The skills of the *military spouse* may be obsolete or inadequate compared to the advancing competency needs of the current workforce and economy.
- The industry in which the *military spouse* has prior work experience may be in decline in the region to which the *military spouse* has relocated.
- There may be an excess number of workers with similar skill sets and experience to that of the *military spouse* who are also seeking limited employment opportunities in the region to which the *military spouse* has relocated.

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

Acceptable source documentation for dislocated worker eligibility determination

As indicated in TEGL 23-19 Attachment II, there are five types of acceptable source documentation for determining dislocated worker eligibility, which must be documented in the documentation management system of record:

1. verification from employer;
2. Rapid Response list;
3. notice of layoff;
4. public announcement with follow-up cross match with UI database; and
5. self-attestation.

All five types are sufficient for determining dislocated worker eligibility. It is important to note, though, that self-attestation should be used as a last resort.

Section 4. Youth Program Eligibility

In-school Youth Eligibility

To qualify for the In-school Youth (ISY) program, an individual must meet the general eligibility criteria in section one and the criteria outlined below.

An individual must meet all of the following criteria:¹¹

- The individual must provide equal opportunity data on race, ethnicity, age, sex, and disability;
- The individual must be between the ages of 14-21;
- The individual must be attending school, including secondary school or postsecondary school; and
- The individual is a low-income individual.

Potential ISY who receive or are eligible to receive free or reduced lunch, foster youth, homeless youth, and youth living in a high-poverty area to automatically considered low income.¹²

In addition, the individual must meet at least one of the following criteria:¹³

- The individual is basic skills deficient;
- The individual is an English language learner;
- The individual is an offender;
- The individual is a homeless individual who:
 - 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. Lives in a motel, hotel, trailer park, or campground due to the lack of an adequate alternative;
 - iii. Lives in an emergency or transitional shelter; or
 - iv. Is 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 under circumstances described in rows a and b of this list;
 - d. Lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, similar settings; or
 - e. Is a runaway;
- The individual:
 - a. Is in foster care;
 - b. Has aged out of the foster care system;
 - c. Has attained age 16 and left foster care for kinship guardianship or adoption;
 - d. Is eligible for assistance under the John H. Chafee Foster Care Independence Program; or
 - e. Is in an out-of-home placement;
- The individual is pregnant or parenting;
- The individual is an individual with a disability; or
- The individual requires additional assistance to complete an educational program or to secure or hold employment.

School Status¹⁴

School status is determined at the time of eligibility and remains the same throughout the individual's participation in the ISY program. Once enrolled, an ISY may continue to receive services beyond age 21.

¹¹ 20 CFR 680.110(c) and 681.220(a)-(c)

¹² TEGL 9-22; 20 CFR 681.250(d) and 681.260

¹³ 20 CFR 681.220(d)

¹⁴ 20 CFR 681.220(b)

High school equivalency programs and dropout re-engagement programs are not considered schools for purposes of determining school status, with one exception. Individuals attending high school equivalency programs, including programs considered to be dropout re-engagement programs, are ISY when the programs:

- are funded by the public K–12 school system; and
- classify the individuals as still enrolled in school.¹⁵

An individual enrolled in an alternative school, class, or education program established in accordance with Neb. Rev. Stat. § 79-266 is considered an ISY when the program classifies the individual as still enrolled in school.

Additional Assistance Limitation¹⁶

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. Administrative approval is required to enroll an individual who qualifies solely on a need for additional assistance to complete an educational program or to secure or hold employment.

Out-of-School Youth Program Eligibility

To qualify for the Out-of-school Youth (OSY) program, an individual must meet the general eligibility criteria in section one and the criteria outlined below.

An individual must meet all of the following criteria:¹⁷

- The individual must provide equal opportunity data on race, ethnicity, age, sex, and disability;
- The individual must be between the ages of 16-24; and
- The individual is not attending school, including secondary school or postsecondary school.

In addition, the individual must meet at least one of the below criteria:¹⁸

- The individual is a school dropout;
- The individual is within the age of compulsory school attendance under state law but has not attended for at least the most recent complete school-year quarter or calendar-year quarter;
- The individual is a recipient of a secondary school diploma or its recognized equivalent, a low-income individual, and either basic skills deficient or an English language learner;
- The individual is an offender;
- The individual is a homeless individual who:
 - 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 adequate alternative;
 - iii. Living in an emergency or transitional shelter;
 - iv. Is abandoned in a hospital; or
 - v. Is 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 under circumstances described in rows a and b of this list;

¹⁵ 20 CFR 681.230; TEGL 21-16

¹⁶ 20 CFR 681.310(b)

¹⁷ 20 CFR 680.110(c) and 681.210(a)-(b)

¹⁸ WIOA Sec. 3(24)(G); 20 CFR 681.210(c)

- d. Lives in cars, parks, public spaces, abandoned buildings, substandard housing, bus or training stations, or similar settings; or
- e. Is a runaway;
- The individual:
 - a. Is in foster care;
 - b. Has aged out of the foster care system;
 - c. Has attained age 16 and left foster care for kinship guardianship or adoption;
 - d. Is eligible for assistance under the John H. Chafee Foster Care Independence Program; or
 - e. Is in an out-of-home placement.
- The individual is pregnant or parenting;
- The individual is an individual with a disability; or
- The individual requires additional assistance to enter or complete an educational program or secure or hold employment and is a low-income individual.

School Status¹⁹

School status is determined at the time of eligibility determination and remains the same throughout the individual's participation in the youth program. Once enrolled, OSY may continue to receive services beyond age 24.

Low-income Requirements

An individual must be low-income if the individual is the recipient of a secondary school diploma or a recognized equivalent and eligibility as an OSY is based on:²⁰

- Basic skills deficiency;
- Being an English language learner; or
- A need for additional assistance to enter or complete an educational program or to secure or hold employment.

Other out-of-school youth do not need to be low-income or document their income.²¹ Additionally, OSY who are foster youth, homeless youth, and youth living in a high-poverty area are automatically be considered low income.²²

Low-income Exception²³

Up to five percent of all youth (in-school and out-of-school) program participants, 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. Administrative approval is required to enroll an individual who does not meet the low-income guidelines.

Documentation

All eligibility criteria must be documented in the participant file prior to the provision of WIOA services.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-

¹⁹ 20 CFR 681.210(b)

²⁰ 20 CFR 681.250(a); TEGL 9-22

²¹ TEGL 9-22

²² Ibid.

²³ 20 CFR 681.250(c); TEGL 21-16

2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. The 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. active duty²⁴

The term active duty means full-time duty in the active military service of the United States. The term 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.

The term does not include full-time National Guard duty.

2. active military, naval, air, or space service²⁵

Active military, naval, air, or space service includes:

- 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, 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 component.²⁶

3. age of compulsory school attendance²⁷

²⁴ 10 USC 101(d)(1)

²⁵ 38 USC 101(24)

²⁶ 20 CFR 1010.110

²⁷ TEGL 21-16; Neb. Rev. Stat. 79-201

An individual who is within the age of compulsory school attendance is an individual who is subject to compulsory school attendance according to state law. In Nebraska, individuals ages six 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.

4. attachment to the workforce²⁸

The phrase attachment to the workforce means having been employed at least 20 or more hours per week for at least six 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 noted above.

5. attending postsecondary school²⁹

Attending postsecondary school 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.

6. attending school³⁰ (secondary school)

The phrase attending school is defined by state law. Nebraska State Law defines attending school as enrollment in and regular attendance at a school approved by the Nebraska State Board of Education, including:

- accredited public and private schools;
- accredited denominational and parochial schools;
- schools that elect not to meet accreditation requirements, including home schools; and
- 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.

7. basic skills deficient³¹

An individual who is basic skills deficient is:

²⁸ Defined by the State

²⁹ TEGL 21-16

³⁰ 20 CFR 681.550(a); TEGL 21-16; Neb. Rev. Stat. 79-201, 79-202, 79-319, and 79-1601

³¹ WIOA Sec. 3(5)

- 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.

Criteria used to determine whether a youth or adult is basic skills deficient includes the following:

- English, reading, writing, or computing skills below the 8th grade level based on a generally accepted standardized test or accepted documentation; or
- Determined to have limited English skills based off staff documented observations or a generally accepted ESL test.

Reasonable accommodations in the assessment process will be provided to individuals with disabilities, if necessary. Allowable accommodations may vary based on the chosen assessment and should follow the assessment author's guidelines.

8. call or order to active duty³²

The phrase call or order to active duty refers to the call or order or retention on active duty for members of the uniformed services under 10 USC §§ 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 or 10 USC Subtitle A Part I Chapter 15, or any other provision of law during a war or during a national emergency declared by the United States President or Congress.

9. deployment

A member of the US Armed Forces is considered to be on deployment 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:

- performing service as a student or trainee at a school (including Government school); performing administrative, guard, or detail duties in garrison at the member's permanent duty station; or
- 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
- unavailable solely because of a disciplinary action taken against the member.

10. dropout³³

A school dropout is an individual who:

- is no longer attending any school; and
- has not received a secondary school diploma or a recognized equivalent.

Dropout refers only to an individual who is currently a secondary school dropout, which does not include a youth who previously dropped out of secondary school but subsequently returned. For

³² 10 USC 101(a)(13)(B)

³³ WIOA Sec. 3(54); TEGL 21-16

example, a youth who dropped out of high school in 2015 and returned to high school in 2016 prior to enrollment in the youth program is not a dropout. An individual who has dropped out of postsecondary education is not a dropout for purposes of youth program eligibility.

11. eligible spouse³⁴

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

- 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 as:
 - 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 determined 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 determined by USDVA.

An eligible spouse whose eligibility 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 the eligibility (e.g., if a Veteran with a total service-connected disability were to receive a revised disability rating at a lower level). Similarly, for an eligible spouse whose eligibility is derived from a living Veteran or military service member, that eligible spouse's eligibility would be lost upon divorce from the Veteran or military service member.³⁵

12. English language learner³⁶

English language learner 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
- who lives in a family or community environment where a language other than English is the dominant language.

13. family

Two or more person related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

- A married couple and dependent children;
- A parent or guardian and dependent children; or
- A married couple.

14. general announcement³⁷

The term general announcement means an announcement to the public by the employer or employer's representative. The general announcement does not need to be in written form, but it must be made to the public, not just the employees of the employer.

15. general economic conditions

³⁴ WIOA Sec.3(54); TEGL 21-16

³⁵ TEGL 07-09

³⁶ WIOA Secs. 3(20) and 203(7); TEGL 21-16

³⁷ Defined by State

The term general economic conditions is defined as one or more of the following:

- A business lost due to the closure or substantial layoff of a primary supplier or primary customer affecting the self-employed individual's products or services;
- A business lost because the product/occupation has little demand within the community or has been declining;
- A business lost because of increased non-labor production costs which are out of the control of management (i.e., energy costs); or
- A business lost because of natural disasters as defined by State or Federal declaration.

16. high-poverty area

A high-poverty area, as it relates to youth eligibility 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.

17. individual with a disability³⁸

The phrase individual with a disability means an individual with a disability as defined in Section 3 of the Americans with Disabilities Act of 1990.

18. laid off or layoff³⁹

For determining eligibility as a dislocated worker, the term laid off or layoff means an individual's employment relationship is or will be suspended by the employer, without cause, for more than 180 calendar days.

19. low-income individual

A low-income individual is an individual who meets one or more of the criteria listed below.

Low-income Eligibility Criteria⁴⁰

1. The individual currently receives or is a member of a family currently receiving assistance through:
 - a. Supplemental Nutrition Assistance Program (SNAP);
 - b. Temporary Assistance for Needy Families Program (TANF);
 - c. Supplemental Security Income through the Social Security Administration (SSI); or
 - d. state or local income-based public assistance.
2. In the past six (6) months, the individual has received or is a member of a family that has received assistance through SNAP, the TANF program, SSI, or state or local income-based public assistance.
3. The individual is in a family whose total family income does not exceed the higher of:
 - 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:

³⁸ WIOA Sec. 3(25); 20 CFR 675.300

³⁹ Defined by State

⁴⁰ WIOA Secs. 3(36) and 181(a)(2); 38 USC 4213

- 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 adequate alternative;
 - iii. living in an emergency or transitional shelter;
 - iv. is abandoned in a hospital; or
 - v. is 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 under circumstances described in rows 4a and 4b 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 an individual with a disability whose income meets the definition of low income.

A youth who lives in a high-poverty area is automatically considered a low-income individual.⁴¹

The following types of payments made or in-kind aid to individuals are not considered income when determining low-income eligibility for WIOA Title IB programs:

- TANF payments;
- reduced price lunches under the Richard B. Russell National School Lunch Act;
- payments made on behalf of a foster child by state or local government payments; and
- payments made to individuals participating programs authorized under WIOA Title IB.

In addition, when determining low-income eligibility for WIOA Title IB programs for Veterans and eligible spouses of Veterans, payments made or in-kind aid to individuals from the following sources are not considered income:

- any amounts received as military pay or allowances by any person who served on active duty;
- any amounts received by a Veteran or eligible spouses of Veterans under the following chapters of Title 38 of the US Code:
 - Chapter 13 for service-connected deaths;
 - Chapter 30 for educational assistance;
 - Chapter 30 for peacetime disability or death compensation;
 - Chapter 30 for wartime disability or death compensation;
 - Chapter 31 for training and rehabilitation for Veterans with service-connected disabilities;
 - Chapter 32 for Post-Vietnam Era Veterans' education assistance; and
 - Chapter 35 for survivors' and dependents' educational assistance;

⁴¹ 20 CFR 681.250(d) and 681.260

- any amounts received by a Veteran or eligible spouse of a Veteran under 10 USC Chapter 106 for educational assistance for members of the selected reserve; and
- any amounts received by transitioning service members.

When determining low-income status of an individual with a disability, the income of the individual's family must not be considered.

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 IB programs, including:

- unemployment insurance benefits;
- child support payments; and
- payments made by state-administered plans for old-age assistance.

20. mass layoff⁴²

The term mass layoff means a layoff that has occurred when:

- 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.

21. non-covered person⁴³

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

22. notice of termination or layoff from employment⁴⁴

A *notice of termination or layoff from employment* means a written notification from the employer, naming one or more individuals and indicating that employment will cease or has ceased for the individual(s) on a specific date.

23. offender⁴⁵

Offender means an adult or juvenile who:

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

24. pregnant or parenting⁴⁶

A *pregnant* individual is the expectant mother only.

An individual who is *parenting* is a mother or father, custodial or non-custodial.

25. requires additional assistance to complete an education program or to secure or hold employment

⁴² 20 CFR 682.305

⁴³ 20 CFR 1010.110

⁴⁴ Defined by State

⁴⁵ WIOA Sec.3(38)

⁴⁶ TEGL 21-16

Self-Attestation may be used to verify requires additional assistance for enrollment purposes. The phrase *requires additional assistance*, is defined by the local board as meeting one or more of the following criteria:

Educational Barriers

- Youth who have not completed high school or other educational programs necessary to secure and maintain entry-level employment;
- Youth who are deficient in basic skills, including those needing English as a second language instruction and remedial training for GED;
- Youth who have been identified as a dropout risk, unlikely to graduate due to a lack of credits, and other risk factors cited by school, law enforcement, or community officials such as
 - Have received court agency/referrals mandating school attendance
 - Documentation provided by the student's counselor or MDT/IEP team
 - Absences/truancy nearing court involvement
 - Lack of engagement
 - Unstable housing/home life
 - Documented behavioral problems at school
 - Placed on probation, suspended from school, or expelled from school one or more times during the past two years
 - One or more years behind modal grade for one's age group, with particular emphasis on those two or more years behind modal grade (Modal grade is the most frequent grade classification of students of a particular age; e.g. most 15 year olds are in 10th grade)
 - Are at least one semester behind the rate required to graduate from high school or has repeated at least one secondary grade level
 - Below average academic test scores relative to students in his/her class with particular emphasis on those in the bottom 25 percent of the test score distribution or scored in the lowest two levels on state standardized assessments within the past 12 months
 - Grade Point Average of less than 2.0
- Previously dropped out of school, or did not meet compulsory attendance, but is now enrolled and attending
- Has quit a postsecondary program without attaining a recognized credential

Employment Barriers

- Youth who lack pre-employment/work maturity skills, including
 - Has never held a job
 - Has never held a full-time job for more than 13 consecutive weeks (18 -24 years of age)
 - Little or no successful work experience, a long and unsuccessful work search, or little to no exposure to successfully employed adults
 - High school graduate who has not held a full-time regular job for more than three consecutive months
- Youth who have been unable to obtain or secure employment during the last six months
- Has been fired from a job within the 12 months prior to program application (18 -24 years of age)
- Has been unemployed six months out of the last two years

Medical/Social/Family Barriers

- Recipient of free or reduced lunch benefits
- Lives in public housing
- Has a family history of chronic unemployment documented by long-term public assistance

- Youth who are defined as “neediest” – youth in foster care (especially those aging out of foster care), youth in the juvenile justice system, children of incarcerated parents, migrant youth, Native American youth, Indian youth, and youth with disabilities including learning disabilities;
- Resides in a non-traditional household setting (i.e., death of parent, child of incarcerated parent, single parent, lives with unofficial guardian, latchkey, grandparents, domestic partners, adopted, etc.)
- Has emotional, medical, physical, cognitive, or psychological impairment which creates a significant impediment to employment
- Has been referred to, or is being treated by, an agency for a substance abuse related problem
- Has experienced recent traumatic events, is a victim of abuse, or resides in an abusive environment as documented by a school official or professional
- Faces significant personal challenges including dysfunctional domestic situations, lack of supportive services, documented behavioral problems, and substance abuse by the youth or a family members

Geographic Barriers

- Youth who reside in a defined Area of Substantial Unemployment
- Lives in a federally-designated high poverty area
- No community with population of 2000 or more within 25 miles
- Lack of internet

26. postsecondary school

The following postsecondary schools are considered postsecondary career schools:

- all postsecondary institutions that are accredited according to the requirements of the US Department of Education, such as universities, state colleges, and community colleges;
- 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;⁴⁷ and
- all 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.⁴⁸

27. school⁴⁹

The term *school* is defined by state law. Nebraska State Law defines *school* as a school approved by the Nebraska State Board of Education, including:

- accredited public and private secondary schools;
- accredited denominational and parochial secondary schools;
- schools that elect not to meet accreditation requirements, including home schools; and
- alternative schools, classes, or education programs established in accordance with Neb. Rev. Stat. § 79-266 for the benefit of expelled students.

Nebraska State Law does not include postsecondary institutions in its definition of school. For purposes of this policy, the following providers or programs are considered schools:

- all postsecondary institutions that are accredited according to the requirements of the U.S. Department of Education;

⁴⁷ Neb. Rev. Stat. 85-1607 – 85-1658

⁴⁸ Neb. Rev. Stat. 85-1607 – 85-1658

⁴⁹ 20 CFR 681.550(a); TEGL 21-16; Neb. Rev. Stat. 79-201, 79-202, 79-319, and 79-1601

- all private postsecondary career schools that are licensed or authorized to operate by the Nebraska Department of Education; and
- all private postsecondary career schools that are licensed or authorized to operate in other states according to the requirements of the states in which they operate.

Providers of WIOA Title IBC (Job Corps), Title IBD (YouthBuild), and Title IBI (Adult Education and Family Literacy Act) programs are not considered schools for the purposes of determining school status.

28. service-connected disability⁵⁰

The term *service-connected disability* means, with respect to disability or death, that a disability was incurred or aggravated, or that death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

29. temporary recall⁵¹

The term *temporary recall* refers to a request from an employer for a former worker, who has either received a notice of termination or been terminated from employment, to return to work for 180 calendar days or less. In a *temporary recall*, the employer still intends to terminate the worker.

30. terminated⁵²

For determining eligibility as a dislocated worker, *terminated* employment is a permanent situation in which the employer lays off, without cause, and does not plan to rehire an individual. Any documented non-seasonal layoff projected to last one-hundred eighty (180) or more calendar days is a termination of employment.

The intent of this definition is to include only those terminated workers who intend to return to permanent, full-time work.

The following circumstances are not considered a termination of employment:

- seasonal unemployment;
- an end to an assignment through a temporary employment agency;
- a notice of termination that includes a certain or tentative recall date within one-hundred eighty (180) calendar days of the initial layoff date; or
- retirement or other voluntary separation from the workforce.

31. underemployed⁵³

Underemployed individual means an individual who is employed:

- less than full-time who is seeking full-time employment;
- in a position that is inadequate with respect to their skills and training;
- and meets the definition of low-income individual; or
- and whose current job earnings are not sufficient compared to their previous earnings from previous employment.

32. unemployed as a result of a natural disaster

⁵⁰ 38 USC 101(16)

⁵¹ Defined by State

⁵² Ibid.

⁵³ TEGL 19-16

The phrase *unemployed as a result of a natural disaster* means unemployment caused by a major adverse event(s) resulting from natural processes of the Earth or forces other than the acts of human beings, including environmental conditions, such as:

- floods;
- tornadoes;
- earthquakes; and
- 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.

33. unlikely to return to a previous occupation or industry

For 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 criteria:

- official assessments of market demand for products or services in the occupation or industry;
- local labor market conditions for the industry or occupation;
- 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;
- 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.

34. veteran

Veteran 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).

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 10/24/2019
	Supersedes
	Review/Revision Date 3/14/2024

Adult & Dislocated Worker Program Services (3/14/2024)

Reference

TEGL 19-16. 20 USC § 1232g. 34 CFR Part 99 20 CFR §§ 680.210-680.230 and 681.430(b). Nebraska Department of Labor, Adult and Dislocated Worker Programs policy.

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.

Policy

Career Services

There are three types of career services available to adults and dislocated workers (DLW): basic career services, individualized career services, and follow up services. There is no sequence of service requirements for career services.

Basic Career Services

Basic career services are considered universal services and do not require an eligibility determination or enrollment into a One-Stop partner program. These services are accessible to anyone at any American Job Center or Career Center throughout Greater Nebraska. Basic career services that must be available to and accessible by adult and dislocated worker program participants are described in detail in the One-Stop delivery systems and One-Stop centers.

Individualized Career Services

Individualized career services are not considered universal services. Individuals who receive them must be eligible under WIOA and enrolled in the WIOA program. These services are subject to Priority of Service provisions for Adult and Dislocated Worker participants as outlined in the Greater Nebraska Priority of Service policy.

Individualized career services must be made available to individuals enrolled in the Adult and Dislocated Worker programs, if determined appropriate in order for the individual to obtain or retain employment.⁸⁹

Eligibility for individualized career services must be based on an initial assessment of skill levels including.⁹⁰

⁸⁹ 20 CFR 680.140(a) and 680.150(b); TEGL 19-16

⁹⁰ 20 CFR 680.150(b); TEGL 19-16

- Literacy and numeracy;
- English language proficiency;
- Aptitudes and abilities, including skills gaps; and
- Supportive service needs.

Greater Nebraska utilizes the Objective Assessment Summary (OAS) in the participant's NEworks file to assess the above skills/ needs for each participant. Additional assessments Case Managers may provide include, but are not limited to the NEworks Assessments, CASAS, and other assessments identified as allowable in the Basic Skills Deficiency Policy.

Individualized Career Services⁹¹ include:

- Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include:
 - diagnostic testing and use of other assessment tools; and
 - in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals
- Development of an individual employment plan (IEP) that identifies the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the provision of information on eligible providers
- Group or individual counseling
- Career planning
- Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct services to prepare individuals for unsubsidized employment or training
- Internships and work experiences that are linked to careers, including transitional jobs
- Workforce preparation activities
- Financial literacy services
- Out-of-area job search assistance and relocation assistance
- English language acquisition and integrated education and training programs

Training Services

Training services are not considered universal services. Individuals who receive them must be eligible under WIOA and enrolled in the WIOA program. These services are subject to Priority of Service provisions for Adult and Dislocated Worker participants as outlined in the Greater Nebraska Priority of Service policy.

Training Services⁹² include, but are not limited to:

- Occupational skills training, including:
 - training for nontraditional employment
 - Registered Apprenticeship Programs
 - Pre-apprenticeships, provided they include the following elements:⁹³
 - training and curricula that aligns with the skill needs of employers in the economy of the State or region involved;

⁹¹ 20 CFR 678.430(b)

⁹² 20 CFR 680.200

⁹³ 20 CFR 681.480

- 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
 - partnership with one or more Registered Apprenticeship programs that assist in placing individuals who complete pre-apprenticeships in Registered Apprenticeship programs
- On-the-job training
 - Incumbent worker training
 - Programs that combine workplace training with related instruction, which may include cooperative education program
 - Training programs operated by the private sector
 - Skills upgrading or retraining
 - Entrepreneurial training
 - Transitional jobs and work experience
 - Job readiness training provided in combination with one or more of the training services listed above
 - Adult education and literacy activities, including English language acquisition and integrated education and training programs provided concurrently or in combination with one or more of the training services listed above
 - Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training

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 adults and dislocated workers meet criteria 1 through 6 and criterion 7 in the case of trade-affected workers:⁹⁴

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:

⁹⁴ 20 CFR 680.210; TEGL 19-16

- a. if the petitions are certified, workers then transition to Trade Adjustment Assistance 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.

There is no requirement that career services be provided as a condition to receive training services.⁹⁵ However, if career services are not provided before training, the circumstances that justify the determination to provide training services to the participant without first providing an interview, evaluation or assessment, and career planning informed by local labor market information and training provider performance information must be documented in an NEworks case note.

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.⁹⁶ 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.⁹⁷ The documentation must be included in case files prior to the provision of training services.

Training services for Title IB program participants are typically provided by Eligible Training Providers (ETPs) listed on the State’s Eligible Training Provider List (ETPL) through Individual Training Accounts (ITAs).⁹⁸ 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.⁹⁹ Training services, when determined appropriate, must be provided either through an Individual Training Account (ITA) or through a training contract. Further guidelines regarding ITAs and training contracts can be found in Greater Nebraska’s Individual Training Account (ITA) and Eligible Training Providers and Contracting with Training Providers policies.

Greater Nebraska has established financial limitations on ITAs¹⁰⁰ based on the Board’s policy decision to establish a maximum amount application 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

⁹⁵ 20 CFR 680.220(b); TEGL 19-16

⁹⁶ 20 CFR 680.220(b)

⁹⁷ Ibid.

⁹⁸ 20 CFR 680.300

⁹⁹ Ibid.

¹⁰⁰ 20 CFR 680.310(a)

to supplement ITAs, such as Pell Grants, scholarships, severance pay, and other sources.¹⁰¹ ITAs shall never be limited with the intent to restrict availability for specific occupations.

Supportive Services

Title I adult and dislocated worker supportive services may be provided only:¹⁰²

- 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.

Title IB programs are the “funding source of last resort” and must be coordinated with other resources when available.

Greater Nebraska has established a separate comprehensive Supportive Services policy with specific availability and criteria.

Co-enrollment and Coordination of Services

Adult and Dislocated Worker must be co-enrolled in partner programs when eligibility permits and co-enrollment benefits the participant. The participant must agree to co-enrollment.

Case Managers must:

- Ensure coordination of services, 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 co-enrolled participants; and
- Ensure no duplication of services across programs.

Co-enrollment must be documented in the Partner Programs tab of the participant’s NWorks WIOA Application. Coordination of services must be documented in the participant’s NWorks activities and case notes.

Funding for training services under Title I adult and dislocated workers is limited to participants who:¹⁰³

- 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.¹⁰⁴ 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

¹⁰¹ 20 CFR 680.310(d)

¹⁰² 20 CFR 680.910(a)-(b)

¹⁰³ 20 CFR 680.230(a)

¹⁰⁴ 20 CFR 680.230(b)

Title IB adult and dislocated worker program funds are supplemental to other sources of funding sources.¹⁰⁵

Follow Up Services

Follow up services must be made available for Adults and Dislocated Workers who are placed in unsubsidized employment for a minimum of 12 months after the first day of employment. All participants must be offered an opportunity to receive follow-up services unless the participant declines to receive follow-up services or the participant cannot be located or contacted. The type and intensity of follow-up services will vary for each participant as they are based off individual need.

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:¹⁰⁶

- 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.

Resource and service coordination with co-enrollment partners is required throughout follow-up. Adult and Dislocated Worker participants cannot receive supportive services or any other funded activity during follow up.

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.

Exclusion from participation

¹⁰⁵ Ibid.

¹⁰⁶ 20 CFR 678.430(c); TEGL 16-16

A participant may be excluded from performance calculations under limited circumstances.¹⁰⁷ Program staff are responsible for determining when one or more of those circumstances have occurred and must provide source documentation to the NDOL Performance Program Coordinator that supports a request to exclude a participant from performance. A participant cannot be excluded from participation after program exit.

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.
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.
Death	The participant is deceased
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.
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.

*Active duty¹⁰⁸ means full-time duty in the active military service of the United States. The term 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. The term does not include full-time National Guard duty.

Documentation

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 NWorks, 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.

Privacy

Case Managers must adhere to the confidentiality requirements of the Family Education Rights and Privacy Act, established under Section 444 of the General Education Provisions Act,¹⁰⁹ including requirements regarding circumstances requiring written consent for disclosure of personally identifiable information from an education record.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor’s submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:
45-2-1 Complaints

¹⁰⁷ TEGLs 10-16 Change 2 and 14-18

¹⁰⁸ 10 USC 101(d)(1)

¹⁰⁹ 20 USC 1232g; 34 CFR Part 99

45-2-6 Planning Documents
45-2-7 Policy and Notices
45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Definitions

Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. The 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.¹¹⁰

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.¹¹¹ 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:¹¹²

- 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

¹¹⁰ WIOA Sec. 3(10)

¹¹¹ 20 CFR 680.230(c)

¹¹² 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 education¹¹³

Institution of higher education means an educational institution that:

- 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;
- is legally authorized within the state to provide a program of education beyond secondary education;
- 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);
- is a public nonprofit or other nonprofit institution; and
- 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:¹¹⁴

- industry-recognized certificate or certification;
- license recognized by the Federal government, State of Nebraska, or another state;
- postsecondary diploma;
- associate or baccalaureate degree;
- secondary-school diploma or GED earned in conjunction with occupational skills training;
- employment; or
- 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.¹¹⁵

11. underemployed

In addition to individuals who are unemployed, a significant number of job seekers are underemployed. Examples of individuals who are underemployed¹¹⁶ include those who:

- meet the definition of low-income individual in WIOA Sec. 3(36);

¹¹³ WIOA Sec. 3(28); 20 USC 1001, 1002(a)(1), and 1091(d)

¹¹⁴ 20 CFR 680.420

¹¹⁵ WIOA Secs. 3(59)

¹¹⁶ TEGL 19-16

- 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.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 5/23/2019
	Supersedes
	Review/Revision Date 9/21/2023

Basic Skills Deficiency (9/21/2023)

Reference

Workforce Innovation and Opportunity Act (WIOA) 134; 20 CFR § 681.290; Ibid; TEGL 21-16, TEGL 23-19; Nebraska Department of Labor (NDOL) State Plan; Nebraska Department of Labor (NDOL) Priority Populations and Priority of Service policy.

Purpose

This policy establishes criteria in determining basic skills deficiency in the local area.

Background

Basic skills deficiency is a criterion used to determine priority of service and eligibility in certain circumstances. Per CFR §681.290 the State or Local Workforce Development Board must establish its policy on paragraph (a)(2) of the definition of basic skills deficient (see “B” below) in its respective State or local plan.¹¹⁷

The State requires that local boards establish policies that:

- describes quantifiable methods that must be used to determine eligibility based on the “basic skills deficient” criterion, which must include use of assessment instruments that are valid and appropriate for the target population and the provision of reasonable accommodations during the assessment process for individuals with disabilities; and
- describes documentation required to demonstrate basic skills deficiency, as required for Federal reporting, based on this criterion.

Policy

Definition

The term “basic skills deficient” means -

- A youth who has English reading, writing, or computing skills at or below the 8th grade level 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.¹¹⁸

¹¹⁷ [20 CFR § 681.290](#)

¹¹⁸ [WIOA Sec. 3\(5\)](#)

For the purposes of determining priority of service, eligibility, and potential needs of participants, staff should assess each individual for potential basic skills deficiency. Results must be noted as appropriate in the WIOA application and Objective Assessment, and objectives to address the deficiency must be included in the IEP/ISS. Formal assessment results within the last six months, provided by the participant or a partner agency, are acceptable to use for these purposes.

Per TEGL 21-16:

As discussed in 20 CFR § 681.290, “in assessing basic skills, local programs must use assessment instruments that are valid and appropriate for the target population, and must provide reasonable accommodation in the assessment process, if necessary, for individuals with disabilities.” **For purposes of the basic skills assessment portion of the objective assessment, local programs are not required to use assessments approved for use in the Department of Education’s National Reporting System (NRS), nor are they required to determine an individual’s grade level equivalent or educational functioning level (EFL), although use of these tools is permitted.** Rather, local programs may use other formalized testing instruments designed to measure skills-related gains. It is important that, in addition to being valid and reliable, any formalized testing used be appropriate, fair, cost effective, well-matched to the test administrator’s qualifications, and easy to administer and interpret results. **Alternatively, skills related gains may also be determined through less formal alternative assessment techniques such as observation, folder reviews, or interviews.** The latter may be particularly appropriate for youth with disabilities given accessibility issues related to formalized instruments. Local programs may use previous basic skills assessment results if such previous assessments have been conducted within the past six months.

Basic Skills Screening Tool

The Basic Skills Screening Tool may be used to screen WIOA applicants for priority of service and eligibility. Applicants that answer “No” to any of the questions on the tool (including being a high school drop-out) should be further assessed utilizing the approved tools outlined in this policy. Anyone unable to complete the screening tool without assistance must automatically be further assessed for basic skills deficiency.

The screening tool cannot be used to help determine a participant’s educational needs or to determine a measurable skills gain. If the screening tool identifies an individual as basic skills deficient, that individual should be further assessed to determine their educational needs.

Enrollment may proceed with the use of this tool. Individuals determined to be basic skills deficient must be assessed using a formal tool, including alternative assessment techniques within 30 days of enrollment to identify specific educational needs and services / resources available to address deficiencies. Individuals not seeking training services (enrolling for job placement services only) are exempt from this requirement for formal testing.

Applicable Records from Education Institution

Per TEGL 23-19, transcripts, academic assessments, or other school documentation are acceptable for the purposes of documenting basic skills deficiency. The following may be used to support an assessment of basic skills deficiency:

- In school (secondary or postsecondary) with a Grade Point Average of less than 2.0
- Quit school without completion of the 8th grade

- One or more years behind modal grade for one’s age group, with particular emphasis on those two or more years behind modal grade (Modal grade is the most frequent grade classification of students of a particular age; e.g. most 15 year olds are in 10th grade)
- For each year of secondary education, are at least two semesters behind the rate required to graduate from high school
- Documentation provided by the student’s counselor or MDT/IEP team

Enrollment may proceed with the use of this documentation. Individuals determined to be basic skills deficient must be assessed using a formal tool, including alternative assessment techniques within 30 days of enrollment to identify specific educational needs and services / resources available to address deficiencies. Individuals not seeking training services (enrolling for job placement services only) are exempt from this requirement for formal testing.

Assessment Requirements

For the purposes of determining basic skills deficiency and educational needs, staff may accept any formalized testing approved by the Department of Education’s National Reporting System, Nebraska Department of Education¹¹⁹, or otherwise stated in this policy including:

ACCUPLACER®	ACT® WorkKeys® Curriculum™ Placement
ACT® WorkKeys® Assessment	CareerScope
CASAS	DCA (District Common Assessment)
ELPA21 (or most current version)	MAP (Measures of Academic Progress)
NCRC	NSCAS-AA
TABE®	

Assessments provide valuable information to help guide an individual towards an employment goal. The results of assessments must be explained to an individual and analyzed to provide guidance in determining action steps and services to be included in the Employment Plan. From the information compiled during assessments, appropriate One-Stop partners and services should be identified in order to provide direct linkage to services in the One-Stop System.

Refer to the Assessment Guide in the Operations Manual for guidelines on evaluation of scores relative to basic skills deficiency.

Accommodations

In addition to specific accommodations provided by the appropriate assessment publishers, the following accommodations for students with documented disabilities enrolling in Title IB programs may also be available:

- Assistive devices and equipment that enhance visual / auditory response
- Flexible scheduling
- Flexible settings
- Foreign language interpreters (for test administration directions only)
- Sign language interpreters (for test administration directions only)
- Braille format

Test administrators must always verify with the assessment publisher to determine if specific accommodations are allowable.

¹¹⁹ [Nebraska Department of Education Statewide Assessments](#)

It may be appropriate to consider a consultation with Vocational Rehabilitation, Adult Education, and NDOL staff to ensure the needs or potential needs of the individual are being met.

When necessary, and with permission from the participant, Greater Nebraska staff should seek additional guidance and support from agencies that provide additional accommodations support to individuals enrolling for services.

Every effort must be made to accommodate individuals with disabilities. Should an available assessment accommodation or alternative accommodation offered not be of substantial assistance to benefit the student, documentation of all attempts should be included in NEworks.

Coordinated Referral

Individuals who are Basic Skills Deficient **must** be offered direct linkage to services through the Title IBI Adult Education program as a coordinated referral service for possible co-enrollment. It is the customer's choice to take part in such services. Should the provider not have space for the participant, the objective should be recorded in the IEP/ISS and the individual may attend classes as soon as a seat becomes vacant.

Measurable Skills Gains

In accordance with TEGL 21-16, if measuring EFL gains after program enrollment under the measurable skill gains indicator, local programs must use an NRS approved assessment for both the EFL pre- and post-test to determine an individual's educational functioning level. Individuals assessed as basic skills deficient who will not receive a credential within the program year must be reassessed for EFL gains annually prior to participation date anniversary.

Nebraska utilizes the CASAS for this purpose.

Documentation

Per TEGL 23-19, source documentation may be in the form of the following:

- Case notes
- Assessment Test Results
- Applicable Records from Education Institution (transcripts, academic assessments, or other school documentation)

Compliance and Monitoring

Internal monitoring will be completed quarterly (January, April, July, and October) to ensure guidelines are followed. The Administrative Entity will provide a report to the System Coordination Committee on the status. Technical assistance will be provided by the administrative entity if discrepancies are found.

Local area compliance is also reviewed as part of routine program monitoring conducted by the NDOL State Monitor.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-

2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative
	Effective Date 3/14/2024
	Supersedes None
	Revision Date

CEOB/GNWDB (3/14/2024)

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 defines required roles and responsibilities of local chief elected officials (CEOs) and local workforce development boards.¹²⁰

Policy

Board Responsibilities

Chief Elected Officials Board

Chief Elected Officials required functions¹²¹

Description
1. Serve as subrecipient of Title I (adult, dislocated worker, and youth) funds or designate an alternative entity as subrecipient or fiscal agent
2. If a fiscal agent is designated, CEOs must ensure the agent has clearly defined roles and responsibilities
3. Bear financial liability for misuse of Title I grant allocated to their respective local areas, even if alternate grant subrecipients or fiscal agents have been designated, unless agreements have been reached with the Governor to bear liability
4. If the local area is composed of more than one unit of general local government, the liability of the individual jurisdictions with regard to misused funds must be specified in a written agreement among the CEOs in the local area
5. Establish bylaws for local boards
6. Select and appoint members of the local board
7. Request certification of local boards every two years
8. Request designation of local areas in collaboration with local boards
9. Approve local board selection of One-Stop operators

¹²⁰ WIOA Secs. 101 and 107

¹²¹ WIOA Secs. 107(b)(1)-(4), 107(c)(2), 107(c)(2)(C), 107(c)(3)(C), 107(d)(10)(A), 107(g)(1); 20 CFR §§ 678.610(a)-(c), 679.250, 679.310(b), (d), (g), and (j), 679.320(a) and (g)(1)-(3), 679.350, 679.370, 679.410(a)-(c), 679.420(a), 679.510(a)(1), 679.530(b), 679.550(a), 679.580(b), and 683.710(b)(1)-(4)

10. Seek approval from NDOL when local boards intend to serve as One-Stop-operators or provide career services
11. Seek approval from NDOL when local boards intend to directly provide training services
12. Consult with NDOL, as requested, regarding a reorganization plan developed in relation to decertification of the local board
13. Work in partnership with local boards to establish an agreement among CEOs and local boards in the statewide planning region on how the planning region will collectively negotiate and reach agreement with NDOL on levels of performance for and report on the performance accountability measures
14. Work in partnership with local boards to negotiate and reach agreement on local performance indicators with local boards and NDOL
15. Work in partnership with local boards to develop and submit a comprehensive four-year local plan for the local area to the Governor
16. Participate in statewide regional planning processes that result in a regional plan
17. At the end of the first two-year period of the statewide regional and local plans, review the plans and prepare and submit modifications to the plans
18. Approve budgets developed by local boards for the activities of the boards that are consistent with local plans and duties of local boards
19. Work in partnership with local boards to set policy for their respective One-Stop delivery systems
20. Work in partnership with local boards to conduct oversight of youth workforce investment activities authorized under WIOA Sec. 129(c), adult and dislocated worker employment and training activities authorized under WIOA Secs. 134(c) and (d), and the entire One-Stop delivery system in the local area
21. Work in partnership with local boards to ensure appropriate use and management of funds provided for WIOA Title IB adult, dislocated worker, and youth program activities and the One-Stop delivery system in the local area
22. Work in partnership with local boards to ensure the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA Sec. 116
23. Work in partnership with local boards to negotiate with required One-Stop partners on methods for funding infrastructure costs for One-Stop centers in the local area <i>and</i> notify NDOL if consensus is not reach as required under the State’s policy on memorandums of understanding and funding agreements

In addition to these required functions, Chief Elected Officials may also:

- enter into agreements with local boards that describe the respective roles and responsibilities of the parties;¹²² and
- convey voting privileges to non-required members of local boards¹²³

Agreements

Local areas having more than one unit of general local government must establish a written agreement among the Chief Elected Officials in the local area to define the liability of individual jurisdictions with regard to misuse of Title I funds, as required [20 CFR § 683.710\(b\)\(2\)](#).

Chief Elected Officials may also establish agreements describing roles and responsibilities of CEOs and local boards in their respective local areas, as permitted under [20 CFR § 679.310\(e\)](#).

¹²² 20 CFR 679.310(c)

¹²³ 20 CFR 679.310(i)

Delegation of authority and financial liability

Local areas having multiple units of general local government may designate a single Chief Elected Official as a local area subrecipient or designate another entity to serve as subrecipient or fiscal agent pursuant to an agreement among the Chief Elected Officials in the local area, pursuant to [20 CFR § 679.420\(a\)](#). However, designation of a fiscal agent does not relieve the Chief Elected Official of liability for misuse of grant funds, as stated in [20 CFR § 679.420\(a\)](#).

Greater Nebraska Workforce Development Board

Local Board required functions¹²⁴

Description
1. The Local Workforce Development Board must elect a chairperson from among the business representatives on the Workforce Development Board.
2. Appoint members of the local board to the board sub-committees.
3. When there is a change in the chief elected official(s), the Local Workforce Development Board is required to inform the new chief elected official(s), in a timely manner, of their responsibilities and liabilities as well as the need to review and update any written agreements among the chief elected official(s).
4. In partnership with the chief elected official(s), the Local Workforce Development Board sets policy for the portion of the statewide workforce development system within the local area and consistent with State policies.
5. The Local WDB, in partnership with the chief elected official(s), develops and submit a 4-year local plan for the local area, in partnership with the chief elected official and consistent with WIOA sec. 108
6. If the local area is part of a planning region that includes other local areas, develop and submit a regional plan in collaboration with other local areas. If the local area is part of a planning region, the local plan must be submitted as a part of the regional plan;
7. Convene local workforce development system stakeholders to assist in the development of the local plan under § 679.550 and in identifying non-Federal expertise and resources to leverage support for workforce development activities. Such stakeholders may assist the Local WDB and standing committees in carrying out convening, brokering, and leveraging functions at the direction of the Local WDB;
8. Lead efforts to engage with a diverse range of employers and other entities in the region in order to: <ul style="list-style-type: none"> a. Promote business representation (particularly representatives with optimum policy-making or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the region) on the Local WDB; b. Develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities; c. Ensure that workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers; and d. Develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers (such as the establishment of industry and sector partnerships), that provide the skilled workforce needed by employers in the region, and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations;
9. With representatives of secondary and postsecondary education programs, lead

¹²⁴ 20 CFR 679.310, 679.330, 679.370, 683.710

<p>efforts to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment;</p>
<p>10. Lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers and job seekers, and identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs;</p>
<p>11. Develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and job seekers, by:</p> <ul style="list-style-type: none"> a. Facilitating connections among the intake and case management information systems of the One-Stop partner programs to support a comprehensive workforce development system in the local area; b. Facilitating access to services provided through the One-Stop delivery system involved, including access in remote areas; c. Identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the One-Stop delivery system, such as improving digital literacy skills; and d. Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment;
<p>12. In partnership with the chief elected official for the local area:</p> <ul style="list-style-type: none"> a. Conduct oversight of youth workforce investment activities authorized under WIOA sec. 129(c), adult and dislocated worker employment and training activities under WIOA secs. 134(c) and (d), and the entire One-Stop delivery system in the local area; b. Ensure the appropriate use and management of the funds provided under WIOA subtitle B for the youth, adult, and dislocated worker activities and One-Stop delivery system in the local area; and c. Ensure the appropriate use management, and investment of funds to maximize performance outcomes under WIOA sec. 116;
<p>13. Negotiate and reach agreement on local performance indicators with the chief elected official and the Governor;</p>
<p>14. Negotiate with CEO and required partners on the methods for funding the infrastructure costs of One-Stop centers in the local area in accordance with § 678.715 of this chapter or must notify the Governor if they fail to reach agreement at the local level and will use a State infrastructure funding mechanism;</p>
<p>15. Select the following providers in the local area, and where appropriate terminate such providers in accordance with 2 CFR part 200:</p> <ul style="list-style-type: none"> a. Providers of youth workforce investment activities through competitive grants or contracts based on the recommendations of the youth standing committee (if such a committee is established); however, if the Local WDB determines there is an insufficient number of eligible training providers in a local area, the Local WDB may award contracts on a sole-source basis as per the provisions at WIOA sec. 123(b); b. Providers of training services consistent with the criteria and information requirements established by the Governor and WIOA sec. 122; c. Providers of career services through the award of contracts, if the One-Stop operator does not provide such services; and d. One-Stop operators in accordance with §§ 678.600 through 678.635
<p>16. In accordance with WIOA sec. 107(d)(10)(E) work with the State to ensure there are sufficient numbers and types of providers of career services and training services serving the local area and providing the services in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive</p>

integrated employment for individuals with disabilities;
17. Coordinate activities with education and training providers in the local area, including: <ol style="list-style-type: none"> a. Reviewing applications to provide adult education and literacy activities under WIOA title II for the local area to determine whether such applications are consistent with the local plan; b. Making recommendations to the eligible agency to promote alignment with such plan; and c. Replicating and implementing cooperative agreements to enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination;
18. Develop a budget for the activities of the Local WDB, with approval of the chief elected official and consistent with the local plan and the duties of the Local WDB;
19. Assess, on an annual basis, the physical and programmatic accessibility of all One-Stop centers in the local area, in accordance with WIOA sec. 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and
20. Certification of One-Stop centers in accordance with § 678.800

In addition to these required functions, the local Workforce Development Board may also:

- hire directors and other staff to assist in carrying out the functions of local boards pursuant to WIOA Sec. 107(f) and 20 CFR § 679.400(a). If local boards elect to hire staff, the requirements of 20 CFR § 679.400(b)-(e) must be met.
- designate standing committees to assist the local board in carrying out its responsibilities. If the local board elects to designate standing committees, each standing committee must meet the requirements of 20 CFR § 679.360.

The local Workforce Development Board must conduct business in an open manner by making available to the public information about their respective activities. These requirements are referred to as sunshine provision requirements, which are described in WIOA Sec. 107(e) and 20 CFR § 679.390. Further, meetings of local boards must comply with the requirements of the Nebraska Open Meetings Act.¹²⁵

Local Board Certification

Local boards must be certified every two years, in accordance with WIOA Sec. 107(c)(2)(A) and [20 CFR § 679.350](#). Certification of local boards must occur in accordance with WIOA Secs. 107(b)(1)-(4) and (c)(2) and [20 CFR § 678.800](#).

1. The composition of a local board must comply with the requirements of WIOA Sec. 107(b)-(c) and [20 CFR § 679.310](#).
2. The chair of a local board must be a representative of *business in the local area* in accordance with the requirements described in Sections II(a)(1)(A) and II(a)(2) below.
3. If a local board has established standing committees, the committees must comply with the requirements described in Section II(c)(3) below.
4. A local board must have ensured that workforce investment activities carried out in its local area enabled the local area to meet *adjusted levels of performance* during the preceding two full program years.

¹²⁵ Neb Rev. Stat. 84-1407 through 84-1414

5. A local board must have sustained fiscal integrity during the preceding two full program years.

The following documentation is required for certification requests:

- written request from the Chair of the Chief Elected Officials Board for certification of the local board;
- current membership, distribution, and standing committees rosters using the templates provided by the State;
- board membership applications using the membership application templates provided by the State;
- signed written assurances regarding local board and standing committee composition, performance accountability, fiscal integrity, and records retention.

The Chief Elected Officials Board and local board must submit local board certification requests and supporting documentation no later than March 1 of the applicable calendar year.

Decertification of local boards

Pursuant to WIOA Sec. 107(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 the local board in [20 CFR § 679.370](#); or
- failure to meet adjusted levels of performance for two consecutive program years, as described in the State's performance accountability policy.

When decertifying a local board, the Governor must adhere to the requirements of [20 CFR § 638.650](#).

High-performing local boards

Nebraska Department of Labor has not yet developed criteria for high-performing local boards.

Fiscal Agents

The Greater Nebraska Chief Elected Officials Board has designated Nebraska Department of Labor as the Fiscal Agent. In general the fiscal agent is responsible for the following functions:

- Receive funds
- Ensure sustained fiscal integrity and accountability for expenditures of funds in accordance with Office of Management and Budget circulars, WIOA and the corresponding Federal Regulations and State policies
- Respond to audit financial findings
- Maintain proper accounting records and adequate documentation
- Prepare financial reports
- Provide technical assistance to subrecipients regarding fiscal issues

The Greater Nebraska Chief Elected Officials Board has also designated Nebraska Department of Labor to procure contracts and/or obtain written agreements.

Waitlists for Title IB program services

As required under WIOA Secs. 129(c) and 134(b), local areas must provide Title IB youth services to

eligible youth and Title IB employment and training activities to eligible adults and dislocated workers. During annual budget planning for an upcoming program year, local boards:

- **must** prioritize planned 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 planned funding of 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.

Should Greater Nebraska predict during a given program year that funding for the provision of program services for eligible adults, dislocated workers, and youth may become limited, the board may establish waitlists for services. Only the Greater Nebraska Workforce Development Board (not designees, including local administrative entity staff or service provider staff) may establish waitlists for one or more of Title IB programs under the following limited circumstances:

- a. when funding is predicted to be insufficient during the remainder of the program year based on full analysis of local fiscal records for the impacted program(s); or
- b. unexpected economic conditions occurring in the local area.

Greater Nebraska must ensure written agreements with employers for incumbent worker and customized training services include provisions that allow the board to modify, suspend, or terminate the agreements due to changes in funding levels for adult and dislocated worker programs.

Greater Nebraska shall modify, suspend, or terminate written agreements with employers for incumbent worker and customized training services should it be identified that a funding shortage will impact services to participants. These funds shall be deobligated and the balance of the deobligated funds restored to the 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.

Mandatory disclosure, noncompliance, internal controls, and conflict of interest requirements

Mandatory disclosures

The Greater Nebraska Chief Elected Officials Board, Workforce Development Board, standing committees, and local area administrative entity must disclose to NDOL in a timely manner, and in writing, 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](#). Non-Federal entities that have received subawards are required to report certain civil, criminal, or administrative proceedings to NDOL, 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](#) and [200.339](#).

Internal controls

The Greater Nebraska Chief Elected Officials Board, Workforce Development Board, standing committees, and local area administrative entity must adhere to the requirements of [2 CFR § 200.303\(a\) and \(e\)](#). Greater Nebraska shall maintain agreements clarifying how the selected service provider (including local fiscal agent, local board staff, One-Stop operator, and direct provider of services) will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, the Uniform Guidance (2 CFR Parts 200 and 2900) and [20 CFR §](#)

679.430, as well as the conflict of interest provision described below.

Conflict of interest

The Greater Nebraska Chief Elected Officials Board, Workforce Development Board, standing committees, and local area administrative entity must disclose in writing to Nebraska Department of Labor any potential conflicts of interest regarding NDOL subawards of Federal funds to local areas, as required under 2 CFR § 200.112 and 20 CFR § 683.200(c)(5)(i) and (iii).

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

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 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. community-based organization¹²⁶

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. contract¹²⁷

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. This definition does not apply to pay-for-performance contract strategies established by local board pursuant to 20 CFR Part 683 Subpart E.

4. demonstrated experience and expertise

¹²⁶ WIOA Sec. 3(10)

¹²⁷ 2 CFR 200.1

For purposes of selecting representatives as members of the state board, a representative with *demonstrated experience and expertise* means an individual who has documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function.¹²⁸ 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:¹²⁹

- 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.

5. in-demand industry sector or occupation¹³⁰

- 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.

6. optimum policymaking authority

For purposes of selecting representatives as members of the state board and local boards, a representative with optimum policymaking authority is an individual who can reasonably be expected to:¹³¹

- speak affirmatively on behalf of the entity the individual represents; and
- commit that entity to a chosen course of action.

7. small business

The US Small Business Administration defines small business based on firm revenue (ranging from \$1 million to over \$40 million) and by employment (from 100 to over 1,500 employees). For

¹²⁸ 20 CFR 679.110(b)(3)(ii)(C) – (D) and 679.120(b)

¹²⁹ 20 CFR 679.340(b)

¹³⁰ WIOA Sec. 3(23)

¹³¹ 20 CFR 679.120(a) and 679.340(a)

example, according to the SBA definition:

- a roofing contractor is defined as a small business if it has annual revenues of \$16.5 million or less; and
- an asphalt shingle and coating material manufacturer is defined as a small business if it has fewer than 750 employees.

8. personally identifiable information (PII)¹³²

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.

9. subrecipient¹³³

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. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

10. sustained fiscal integrity¹³⁴

The Secretary of USDOL has not made a formal determination that during the two preceding program years that neither the local area grant recipient nor administrative entity misexpended funds provided under Title I due to:

- willful disregard of the requirements of the WIOA provision involved;
- gross negligence; or
- failure to comply with accepted standards of administration.

11. unit of general local government

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.¹³⁵

12. workplace learning advisor¹³⁶

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

¹³² 20 CFR 679.120(a) and 679.340(a)

¹³³ 2 CFR 200.1

¹³⁴ 20 CFR 679.260(c)

¹³⁵ WIOA Sec. 3(62)

¹³⁶ WIOA Sec. 3(70)

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

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category One-Stop Delivery System
	Effective Date 3/16/2023
	Supersedes None
	Revision Date 9/21/2023

Complaint, Grievance, and Appeal Procedures (9/21/2023)

Reference

20 CFR §§ 683.600-683.610; Nebraska Department of Labor’s (NDOL) Grievances and Complaints Policy.

Purpose

The following procedure describe the process by which participants and others affected may file complaints/grievances alleging a violation of the requirements under Title IB of the Workforce Innovation and Opportunity Act (WIOA) including grant agreements, grant awards, collective bargaining agreements, failure to receive services, etc.

Policy

Complaints & Grievances of a Non-discriminatory Nature

Reasonable Effort

The American Job Centers and NDOL Offices will make reasonable efforts as provided for in 29 CFR 38.9 to assure that information on the complaint procedure and complaint forms will be understood by individuals, including youth, and limited English speaking participants, to meet their language needs and be effectively informed.

Protection

These procedures are designed to ensure that the identity of a person who furnishes information or assists in the investigation of a complaint will be kept confidential to the extent possible consistent with a fair determination on the complaint. A complainant’s rights include freedom from employment termination, discrimination, retaliation, or denial of WIOA benefits to which entitled because the person filed a complaint. The complainant’s identity will be kept confidential to every extent possible unless and until identity is necessary to resolve the issue.

Reprisal

Retaliation is prohibited against a person who files a complaint or testifies. An individual may file a complaint without fear of jeopardizing his/her WIOA participation, employment, advancement opportunities, salary increases, or any other rights and benefits.

Who May File

A complaint may be filed by any person or organization affected by the local Workforce Development System, including but not limited to program participants, contractors, WIOA staff, local area staff,

One-Stop partners, service providers, One-Stop Partner staff, applicants for program participation, labor unions, and community-based organizations.

Filing Deadline

Non-criminal complaints and grievances of a nondiscriminatory nature should be filed as soon as possible and shall be filed within 180 days of the alleged occurrence.

Complaints Process

If a grievance or complaint is made directly to the State or Secretary, they will be referred to the appropriate local area for resolution. Local level procedures shall be exhausted before the complaint may be addressed at the State level. The local area shall either resolve the complaint informally or have a hearing and issue a final local decision within sixty (60) days.

How to File a Complaint

Complaints shall be submitted in writing and contain the following:

- A. Full name, legal address, phone number of the complainant, and email address if available.
- B. Full name, address of the person or entity against whom the complaint is made.
- C. A clear statement of the facts and date(s) of the alleged violation.
- D. If known, the specific areas of Title IB WIOA, its regulations, or other terms or conditions believed to have been violated.
- E. A statement as to whether or not the complaint has been filed anywhere else.
- F. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address, and phone number of the representative.
- G. Must state the relief or remedial action sought.
- H. Copies of documents supporting or referred to in the complaint must be attached to the complaint.
- I. The complaint must be signed and dated by the complainant.
- J. The written complaint is to be given to the One-Stop Operator of the American Job Center or mailed to the:
Greater Nebraska Workforce Development Area
550 S. 16th Street
Lincoln, NE 68508
- K. If the complainant is unable to provide a written statement, an alternative method of obtaining written documentation from the complainant shall be pursued, which may include assistance by agency staff or the local service provider.

Where to get a Complaint Procedure/Form

This policy and forms are available upon request at the American Job Centers or any Nebraska Department of Labor Office. Any entity which is awarded Title IB funds will provide and publish information on the complaint procedure and have forms available to participants upon request. WIOA Case Managers are required to explain the process to clients during the initial assessment process and make available a copy of this policy.

Resolving a Complaint

- A. Complainants are encouraged to resolve complaints through informal discussion. If there is a mutually satisfactory resolution from the informal discussion, the One-Stop Operator should include documentation in the file and in the complaint log stating the issues and the resolution. The matter would then be considered closed.
- B. If the complaint is not resolved through informal discussion, the complainant can choose to formally file a written complaint with the One-Stop Operator.

- C. The One-Stop Operator will formally acknowledge its receipt of a complaint within 5 days of receipt by a written acknowledgment. The acknowledgment will be sent to the complainant's last known address on record.
- D. Within 14 days of receiving a complaint, the One-Stop Operator will issue and send its initial determination to the complainant's last known address of record. The initial determination shall be construed as an informal resolution and will include:
 - a) Statement of complainant's issues.
 - b) The One-Stop Operator's determination.
 - c) Reasons for the determination.
 - d) An offer to accept the determination in writing.
- E. If the determination is not accepted, a hearing may be requested by the complainant. The written request for a hearing must be made in writing by the complainant to the One-Stop Operator and received by the One-Stop Operator within 5 days of the complainant's receipt of the initial determination decision.
- F. Upon receipt of request for a hearing, the One-Stop Operator will arrange it to be heard by a Hearing Committee of the Greater Nebraska Workforce Development Board designated by the Chairperson (hereinafter referred to as Committee) or by a hearing officer as designated by the Committee. The Committee shall have a minimum of 3 members for the hearing.
- G. The hearing will be arranged within 5 days from the date of receiving the request for a hearing.
- H. The complainant will be sent a written notice within 3 days after arranging a date that a hearing has been arranged and provide the location, date, and time of the hearing. The notice will include:
 - a) Identity of Committee or hearing officer as designated by the committee.
 - b) Date, time, and place that the hearing will be held.
 - c) Opportunity for the complainant to withdraw the request for a hearing. The request must be received in writing before the date of the hearing and must include a signed statement that the resolution is satisfactory.
 - d) The opportunity to bring witnesses or documentary evidence.
 - e) The opportunity to be represented by an attorney or other representative chosen by the complainant.
 - f) The opportunity to have relevant records and/or other documents surrendered for the hearing.
 - g) The opportunity to question any witnesses.
- I. The hearing will be conducted within 25 days of receiving the request for a hearing. The hearing will be held informally; meaning that formal and/or technical rules of evidence do not apply. Opportunity shall be afforded all parties to present evidence or testimony bearing on the nature of the complaint.
- J. The Committee's decision will be given in writing to the complainant and One-Stop Operator within 60 days of the date the formal complaint was received by the One-Stop Operator. The decision will include:
 - a) Statement of issues.
 - b) Committee's decision.
 - c) Reason(s) for the decision.
 - d) Recommended action(s).
- K. The One-Stop Operator will review and respond in writing to the Committee's decision within 5 days after receiving the decision and provide a copy to complainant. The One-Stop Operator's written response to the recommended action will include:
 - a) Summary of facts and findings.
 - b) One-Stop operator response.
 - c) Reason(s) for the response.
 - d) Action(s) to be taken.

State Appeal Procedures

The parties have a right to appeal for a review by the State when no determination is made at the local level within 60 days 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.

Federal Appeal Procedures

All non-criminal grievances and complaints alleging violations of the requirements of WIOA Title IB must be first addressed through local area and state procedures. An appeal may be submitted to the Secretary of Labor regarding a non-criminal grievance or complaint when no determination is made at the State level within 60 days of filing an appeal or a party to the grievance or complaint is dissatisfied with the decision on the state-level 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 sub-recipient of WIOA Title IB funding that has:¹³⁷

- discharged or in any other manner discriminated against:
 - a participant or any individual in connection with the administration of the WIOA Title IB 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 IB; or
 - testified or is about to testify in any such proceeding or an investigation under or related to WIOA Title IB;
- otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of WIOA Title IB, including regulations issued under WIOA Title IB.

Statewide Grievances and Complaints

Grievances and complaints from participants and other interested parties affected by Statewide Workforce Development programs may be submitted to the State at:

Nebraska Department of Labor
Division of Reemployment Services
550 South 16th Street
Lincoln, Nebraska 68508

If it is determined that the complaint is directly related to the local WIOA program, then the complaint/grievance will be remanded to the local area grievance process. Local level procedures shall be exhausted before the complaint may be addressed at the State level. The local area shall either resolve the complaint informally or have a hearing and issue a final local decision within sixty (60) days.

Complaints & Grievances of Other Natures

Labor Standard Violation

If an individual alleges a labor standard violation, such violation may be submitted to a binding arbitration procedure if such individual's collective bargaining agreement covering the parties to the grievance provides for an arbitration procedure.

Binding Arbitration

As an alternative to the above, a person alleging a violation of Section 181(b) may submit the grievance to a binding grievance procedure if a collective bargaining agreement covering the parties to the grievance so provides. However, binding arbitration decisions are not reviewable by the Secretary, and the remedies available to the grievant are limited to those set forth in the Act.

Violations of the Relocation Provisions in Section 181(d) of the Act

When the grievance alleges violation of the Relocation Provisions in Section 181(d) of the Act, the grievance may be submitted to the Secretary of Labor for investigation to determine whether the State or local area is in compliance with the Act.

If the Secretary determines that a violation of the relocation prohibitions has occurred, the Secretary shall require the State that has violated such provisions to repay to the United States an amount equal to the amount expended in violation.

¹³⁷ 20 CFR 683.610(e)

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 7/1/2017
	Supersedes
	Review/Revision Date 9/21/2023

Conflict of Interest (9/21/2023)

Reference

Workforce Innovation and Opportunity Act (WIOA) Sec. 101, 102, and 107; Workforce Innovation and Opportunity Act – Notice of Proposed Rulemaking, 20 CFR §§ 679.430, 683.200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance), 2 CFR 200, Nebraska Department of Labor (NDOL) Policies

Purpose

This policy provides requirements to ensure that individuals employed by or representatives of organizations entrusted with WIOA Title IB funds and their immediate family members will not personally or professionally benefit from the award or expenditure of such funds.

Action

All staff and partners at all levels of participation in the Greater Nebraska Workforce Development Area (GNWDA) funded by the Workforce Innovation and Opportunity Act (WIOA) Title 1b are expected to read, understand, and apply this policy to ensure system integrity and effective oversight of the local area. Questions and comments should be submitted in writing to the Greater Nebraska WIOA Mailbox: ndol.greaternebraska@nebraska.gov.

Policy

Program Staff

Workforce Coordinators

Workforce Coordinators may not enroll, provide career planning services, or otherwise directly work with family members as participants, applicants, or registrants. When a family member of a Workforce Coordinator is in need of services, that person must be assigned to a different Workforce Coordinator in order to avoid a real or apparent conflict of interest. It is best practice to assign the family member to a Workforce Coordinator in a different office. Administrative approval must be obtained prior to enrolling the family member of a peer in the same office into any program expending funds directly on participants.

Managers & Administrative Entity Staff

Managers and administrative entity staff must report any real or apparent conflicts of interest to their supervisor.

Boards

Workforce Board & Chief Elected Officials Board

All members shall comply with the provisions of §§49-1499 through 49-14,103.03 Nebraska Revised Statutes.

No member may receive anything of value as a result of a benefit conferred by the GNWDB/CEOB upon any person, business, or organization.

A Local Board member must disclose with particularity the nature and extent of any financial interest in or affiliation with any person, business or organization that is seeking anything of value from the GNWDB/CEOB prior to consideration of the request by the Local Board. A disclosure period will be provided to the members. Additionally, each Chief Elected Official must disclose to NDOL in writing any potential conflict of interest regarding the CEO's role as a sub-recipient of Federally awarded grant funds. The disclosure must be submitted by email to the Director of the Nebraska Department of Labor Reemployment Services Division.

When a potential conflict exists, the Local Board Member must prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict. If he or she will not abstain from voting, deliberating, or taking other action on the matter, the statement shall state why, despite the potential conflict, he or she intends to vote or otherwise participate; and deliver a copy of the statement to the Board Chair, who shall cause the statement to be filed as a matter of public record.

No member shall vote or participate in any decision-making capacity on a matter in which he or she has a direct or indirect personal or pecuniary interest not common to other members of the GNWDB/CEOB. The member of the Board may abstain from voting, deliberating, or taking other action on the matter on which the potential conflict exists. The minutes of the meeting shall record compliance with this requirement. The interested member may briefly state his or her position regarding the subject or may answer questions of other members, as his or her knowledge may be of assistance.¹ This includes, but is not limited to:

- the provision of services by the member or any entity or class of officials which that member directly represents; or
- any matter that would provide any direct financial benefit to the member or that member's immediate family.

In addition, the local board, as a non-Federal entity, must maintain written standards of conduct covering conflicts of interest and governing the actions of its members and local area staff engaged in the selection, award and administration of contracts as described in 2 CFR § 200.318(c)(1), the requirements of which are as follows:

1. No employee, officer, or agent of a non-Federal entity may participate in the selection, award, or administration of a contract supported by a Federal award if the individual has a real or apparent conflict of interest.
 - a. A conflict of interest arises when the employee, officer, or agent, any member of the individual's immediate family, the individual's partner, or an organization that employs or is about to employ any of the parties described in this subsection (c), has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

¹Attachment 5. GNWDB Bylaws

2. If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.
 - a. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
3. Officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.
4. The non-Federal entity's standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees, or agents of the non-Federal entity.

Entities Performing Multiple Functions

The Nebraska Department of Labor functions simultaneously in a variety of roles, including One-Stop Operator, service provider for adult, dislocated worker, and youth programs, administrative entity, and as the governing body for State WIOA policy.

Steps have been taken, when possible, to create separation of duties within these roles. The Reemployment Services Division is divided into distinct roles:

- State Policy and Quality – oversees State Policy and Monitoring teams
- Operations and Training Programs – oversees field operations and training programs, including local area WIOA Title IB services and One-Stop operations
- Program Support – oversees job seeker and employer programs

Administrators assigned to these roles act independently and report to the Director of Reemployment Services. The Administrator assigned to Operations and Training Programs follows the same procedures as other local areas for requesting technical assistance, local area policy alignment with State policy, monitoring requirements, and other requirements.

Procurement Process

The local area follows the procurements policies and procedures of the Nebraska Department of Administrative Services. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the grant recipient and sub-recipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.²

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

² 2 CFR § 200.318(c)(1)

45-2-6 Planning Documents
45-2-7 Policy and Notices
45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 1/30/2020
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	Review/Revision Date 9/21/2023

Continuity of Service Plan (9/21/2023)

American Job Center Certification

The Greater Nebraska Workforce Development Board will adhere to all requirements of the Nebraska Department of Labor’s One-Stop Delivery System Assessment and One-Stop Center Certification, Change 2. The Board will work with the One-Stop Operator and the system partners to make every effort to achieve certification of the American Job Center (AJC). In the event the Grand Island or Beatrice AJC is not certified, the Continuity of Service plan will be implemented.

Conditional Certification

Should recommendation of conditional certification be the initial action taken by the Evaluation & Certification Team, the Greater Nebraska Workforce Development Board (GNWDB) will follow the steps as outlined in state policy by sending a signed letter from the Team to the One-Stop operator, identifying deficiencies that must be corrected within ninety (90) days of the date of the conditional certification and will send a copy of that letter to:

- WIOA policy mailbox at ndol.wioa_policy@nebraska.gov; and
- WIOA State Monitor at ndol.state_monitor@nebraska.gov

At this time, the Evaluation & Certification Team will schedule a 60 day review to determine the extent of progress being made by the One-Stop operator and to work with the operator to resolve the findings. Immediately after the 60 day review, the Team will report in writing to the GNWDB with a forecast of the likelihood of all deficiencies being resolved within the next 30 days.

Once the One-Stop operator informs the Chair of the GNWDB that all deficiencies have been resolved, the Chair or his/her designee will reconvene the Evaluation and Certification Team to conduct a follow-up evaluation using the same criteria and procedures in play during the initial evaluation in order to confirm correction of the deficiencies.

If the deficiencies are not resolved within the 90 days referenced above, the GNWDB will send a letter to the One-Stop operator, signed by the Board Chair and by the Evaluation and Certification Team Lead, stating that conditional certification of the AJC has been revoked and a finding of non-certification will trigger the Continuity of Service plan.

AJC Not Recommended for Certification

Should no recommendation for certification be the initial action taken by the Evaluation & Certification Team, the GNWDB will send a signed letter from the Team to the One-Stop operator, with specific corrective action items and steps that must be taken within a time period not to exceed 60 days before certification can be approved and a copy of that letter must be sent to:

- WIOA policy mailbox at ndol.wioa_policy@nebraska.gov; and
- WIOA State Monitor at ndol.state_monitor@nebraska.gov

Once the One-Stop operator informs the Chair of the GNWDB that all deficiencies have been resolved, the Chair or his/her designee will reconvene the Evaluation and Certification Team to conduct a follow-up evaluation using the same criteria and procedures in play during the initial evaluation in order to confirm correction of the deficiencies.

Once the GNWDB approves the certification of the AJC, the Administrative Entity will notify the Nebraska Workforce Development Board.

Non-Certification & Continuity of Service

The Greater Nebraska Workforce Development Board's Continuity of Service plan is to be initiated in the event that the Grand Island or Beatrice AJC is not certified. Under this plan, the GNWDB and its staff assume the duties of the One-Stop Operator, either by performing directly such duties or by executing a short term professional services agreement, for a period not to exceed six months.

During this six month period, a process for competitive selection of a new One-Stop operator begins immediately as a top priority for the GNWDB Board and the Chief Elected Officials Board (CEOB).

One-Stop Operator

The GNWDB will adhere to all requirements of the Nebraska Department of Labor's One-Stop Operator Competitive Selection policy. The GNWDB will work with the CEOB to make every effort to ensure the One-Stop Operator role is filled utilizing a competitive bid process and the One-Stop Operator role is clearly articulated. In the event the One-Stop Operator role becomes vacant for any reason, the Continuity of Service plan will be implemented.

Continuity of Service

The Greater Nebraska Workforce Development Board's Continuity of Service plan is to be initiated in the event that the One-Stop Operator role becomes vacant for any reason. Under this plan the Administrative Entity assume the duties of the One-Stop Operator, either by performing directly such duties or by executing a short term professional services agreement, for a period not to exceed six months.

During this six month period, a process for competitive selection of a new One-Stop operator begins immediately as a top priority for the GNWDB Board and the Chief Elected Officials Board (CEOB).

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-

2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
- 45-2-7 Policy and Notices
- 45-2-8 Program Case Files

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 9/15/2022
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	Revision Date 3/14/2024

Eligible Training Providers and Contracting with Training Providers (3/14/2024)

Reference

20 CFR 680.320 and 20 CFR 680.340-680.530. Nebraska Department of Labor’s Adult and Dislocated Worker Programs policy and Eligible Training Providers policy.

Policy

Eligible Training Providers

Nebraska’s Eligible Training Provider List (ETPL) is a list of training providers that are qualified to receive WIOA funding for providing training services to eligible individuals through approved training programs, including Registered Apprenticeship programs.

The Governor has designated Nebraska Department of Labor (NDOL) as the agency responsible for determining the eligibility of training providers. NDOL plays a leadership role in ensuring success of the Nebraska Eligible Training Provider (ETP) program in partnership with local boards and the One-Stop delivery system. For information regarding eligibility criteria, the eligibility process, etc. see NDOL’s Eligible Training Providers Policy.

Training providers on the Eligible Training Provider List (ETPL), or the ETPL of a state with which Nebraska has a reciprocal agreement, are the only entities eligible to receive funding through Individual Training Accounts (ITA), except for limited exceptions identified below in the Contracting with Training Providers section. For additional information on ITAs see Greater Nebraska’s Individual Training Accounts Policy.

Nebraska’s ETPL is accessible online at Neworks.nebraska.gov under Job Seekers: Training Services, look for ETPL Approved Programs. Training providers that would like be included on the ETPL can learn more at dol.nebraska.gov.

The responsibilities of the Greater Nebraska Workforce Development Board (GNWDB) regarding the ETPL include:

- Carrying out procedures assigned by NDOL;
- Working with NDOL to ensure sufficient numbers and types of providers are serving the local area, including training providers with expertise in serving individuals with disabilities and adults in need of education and literacy activities;

- Ensuring the dissemination and appropriate use of the ETPL through the local One-Stop delivery system; and
- Ensuring informed consumer choice as described in Greater Nebraska’s Individual Training Accounts Policy.

In addition, the GNWDB may:

- Make recommendations to NDOL on the process used in determining eligibility of training providers and programs;
- Require supplemental (not alternative) criteria and information from local training providers as criteria to become or remain eligible in the local area;
- Set higher local levels of performance for training providers than those established by NDOL as criteria to become or remain eligible to provide training services in the local area; and
- Supplement the criteria and information requirements established by NDOL in order to support informed consumer choice and the achievement of local performance indicators including:
 - Information on training programs that are linked to in-demand occupations in the local area;
 - Performance and cost information, including program performance and cost information, for the local outlets(s) of multi-site eligible training providers;
 - Information that shows how programs are responsive to local requirements; and
 - Other appropriate information related to the objectives of WIOA.

GNWDB has not established any additional criteria for training providers to meet to become or remain eligible to provide training services in the local area.

Contracting with Training Providers

Not all allowable types of training services are subject to the requirements of the eligible training provider provisions. Contracts for training services may be used instead of ITAs when the GNWDB has fulfilled the consumer choice requirements described in Greater Nebraska’s Individual Training Accounts Policy. Training services exempt from the ETPL requirements include:

1. On-the-job training (OJT), which may include paying for the on-the-job training portion of Registered Apprenticeships, customized training, incumbent worker training, or transitional jobs training services.
2. The GNWDB determines:
 - a. there is an insufficient number of eligible training providers in the local area to accomplish the purpose of a system of ITAs after a 30 day public comment period seeking interested providers of training services.
 - b. there is a program of training services having demonstrated effectiveness in serving individuals with barriers to employment offered in the local area by a community-based organization or other private organization. Demonstrated effectiveness includes:
 - i. documentation on the organizations’ demonstrated performance in the delivery of services to individuals with barriers to employment through such means as:
 1. program completion rates;
 2. attainment rates for skills, certificates, or degrees the programs are designed to provide; and
 3. placement rates after training in unsubsidized employment and retention in such employment
 - ii. evaluation of how the training program relates to workforce investment needs identified in the local plan and plan modifications.

- c. It would be most appropriate to contract with an institution of higher education or other accredited, authorized, or licensed provider of training services, in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, provided that the contract does not limit consumer choice. Providers of training services must be authorized by accrediting or governing authorities to provide training services in Nebraska or to Nebraska residents.
3. a pay-for-performance contract would be suitable. 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.

Individuals with barriers to employment include the following:

- a. displaced homemakers;
- b. low-income individuals;
- c. Native American Indians, Alaska Natives, and Native Hawaiians;
- d. individuals with disabilities;
- e. older individuals, i.e., those aged 55 or over;
- f. ex-offenders;
- g. homeless individuals;
- 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, defined in WIOA sec. 167(i);
- k. individuals within two (2) years of exhausting lifetime eligibility under Temporary Assistance for Needy Families (TANF);
- l. single-parents (including single pregnant women);
- m. long-term unemployed individuals; or
- n. other groups determined by the Governor to have barriers to employment.

Should the Board elect to use contracts to provide training services, consumer choice requirements shall be fulfilled. The Board 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.

Selecting Training Providers

On-the-job training, customized training, incumbent worker training, and transitional jobs contracts are approved by the local office Managers.

The Strategic Planning Committee is responsible for reviewing training service contracts meeting exemption two (2) or three (3) listed above. The committee will utilize the criteria listed below to determine if a recommendation to approve the contract should be made to the GNWDB. The committee will:

1. Ensure the training program falls under one of the exempt categories listed above.
2. Ensure the program was not approved as an eligible training program by NDOL.
Note: Priority will be given to training provider institutions that are approved to be on the ETPL by NDOL, but the individual program was not.
3. Training is limited to short-term training (no more than six months).
4. Ensure the training program serves to provide needed training to participants in order to follow a career path that will lead to high wage, high skill, and high demand (H3) employment.

For an occupation to be considered H3 it must meet the following criteria:

- i. Occupations are high wage when at least half of their wage measures are at or above the regional average for all occupations.
 - ii. Occupations that require some college, no degree, or a higher level of educational attainment are high skill, as well as occupations that require a high school diploma or equivalent plus long-term on-the-job training, an apprenticeship, or internship/residency.
 - iii. The number of annual openings, net change in employment, and growth rate determine whether an occupation is high demand.
5. Determine if there is an insufficient number of eligible providers. To determine if there is an insufficient number of eligible providers the board must:
 - a. Assess the number of training providers on the ETPL within a 50 mile commuting distance of the participant. If there are no training providers offering a specific H3 program within a 50 mile commuting distance of the participant, this would deem an insufficient number of eligible providers.
 - b. Follow the Department of Administrative Services Procurement Policy including providing a thirty (30) day public comment period for interested providers.
 6. Ensure the training demonstrates effectiveness particularly as it applies to individuals with barriers to employment to be served. To demonstrate effectiveness the program and provider must:
 - a. Demonstrate adequate management, administrative capacity, and resources (financial and personnel) necessary for the proper operation of the training program;
 - b. Demonstrate that all educational programs are sound, current and that the employment community is actively involved in discussions about how to develop and maintain programs that are relevant, current, and accurately reflect industry requirements;
 - c. Demonstrate appropriate admission requirements, recruitment practices, student services, and monitoring of student progress toward graduation, ensuring to effectively serve individuals with barriers to employment;
 - d. Measure student outcomes quantitatively based on measures such as, program completion, attainment of the skills, certificates, or degrees the program is designed to provide, placement after training in unsubsidized employment, and retention in employment.
 - e. Describe how the program relates to the workforce investment needs identified in the Greater Nebraska Local Plan; and
 - f. Provide written assurances that it complies with the requirements of WIOA sec. 188 and 29 CFR Part 38 and the Americans with Disabilities Act, as amended.

If training is in response to a mass layoff, the committee may exclude factors two and three in their determination.

If the above criteria is met, the Strategic Planning Committee will make a recommendation to the GNWDB to approve the contract. Procurement and selection of providers based on conditions two (2) or three (3) must adhere to the requirements of the Uniform Guidance.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-

2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
- 45-2-7 Policy and Notices
- 45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 5/28/2020
	Supersedes
	Review/Revision Date 9/21/2023

Equal Opportunity and Nondiscrimination (9/21/2023)

Reference

Workforce Innovation and Opportunity Act (WIOA) 188; 29 CFR § 38.1-38.8, 68.72; 20 CFR § 683.285; TEGL 1-05; TEGL 37-14; Nebraska Department of Labor (NDOL) Nondiscrimination and Equal Opportunity Policy, [Change 3](#).

Background

All recipients of WIOA Title IB financial assistance must ensure nondiscrimination and equal opportunity in their provision of WIOA Title IB services.¹⁴⁰ 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).¹⁴¹

Obligation to ensure nondiscrimination and equal opportunity

All recipients of WIOA Title IB 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:¹⁴²

- 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;¹⁴³
- the requirements of Titles I, II and III of the Americans with Disabilities Act of 1990 (ADA);¹⁴⁴ and
- all applicable obligations the recipient may have under:¹⁴⁵
 - 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;

¹⁴⁰ 20 CFR § 683.285(a)(1)

¹⁴¹ 20 CFR § 683.285(a)(2); 29 CFR § 38.20; TEGL 37-14

¹⁴² 20 CFR § 683.285

¹⁴³ 29 CFR § 38.3(b)

¹⁴⁴ 29 CFR § 38.3(c)

¹⁴⁵ 29 CFR § 38.3(d)

- 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.¹⁴⁶

- state or local law or other requirement; or
- private organization rules or policies.

Applicability

The requirements of WIOA Sec. 188 and 29 CFR Part 38 apply to¹⁴⁷ each recipient of WIOA Title IB 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 IB or the One-Stop delivery system.

The requirements of WIOA Sec. 188 and 29 CFR Part 38 do not apply to¹⁴⁸ programs or activities that are financially assisted under laws other than WIOA Title IB 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.

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.¹⁴⁹

Policy

Discrimination and Harassment¹⁵⁰

WIOA Sec. 188 prohibits discrimination and harassment based on race, color, religion, sex (including pregnancy¹⁵¹), national origin, age, disability, or political affiliation or belief. In addition, WIOA Sec. 188 prohibits discrimination against and harassment of any WIOA Title IB program applicant or participant

¹⁴⁶ 29 CFR § 38.24

¹⁴⁷ 29 CFR § 38.2(a)

¹⁴⁸ 29 CFR § 38.2(b)

¹⁴⁹ TEGL 37-14

¹⁵⁰ 29 CFR § 38.1. Note: 29 CFR §§ 38.6 – 38.12 provides detailed information on specifically prohibited actions.

¹⁵¹ 29 CFR § 38.8

on the basis of the individual's citizenship status or participation in a WIOA Title IB 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 IB financially assisted program or activity.¹⁵²

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.¹⁵³

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 38.¹⁵⁴

- 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.

Assistance for Facilities for Religious Instruction or Worship¹⁵⁵

WIOA Title IB program funds must not be used to subsidize the employment of individuals participating in WIOA Title IB 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.

Exceptions and Limitations

The prohibition against use of WIOA Title IB 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 IB participants.

WIOA Title IB funds may be used to support employment and training in religious activities when the assistance is indirect.¹⁵⁶ 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 IB service provider pays the provider

¹⁵² 29 CFR § 38.24(c)

¹⁵³ 29 CFR § 38.38(c)

¹⁵⁴ 29 CFR § 38.19

¹⁵⁵ WIOA Sec. 188(a)(3)

¹⁵⁶ TEGL 1-05

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.

Physical and Programmatic Accessibility

Each program or activity, must be operated in a manner that makes it readily accessible to qualified individuals with a disability. A qualified individual with a disability is an individual who, with or without a reasonable accommodation for his or her disability, meets eligibility requirements. Each recipient must insure that no qualified individual with a disability may be 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.¹⁵⁷

Program accessibility¹⁵⁸ requires the provision of reasonable accommodations for individuals with disabilities, making reasonable modifications to policies, practices, and procedures, 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.

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;¹⁵⁹ 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.¹⁶⁰

In determining what types of auxiliary aids and services are necessary, a recipient must give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. Some examples include: qualified interpreters, video remote interpreting service, text and video-based telecommunications products and systems, videotext displays, and telephone handset amplifiers.

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

¹⁵⁷ 29 CFR § 38.13(a)

¹⁵⁸ 29 CFR § 38.13(b)

¹⁵⁹ 29 CFR § 38.14(a)

¹⁶⁰ 29 CFR § 38.14(b)

applicants and participants, applicants for employment and employees, members of the public, and their companions.¹⁶¹

Assurances¹⁶²

Each recipient of WIOA Title IB 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 the Greater Nebraska Workforce Development Board (GNWDB), the assurances are included in the WIOA Title IB grant agreement with Nebraska Department of Labor (NDOL).
- For all other recipients of WIOA Title IB financial assistance provided through the local board, the assurances are made part of the memorandum of understanding (MOU) agreement between the recipient and the local board.

Equal Opportunity Officer¹⁶³

Every recipient must designate an Equal Opportunity Officer (EO Officer), except small recipients and service providers. A small recipient is defined as a recipient that serves fewer than 15 program participants during one grant year (program year) or employs fewer than 15 employees on any given day during one grant year.

The EO Officer is responsible for:

- serving as the recipient's liaison with Civil Rights Center (CRC);
- monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title IB financial assistance from the recipient, to make sure that the recipient and its sub recipients 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 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 Greater Nebraska, NDOL is the WIOA Title IB grant recipient agency and the Greater Nebraska Administrator is the Greater Nebraska EO Officer related to the grant.

Reemployment Services Administrator, Greater Nebraska EO Officer
Nebraska Department of Labor
550 S. 16th Street, PO Box 94600
Lincoln, NE 68509-4600
NDOL.GreaterNebraska@Nebraska.gov

¹⁶¹ 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)].

¹⁶² 29 CFR §§ 38.25 and 38.26

¹⁶³ 29 CFR §§ 38.28 – 38.33

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. 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.¹⁶⁴

Equal Opportunity Notice¹⁶⁵

Each recipient of WIOA Title IB financial assistance must provide initial and continuing notice that it does not discriminate in the delivery of programs and services or employment on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), 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 IB of WIOA, on the basis of the individual's citizenship status or participant in any WIOA Title IB financially assisted program or activity. Case documentation must reflect the provision of the Equal Opportunity and Complaints & Grievances policies and processes with each participant. Case documentation includes a signed EO is Law form and case note clearly indicating the participant was provided this information.

The following specific wording is placed on EO Notice posters and in written EO policy statements:

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, transgender status, and gender identity), 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 IB of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title IB 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 IB 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.

If you think that you have been subjected to discrimination under a WIOA Title IB 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 the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

¹⁶⁴ 29 CFR § 38.33

¹⁶⁵ 29 CFR § 38.34

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.”

This notice, in the form of Nebraska’s Equal Opportunity is the Law poster, must be posted prominently in reasonable numbers and placed where customers and staff frequent.¹⁶⁶

The Equal Opportunity Notice must also be:

- 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;
- reviewed verbally, signed, and provided to each participant and employee; and
- 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;¹⁶⁷ 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).

Note: When 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 case note that the alternate-format notice has been given must be made a part of the employee's or participant's file.

EO Tagline¹⁶⁸

Recruitment brochures and other materials, including pamphlets, flyers, and other publications distributed or communicated in written or oral form, electronically or on paper, for customers, staff or

¹⁶⁶ 29 CFR § 38.36

¹⁶⁷ 29 CFR § 38.9

¹⁶⁸ 29 CFR § 38.38(a) and (b)

the general public that describe programs financially assisted under Title IB of WIOA or the requirements for participant by recipients and participants will include the following EO tagline: "Equal Opportunity Program/Employer. Auxiliary aids and services are available upon request to individuals with disabilities."

If a phone number is included, the tagline must also include the telephone number of the text telephone (TTY) or other equally effective telecommunications systems, such as a relay service, video phone, or captioned telephone used by the recipient.

Program information that is broadcast in the news media and electronically such as on television and radio or on a large screen monitor must also include the tagline.

Orientations

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title IB 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 to file a complaint of discrimination with the recipient or CRC Director.¹⁶⁹ This information must be communicated in appropriate languages and in formats accessible for individuals with disabilities. When possible, the Equal Opportunity Notice should be provided in print and signed by WIOA Title IB program participants and employees of the recipient and retained on file.

Affirmative Outreach¹⁷⁰

Recipients must take appropriate steps to ensure that they are providing equal access to their WIOA Title IB 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.

Collection and Maintenance of EO Data¹⁷¹

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.

EO data must be collected for all WIOA Title IB financially assisted programs for applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment by race/ethnicity, sex, age, and where known, disability status. Beginning on January 3, 2019, each recipient must also record the 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:

¹⁶⁹ 29 CFR § 38.36

¹⁷⁰ 29 CFR § 38.40

¹⁷¹ 29 CFR § 38.41

- recordkeeping and reporting;
- determining eligibility, where appropriate, for WIOA Title IB financially assisted programs or activities;
- determining the extent to which the recipient is operating its WIOA Title IB financially assisted program or activity in a nondiscriminatory manner; and
- other uses authorized by law.

In Greater Nebraska, this information is recorded in the NEworks labor exchange system for applications, registrants, participants, and terminees. Employee's EO data is maintained on file.

Medical and Disability 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).

Complaints¹⁷²

Complaint Filing Procedures¹⁷³

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 Greater Nebraska 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.

Required Content

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.

¹⁷² 29 CFR 38.41(c)

¹⁷³ 29 CFR § 38.69

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 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.

Both the complainant and the respondent have the right to be represented by an attorney or other individual of their choice.¹⁷⁴

Complaint Processing Procedures¹⁷⁵

Greater Nebraska will issue a written notice of final action on complaints within 90 calendar days of the date on which the complaint is filed. Complaint procedures include:

1. Acknowledgement Letter

Within five (5) business days of the filing of the complaint, the EO Officer will provide initial, written notice to the complainant acknowledging receipt of the complaint. The notice will include:

- notice that the complainant and the respondent has the right to be represented by an attorney or other individual of their choice in the complaint process;
- notice of rights contained in 29 CFR § 38.35;
- 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; and
- notification of the Greater Nebraska Equal Opportunity & Nondiscrimination policy to initially attempt resolution of the complaint through mediation, which is an alternative dispute resolution (ADR). The mediation process must be explained to the complainant

2. Statement of Issue(s)

In addition to the acknowledgment letter, the complainant must also be provided with a written statement of the issue(s), including:

- a list of the issues raised in the complaint; and
- for each issue, a statement as to whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection.

3. Alternative Dispute Resolution¹⁷⁶

ADR is a mediation process where all parties agree on a resolution to the discrimination complaint without going through the entire complaint process. The process must be directed by the EO Officer or his/her designee who does not have a conflict of interest in the complaint. It is the complainant's choice to use ADR or the customary process.

Within twenty (20) calendar days of receipt of the acknowledgment notice and statement of issue(s), the complainant must accept or reject the offer of mediation. Failure to respond will be treated as a rejection and the process will proceed until the complainant responds or Notice of Final Action is issued. 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.

If mediation is accepted, it must be held within thirty (30) calendar days of the filing of the complaint. If an agreement is reached that is satisfactory to both parties, the complaint is considered resolved. A party to any agreement reached under ADR may file a complaint with the

¹⁷⁴ 29 CFR § 38.71

¹⁷⁵ 29 CFR § 68.72

¹⁷⁶ 29 CFR § 38.72(c)

Director of the CRC in the event the agreement is breached. In such circumstances, the following rules apply:

- The non-breaching party may file a complaint with the Director of the CRC within 30 days of the date on which the non-breaching party learns of the alleged breach;
- The Director of the CRC must evaluate the circumstances to determine whether the agreement has been breached. If it is determined the agreement has been breached, the complainant may file a complaint with the CRC based upon his/her original allegation(s), and the Director of the CRC will waive the time deadline for filing such a complaint.

If the parties do not reach an agreement under ADR, the complainant will be given a Notice of Final Action and informed of the right to file a complaint with the Director of the CRC within 30 days of the notice date.

4. Mediation Not Accepted

If mediation is not accepted within **twenty (20)** calendar days of receipt of the acknowledgment letter, the process will proceed and a Notice of Final Action will be issued.

5. A Period for Fact-finding

A period for fact-finding or investigation of the circumstances underlying the complaint must be completed within thirty (30) calendar days of the filing of the complaint.

6. Notice of Final Action¹⁷⁷

A written Notice of Final Action must be provided to the complainant within sixty (60) calendar days of the filing of the complaint. The notice must include 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.
- 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.

Notice of Recipient's Lack of Jurisdiction¹⁷⁸

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.

Failure to Comply¹⁷⁹

Whenever the Secretary of Labor finds that a state or other recipient of WIOA Title IB 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 IB financial assistance is engaged in a pattern or practice of discrimination,

¹⁷⁷ 29 CFR §§ 38.75 and 38.76

¹⁷⁸ 29 CFR § 38.74

¹⁷⁹ WIOA Sec. 188(b)

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.¹⁸⁰

Information to be Provided to Civil Rights Center

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 IB financially assisted program or activity.

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.

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, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief; or for any beneficiary of, applicant to, or participant in programs financially assisted under Title IB of WIOA, on the basis of the individual's citizenship status or participant in any WIOA Title IB financially assisted program or activity.¹⁸¹

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.

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

¹⁸⁰ WIOA Sec. 188(c)

¹⁸¹ 29 CFR § 38.42(a)

nondiscrimination plan.

Compliance Reviews and Complaint Investigations¹⁸²

Each recipient, as part of a compliance review¹⁸³ or monitoring activity¹⁸⁴ 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.

Records Retention and Access¹⁸⁵

The following records, whether they exist in electronic form (including email) or hard copy, must be retained 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.

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

¹⁸² 29 CFR § 38.42(b)

¹⁸³ 29 CFR § 38.63

¹⁸⁴ 29 CFR § 38.65

¹⁸⁵ 29 CFR § 38.43 and 38.44

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.

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
- 45-2-7 Policy and Notices
- 45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 10/19/2018
	Supersedes
	Review/Revision Date 3/14/2023

Individual Training Accounts (3/14/2023)

Reference

Workforce Innovation and Opportunity Act (WIOA), Sections 122 and 134; 20 CFR §§ 680.210-680.350; TEGL 19-16, Nebraska Department of Labor (NDOL) Eligible Training Provider Policy.

Policy

The Workforce Innovation and Opportunity Act (WIOA) mandates that all training services be provided through the use of Individual Training Accounts (ITAs) and that eligible individuals shall receive ITAs through the One-Stop delivery system. Under limited conditions, local boards may contract for training services rather than using ITAs. Greater Nebraska has established a separate Eligible Training Providers and Contracting with Training Providers policy.

Eligibility

Training services may be made available to employed and unemployed adults, dislocated workers and youth after a Case Manager determines, through an interview, evaluation, or assessment, and career planning, that the individual:

- is unlikely or unable to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services (adults and dislocated workers);
- is in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment (adults and dislocated workers); and
- has the skills and qualifications to participate successfully in training services.

Training can also be provided when the participant:

- Selects a program of training services that is directly linked to the employment opportunities in the local area or planning region, or in another area to which the individuals are willing to commute or relocate;
- Is unable to obtain grant assistance from other sources to pay costs of such training, including such sources as State-funded training funds, Trade Adjustment Assistance (TAA), and Federal Pell Grants, or require WIOA assistance in addition to other sources of grant assistance;
- Is determined eligible in accordance with the State and local policies and procedures and meets all other requirements under priority of service.

ITAs funded by the local youth program may be used for OSY only. Use of ITAs funded by the local youth program for ISY ages 14 through 17 is strictly prohibited. However, ISY between the ages of 18 and 21 who are co-enrolled in an adult or dislocated worker program may receive training services from an ETP using an ITA funded by the adult or dislocated worker program as long as the individual is eligible for training services under the program in which the participant is co-enrolled. In the event the State obtains a waiver of the ISY ITA prohibition, Greater Nebraska will follow the requirements established by the State.

Career Services

There is no requirement that career services be provided as a condition for receipt of training services. However, if career services are not provided before training, the Case Manager must document the circumstances that justified the decision to provide training services without first providing the services.

There is no federally required minimum time period for participants to be in career services before receiving training services.

Documentation

The Individual Employment Plan or Individual Service Strategy is an ongoing document that must identify the participant's employment goals, the appropriate achievement objectives, the combination of services required to achieve the employment goals, and the program of training selected to directly link the participant to the in-demand employment opportunities in the local area or in another area where the participant is willing to relocate. Outcomes must also be recorded in the IEP/ISS. For training justification the case file must contain a determination of need for training services.

Consumer Choice

Training services for eligible individuals are typically provided by training providers who receive payment for their services through an ITA. The ITA is a payment agreement established on behalf of a participant with a training provider. Individuals may select training programs that cost more than the maximum allowed amount for an ITA if they have other funding sources available to supplement the ITA. Other sources may include: Pell Grants, scholarships, loans, severance pay, Temporary Assistance for Needy Families (TANF), etc. Training services must be provided in a manner that maximizes informed consumer choice.

If an individual meets the eligibility established above, they must choose a provider from the Eligible Training Provider List (ETPL), a list of approved training providers that may receive WIOA Title IB funding through an ITA. The approved list can be found at NEworks.nebraska.gov under the Education Services menu, look for ETPL Approved Programs. The Nebraska Department of Labor (NDOL) publishes this list quarterly. Training providers that would like to be included on the ETPL can learn more at dol.nebraska.gov under Eligible Training Providers in the Workforce Innovation and Opportunity Act tab.

If the program has not exhausted funds for the program year, the Case Manager must refer the individual to the selected provider, and establish an ITA to pay for the training. The ITA funds paid to the ETP are paid by the applicable adult, dislocated worker, or out-of-school youth program the participant is enrolled or co-enrolled in. Priority consideration must be given to programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors or occupations in the local area. A recognized postsecondary credential is a credential that is awarded

in recognition of an individual's attainment of measurable technical or industry/occupational skills necessary to obtain employment or advance within an industry/occupation.¹⁸⁶

The WIOA Title IB program is not an entitlement program. Continued WIOA Title IB funding is not guaranteed, but rather based on availability of program funds.

Training Expenses

WIOA funding for training is limited to participants who:

- a. Are unable to obtain grant assistance from other sources to pay the costs of their training; or
- b. Require funding assistance beyond what was received from other grant sources to pay the cost of their education expenses.

The ITA may cover the costs of training and education-related expenses.

Training expenses include tuition and fees. Pell grants and other grant sources, with the exception of the GI Bill of VA funding per TEGL 19-16, must be applied first prior to the use of WIOA Title IB funds.

Education-related expenses include books, supplies and other supportive services. There is no requirement to apply Pell or other funding sources first; WIOA can immediately pick up these costs within the parameters of the Supportive Service policy.

- a. Case Managers may take into account the full cost of participating in training services, including the cost of supportive services and other appropriate costs.
- b. Case Managers must consider the availability of other sources or grants to pay for training costs such as TANF, state-funded training funds, and Federal Pell Grants, so that WIOA funds supplement other funding sources.
- c. A WIOA participant may enroll in WIOA funded training while his/her application for a Pell Grant is pending. The Case Manager must make arrangements with the training provider and WIOA participant regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the training provider must reimburse the One-Stop center the WIOA funds used to underwrite the training for the amount the Pell Grant covers. Reimbursement is not required from the portion of Pell Grant disbursed to the WIOA participant for education-related expenses.

ITAs can be paid per semester, quarter, or term or once for a short-term training. In the event a Title IB participant drops out of or fails to complete training services authorized under an ITA, the program will pay for actual services provided by Eligible Training Providers to participants, including all training materials provided.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
- 45-2-7 Policy and Notices
- 45-2-8 Program Case Files

¹⁸⁶ TEGL 10-16 Change 2; TEGL 14-18 Appendix I

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Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 5/28/2020
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	Review/Revision Date 5/27/2025

Monitoring (5/27/2025)

Reference

WIOA Section 116, 121, 129, & 134. 20 CFR 678.800 & 679.370. TEGL 16-16. Nebraska Department of Labor’s One-Stop Delivery System Assessment and One-Stop Center Certification, Change 1.

Policy

Local Area Monitor

Monitoring and technical assistance are integral parts of the Greater Nebraska Workforce Development Area’s (GNWDA) oversight responsibilities. Monitoring is an essential part of program and financial management to ensure compliance with applicable laws, regulations, regional and local plans, policies, and procedures. Monitoring identifies areas of strength and weakness in operations with the intent of developing program performance. Technical assistance improves program operation and management capabilities. Local boards must ensure monitoring of local area administrative entity staff, One-Stop operator staff, and One-Stop partner program staff for compliance with established security policies and procedures, including training requirements and schedules and such monitoring must occur on a regular basis.

The Greater Nebraska Workforce Development Board (GNWDB), also referred to as the “Board” in partnership with the Chief Elected Officials Board (CEOB) is required to conduct oversight and monitoring of Adult, Dislocated Worker, and Youth program activities and the entire One-Stop delivery system in the local area to ensure compliance.¹⁸⁷ The GNWDB must monitor the creation, management, and maintenance of records according to the requirements of State policy and WIOA and its implementing rules, regulations, guidance, the Uniform Guidance, and the terms and conditions of the local area’s respective Title IB subawards issued by Nebraska Department of Labor. The GNWDB must also ensure the appropriate use and management of funds provided under WIOA Title IB for adult, dislocated worker, and youth activities and the One-Stop delivery system in the local area.¹⁸⁸ For workforce development activities, the GNWDB must ensure the appropriate use, management, and investment of funds to maximize performance outcomes described under WIOA Sec. 116.¹⁸⁹ The GNWDB has established a Local Area Monitor position.

The Local Area Monitor reports directly to and is solely accountable to the CEOB and GNWDB, functioning independently of Greater Nebraska staff.

All programs and activities in the GNWDA are subject to monitoring.¹⁹⁰ The GNWDB and

¹⁸⁷ 20 CFR § 679.370(i)(1)

¹⁸⁸ 20 CFR § 679.370(i)(2)

¹⁸⁹ 20 CFR § 679.370(i)(3)

¹⁹⁰ 2 CFR § 200.328

Administrative Entity may visit any facility, speak with any management, staff, or participants associated with WIOA services or operations within the local area.

One-Stop Delivery System

Local boards must assess the effectiveness, physical and programmatic accessibility, and continuous improvement of its local One-Stop delivery system at least once every three years¹⁹¹ as well as the requirements established in the State's policy on security and the One-Stop delivery system. The Board must also certify at least one comprehensive One-Stop center at least once every three years. If the Board has designated an affiliate site or specialized center 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. 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 State 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.).¹⁹²

In addition to the triennial assessments described above, each local board must annually assess the physical and programmatic accessibility and security of all One-Stop centers in the local area.¹⁹³ 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.).¹⁹⁴ Greater Nebraska shall utilize the Physical and Programmatic Accessibility and Risk Assessment Tools provided by the State. The assessments shall be completed concurrently by the local area monitor and/or One-Stop Operator no later than March of each year. The Administrative Entity will provide a report to the System Coordination Committee and any corrective action necessary to meet requirements will be issued by the Board.

Required Criteria

The assessment of the effectiveness of the local One-Stop delivery system and One-Stop centers must include how well the system and centers:

- Integrate available services for job seekers and employers;
- Meet the workforce development needs of job seekers and employment needs of local employers;
- Operate in a cost-efficient manner;
- Coordinate services among the One-Stop partner programs; and
- 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 as identified by the Board.

In addition, the assessment of the effectiveness of the local One-Stop delivery system and One-Stop centers must take into account feedback from One-Stop customers.¹⁹⁵

¹⁹¹ WIOA Sec. 121(g)(1) and (4); 20 CFR § 678.800(d)

¹⁹² 20 CFR §§ 678.800 and 679.370(p); TEGL 16-16

¹⁹³ 20 CFR § 679.370(p)

¹⁹⁴ 20 CFR §§ 678.800 and 679.370(p); TEGL 16-16

¹⁹⁵ 20 CFR § 678.800(b)

The assessment of the physical and programmatic accessibility of the local One-Stop delivery system and One-Stop centers must include how well the system and centers take action 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:¹⁹⁶

- Provide reasonable accommodations for persons with disabilities;
- Make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination against persons with disabilities;
- Administer programs in the most appropriate integrated setting;
- Communicate with person with disabilities as effectively as with others;
- Provide appropriate auxiliary aids and services, including assistive technology devices and services when necessary, to afford person with disabilities an equal opportunity to participate in and enjoy the benefits of the program or activity;
- Provide physical accessibility for persons with disabilities;
- 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;¹⁹⁷
- Use the common identifier (*American Job Center or a proud partner of the American Job Center Network*) on all:
 - Products, programs, activities, services, electronic resources, facilities, and related property and new materials used in the One-Stop delivery system; and
 - Interior and exterior branding, including signage.
- 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, the requirements of the 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 1990.¹⁹⁸

Additional assessment criteria or higher standards of service coordination may be established by the board.¹⁹⁹ If additional criteria are established, the board must review and update the criteria every two years as part of its regional and local plan development and modification process. The GNWDB has not set any additional assessment criteria.

Procedures

Greater Nebraska will use a checklist provided by the State that includes the required criteria listed above. The Board will appoint a committee consisting of at least five board members and partners to complete an on-site assessment. The results are compiled into a single report and provided to the board for review. The board reviews the outcomes of the assessments, provides any recommendations for improvement, and the final certification recommendation. Lastly, the Board will provide the certification recommendation to the Nebraska Department of Labor by email no later than June 1 of the applicable year.

¹⁹⁶ 20 CFR §§ 678.800(b)(1) – (6) and 678.900

¹⁹⁷ 29 CFR § 38.9(b)

¹⁹⁸ 20 CFR §§ 678.800(e) and 679.370(p)

¹⁹⁹ 20 CFR § 678.800(d); TEGl 16-16

Continuous Improvement

The local board's assessment of continuous improvement of the local One-Stop delivery system and One-Stop centers:

- 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; 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

Greater Nebraska has identified the following factors, including but not limited to:

- an annual survey of One-Stop partner program representatives to gauge their satisfaction with the implementation of security policies and procedures and effectiveness of mandatory security training. Such survey must provide local area staff the opportunity to provide written input and suggestions to ensure continuous improvement.
- regular surveys of job seekers, participants, employers, and other customers to gauge satisfaction with accessibility and provision of services
- Regular review and revision of all local area policies. Revisions will be completed on an as needed basis to ensure alignment and compliance with all Federal guidance and State level policies. Revisions will also be completed to ensure efficient and quality service provision and implementation of Board goals and priorities. At a minimum all policies will be reviewed and updated every three years.

Surveys

Greater Nebraska distributes voluntary customer satisfaction and employer surveys on an ongoing basis to extend job seeker and business customers the opportunity to provide feedback. Surveys are kept open on an ongoing basis and cards with QR codes to the survey are provided in the offices. The link to the survey is also emailed to job seekers and businesses after they have been provided a services. Additionally, a report is run and the survey link is sent via NEworks monthly for those who received a service the prior month. Results are pulled weekly and provided to the respective Manager, UI partner, and other relevant partners. The results are compiled into a single report to the Board for review during Board meetings. Any customers requesting further assistance are followed up with by the local office.

Greater Nebraska will distribute an annual survey of One-Stop partner program representatives to gauge their satisfaction with the implementation of:

- local area service provision
- security policies and procedures
- effectiveness of mandatory security training and other training offerings

This survey will also provide local area staff the opportunity to provide written input and suggestions to ensure continuous improvement.

Programmatic Monitoring

The Administrative Entity will conduct programmatic monitoring through desk reviews and other monitoring techniques.

Quality Assurance Entrance Monitoring (QAE)

Quality Assurance Entrance Monitoring (QAE) Quality Assurance Entrance Monitoring will be conducted on all new enrollments. Case Managers will use the QAE Entrance Form as their checklist for enrollment and Managers will review the Entrance QAE and file as part of the enrollment approval process. These QAEs will be sent to the Program Coordinator for final review.

Annual Data Validation Monitoring will be conducted on a randomized selection of cases by the Local Area Monitor. The DVM workbook shall be provided by the State in April. Annual data validation must:

- be performed and submitted according to the schedule provided in the table below
- be performed according to the record sampling and validation processes described in State policy to insure that recorded program activities are accurately supported by acceptable source documentation as required by WIOA Title IB legislation, implementing regulations, subregulatory guidance, subawards, and applicable requirements of the Uniform Guidance;
- include provision of technical assistance to program staff when data validation reveals invalid or inaccurate data;
- include timely submission of record corrections when data validation reveals invalid data, subject to the requirements and limitations described in State policy.

Local Title IB annual data validation and reporting schedule

Validation Period	Start date	End date	Report due date
July 1 – March 30	April 15	June 30	July 1

Greater Nebraska will also conduct smaller scale quarterly DVMs to provide the CEOB and GNWDB with ongoing data regarding the health of each program.

Quarterly Quality Assurance Monitoring

Quarterly Quality Control Monitoring (QAM) reviews will be conducted on a randomized selection of cases, with at least three or all is less than three, active cases for each Case Manager. Each file review will include a comprehensive review of a participant’s file including the eligibility determination, Individual Employment Plan/Individual Service Strategy, review of expenditures, proper documentation, and ongoing case management. A file review report will be provided to the Reemployment Services Coordinator and their Supervisor with any findings and areas of concern noted. Any corrective actions must be completed by the Reemployment Services Coordinator and their Supervisor within two weeks of receiving the review. Once all corrective actions are completed, the Reemployment Services Coordinator will provide a response to the Administrative Entity. The Administrative Entity will provide a report to the System Coordination Committee on the status of monitoring activities, findings, requested corrective action, and resolution of findings at regularly scheduled committee meetings.

Quarterly reports (January, April, July, and October) will be completed by the local monitoring unit to ensure local area administrative entity staff, One-Stop operator staff, and One-Stop partner program staff remain in compliance with policies and procedures. The local monitoring unit will provide a report to System Coordination Committee on the status. Technical assistance will be provided by the Administrative Entity to field staff on any areas of concern. Mandatory training will be provided for all Case Managers and Regional Managers for any QA/DVM that receives a score of less than 80%.

Scope

The Greater Nebraska Local Area Monitor conducts monitoring events based on three core monitoring activities, which are described in detail in the Comprehensive Monitoring Guide. 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 sub-recipient 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 sub-recipient 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 sub-recipient 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 sub-recipient; 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
6. Objective 2.f. Sub-recipient 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 sub-recipients 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 sub-recipient; 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

Priority of Service Monitoring

Local boards must establish policies and procedures that address oversight and monitoring of priority of service for covered entrants and covered persons receiving services through its adult and dislocated worker programs. Priority of Service Monitoring must include:

- performing quarterly monitoring of implementation of the requirements of the State and local board's priority-of-service policies and procedures by local area adult and dislocated worker program staff, in accordance with Federal laws and regulations and State policies, which must include review of randomly sampled participant records in NEworks and source documentation in NEworks or ECM, as applicable;
- submitting accurate quarterly priority-of-service monitoring reports to the local board, 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 adult and dislocated worker programs.

Quarterly reports (January, April, July, and October) will be completed to ensure priority of service guidelines are followed. The Administrative Entity will provide a report to the System Coordination Committee on the status.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
- 45-2-7 Policy and Notices
- 45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category
	Administrative Guidelines
	Effective Date
	3/14/2024
	Supersedes
	Review/Revision Date

One-Stop Delivery System and One-Stop Centers (3/14/2024)

Reference

Federal and state laws, regulations, rules, and other guidance and documentation as cited in footnotes. Nebraska Department of Labor One-Stop Delivery Systems and One-Stop Centers policy.

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.²⁰⁰ One-Stop delivery system partners administer separately funded programs as a set of integrated streamlined services to customers.²⁰¹ 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.²⁰²

Policy

Local One-Stop delivery systems:²⁰³

- 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:
 - affiliated sites where one or more One-Stop partners make programs, services, and activities available;
 - a network 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 the availability of career services, as well as other program services and activities, regardless of where customers initially enter local One-Stop delivery systems; or

²⁰⁰ 20 CFR 678.300(a)

²⁰¹ Ibid.

²⁰² 20 CFR 679.300(b)

²⁰³ WIOA Sec. 121(e)(1)-(2); 20 CFR 678.300(c)-(d)

- specialized centers that address specific needs, including those of dislocated workers, youth, or key industry sectors or clusters in local One-Stop delivery systems.

Design of the Greater Nebraska Workforce Development Area's One-Stop delivery system is included in Greater Nebraska's memorandums of understanding (MOU's) executed with required One-Stop partners. Greater Nebraska also enters into infrastructure funding agreements (IFA's) with all required One-Stop partners. MOU and IFA negotiations take place with all required One-Stop partners every three years.²⁰⁴

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.²⁰⁵ AJCs must provide access to:

- basic and individualized career services;
- meaningful assistance with Unemployment Insurance claims;
- training services;
- youth workforce investment activities;
- business services;
- programs and activities carried out by required One-Stop partners, including the Title III Wagner-Peyser Employment Service program;²⁰⁶ 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 CFR Part 38, the implementing regulations of WIOA Sec. 188.

Greater Nebraska certifies two Comprehensive AJCs every three years.

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.²⁰⁷

- 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 based on community need and program capacity with local partners. Greater Nebraska affiliate sites act as One-Stop delivery system access points in addition to AJCs.
- Wagner-Peyser Employment Service locations cannot act as stand-alone affiliate sites.²⁰⁸
 - Greater Nebraska provides Wagner-Peyser services at affiliated sites with a presence of combined staff at the sites more than 50 percent of the time the site is open. The presence of staff representing the Jobs for Veterans State Grant program (Local Veterans Employment Representatives and Disabled Veterans Outreach Program Specialists) or Unemployment Insurance program does not count toward the mandatory 50-percent presence requirement.²⁰⁹

²⁰⁴ WIOA Secs. 121(c)(1)-(2) and 121(h); 20 CFR § 678.300(f); 20 CFR § 678.500

²⁰⁵ 20 CFR 678.305(a)-(b)

²⁰⁶ WIOA Sec. 121(e)(2)(c)

²⁰⁷ 20 CFR 678.310

²⁰⁸ 20 CFR 678.315(a)

²⁰⁹ 20 CFR 678.315(b)

- Affiliate sites must be physically and programmatically accessible to individuals with disabilities, as described in 29 CFR Part 38, the implementing regulations of WIOA Sec. 188.

Specialized Centers

Specialized centers are One-Stop centers that address specific needs, including those of dislocated workers, youth, or key industry sectors or clusters.²¹⁰ Specialized centers must be physically and programmatically accessible to individuals with disabilities, as described in 29 CFR Part 38, the implementing regulations of WIOA Sec. 188.²¹¹

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)(3), must be connected to AJCs and any appropriate affiliate One-Stop centers by having processes in place to make referrals to and within the network.²¹²

The Greater Nebraska One-Stop Operator is charged with ensuring referral processes are in place and operating efficiently.

Access

Greater Nebraska provides access to AJC programs, services, and activities provided by required One-Stop partners during regular business days.²¹³ Local area teams are provided the ability to flex individual team member work hours in order to provide services at times outside of or other than regular business days to accommodate the schedules of individuals who work during regular business days.²¹⁴

Access to each required One-Stop partner program and its services means:²¹⁵

- having at least one program staff member physically present at the One-Stop center;
- having at least one staff member from a different partner program physically present at the One-Stop center who is appropriately trained to provide information to customers about the programs, services, and activities available through AJC partner programs; or
- direct linkage through technology to program staff who provide meaningful information or services and direct connection 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 and cannot exclusively be the provision of phone numbers; website addresses; or general information, pamphlets, or materials.

Access to each required One-Stop partner program and its services also includes physical and programmatic accessibility for individuals with disabilities, as described in 29 CFR Part 38, the

²¹⁰ 20 CFR 678.300(d)(3)

²¹¹ 20 CFR § 678.320; 20 CFR § 678.315

²¹² Ibid.

²¹³ 20 CFR 678.305(c)

²¹⁴ ²¹⁴ 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 the State's policy on one-stop delivery system assessment and one-stop center certification.

²¹⁵ 20 CFR 678.305(d) 20 CFR §§ 678.300

implementing regulations of WIOA Sec. 188.²¹⁶ Electronic service delivery systems must comply with nondiscrimination and equal opportunity provisions of WIOA Section 188 and 29 CFR Part 38 ²¹⁷

Required One-Stop partner participation in local One-Stop delivery systems²¹⁸

Required One-Stop partner programs must provide access to their programs and services through local AJCs and any applicable affiliated sites or specialized centers, either onsite or through direct linkage, as described above in Section I(b). The provision of programs and services through direct linkage must improve the efficiency, coordination, and quality of One-Stop partner services. Direct linkage must comply with the nondiscrimination and equal opportunity provisions of WIOA Sec. 188 and its implementing regulations at 29 CFR Part 38. Greater Nebraska works directly with local area partners to coordinate access onsite or through direct linkage based on community need and program capacity.

Required One-Stop partners must:²¹⁹

1. provide access to their respective programs or activities through local 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 their respective programs and in compliance with Federal cost principles defined in 2 CFR Parts 200 and 2900, as applicable, regarding:
 - a. provision of career services;
 - b. working collaboratively with the local board to establish and maintain local One-Stop delivery systems, including jointly funding AJC infrastructure costs through partner contributions based upon:
 - 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 administrative cost requirements established under applicable Federal laws authorizing the partner programs;²²⁰
3. Enter into MOUs with the local board, which must include funding agreements, relating to the operation of AJCs, in accordance with 20 CFR § 678.500(b);
4. participate in the operation of AJCs, consistent with the terms of MOUs and funding agreements, requirements of partner program authorizing laws, rules, regulations, and Federal cost principles, and all other applicable legal requirements; and
5. provide representation on the local board, when required or as requested, and participate in board committees as needed. ²²¹

Required local One-Stop delivery system services

The Greater Nebraska One-Stop delivery system provides services to customers based on individual needs, including seamless delivery of multiple services to individual customers. Basic career services must be delivered collectively by required One-Stop partners through the local area AJCs (subject to legislative authorization, requirements, and limitations for each partner program).

²¹⁶ Ibid.

²¹⁷ 20 CFR § 678.300 (e)

²¹⁸ WIOA Sec. 121(b)(1)(A)-(B); 20 CFR 678.300(e)

²¹⁹ 20 CFR 678.420, 20 CFR § 678.700

²²⁰ Refer to 20 CFR 678.700 for additional information

²²¹ 20 CFR 678.420

Basic career services, including meaningful assistance with unemployment insurance (UI) claims, must be universally available and accessible to all individuals and employers seeking services, as applicable.²²² 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. Basic career services²²³ include:

1. Determination of eligibility to receive assistance from adult, dislocated worker, and youth programs
2. Outreach, intake (including worker profiling), and orientation to information and other services available through the One-Stop delivery system, including an opportunity to initiate an application for Temporary Assistance for Needy Families (TANF) assistance and non-assistance benefits and services, which could be implemented through the provision of paper application forms or links to the application website
3. Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive services needs
4. Labor exchange services, including job search and placement assistance and career counseling, when needed by individuals, and provision of information on:
 - a. in-demand industry sectors and occupations; and
 - b. nontraditional employment
5. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the One-Stop delivery system and other workforce development programs when appropriate
6. Provision of workforce and labor market employment statistics information, including provision of accurate information relating to local, regional, and national labor market areas, such as:
 - a. job vacancy listings in labor market areas;
 - b. information on job skills necessary to obtain the vacant jobs listed; and
 - c. information relating to local in-demand occupations and the earnings, skill requirements, and opportunities for advancement for those jobs
7. Provision of performance information and program cost information for eligible providers of education, training, and workforce services, delineated by program and type of providers
8. Provision of information in usable and understandable formats and languages on how local areas are performing on local performance accountability measures, as well as any additional performance information relating to One-Stop delivery systems
9. Provision of information in usable and understandable formats and languages relating to the availability of supportive services or assistance and appropriate referrals to those services and assistance, including:
 - a. child care;
 - b. child support;
 - c. medical or child health assistance available through the state's Medicaid program and Children's Health Insurance Program;
 - d. benefits under Supplemental Nutrition Assistance Program (SNAP);
 - e. assistance through the earned income tax credit; and
 - f. assistance available under the State's TANF program and other supportive services and transportation provided through TANF

²²² 20 CFR § 678.430; 20 CFR § 678.425; WIOA Sec 134 (c) (2); TEGL 19-16

²²³ 20 CFR 678.430(a)

10. Provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation. Greater Nebraska ensures the provision of UI meaningful assistance:
 - by staff on-site who are well-trained on unemployment compensation claims filing and the rights and responsibilities of claimants; or
 - 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.
11. Assistance with establishing eligibility for programs of financial aid assistance for training and education programs not authorized under the Workforce Innovation and Opportunity Act of 2014

Greater Nebraska shall ensure the availability of individualized career services and training services for eligible individuals through AJCs, if determined appropriate for individuals to obtain or retain employment.²²⁴ Availability of individualized career services required under local Title I adult and dislocated worker programs for eligible individuals are described in detail in the Adult and Dislocated Worker policy. Title I youth program services for eligible individuals are described in detail in the Youth Program policy.

Career services for employers (business services)

Greater Nebraska ensures the availability of business services through AJCs,²²⁵ specifically:²²⁶

- appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through local One-Stop delivery systems; and
- provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including:
 - job vacancy listings in labor market areas;
 - information on job skills necessary to obtain the vacant jobs listed; and
 - information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for those jobs.
- establishment and development of relationships and networks with large and small employers and their intermediaries; and
- development, convening, or implementation of industry or sector partnerships.²²⁷

Greater Nebraska does not charge fees for the services described above.²²⁸ There is no requirement that fees be charged for optional business services;²²⁹ however, fees may be charged.²³⁰ Optional business services include:²³¹

- customized business services for employers, employer associations, or other such organizations, which are tailored for specific employers, and may include:

²²⁴ 20 CFR 678.430(b)

²²⁵ WIOA Secs. 134(c)(2)(A)(iv)(I)-(II) and 134(c)(2)(A)(vi)

²²⁶ WIOA Secs. 134(c)(2)(A)(iv)(I)-(II) and 134(c)(2)(A)(vi); 20 CFR 678.435(a)

²²⁷ 20 CFR 678.435(a)

²²⁸ 20 CFR 678.440(a)

²²⁹ 20 CFR 678.440(a)

²³⁰ 20 CFR 678.440(c)

²³¹ 20 CFR 678.435(b)

- customized screening and referral of qualified participants in training services to employers;
- customized services on employment-related issues for employers, employer associations, or other such organizations;
- customized recruitment events and related services for employers, employer associations, or other such organizations, including targeted job fairs;
- human resource consultation services, including but not limited to assistance with:
 - writing/reviewing job descriptions and employee handbooks;
 - developing performance evaluation and personnel policies;
 - creating orientation sessions for new workers;
 - honing job interview techniques for efficiency and compliance;
 - analyzing employee turnover;
 - creating job accommodations and using assistive technologies; or
 - explaining labor and employment laws to help employers comply with discrimination, wage/hour, and safety/health regulations
- customized labor market information for specific employers, sectors, industries or clusters; and
- other similar customized services

The Board may elect to provide other business services and strategies that meet the workforce investment needs of local area employers, in accordance with partner program statutory requirements and consistent with Federal cost principles.²³² These business services may be provided through effective business intermediaries working in conjunction with the Board, or through use of economic development, philanthropic, and other public and private resources in a manner determined appropriate by the Board and in cooperation with the State.²³³ Any fees earned through the provision of business services are considered program income and must be expended by the applicable partner program in accordance with its applicable authorizing legislation and implementing regulations for the partner's program, as well as Federal cost principles identified in 2 CFR Parts 200 and 2900, as applicable.²³⁴ Allowable activities, consistent with partner programs' authorized activities, include, but are not limited to:²³⁵

- developing and implementing industry sector strategies (including strategies involving industry partnerships, regional skills alliances, industry skill panels, and industry sector skills partnerships);
- customized assistance with the development of Registered Apprenticeship program through referrals to the NDOL Registered Apprenticeship Program Unit;
- developing and delivering innovative workforce investment services and strategies for local area employers, which may include career pathways, skills upgrading, and skill standards;
- development and certification for recognized postsecondary credentials or other employer use, through coordination with NDOL and other effective initiatives for meeting workforce investment needs of local area employers and workers;
- providing assistance to local area employers with managing reductions in force in coordination with Rapid Response activities and with strategies for the aversion of layoffs (according to the requirements established by the NDOL Rapid Response Unit), which may include strategies

²³² 20 CFR 678.435(c)

²³³ 20 CFR 678.435(c)

²³⁴ 20 CFR 678.440(d)

²³⁵ 20 CFR 678.435(c)(1-6)

such as early identification of firms at risk of layoffs, use of feasibility studies to assess the needs of and options for at-risk firms, and the delivery of employment and training activities to address risk factors; e. marketing of business services to appropriate local area employers, including small and mid-sized employers; and

- assisting employers with accessing local, State, and Federal tax credits.

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Greater Nebraska Policy Act (WIOA)

Workforce Innovation and Opportunity

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 5/30/2019 & 5/28/2020
	Supersedes
	Review/Revision Date 9/21/2023

Personally Identifiable Information (9/21/2023)

Reference

TEGL 39-11.

Policy

Personally Identifiable Information

The Workforce Innovation Opportunity Act (WIOA) requires that recipients of WIOA Title IB funds provide personally identifiable information (PII) to access WIOA services. PII and other sensitive information must be protected consistent with applicable Federal, State, and local privacy and confidentiality laws. This policy addresses the security of sensitive and non-sensitive PII, for services offered through WIOA Title IB.

The Department of Labor has defined two types of PII, protected PII and Non-sensitive PII. The differences between the two are primarily based on an analysis regarding the risk of harm that could result from the release of the PII.

Protected PII

Protected PII is information that if disclosed could result in harm to the individual whose name or identity is linked to that information.

Examples include, but are not limited to, social security numbers, credit card numbers, bank account numbers, home telephone numbers, ages, birthdates, marital status, spouse names, educational history, biometric identifiers, medical history, financial information and computer passwords.

Non-sensitive PII

Non-sensitive PII is information that if disclosed, by itself, could not reasonable be expected to result in personal harm. Essentially, it is stand-alone information that is not linked or closely associated with any protected or unprotected PII. However, depending on the circumstances, a combination of these items could potentially be categorized as protected or sensitive PII.

Examples include, but are not limited to, first and last names, e-mail addresses, business addresses, business telephone numbers, general education credentials, gender, or race.

Data Protection

1. Data may not be obtained or used for any purpose other than those required by the programs. Access to data is restricted to only those individuals who need it in their official capacity to perform duties in connection with the scope of work.
2. Staff and other personnel who have access to PII are advised of the confidential nature of the information, the safeguards to protect the information and the civil and criminal sanctions for noncompliance with such safeguards. Personnel acknowledge their understanding of these compliance requirements and their liability for improper disclosure during their new-hire orientation.
3. PII will be stored in a secure location that is safe from access by unauthorized persons. Accessing, processing and storing participant data on personally owned equipment at off-site locations is prohibited.
4. Staff must ensure privacy of all PII obtained from participants and/or other individuals and protect such information from unauthorized disclosure. Participants will be required to sign a release of information to listed parties before any PII is shared with another person/agency.
5. Data must be processed in a manner to protect the confidentiality of the records/documents and is designed to prevent unauthorized persons from retrieving such records.
6. All data transmitted electronically must be encrypted using a Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Standards and Technology (NIST) validated cryptographic module. Unencrypted sensitive PII must not be emailed.

Data Breach

Any breach of data must be reported in writing to the administrative entity immediately upon occurrence, not to exceed 24 hours after the breach is identified.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

- 45-2-1 Complaints
- 45-2-6 Planning Documents
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Greater Nebraska Policy Act (WIOA)

Workforce Innovation and Opportunity

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category One-Stop Delivery System
	Effective Date 10/24/2019
	Supersedes 9/21/2023
	Review/Revision Date 5/27/2025

Priority of Service (5/27/2025)

Reference

Workforce Innovation and Opportunity Act (WIOA) 134; 20 CFR §§ 680.650, 681.250, 681.410; 680.600, 680.230, CFR Part 1010, 38 USC § 4215, Ibid; TEGL 03-15, TEGL 08-15, TEGL 10-09, TEGL 22-04; VPL 07-09; Nebraska Department of Labor (NDOL) Priority Populations and Priority of Service policy.

Policy

Priority of service means the right to take precedence over a person with lower priority in obtaining employment and training services. The person with priority receives access to a service earlier in time than a person with lower priority or, if the resource is limited, receives access to the service instead of the person with lower priority.

Priority is not part of the eligibility determination for any program; rather, it is meant to emphasize access to individualized career and training services for these higher-need populations. Priority of service must be assessed at the time of the eligibility determination, and participants must be informed if they are to receive priority.

Veterans and eligible spouses of veterans receive priority of service in **all** WIOA Title IB programs. The process for identifying covered persons at the point of entry includes:

- Signage prominently posted at the point of entry indicating the individual’s right to priority; and
- NEworks data collection for covered persons during registration.

As soon as career center staff identify the covered persons status they inform the individual of their entitlement to priority of service, explain services available to them under priority of service, and WIOA Adult, Dislocated Worker, and Youth program eligibility requirements.

Outreach to Priority Populations

Recruitment is a collaborative effort between the Case Manager, regional managers, One-Stop operator, and other local area staff. Recruitment methods include but are not limited to: presentations at interagency and community group meetings, partner referrals, presentations to local high school and college classes, local chambers and economic development agencies, and referrals from walk-in traffic at the job centers.

Case Managers prioritize outreach to partner programs that work with priority population groups to ensure they are aware of the services and entitlement to priority of service available to their clients.

Adult Program Priority Requirements

Services to eligible Adult Program participants must be provided in the following order:

- 1. First, to Veterans and eligible spouses of Veterans who are:**
 - a. recipients of public assistance;
 - b. low-income; or
 - c. basic skills deficient;
- 2. Second, to individuals who are not Veterans and eligible spouses of Veterans but are:**
 - a. recipients of public assistance;
 - b. low-income; or
 - c. basic skills deficient;
- 3. Third, to Veterans and eligible spouses of Veterans who are not:**
 - a. recipients of public assistance;
 - b. low-income; or
 - c. basic skills deficient
- 4. Fourth Priority populations established by the Governor and/or Local WDB**
- 5. Fifth, to non-covered persons outside the groups given priority under WIOA. Including persons who are not:**
 - a. recipients of public assistance;
 - b. low-income; or
 - c. basic skills deficient.

A recipient of public assistance, low-income, or basic skills deficient veteran or eligible spouse takes precedence, with all other qualifying requirements being equal, over a recipient of public assistance, low-income, or basic skills deficient, non-covered person in obtaining individualized career services and training services. This does not allow for “bumping” of non-covered persons who had previously been accepted into a program prior to the covered person applying within the same program. Priority of service applies up to the point that the participant receives approval to begin an individualized career or training service. At that point, the participant should continue to receive services as needed, even if participants with higher priority must wait to receive services because funds are limited. However, if there is a waiting list, the veterans or eligible spouse receive access to the service instead of or before the non-covered person on the waiting list. Veterans and eligible spouses receive priority of service in all WIOA Title IB programs.

Recipients of Public Assistance, Low-income, or Basic Skills Deficient Exception

Greater Nebraska requires at least 75% of Adult enrollments meet category one or two eligibility. Administrative approval is required to enroll an individual under priority category three, four, or five.

Waitlist

Should a waiting list be implemented, Case Managers must determine what level an Adult participant must receive priority of service:

1. Determine if the individual is a veteran or eligible spouse.
2. Determine if the individual is low-income or a recipient of public assistance.
3. If the individual is not low-income, they must complete the Basic Skills Screening Tool. If the individual answers no to any of the questions on the screening tool or is unable to complete the form without assistance, they are considered basic skills deficient.

4. Case note order of priority.
5. Priority will be given to Category 1 and 2, followed by Category 3. No Category 4 or 5 will be considered.

Dislocated Worker Program Priority Requirements

Services to eligible Dislocated Worker Program participants must be provided in the following order:

- 1. First, the individual must meet the eligibility criteria described in WIOA Section 3(15)** (see the current Greater Nebraska Adult, DLW, & Youth Eligibility policy on dislocated worker eligibility); and
- 2. Second, if the individual meets the dislocated worker eligibility criteria and is a Veteran or eligible spouse of a Veteran, the individual must be given priority over dislocated workers who are non-Veterans.**

Serving Separating Services Members and Military Spouses

Service members exiting the military, including recipients of Unemployment Compensation for Ex-Military members (UCX), generally qualify as dislocated workers. Military spouses of service members exiting the military may also qualify as dislocated workers.

Youth Program Priority Requirements

WIOA prioritizes expenditures and enrollment of individuals in the Youth Program:

- At least seventy-five (75) percent of Youth program funds must be spent to provide services to OSY; and
- All ISY must be low-income individuals, except as described below under section, Low-income Eligibility Exception for Youth.

Low-income Eligibility Exception for Youth

Up to five (5) percent of all youth (ISY and OSY) enrolled during a given program year do not need to meet the low-income requirement for eligibility.

EXAMPLE: A local area enrolled 200 youth and 100 of those youth were OSY who were not required to meet the low-income criteria, 50 were OSY who were required to meet the low-income criteria, and 50 were ISY.

In this example, the 50 OSY required to be low income and the 50 ISY are the only youth factored into the 5 percent low-income exception calculation. Therefore, in this example 5 of the 100 youth who ordinarily would be required to be low-income do not have to meet the low-income criteria based on the low-income exception.

Compliance and Monitoring

Internal monitoring will be completed quarterly (January, April, July, and October) to ensure priority guidelines are followed. The Administrative Entity will provide a report to the System Coordination Committee on the status. Technical assistance will be provided by the administrative entity if discrepancies are found.

Local area compliance is also reviewed as part of routine program monitoring conducted by the NDOL State Monitor.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

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45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy Act (WIOA)

Workforce Innovation and Opportunity

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 7/1/2017
	Supersedes
	Review/Revision Date 9/21/2023

Procurement Standards and Procedures (9/21/2023)

Purpose

To establish guidelines regarding the acquisition of Goods and Services needed to carry out the responsibilities of the Nebraska Department of Labor (NDOL). To provide overall direction for agency-wide procurement policies, regulations, and procedures and to promote economy, efficiency, and effectiveness in the acquisition processes. To ensure NDOL’s compliance with the Department of Administrative Services (DAS) and Payroll & Financial Center procedures and guidelines. This policy is for administrative purchases and does not apply to program supportive services.

Policy

Definitions

1. **Approver:** An individual who has the authority to purchase goods and services on behalf of NDOL.
2. **Commodity:** A marketable item produced to satisfy wants or needs. Economic commodities comprise goods and services.
3. **Goods:** A commodity you can see; a physical, tangible item.
4. **Request for Proposal (RFP):** A document utilized for soliciting competitive proposals.
5. **Services:** A commodity usually provided by another person; a non-physical, intangible item. For example, services provided to maintain, repair, or perform a function.
6. **Sole Source – Services or Goods:** A service or good of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service or good. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or good and sole availability at the location required.

Goods

(a) State Contracts

DAS Purchasing has entered into Contracts for Goods with specific vendors in order to provide efficiencies in procurement across state government. NDOL is required to use vendors under these agreements.

(b) Procurement Guidelines for Goods:

<\$2000	Agency Level Decision (only 1 quote is required)
\$2,000 thru \$9,999	Agency Level Decision (3 quotes required) if not a State Contract item
\$10,000 thru \$24,999	Obtain 3 quotes if not a State Contract item. Order will route to DAS Purchasing for an informal bid if not on a State contract. DAS may not need to bid out informally if we provide the three (3) comparable quotes.
>\$24,999	Order will route to DAS Purchasing for a formal bid if item is not on a State Contract

(c) Quotes

Per state statute (LB 371), "it should be the policy of this state that, whenever possible, quotes should be obtained from Nebraska vendors. Taxpayer dollars should be reinvested with its individual and employer taxpayers in order to foster job retention and growth and to ensure a broad and healthy tax base for future investments vital to the state's infrastructure."

(d) Procurement Procedures

Individuals who have purchasing authority (Supervisor and/or Manager, Administrator, Director, or Commissioner) shall submit an approved [Purchase Request Form](#) for any goods (with the exception of general office supplies and toner for leased copiers) and submit it to the Office of Administrative Services/Procurement (Purchasing) after appropriate approval signatures have been completed.

- (i) Submit orders for Goods on an approved Purchase Request form to Purchasing.
- (ii) Purchasing will process the order in accordance with DAS procedures & guidelines.
- (iii) Exceptions are made when there is a State contract with a vendor (i.e. Dell, EnPointe, etc.).
- (iv) Emergency or unique requests will be processed on a case by case basis. This may require additional documentation and guidance from DAS Purchasing.
- (v) Any questions about orders should be directed to Purchasing. Purchasing is the liaison with DAS and individuals may not contact DAS Purchasing directly.
- (vi) Requests to Purchasing by unauthorized individuals will be returned for proper authorization.

Technology-related purchases:

- Includes electronic equipment and upgrades to equipment, regardless of whether or not they will/will not connect to the NDOL network directly/indirectly.
- Include, but are not limited to, computer hardware/software, USB/flash/thumb/pen drives, computer peripherals, cell phones, land-line phones, PDA's, tablets.
- All electronic equipment is considered an Office of Administrative Services/Information Technology (IT) purchase.
- Hardware/software purchases require contacting the IT Help Desk to obtain quotes (NDOL.IThelpdesk@nebraska.gov). If the item is on a State Contract only one (1) quote needs to be attached (IT will know this contract information when obtaining your quote(s). If not on State Contract, attach all three (3) quotes to the Purchase Request form.
 - 1) User contacts IT to discuss technology requirement via email or the telephone.
 - 2) IT researches the technology solution and options, obtains price quotes, and makes recommendations to the user via email.
 - 3) User chooses the recommendation that best fits the need, completes the Purchase Request form, and submits it to Approver.
 - 4) The approved Purchase Request form is submitted to IT.
 - 5) IT logs the Purchase Request, obtains appropriate IT approval signatures, and forwards it to Purchasing for processing the Purchase Order.

Phone Equipment purchases (cell, land-line & phone accessories):

Contact the agency Communications Coordinator in IT for assistance with ordering phones, headsets, and all phone accessories.

General office supply purchases:

General office supplies may be requested on an approved [Office Supply Order Form](#) and submitted to Purchasing to be ordered from Office Depot's State Contract. **Please note that items found on the Office Depot website may not be available and you should use the catalog for your selections.** Each office should have an Office Depot catalog to select items from.

Copier Toner purchases:

Toner for copiers is at no charge through the lease & can be ordered direct by calling Copy State Policy

Capital Business Systems at **800-221-0604**. The 500 & 550 building staff should also send an email to the Mailroom to notify them of these toner deliveries.

(e) Shipping/Receipt of Order

- (i) Item(s) will be shipped directly to the requested shipping address.
- (ii) If the Goods are to be received at the Administrative Office, the Mailroom will call the designated person to pick up the order and send the packing slips to Purchasing.
- (iii) All CPUs, laptops, and network printers will be shipped to IT to be configured before they are delivered.
- (iv) If the Goods are shipped directly to the local office, the local office manager/ designee shall verify the shipment.
- (v) The local office will be sent a copy of the order with a Goods Received Stamp.
- (vi) The manager/designee **must sign** the designated area of the Goods Received Stamp and send the original to Purchasing along with the packing slip. **The office manager/designee must verify Goods have been received to ensure proper payment of the invoice and inventory tagging.**
- (vii) An example of the Goods Received Stamp is below.

(f) Vendor Invoices/Billings

- (i) All vendor invoices/billings must be sent to Purchasing. When all paperwork is received and verified, the Office of Finance will process payment to the vendor.
- (ii) If the proper receiving information is not on file, Purchasing will contact the appropriate office designee to determine if the items have been received and verified.
- (iii) Purchasing does not process payments from vendor statements. Original invoices/billings are required.

Services

(a) State Contracts

Contact Purchasing to confirm if the Service you need is available through an existing State Contract. DAS Purchasing has entered into Contracts for Services with specific vendors in order to provide efficiencies in procurement across state government. NDOL is required to use these vendors under these agreements.

(b) Procurement Guidelines for Services:

Contracts for the acquisition of services must contain IRS Publication 1075 Exhibit 7 language, as appropriate.

<\$2000	Agency Level Decision (only 1 quote is required)
\$2,000 thru \$49,999	Agency Level Decision (3 quotes required). These purchases may be completed by the Agency with authorized approvals and three documented vender quotes.
>\$49,999	Service procurements greater than \$50,000 shall be bid through the Request For Proposal (RFP) process. Allow a minimum of 5-6 months for this process. Contact Purchasing for the form.
>\$49,999 and Sole Source	Sole Source – Service procurements \$50,000 & over must be submitted on a Sole Source – Deviation form attached to the Purchase Request form, and include all necessary justification and meet the requirements. The Sole Source request must be signed by the Commissioner prior to submission and review by DAS Purchasing.

(c) Quotes

Per state statute (LB 371), "it should be the policy of this state that, whenever possible, quotes should be obtained from Nebraska vendors. Taxpayer dollars should be reinvested with its individual and

employer taxpayers in order to foster job retention and growth and to ensure a broad and healthy tax base for future investments vital to the state's infrastructure."

(d) Procurement Procedures

Individuals who have purchasing authority (Supervisor and/or Manager, Administrator, Director, or Commissioner) shall submit requests for the procurement of Service to the Office of Administrative Services/Procurement (Purchasing) by using the Purchase Request form.

Be sure to think about the full scope of your Service project so you can include any and all potential work or future enhancement possibilities up front. Determine if ongoing maintenance is something you also need to include in your quotes. Even if your program does not have the funds now, it is recommended to include the option for any possible enhancements you may need later in case dollars become available. Enhancements can always be included in a contract extension and if dollars aren't available at that time, then we are not committed to contracting those services. This will save going back through the approval processes in the future and causing a contract to be over \$50,000, which would necessitate DAS approvals.

(i) Services < \$2,000

- Check with Purchasing to see if the service you need maybe on a State Contract. If not on a Contract, contact a vendor who can provide the service and obtain one (1) quote.
- Prepare and submit to Purchasing a Purchase Request form, including all Approver signatures and attach the quote.

(ii) Services \$2,000 thru \$49,999

- Contact the IT Director/Manager prior to submitting a request for IT-related services.
- Check with Purchasing to see if the service you need may be on a State Contract.
- If not on a Contract, prepare your specifications & contact potential vendors to obtain three (3) quotes.
- Prepare and submit to Purchasing a Purchase Request form, including all Approver signatures, attach your specifications and the three quotes, indicating the lowest responsible bidder desired.
- If you are requesting a Sole Source – Service **in lieu of other quotes**, complete the Sole Source form Sole Source-Deviation form, which requires the justification. Have Purchasing review the Sole Source before sending the final version with the approved Purchase Request form. The justification must include why the service is of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service.
- Purchasing will then direct you to contact the Office of General Counsel with all supporting documentation to prepare your contract with the selected bidder.
- The Office of General Counsel will prepare the contract, route a draft internally for review & when approved will send to the vendor & copy appropriate staff.
- Inform Purchasing of Acceptance of Deliverables and provide invoices for payment..

(iii) Services > \$49,999

- Contact the IT Director/Manager prior to submitting a request for IT-related services.
- IT-related RFP procurements must be submitted to the Office of the Chief Information Officer (OCIO) for review.
- Check with Purchasing to see if the service you need may be on a State Contract.
- If the service is \$50,000 or higher, **and does not qualify for a sole source**, prepare specifications using the RFP boilerplate form. Contact Purchasing for the correct and current version of the RFP boilerplate form.
- Submit the RFP boiler plate form and an approved Purchase Request form to Purchasing. Purchasing staff will work directly with Office designees through the entire RFP process.
- **Plan at least 5-6 months for the RFP process.** Purchasing staff will keep the Office designee informed of RFP progress, receipt of proposals, and contract award.
- Purchasing will then direct you to contact the Office of General Counsel with all supporting documentation to prepare a contract with the selected bidder.

- The Office of General Counsel will prepare the contract, route a draft internally for review & when approved will send to the vendor & copy appropriate staff.
 - Inform Purchasing of Acceptance of Deliverables and provide invoices for payment.
- (iv) **Services > \$49,999 AND Sole Source**
- Contact the IT Director/Manager prior to submitting a request for IT-related services.
 - Check with Purchasing to see if the service you need may be on a State Contract.
 - Obtain a quote from the vendor for the desired service. Contact other vendors to determine if they can provide the same desired service. If the service is unique, it may qualify as a Sole Source service. A Sole Source service is of such a unique nature that the contractor selected is clearly and justifiably the only practical source to provide the service based on either the uniqueness of the service or sole availability at the location required.
 - Contact Purchasing to review your documentation that supports this is the only vendor able to provide this service, and to determine if the request may qualify as a Sole Source service.
 - If your request qualifies as a Sole Source service, submit the Sole Source-Deviation form and justification with the approved Purchase Request form to Purchasing.
 - Purchasing will obtain required Commissioner's signature on the Sole Source-Deviation form.
 - Once approved, Purchasing will then direct you to contact the Office of General Counsel with all supporting documentation to prepare a DRAFT contract with the selected bidder.
 - The Office of General Counsel will prepare the DRAFT contract.
 - Purchasing submits the DRAFT contract & Sole Source-Deviation form to DAS Purchasing for their review and approval. **Plan for this review/approval process to take several weeks.**
 - Once approved, Purchasing notifies Office of General Counsel to proceed with a FINAL service contract.
 - Requestor informs Purchasing of Acceptance of Deliverables and provides invoices for payment.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Administrative Guidelines
	Effective Date 1/25/2021
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	Review/Revision Date 9/21/2023

Security and the One-Stop Delivery System (9/21/2023)

Reference

Federal and state laws, regulations, rules, and other guidance and documentation as cited in footnotes. Nebraska Department of Labor Security and One-Stop Delivery System policy.

Background

Greater Nebraska recognizes that security issues, including behaviors, threats, and acts of violence, degrade mandatory physical and programmatic accessibility requirements regarding the One-Stop delivery system, the overall effectiveness of the system,²³⁶ and the ability of One-Stop partner program staff to provide meaningful services.

WIOA assigns responsibilities at the Federal, state, and local levels to ensure the creation, maintenance, and accessibility of One-Stop delivery systems that enhance the range and quality of employment and training services for jobseekers, workers, and employers.²³⁷ Nebraska Department of Labor has established objective criteria and procedures for the local board to use when assessing One-Stop delivery systems and certifying One-Stop centers for effectiveness, physical and programmatic accessibility, and continuous improvement. Pursuant to the State’s current policy on One-Stop delivery system assessment and One-Stop center certification, each local board must *annually* assess the physical and programmatic accessibility of all One-Stop centers in its respective local area.²³⁸ Further, during the annual assessment of the physical and programmatic accessibility of all One-Stop centers in the local area, the local board must follow the requirements and procedures established in the One-Stop delivery system assessment and One-Stop center certification policy and the requirements of WIOA and its implementing regulations, rules, 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.).²³⁹

Policy

The Greater Nebraska Workforce Development Board is committed to providing meaningful workforce services that help individuals to enter or reenter the workforce, improve earning potential, and develop pipelines of skilled workers that meet the evolving needs of Nebraska industry. This mission includes preserving a safe and welcoming environment.

²³⁶ 20 CFR § 678.800(a)

²³⁷ WIOA Sec. 121(e)(1); 20 CFR § 678.300(b)

²³⁸ WIOA Sec. 107(d)(13); 20 CFR § 679.370(p)

²³⁹ 20 CFR §§ 678.800 and 679.370(p); TEGL 16-16

Safety Committee

In accordance with Nebraska Department of Labor state policy, the Greater Nebraska Workforce Development Board has established a safety committee that is responsible for developing and implementing physical security policies and procedures that:

- comply with the requirements of the Nebraska Department of Labor Security and the One-Stop Delivery System policy and the security framework defined in the policy regarding risk identification, risk mitigation, readiness, and response and recovery, including, but not limited to:
 - establishment of incident notification, documentation, response, and recovery protocols
 - annual survey of One-Stop partner program representatives to gauge their satisfaction with the implementation of security policies and procedures and effectiveness of the mandatory training
 - survey must provide local area staff the opportunity to provide written input and suggestions to ensure continuous improvement; and
 - mandatory staff training requirements and schedules for local area administrative entity staff, One-Stop Operator staff, and One-Stop partner program staff

The Safety Committee must conduct an annual review and update of established safety and security policies and procedures based on their assessed effectiveness.

The Greater Nebraska Workforce Development Board requires the safety committee to:

- regularly update the full local board on security incidents during public meetings of the local board;
- work with local area administrative entity staff, One-Stop operator staff, and One-Stop partner program staff on procurement of security assets and creation and maintenance of incident and incident resolution logs; and
- ensure regular monitoring of local area administrative entity staff, One-Stop operator staff, and One-Stop partner program staff for compliance with such policies and procedures, including the training requirements and schedules.

Security framework

Greater Nebraska follows a four-phase security framework for the One-Stop delivery system:

(a) Risk identification

The identification of security risks cannot be achieved without conducting a risk assessment. Risk assessments are critical to both the design and continual modification of security policies and procedures. Risks to One-Stop delivery system customers and program staff may vary significantly by facility throughout the statewide One-Stop delivery system. Greater Nebraska will conduct a risk assessment of all American Job Centers and affiliate sites on an annual basis. This risk assessment shall also be incorporated into the triennial assessment for AJC certification.

(b) Risk mitigation

Once risks and corresponding risk levels are assessed, mitigation is taken to reduce the likelihood of such risks from occurring and minimize the impact should such incidents occur. The selection of mitigation measures shall be proportional to the likelihood and severity of risks present at a facility. Physical mitigation measures may include, but are not limited to:

- staff training;
- facility access control;
- interior and exterior lighting;
- digital and/or remote observation systems;
- signage and public notices;

- infrastructure hardening;
- early detection systems;
- public alert systems;
- evacuation plans and designated shelter areas; and
- contracted security services.

The cost of security equipment and services may be funded locally as an infrastructure cost under memorandums of understanding with required and additional One-Stop partners.²⁴⁰ Representatives from all local area One-Stop center partners shall be regularly consulted by the Greater Nebraska Workforce Development Board, local area administrator, and One-Stop Operator concerning risk mitigation.

(c) Readiness and Continuous Improvement

Mitigation efforts are effective only when properly planned, rehearsed, and maintained. The Greater Nebraska Workforce Development Board requires regular and effective staff training and rehearsals. All facility staff must be trained on local security policies, procedures, and encouraged to participate in rehearsals. The Greater Nebraska One-Stop Operator must maintain documentation of annual training schedules and events, training agendas, and staff attendance rosters.

Training recommendations include, but are not limited to:

- de-escalation training;
- lifesaving first aid; and
- active shooter training.

The Greater Nebraska One-Stop Operator must survey local One-Stop partner program representatives on an annual basis to gauge their satisfaction with the implementation of security policies, procedures, and training effectiveness. The annual survey must provide local area staff the opportunity to provide written input and suggestions to ensure continuous improvement.

(d) Response and Recovery

The following behaviors, threats, and actions are considered security incidents within the context of accessibility to the One-Stop delivery system:

Behaviors

Individual instances of behavior or patterns of behavior may precede a threat or act of violence and are considered security incidents. Such behaviors include, but are not limited to:

- intoxication or possession of alcohol;
- drug use or possession of controlled substances;
- viewing or possession of pornography;
- lewd behavior, inappropriate bodily exposure, and nudity;
- unwanted physical contact;
- loitering;
- stalking;
- vulgar, discriminatory, or threatening language;
- possession of weapons; and
- reckless driving in designated facility parking areas.

²⁴⁰ 2 CFR § 200.457; 20 CFR § 678.760

Threats

Individual instances of threats or patterns of threats are considered security incidents and may include, but are not limited to, verbal or non-verbal expressions of *intent* to:

- cause bodily harm to oneself or others;
- damage property or equipment;
- destroy property or equipment; and
- theft.

Non-verbal expressions may come in the form of emails, written letters, etc.

Actions

Individual instances of physical action or patterns of physical action that are considered security incidents may include, but are not limited to, actions that *cause* or *result* in:

- bodily harm to oneself or others;
- damage to property or equipment;
- destruction of property or equipment; and
- theft.

Such security incidents must be met by proper responses. Certain activities and behaviors will be subject to progressive enforcement as follows:

1. Warning
2. Expulsion from AJC or affiliate site for remainder of day
3. Suspension from AJC or affiliate site for a specified amount of time
4. Suspension from AJC or affiliate site permanently

In cases where an individual has been barred from entry at one or more locations, alternate methods of service delivery may be provided to maintain compliance with service delivery requirements stipulated by Federal or State law.

When a security incident has ended, regardless of the type (behavior, threats, or action) the Greater Nebraska Workforce Development Board requires the local area administrator, One-Stop Operator, and respective Regional Manager conduct recovery activities, which must include:

1. investigation, to include filing of police reports, as necessary;
2. incident documentation utilizing the statewide security incident report form;
3. notification to the CEOB and GNWDB Chairs, GNWDB Safety Committee Chair, NDOL, and local area One-Stop partners within the service delivery area of the affected site(s);
4. application of corrective actions for offending individuals, to include full or partial restrictions on facility usage on a permanent or temporary basis;
5. presentation and review of incident logs at the next scheduled public local board meeting; and
6. annual risk re-assessment (to be included during annual One-Stop delivery assessment of physical and programmatic accessibility).

Monitoring

The Greater Nebraska Workforce Development Board will conduct regular monitoring of local area administrative entity staff, One-Stop Operator staff, and One-Stop partner program staff for compliance with established policies and procedures, including the training requirements and schedules.

Monitoring shall include, but not be limited to:

- policies;
- procedure manuals;

- incident logs;
- training schedules and agendas;
- training attendance rosters;
- documentation of the procurement of security-related equipment and services; and
- the facility itself.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

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Supportive Services (3/14/2024)

Reference

Workforce Innovation and Opportunity Act (WIOA) 134; 20 CFR §§ 680.900-680.970; TEGL 19-16, Nebraska Department of Labor (NDOL) Adult and Dislocated Worker Programs Policy.

Policy

Supportive services are services that are reasonable and necessary to enable a participant to take part in career services, training services, or youth employment and training activities. Supportive services should not duplicate funds provided by another source. Participants in need of supportive services should be referred to other community resources before WIOA Title IB funds the service. It may be applicable to cost share with other service providers.

The frequency and utilization of supportive services is determined on an individual basis based on the participant’s Individual Employment Plan (IEP) or Individual Service Strategy (ISS). Supportive service dollars are not guaranteed as they are based on availability of program funds.

Supportive services are not intended to meet every need of the participant. Rather, they provide temporary assistance. For this reason, staff should assist the participant in developing a plan to cover the supported cost once WIOA Title IB funds are no longer appropriate for the individual.

Prior to submitting a supportive service request, the Case Manager must clearly document the following in a justification case note:

- What WIOA activity does this support service support?
- How does this help the participant in achieving their employment goal?
- How the obligation amount was determined?
- How long will WIOA Title IB assist the participant with this expense?
- How will the participant cover this cost after temporary funding?

The approving manager is responsible for ensuring all documentation is upload, correct, and legible before authorizing obligation and payment vouchers. All payments require adequate supporting documentation to justify the payment.

Payments are not allowed for:

- Expenses incurred prior to enrollment in a WIOA program
- Business start-up costs
- Gas vouchers

Supportive Services

Linkages to community services

Assistance in providing linkages, referrals, and accurate information about the availability of supportive service assistance not provided or funded by WIOA. These services may include, but are not limited to Supplemental Assistance Nutrition Program (SNAP) benefits, Temporary Assistance for Needy Families (TANF), veteran's assistance funds, financial assistance for education, county public assistance funds, etc.

Assistance with transportation

Transportation assistance may include, but is not limited to mileage reimbursement, auto repairs, vehicle liability insurance, bus, or other transportation fares.

Mileage reimbursement assistance may be provided to assist a participant that travels at least 15 miles one-way to get to employment, training, education, work experience, and/ or the local career center. Mileage reimbursement assistance has no cap limit besides the maximum transportation limit of \$2,500.

Vehicle liability insurance is limited to three months of liability insurance.

Auto repair payments are limited to repairs of an immediate need (towing services included). Normal vehicle maintenance costs (including oil changes, windshield wipers, brake replacement, etc.) requires administrative approval.

Tires fall under normal vehicle maintenance. In some circumstances, a tire can be purchased if a tire/mechanic shop deems the tire unsafe or beyond repair. All requests for tire purchases must go to the administrative entity for approval.

Maximum limit: Transportation limit per participant is \$2,500. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Assistance with child care and dependent care

Childcare and dependent care assistance may be utilized to help a participant meet their family care needs during WIOA Title IB program participation. Dependent care service providers are selected by the participant. Childcare and dependent care is only provided for children related by blood, marriage or decree of court, who are living in the participant's residence. Childcare and dependent providers must be licensed in order for direct payment or reimbursement. Participants who are employed or attending training and in need of dependent care, should be referred to community dependent care assistance program(s). Ensure WIOA Title IB funds do not duplicate child/dependent care assistance available from another source. Participants should be encouraged to take advantage of financial literacy services to assist them with an on-going plan to pay for their child/dependent care expenses.

Determination of allowed child/dependent care cost

If a participant is receiving child/dependent care assistance from another agency, WIOA Title IB will pay for the allowed child/dependent care costs after subtracting the received child/dependent care assistance amount. Supporting documentation in this instance must include verification of outside child/dependent care assistance.

Maximum limit: Childcare and dependent care limit per participant is \$1,000. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Assistance with housing

Housing assistance provided to participants allows participants to maintain or obtain adequate or temporary shelter while participating in WIOA Title IB services. Housing assistance may include, but is not limited to the cost for rent, mortgage payment, temporary housing in a motel/hotel, or apartment and utility payments. Housing assistance is an emergency intervention; a plan must be established to ensure the client will be able to meet long-term housing needs. Participants should be encouraged to take advantage of financial literacy services to assist them with an on-going plan to pay for their housing expenses.

Rental and/or Utility deposits are allowable with proof of sufficient income to pay for subsequent months. Rental and/or Utility deposits are a 1-time service per enrollment period. Administrative approval is needed for additional deposit payments. The Title IB program will not recoup deposit payments.

Maximum limit: Housing limit per participant is \$2,000. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Assistance with relocation and pre-employment interviews

Supportive service funds may be utilized to assist a participant with the cost of relocation and pre-employment interviews. Relocation and pre-employment interview assistance is limited to unemployed participants who cannot obtain employment within their commuting area (commute area is considered to be 50 miles) that meets their skill level and/or has a sufficient wage. The relocation or pre-employment interview must be located in Nebraska and for permanent employment. The participant must have secured self-sufficient, long-term employment that has been verified in writing outside their commuting area or have secured a pre-employment interview, documented by a letter from the prospective employer outside their commuting area. Relocation and pre-employment expenses may include:

1. Transportation and lodging for the participant's pre-employment interview
2. Transportation for the participant to the relocation area
3. Lodging for the participant during the relocation transition
4. Transportation of household goods to the relocation area including the cost of renting a trailer, moving truck, or hiring a commercial carrier
5. Temporary storage (up to 60 days) of household effects

Maximum limit: Relocation and pre-employment interview limit per participant is \$2000. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need

Assistance with educational testing

Supportive service funds may be utilized to assist a participant with the cost of an exam or educational test to enable them to advance along a career or educational pathway. Examples include but are not limited to ACT exams, high school equivalency exams, NCLEX exam, LPN exam, etc.

Maximum limit: There is no limit on educational testing besides the lifetime supportive service cap but must be based on individual need.

Payments and fees for employment and training-related applications, tests, and certifications

Supportive service funds may be utilized to assist a participant with the cost of employment and training-related applications, exams, or tests to enable them to advance along a career pathway. Examples include but are not limited to fees for post-secondary applications, re-licensing, driver's licenses, background checks, finger printing, etc.

Maximum limit: Employment and training-related cost limit per participant is \$1000. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Reasonable accommodations for individuals with disabilities

Support service funds may be utilized to assist a participant who needs workplace accommodations to enable them to participate in employment, training, education, work experience, career center services, or job searching.

Maximum limit: There is no limit on reasonable accommodations besides the lifetime supportive service cap but must be based on individual need.

Legal aid services

Assistance in providing linkages, referrals, and accurate information about the availability of legal aid services in Nebraska. This is a non-funded service.

Referrals to health care

Supportive service funds may be utilized to assist a participant with the cost of medical or counseling services. Examples include but are not limited to DOT physicals, drug screens, required immunizations, eyeglasses, etc.

Health care costs are limited to immediate or emergency needs. Routine doctor visit costs are not allowed.

Eyeglasses costs require administrative approval.

Maximum limit: Health care limit per participant is \$1,000. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Assistance with uniforms or other appropriate work attire and work-related tools

Supportive service funds may be utilized to assist a participant in proper attire and work-related tools for obtaining or maintain employment and/ or training. Examples include but are not limited to scrubs, tools, boots, etc.

Computers may be purchased if it is determined that a personal computer is necessary to participate in guaranteed employment and the employer requires the participant to provide the computer. WIOA Title IB Case Managers must verify there are no other resources, including but not limited to partner programs which may assist with computers. Justification for the request must be clearly documented in case notes. Computer purchase approvals will be made on a case-by-case basis by the Administrative Entity.

Internet assistance may be provided on a temporary basis until the participant receives their first paycheck. The participant must first apply for internet assistance through established programs and providers. Approvals will be made on a case-by-case basis by the Administrative Entity.

Maximum limit: Work attire and work-related tools limit per participant is \$2000. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes

Supportive service funds may be utilized to assist a participant attending a WIOA-approved postsecondary education program with books, fees (non-education), and other necessary items related to their education. Examples include but are not limited to required books, campus parking permits, computer software (Adobe, Microsoft Office), etc. School supplies are not allowed. These include flash drives, pens, notebooks, etc.

Computers may be purchased if it is determined that a personal computer is necessary to participate in and complete an approved training program and the participant has no other reasonably available sources for access. WIOA Title IB Case Managers must verify there are no other resources, including but not limited to, school computer labs or libraries within travel distance of the student and open during hours the student has availability to work on schoolwork, school or library computers available for checkout, partner programs which may assist with computers, etc. Justification for the request must be clearly documented in case notes. Computer purchase approvals will be made on a case-by-case basis by the Administrative Entity.

Internet assistance may be provided on a temporary basis with a start and end date coinciding with each term. The participant must first apply for internet assistance through established programs and providers. Approvals will be made on a case-by-case basis by the Administrative Entity.

Maximum limit: There is no other limit on books and supplies besides the lifetime supportive service cap and must be based on individual need.

Needs-Related Payments

Needs-related payments provide financial assistance to participants for the purpose of enabling them to participate in training. Unlike other supportive services, in order to qualify for needs-related payments a participant **MUST** be enrolled in training.

Eligibility requirements for Needs-Related Payments

Adults must meet all three criteria listed below receive needs-related payments:²⁴¹

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.

Dislocated Workers must meet criteria 1 or 2 to receive needs related payments:²⁴²

1. Be unemployed; and
 - a. No longer qualifies for unemployment compensation or trade readjustment allowance under TAA; and
 - b. Be enrolled in a program of training service by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.
2. Be unemployed and does not qualify for unemployment compensation or trade readjustment assistance under TAA and enrolled in a program of training services.

Payments

Needs-related payments may be provided while a participant is waiting for training if the participant has been accepted in a training program that will begin within 30 calendar days.

²⁴¹ 20 CFR 680.940

²⁴² 20 CFR 680.950

1. Greater Nebraska does not authorize needs-related payments for Youth.
2. Payments must not exceed the greater of either of the following levels:
 - a. The applicable weekly level of the unemployment compensation benefit, for participants who were eligible for unemployment compensation; or
 - b. The poverty level for an equivalent period, for participants who did not qualify for unemployment compensation. The weekly payment level must be adjusted to reflect changes in total family income.

The Lower Living Standard Income Level (LLSIL) is located at:

<https://www.dol.gov/agencies/eta/llsil>

The lower income level is used for determining weekly payment level.

Example: A family size of 1 would receive \$280/ week for a maximum of eight weeks.

(\$14,580/52 weeks = \$280.38)

Maximum limit: Needs-related payments limit per participant is the maximum weekly unemployment compensation benefit amount times eight and can be received for a maximum of eight weeks. (Example: \$490*8= \$3,920) This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Job Search Allowance

Job Search Allowance is to be used to assist an individual in their job search progress. This includes mileage reimbursement (following the above listed Transportation requirements and limits), interview attire, personal hygiene items (including, but not limited to shampoo, soap, disposable razors, haircut, etc.)

Services provided under Job Search Allowance must directly correlate to needs to obtain full-time, permanent employment.

Maximum limit: Job Search Allowance limit per participant is \$500. This is not a minimum or flat funded amount, rather the amount of supportive services used are based on individual need.

Maximum Payment

Supportive services cannot exceed \$5,000 for the participant's entire duration in the program and must follow the maximum payment limits set for specific services. Needs-related payments do not count towards the supportive service maximum and are in addition to lifetime limits. Supportive service costs are excluded as a part of the training costs. Requests to exceed the supportive service cap must be sent to the Administrative Entity for approval.

Documentation

The participant need, necessity of the supportive service, and lack of similar services available in the community must be documented in a case note and be included in the IEP or ISS. A Neworks activity must also be opened.

When multiple options are available for receiving supportive services, documentation must show that a reasonable effort was made to determine the lowest competitive cost available was chosen. Example: Receiving at least two separate quotes for vehicle repairs.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure

report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

This policy will be reviewed by the GNWDB on a bi-annual basis to ensure supportive service caps align with the current cost of living and rising training costs.

Requests to exceed the above supportive service caps should be submitted to the administrative entity. Requests will be reviewed as follows:

- Up to \$1,000.00 over the current caps can be reviewed and approved by the WIOA Title IB Program Coordinator.
- \$1,000.01 - \$2,000.00 over the current caps can be reviewed and approved by the WIOA Title IB Program Administrator.
- \$2,000.01+ over the current caps must be reviewed and approved by the majority of the Executive Committee.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 1/28/2021
	Supersedes 3/14/2024
	Review/Revision Date 5/27/2025

Training Limits (5/27/2025)

Individual Training Limits

Short-Term Training	\$2,500	The maximum allowed for training of six months or less is \$2,500.
Short-Term Training – Commercial Driver’s License	\$5,500	The exception for short-term training is a maximum of \$5,500 if it is for truck driver training to obtain a CDL license.
Occupational Skills Training (OST)	\$8,000	The maximum cost allowed for training of more than six months is \$7,000. These limitations may be extended with the approval of the Administrative Entity.
On-the-Job Training (OJT) (all programs)	\$5,000 (\$12-\$15.99) / \$7,000 (\$16 and up)	Provides reimbursement to the employer for up to seventy-five percent (75%) of the wage rate of the participant (not to exceed \$7,000), for the extraordinary costs of providing the training and additional supervision related to the training.
On-the-Job Training (Youth Only)	\$5,000 (\$9- \$11.99)/ \$7,000 (\$12 and up)	This exception is for youth only.
Work Experience	\$6,000 (Prevailing wage for the position, up to \$15.00/Hr.)	Up to 400 hours cumulative
Work Experience (Student Teachers Only)	\$9,600 \$12,000.00 (Prevailing wage for the position, up to \$15.00/Hr.)	Up to 800 or 640 hours cumulative
Transitional Jobs	\$6,000 (Prevailing wage for the position, up to \$15.00/Hr.)	Up to 400 hours cumulative
Combination of OJT & OST	\$9,000	When a combination of OJT and OST are used the maximum cost allowed for training is \$9,000, not to exceed other set limits.
Supportive Service	\$5,000	Supportive service costs are excluded as a part of the training costs.

Life-Time Limit	\$10,000	The maximum allowed for all costs per participant.
Lifetime / Reentry into the Program	Administrative Approval Required	The Administrative Entity will authorize and determine whether the full cap will be offered to a returning participant. The Administrative Entity will take into consideration the participant's current situation, evaluate why the participant is likely to succeed, and determine how much has already been expended on the participant.

Requests to exceed the above training/supportive service/life-time caps should be submitted to the administrative entity. Requests will be reviewed as follows:

- Up to \$1,000.00 over the current caps can be reviewed and approved by the WIOA Title IB Program Coordinator.
- \$1,000.01 - \$2,000.00 over the current caps can be reviewed and approved by the WIOA Title IB Program Administrator.
- \$2,000.01+ over the current caps must be reviewed and approved by the majority of the Executive Committee.

Employer Training Limits

Work Experience / Transitional Jobs	Work Experience/Transitional Job placements may not exceed 100% of current staffing levels at a given time.
On-the-Job Training (OJT) (all programs)	Employers may not receive more than \$1000.00 per location annually.

Requests to exceed the above placement/annual caps should be submitted to the administrative entity. Requests will be reviewed as follows:

- Up to \$1,000.00 over the current caps can be reviewed and approved by the WIOA Title IB Program Coordinator.
- \$1,000.01 - \$2,000.00 over the current caps can be reviewed and approved by the WIOA Title IB Program Administrator.
 - \$2,000.01+ over the current caps must be reviewed and approved by the majority of the Executive Committee.

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

This policy will be reviewed by the GNWDB on an annual basis to ensure training caps align with the current cost of living and rising training costs.

Greater Nebraska Policy

Workforce Innovation and Opportunity Act (WIOA)

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 5/28/2020
	Supersedes 9/21/2023
	Review/Revision Date 5/27/2025

Work Based Learning/On the Job Training (5/27/2025)

Reference

Workforce Innovation and Opportunity Act (WIOA) 134, 181, 194; 20 CFR §§ 680.180-680.195, 680.320, 680.530, 680.710-680.840, 683.410, 683.600; TEGL 19-16; 84 FR 1167; Nebraska Department of Labor (NDOL) Work-based Training Policy.

Policy

Work-based training can be an effective training strategy that provides additional opportunities for adult, dislocated worker, and youth program participants. Work-based training presents a great opportunity for fostering increased employer engagement, implementing sector strategies, and encouraging industry partnerships, as these types of training allow employers to train their employees while continuing to be productive members of the workforce.

Internships and Work Experience

An internship or work experience:

- 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); 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.

Participant Eligibility

Internships and Work Experience are available to participants in the Adult, Dislocated Worker, and Youth programs.

Eligible Host Agencies and Businesses

Eligible host agencies and businesses can be from the public, private, or non-profit sectors. As internships and work experience are structured to help participants achieve success in the workplace and develop skills needed to obtain and retain unsubsidized employment, the host agency or business must be able to provide supervision and appropriate feedback to the participant at regular intervals during the course of the activity and be willing to participate in the required monthly monitoring conducted by the Case Manager.

A host agency or business will be ineligible if they meet one or more of the following:

1. The host agency or business has recently laid off an individual of the same or equivalent position.
2. The internship or work experience placement would infringe upon the promotion of or displacement of any currently employed worker or lead to a reduction in their hours.
3. The business is a private for-profit employment agency including but not limited to temporary employment agencies, employee leasing firms, or staffing agencies.

Future internship/work experience requests from employers will be denied if the requirements set forth in previous worksite agreements were not honored.

Documentation/ Monitoring

A signed worksite agreement between the service provider and a qualified employer is required in the participant file prior to the start of work. Work experience, internships, and transitional jobs are exempt from the WIOA Eligible Training Provider and Individual Training Account requirements.

An NEworks activity must be opened for the appropriate work experience, internship, or transitional job. Start and end dates must match the first and last day worked.

Monitoring of the placement will be completed at least once a month, in person, via phone, or through email, and must be documented in a case note and IEP. The monitoring should include an evaluation of soft skills and occupational skills.

Transitional Jobs

The Workforce Innovation and Opportunity Act (WIOA) allows local boards to provide transitional jobs, defined as time-limited work experiences that are wage-paid and subsidized, and are in the public, private, or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the board.

Transitional jobs must be combined with comprehensive career services and supportive services. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to 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.

Funds

The local area may use up to 10 percent of their combined total of adult and dislocated worker allocations.

Example: If a local area receives \$1.5 million in adult funds and \$1.0 million in dislocated worker funds, the local board may use up to \$250,000 for transitional jobs.

Participant Eligibility

Transitional Jobs are only available to individuals enrolled in the Adult and/or Dislocated Worker programs. In addition to meeting general eligibility requirements for the WIOA program and being unemployed at the date of application to the WIOA program, the participant must also have one or more barriers to employment and be chronically unemployed or have an inconsistent work history. These eligibility requirements must be documented in the participant file.

Barriers to Employment

For participant eligibility for transitional job activities, participants must meet one or more of the following barriers:

1. Justice Involved
2. Homeless individual
3. English language learner
4. Displaced homemaker
5. Disclosed history of substance abuse
6. Individuals 55 and Older
7. Individual with Mental or Physical Impairment
8. Displaced Homemaker

Chronically Unemployed / Inconsistent Work History

Individuals with chronic unemployment or an inconsistent work history are those who:

1. Have been unemployed for 24 weeks or longer prior to application;
2. Were unemployed at least 26 of the 52 weeks prior to application;
3. Have held four or more jobs in the 12 months prior to application and are currently unemployed;
4. Are on parole or probation, or have been released from prison/jail within the 12 months prior to application; or
5. Have been released from a substance abuse rehab facility within the 12 months prior to application.

Eligible Employers

Eligible employers can be from the public, private, or non-profit sectors. As transitional jobs are structured to help participants achieve success in the workplace and develop skills needed to obtain and retain unsubsidized employment, the employer must be able to provide supervision and appropriate feedback to the participant at regular intervals during the course of the activity and be willing to participate in the required monthly monitoring conducted by the Case Manager.

An employer will be ineligible if they meet one or more of the following:

1. The employer has recently laid off an individual of the same or equivalent position.
2. The transitional job placement would infringe upon the promotion of or displacement of any currently employed worker or lead to a reduction in their hours.
3. The employer is a private for-profit employment agency including but not limited to temporary employment agencies, employee leasing firms, or staffing agencies.

Future transitional job requests from employers will be denied if the requirements set forth in previous worksite agreements were not honored.

Transitional Job Components

Transitional jobs at a minimum must include the following components:

1. Paid work experience of a fixed duration
2. Individualized career services
 - a. At least one must be provided prior to or during the transitional job. (Examples include, but are not limited to: group and/or individual counseling, short-term prevocational services including soft skills training, workforce preparation activities, financial literacy activities, English language acquisition, etc.)
3. Supportive services

- a. At least one must be provided during the transitional job. (Examples include, but are not limited to: linkages to community services, assistance with child care, housing or transportation, assistance with education testing, referrals to health care). See Supportive Services policy for an all-inclusive list.

Length & Wage Limits

Transitional jobs are time limited to no more than 500 hours. Participants can work up to 40 hours or less a week. The participant may be placed with more than one employer during the transitional job activity, but the total number of hours for all worksites may not exceed 500 hours or 26 weeks, whichever comes first.

GN WIOA will pay 100% of the participant's wages. Wages are set at the prevailing wage for the temporary position, up to \$12/hour.

The maximum cost to be paid per participant for the work experience component of the transitional job is \$6,000. The supportive service maximum will follow the current supportive service policy and must be based off of participant need.

Documentation/ Monitoring

The participant need, eligibility, and all three components of the transitional job must be documented in a case note and the IEP. A signed Eligibility Summary for Transitional Jobs Activities is required in the participant file prior to opening the activity.

A signed worksite agreement between the service provider and a qualified employer is required in the participant file prior to the start of work. Work experience, internships, and transitional jobs are exempt from the WIOA Eligible Training Provider and Individual Training Account requirements.

An NEworks activity must be opened for the appropriate work experience, internship, or transitional job. Start and end dates must match the first and last day worked.

Monitoring of the placement will be completed at least once a month, in person, via phone, or through email, and must be documented in a case note and IEP. The monitoring should include an evaluation of soft skills and occupational skills.

On-the-Job Training

An On-the-Job Training (OJT) is training by an employer that is provided to a paid participant engaged in productive work to develop specific occupational skills or obtain specialized skills required by an employer that the participant does not already possess.

Youth Priority

Twenty percent of a state's total WIOA Youth allotment after subtracting the administrative costs must be spent on work experiences for In-School and Out-of-School Youth. OJTs are considered a type of a Youth Work Experience.

Participant Eligibility

To be eligible for OJT services, the trainee must:

1. Be enrolled in the WIOA program;
2. Have participated in assessment activities;
3. Have a completed ISS/ IEP; and
4. Be unemployed or underemployed.

Employed Worker OJT Eligibility

OJTs may be entered into with employed workers when the following additional criteria are met:

2. The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment;; and
3. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or workplace literacy.

The local board has set the criteria for a self-sufficient wage at 250% of Federal Poverty Guidelines. An individual in the Greater Nebraska Workforce Development area is considered to not be earning a self-sufficient wage when:

1. The individual's gross earned income is not above 250% of the federal poverty guidelines; or
2. The individual is a member of a family whose combined gross earned income is not 250% of the federal poverty guidelines for its actual family size.

Eligible Employers

OJT contracts may be entered into with private-for-profit businesses, private non-profit organizations, and public sector employers prior to a participant starting the new job. Employers receiving OJTs are exempt from the Eligible Training Provider List requirements. With successful completion, it is expected the employer will retain the participant after the training period.

Ineligible Employers

OJTs must not be entered into with an employer who has received payments and has previously exhibited a pattern of failing to provide participants with continued long-term employment as regular employees with wages, benefits (including health benefits), and working conditions at the same level and to the same extent as similarly situation employees. Employers with a history of repeatedly terminating employment after the OJT ends will be notified in writing that they are no longer eligible to receive OJT wage reimbursements and given the opportunity to appeal through the administrative entity.

OJTs may not be written with an employer whose business, or any part of its business, has relocated and had employees who were laid off as a result of the relocation until the employer has been in operation at its current location at least 120 calendar days.

OJTs may not be written with temporary staffing agencies or employee-leasing firms for positions that will be "hired out" to other employers for probationary seasonal, temporary, or intermittent employment. The only exception is when the OJT position is with the staffing agency itself and not a position that will be "hired out."

Registered Apprenticeships

OJT agreements may be entered into with Registered Apprenticeship (RA) program sponsors or participating employers in Registered Apprenticeship programs for the OJT portion of the registered apprenticeship program.

Depending on the length of the RA, these funds may cover some or all of the RA training.

Training Requirements

OJTs must be directly linked:

- to an in-demand industry sector or occupation in the local area or 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 a sector of the economy that has a high potential for sustained demand or growth in the local area.

OJT Payment and Training Length

OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of such participants.

An OJT contract must be limited to the period of time required for a 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 skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. Actual training hours will be determined by the OJT Length Determination Form.

Payment rate and rate considerations

The appropriate payment by WIOA Title IB is 50 percent of the wages paid by the employer to the participant during the period of the training agreement.

Wages and Benefits

Since an OJT is employment, state and federal regulations governing employment situations apply. The OJT trainee is an employee of the approved OJT employer. The employer is responsible for payment of wages and benefits to the trainee.

Participants in an OJT must be:

- compensated at the same rates, including periodic increases, as trainees or employees who are situated in similar occupations by the same employer and have similar training, experience, and skills; and
- Provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of job.

WIOA funds are not to be utilized for holidays, sick leave, vacation, or overtime hours. Employers will be expected to compensate the trainee for such hours equal to other similarly situated employees and in accordance to state and federal labor law for any overtime hours worked.

Wage Rate Calculations:

- In cases where the OJT is for a salaried position, an hourly rate of pay should be calculated for reimbursement purposes by calculating the gross annual salary and then dividing by 2080 hours (e.g. \$2,600 monthly x 12 months = \$31,200/2080 hours = \$15).
 - **NOTE:** With salaried positions, be sure that paid time off (i.e. vacation, sick, holiday, PTO) is not reimbursed.
- In cases where the trainee may receive two different rates of pay (e.g. regular rate and shift differential for evening/weekend hours), use the higher wage rate for the total duration to calculate the amount. Extra funds will be de-obligated at the end of the OJT.

Should the participant receive a wage increase in the middle of the contract period, the employer will continue to receive reimbursement at the rate originally established in the signed training plan.

OJT Pre-award

Prior to entering into an OJT contract with an employer, a pre-award must be completed by the employer and reviewed and signed off by the Case Manager or Regional Manager. Pre-awards must be updated annually.

OJT Contract and Assurances

Prior to developing an OJT training plan with an employer, a contract must be completed with the employer and reviewed and signed off by the employer, Case Manager, and collective bargaining unit (if applicable). Contracts must be updated annually.

OJT Training Plan

An OJT training plan with an employer can be written for a maximum of 1040 hours and based on the skills to be acquired during the OJT. Each training plan must be unique and tailored to the specific training needs of the participant. Under no circumstances can an OJT contract be written for a participant if the hours of training required for the position in which the participant is to be trained is determined to be less than 160 hours.

The number of OJT training hours for a participant must be determined using the following Specific vocational Preparation (SVP) chart. The hours specified must be considered as a starting point for determining actual training hours. If the total number of training hours needed to successfully train a participant for the OJT position cannot be provided during the maximum contract length allowable, as many training hours as possible must be provided.

Occupation specific SVP codes can be found at onetonline.org.

SVP*LEVEL	HOURS
1	80
2	160
3	480
4	640
5	800
6	960
7	1040

OJTs are designed to be limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, prior work experience of the participant, and the IEP/ISS of the participant. The OJT training hours for a participant must be reduced if a participant has prior-related employment or training in the same or similar occupation. Previous training or experience, which occurred so long ago that skills gained from that experience are obsolete, may be disregarded to the extent that those skills need to be relearned or re-acquired.

Records Retention

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 the oversight and monitoring activities.

Documentation/ Monitoring

The participant need and eligibility must be documented in a case note and the ISS/IEP. An NEworks activity must also be opened with the start and end date matching the first day of employment and last day of wage reimbursement. A measurable skill gain must be recorded once the person reaches 50% of their training hours. Documentation must be obtained from the employer and retained in the file to verify skills gained.

A signed pre-award, contract, training plan, and length of determination is required in the participant file prior to the start of work or on first workday.

Monitoring will be completed at least once a month, in person, via phone, or through email, and must be documented in a case note and ISS/IEP. Monitoring must include 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.

Customized Training

Customized training (CT) is training designed to meet the special needs of an employer or group of employers by allowing them to tailor and design work-based training. CT is conducted with a commitment by the employer or employers to employ an individual or group of individuals upon successful completion of the training. CT should be considered when available training programs and/or curriculum do not meet the specific training requirements of an employer(s).

Participant Eligibility

CT participants must meet general WIOA eligibility requirements.

CT is generally used for hiring new employees and not for retraining existing employees. For individuals who are employed at program entry, the Case Manager must determine that the individual:

- Is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment; and
- The CT relates to the 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 board.

General Guidelines

CT providers are not required to be eligible providers on the State's ETPL, as CT is provided through a contract, not an ITA.

CT training methods include, but are not limited to:

- Classroom training through a traditional classroom setting with a group of trainees and a qualified instructor;
- Laboratory training with hands-on instruction or skill acquisition under direct guidance of a qualified trainer;
- Electronic or computer-based training delivered through a computer program at a pace set by the trainee or through video conferences that are live, interactive instruction with a trainer; or
- Other training that is customized to the employer's specific training needs.

The employer or group of employers develop the training plan and measurable goals and determines the method by which the training is provided.

Customized Training Contract

Customized training must be provided through a contract with an employer or group of employers, which may include partnerships with other entities to deliver the training. Contracts are required for every employer participating in the CT program and must be signed by the employer and Regional Manager prior to the start of training.

Customized Training Plan/ Reimbursement Invoice

A CT training plan must be established for each CT contract outlining the skills to be obtained.

Funds

The employer or group of employers must pay a significant portion of the training costs. The employer share is based on the size of the employer as follows:

At least 10 percent of the cost for employers with 50 or fewer employees;

At least 25 percent of the cost for employers with 51-100 employees;

At least 50 percent of the cost for employers with more than 100 employees or more.

The employer share must be reported by the local board as program income in its quarterly financial reports. Maximum CT reimbursement per participant is \$5,000. Each employer can receive a maximum total reimbursement of \$25,000 for the twelve-month period following the effective date of the contract.

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 Nebraska Department of Labor (NDOL), taking into account the size of the employer or group of employers and other factors NDOL determines appropriate.

Allowable costs must be directly related to the training. CT funds may only be used to alleviate a portion of training expenses. Examples include instructor's training related wages, curriculum development, training curriculum and registration fees, textbooks, instructional materials and supplies, and certification exams.

Unallowable costs are costs not directly tied to the training. Examples include trainee's wages and fringe benefits, travel, food, lodging, training equipment, and any costs incurred prior to the approval date of the contract.

Documentation/ Monitoring

The participant need and eligibility must be documented in a case note and the ISS/IEP. An NEworks activity must also be opened with the start and end date matching the first day of employment and last day of the contract. A measurable skill gain must be recorded once the person reaches 50% of their training hours. Documentation must be obtained from the employer and retained in the file to verify skills gained.

A signed pre-award, contract, training plan, and length of determination is required in the participant file prior to the start of work.

Monitoring will be completed at least once a month, in person, via phone, or through email, and must be documented in a case note and ISS/IEP. Monitoring must include 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.

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. IWT services may be provided to help avert potential layoffs of employees and assist employees in obtaining the skills necessary to retain employment, such as increasing skill level so they can be promoted within the company.

IWT services must be conducted with a commitment by the employer to retain or avert the layoffs of the workers training.

Funds

The local area may reserve up to 20 percent of their combined total of adult and dislocated worker allocations for a program year for IWT services. This 20 percent may be used for programmatic IWT activities. IWT administrative activities must be paid out of administrative funds.

Employers participating in IWT must pay the non-Federal share of the cost of providing training to their incumbent workers. 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 51 to 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.

Documentation/ Monitoring

The participant need and eligibility must be documented in a case note and the ISS/IEP. An NWorks activity must also be opened with the start and end date matching the first day of employment and last day of the contract. A measurable skill gain must be recorded once the person reaches 50% of their training hours. Documentation must be obtained from the employer and retained in the file to verify skills gained.

A signed pre-award, contract, training plan, and length of determination is required in the participant file prior to the start of work.

Monitoring will be completed at least once a month, in person, via phone, or through email, and must be documented in a case note and ISS/IEP. Monitoring must include 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.

Registered Apprenticeship Programs

Registered Apprenticeships (RA) offer job seekers immediate employment opportunities that pay sustainable wages and offer advancement along a career pathway. 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 program through the following services:

- **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 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 the RA must be conducted according to the requirements of 20 CFR 680.700-680.710 and State and local OJT policies.
- **Supportive Services:** WIOA funds may support a variety of supportive services for apprentices, including books, supplies, childcare, transportation, tools, and uniforms.
- **Contracted Classes for Training Cohorts for Related Instruction:** In certain cases, a local board may contract with an ETP to train a cohort of potential apprentices in in-demand industry sectors or occupations, provided the 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.
- **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 percent 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.

Documentation/ Monitoring

The participant need and eligibility must be documented in a case note and the ISS/IEP. An NEworks activity must also be opened with the start and end date matching the first day of employment and last day of the contract. A measurable skill gain must be recorded once the person reaches 50% of their training hours. Documentation must be obtained from the employer and retained in the file to verify skills gained.

A signed pre-award, contract, training plan, and length of determination is required in the participant file prior to the start of work.

Monitoring will be completed at least once a month, in person, via phone, or through email, and must be documented in a case note and ISS/IEP. Monitoring must include 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.

Prohibited Activities

Funds provided to employers for work-based training must not be used to directly or indirectly assist, promote, or deter union organizing or aid in the filling of a job opening which is vacant because the

former occupant is on strike, 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.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

Greater Nebraska Policy Act (WIOA)

Workforce Innovation and Opportunity

Greater Nebraska Workforce Development Area Nebraska Department of Labor (NDOL) Division of Reemployment Services 550 South 16 th St Lincoln, NE 68508 ndol.greaternebraska@nebraska.gov	Policy Category Program Guidelines
	Effective Date 5/23/2019
	Supersedes
	Review/Revision Date 9/21/2023

Youth Program (9/21/2023)

Reference

TEGLs 8-15 and 21-16. 20 USC § 1232g; 34 CFR Part 99. 20 CFR § 683.220-680.230, 680.900-680.920, 681.320, and 681.400-681.600. Nebraska Department of Labor’s Youth Program, Change 1 policy. WIOA Sec. 3.

Policy

Service Provider Selection and Procurement

Local boards have the option of directly providing some or all of the required youth employment and training activities, rather than entering into a grant or contract to provide the activities.²⁴³ If a local board chooses to award grants or contracts to youth service providers to carry out some or all of the youth employment and training activities, the following requirements apply.

1. The local board must ensure that grants and contracts are awarded on a competitive basis and must procure youth service providers in accordance with:²⁴⁴
 - a. Federal principles of competitive procurement defined in 2 CFR Parts 200 and 2 CFR Part 180; and
 - b. state and local procurement policies and procedures and applicable state, and local procurement laws
2. If the local board determines there are an insufficient number of youth service providers in the local area, such as a rural area, the local board may award grants or contracts on a non-competitive basis.²⁴⁵ Non-competitive procurement must be conducted in accordance with:²⁴⁶
 - a. Local procurement policies and procedures and applicable state and local procurement laws; and
 - b. Principles of competitive procurement in 2 CFR Parts 200 and 2900 including 2 CFR Part 180.
3. The local board may implement a pay-for-performance contract strategy for one or more of the required 14 program elements and may reserve and use not more than 10 percent of the total youth program funds allocated to the local area for pay-for-performance contract strategies.²⁴⁷
4. When selecting youth service providers, the local board must take into consideration the ability of youth service providers to meet performance accountability measures based on the primary

²⁴³ WIOA Sec. 123(a); 20 CFR § 681.400(a)

²⁴⁴ WIOA Sec. 123(a); 2 CFR § 200.213; 20 CFR § 681.400(b)(2); TEGL 21-16

²⁴⁵ WIOA Sec. 123(b); 20 CFR § 681.400(b)(4); TEGL 21-16

²⁴⁶ 2 CFR § 200.213; 20 CFR § 681.400(b)(4); TEGL 21-16

²⁴⁷ 20 CFR § 681.420(i).

indicators of performance for youth programs,²⁴⁸ which are described in detail in the State's performance accountability policy.

5. If the local board has a standing youth committee, the local board may assign the function of selecting and recommending youth service providers to the committee.²⁴⁹
6. Contracts for training services may be used instead of individual training accounts (ITA) only when the local board has fulfilled the applicable consumer choice requirements and at least one of the following conditions exist:²⁵⁰
 - a. The training services are on-the-job-training (OJT), customized training, incumbent worker training, or transitional jobs.
 - b. The local board determines there are an insufficient number of eligible training providers (ETP) in the local area to accomplish the purpose of a system of ITAs. The local board's determination process must be described in its local plan, which must provide for a public comment period of at least 30 days for interested providers of training services. If the local board elects to contract with training providers for occupational skills training, the local board must ensure the providers are authorized or licensed to provide training services in Nebraska or to Nebraska residents by applicable accrediting or governing authorities, which may include the Nebraska Department of Education according to the requirements of the Nebraska Private Postsecondary Career School Act (Title 92, Nebraska Administrative Code, Chapter 41).²⁵¹
 - c. The local board determines there is a program of training services offered in the local area by a community-based organization (or other private organization) that has demonstrated effectiveness in serving individuals with barriers to employment, subject to the following requirements:
 - i. The local board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the individuals with barriers to employment to be served. The criteria may include:
 1. financial stability;
 2. demonstrated performance in the delivery of services to individuals with barriers to employment based on measures such as program completion rate; attainment of the skills, certificates, or degrees the program is designed to provide; placement after training in unsubsidized employment; and retention in employment; and
 3. how the specific program relates to the workforce investment needs identified in the board's local plan.
 - d. The local board determines that it would be most appropriate to contract with an institution of higher education (or other accredited, authorized, or licensed provider of training services) in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, as long as the contract does not limit consumer choice. If the selected provider of training services is not an institution of higher education, the provider must be authorized or licensed to provide training services in Nebraska or to Nebraska residents by applicable accrediting or governing authorities, which may include the Nebraska Department of Education according to the requirements of the Nebraska Private Postsecondary Career School Act (Title 92, Nebraska Administrative Code, Chapter 41).²⁵²
 - e. The local board may consider entering into a pay-for-performance contract and must ensure that the contract is consistent with the requirements of 20 CFR § 683.510.

²⁴⁸ 20 CFR § 681.400(b)(1)

²⁴⁹ 20 CFR § 681.400(b)(3); TEGL 8-15

²⁵⁰ 20 CFR § 680.320(a)

²⁵¹ Neb. Rev. Stat. §§ 85-1601 – 85-1658

²⁵² Neb. Rev. Stat. §§ 85-1601 – 85-1658

Youth Service Provider List

The Greater Nebraska Workforce Development Board (GNWDB) is required to submit a list of its youth service providers to Nebraska Department of Labor (NDOL) by July 1 of each program year. The list must be prepared utilizing the form provided by NDOL and emailed to ndol.wioa_policy@nebraska.gov. The list must include the provider's name, complete address, phone number, and the name of the provider's primary point of contact.

If the list of providers changes in any way at any point during the program year, the GNWDB must submit a revised list within 30 days of the change.

Program Design Framework

The design framework of the local youth program must include the following components:²⁵³

- an objective assessment for each participant that includes a review of the individual's academic and occupational skill levels, service needs, and strengths in order to identify appropriate services and career pathways;
- development and regular updating of an individual service strategy (ISS) for each participant, which must be directly linked to one or more indicators of performance and must:
 - identify career pathways that include education and employment goals;
 - consider career planning and the results of the objective assessment; and
 - prescribe achievement objectives and services for the participant.
- case management of participants, including follow-up services.

An objective assessment or ISS is not required if a recent objective assessment or ISS was developed under another education or training program and meets the requirements of the Greater Nebraska Youth program.²⁵⁴

While this continues to be true, local youth programs may use previous assessments older than six months if they deem appropriate if there is local policy in place that allows the use of such assessments.²⁵⁵ Greater Nebraska allows the use of previous assessments older than six months if they meet the following parameters:

1. completed within the previous two years;
- and**
2. supported by more recent school records such as transcripts, report cards, or other documentation; or
3. no additional schooling has taken place

It is important that assessments do not serve as a deterrent to program enrollment. In addition, it is critical to incorporate the results of the objective assessment into the participant's ISS and service delivery, such as career counseling. Barriers identified during the objective assessment, basic skills assessment, and other relevant assessments must be address in the ISS.

Connections

The local youth program must be linked with entities that foster participation of eligible local area youth in the program, such as connections to local:²⁵⁶

- justice and law enforcement officials;

²⁵³ 20 CFR § 681.420(a)(1)-(3)

²⁵⁴ 20 CFR § 681.420(h); TEGL 21-16

²⁵⁵ TEGL 9-22

²⁵⁶ 20 CFR § 681.420(c)

- public housing authorities;
- education agencies;
- human service agencies;
- WIOA Title I adult education providers;
- Agencies and providers serving individuals with disabilities;
- Health and mental health providers;
- Job Corps representatives; and
- Representatives of youth initiatives, such as YouthBuild, those that serve homeless youth, and other public and private youth initiatives.

Referral Requirements²⁵⁷

The local board must ensure that youth service providers meet referral requirements for all youth participants, including:

- providing participants with information about the full array of applicable or appropriate services available through the local board, eligible providers, or One-Stop partners; and
- referring participants to appropriate training and educational programs that have the capacity to serve them either on a sequential or concurrent basis.

If an individual applies for enrollment in the local youth program and does not meet the enrollment requirements or cannot be served by the program, the youth service provider must ensure that the individual is referred:

- for further assessment, if necessary; or
- to appropriate programs to meet the skills and training needs of the individual.

Community Involvement

The local board must provide opportunities for involvement of community members in the design and implementation of the program, including parents, participants, and other members of the community that have experience working with youth. Involvement in the local youth program may occur in a number of ways, including (i) serving on the local youth standing committee, if one exists and the individual is appointed by the local board; (ii) providing input into the design and implementation of the program; and (iii) serving as youth mentors and tutors.²⁵⁸ In addition, each local board must make volunteer opportunities available for successful youth participants to help other youth participants as mentors or tutors or through other activities.

Co-enrollment

As required under the State's performance accountability policy:

- Youth participants must be co-enrolled in partner programs whenever eligibility permits and co-enrollment benefits the participants; and
- ISY ages 18 through 21 must be co-enrolled in an adult or dislocated worker program before ITA funds can be used for occupational skills training (OST) provided by an ETP.²⁵⁹

Coordination of Services

Each local board must ensure that the local youth program identifies and tracks funding streams that pay the costs of services provided to co-enrolled youth participants to ensure no duplication of

²⁵⁷ WIOA Sec. 129(c)(3)(A)(i)-(ii); 20 CFR 681.420(d)-(f)

²⁵⁸ 20 CFR §§ 681.420(g) and 681.650

²⁵⁹ TEGL 21-16

services across programs and youth service providers,²⁶⁰ including supportive services and training services.

Non-WIOA Financial Benefits and Assistance

Prior to a participant's placement in work experience, the youth Case Manager must coordinate with other programs that are providing the participant with non-WIOA financial benefits and assistance (UI, TANF, SNAP, etc.) to determine if the payment of wages or stipends for work experience effects the participant's eligibility for assistance. Following coordination with other programs, the youth Case Manager must also discuss with the participant any effects that work experience may have on the individual's eligibility for assistance provided by the non-WIOA programs.

Consumer Choice Requirements²⁶¹

Training services, whether funded under ITAs or contract, must be provided in a manner that maximizes informed consumer choice in the selection of a training provider. To satisfy consumer choice requirements for training services, the local board must ensure the following:

1. The local board, through the One-Stop center, must make the state's Eligible Training Provider List (ETPL) available to customers. A youth participant may select an ETP from the ETPL after consultation with a Case Manager. Unless the local youth program has exhausted training funds for the program year, the One-Stop center must refer the individual to the selected ETP and establish an ITA for the participant to pay for training, subject to the limitations of Section III.4.a.
2. ITA costs are paid by the local youth program or adult or dislocated worker programs for ISY who are co-enrolled in either of those programs.
3. The local board, through the One-Stop center, may coordinate funding for ITAs with funding from other Federal, state, local, private job training programs, or other sources to assist the individual in obtaining training services.
4. Priority consideration must be given to programs that lead to recognized postsecondary credentials¹⁴ and are aligned with in-demand industry sectors or occupations in the local area.

Privacy and Confidentiality²⁶²

The Youth program must adhere to all applicable state and local privacy and confidentiality laws and the confidentiality requirements of the Family Educational Rights and Privacy Act (established under Sec. 444 of the General Education Provisions Act),²⁶³ including requirements regarding circumstances that written consent for disclosure of personally identifiable information from an education record. Further guidance on protection of privacy and confidentiality can be found in the Greater Nebraska Personally Identifiable Information policy.

Duration of Services²⁶⁴

Each local youth program must provide services to a youth participant as long as necessary to ensure successful preparation to enter postsecondary education and/or unsubsidized employment. There is no minimum or maximum time a participant is allowed to take part in a local youth program. Each local youth program must link program participation to the participant's individual service strategy (ISS), not the timing of contracts with youth service providers or program years.

In its coordination of local youth program services, the local One-Stop operator must not establish practices that create disincentives to providing services to individuals with barriers to employment,

²⁶⁰ 20 CFR § 681.430(b)

²⁶¹ 20 CFR § 680.340(a)-(f)

²⁶² 20 CFR § 683.220; 20 USC § 1232g; 34 CFR Part 99

²⁶³ 20 USC 1232g; 34 CFR Part 99

²⁶⁴ 20 CFR § 681.450; TEGL 15-16

including youth who may require longer-term services, such as intensive employment, training, and education services.

Expenditures

Prior to Participation²⁶⁵

There are two limited instances where youth funds may be expended on costs related to individuals who are not yet participants in the program. Funds may be expended on (i) outreach and recruitment and (ii) assessments for eligibility determination prior to eligibility determination, such as assessing basic skill levels. Youth funds must not be spent on the provision of local youth program services (the 14 youth program elements) to individuals who are not participants.

OSY Expenditure Requirement²⁶⁶

The GNWDB must ensure that the local youth program expends at least 75 percent of allocated youth funds on the provision of services to OSY. Local area administrative costs are not subject to this 75 percent minimum expenditure requirement. In the event that the State obtains a waiver of this requirement, Greater Nebraska will follow the expenditure requirements for the approved period of performance.

Work Experience Priority

The GNWDB must ensure the local youth program²⁶⁷ expends at least 20 percent of allocated youth funds on paid and unpaid work experiences and track expenditures for paid and unpaid work experiences, including funds spend on:

- Wages, stipends, and incentives paid to youth in work experience;
- Staff time spent identifying potential work experience opportunities;
- Staff time working with employers to develop work experience opportunities;
- Staff time spent working with employers to ensure successful work experience opportunities;
- Staff time spent evaluating work experience opportunities;
- Costs associated with participant and employer work experience orientation sessions;
- Costs of classroom training or the required academic education component directly related to the work experience; and
- Supportive services that assist youth participants taking part in work experiences.

The percentage of funds spent on work experience is calculated based on the total amount of youth funds allocated to the local area and is not calculated separately for ISY and OSY. Local area administrative costs are not subject to this 20 percent minimum expenditure requirement. Supportive services and leveraged resources must not be used to fulfill any part of the 20 percent minimum expenditure requirement.

Participant Compensation

Effect on non-WIOA Financial Benefits and Assistance

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. 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. The classification of the participant may effect a participant's eligibility for non-WIOA financial benefits and assistance, as compensation for work experience may be counted as earnings when the participant is collecting UI

²⁶⁵ TEGL 21-16

²⁶⁶ 20 CFR § 681.410

²⁶⁷ WIOA Sec. 129(c)(4); 20 CFR § 681.590; TEGLs 8-15, 21-16, and 9-22

or receiving financial benefits or assistance from other programs, such as TANF or SNAP. Work experience wages must be reported to the agency issuing the benefit or assistance.

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 the 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.

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. The local youth program must establish written policies and procedures governing the payment of stipends, based on local program design and participant needs. Local policies on stipends must ensure that payments are:

- Tied to the goals of the programs;
- Outlines in writing before the commencement of the stipend program;
- Aligned with the program's organizational policies; and
- Made in compliance with the requirements of 2 CFR Part 200.

Greater Nebraska does not currently authorize stipend payments.

Incentive Payments

Incentive payments for youth participants are a way to encourage youth participant's involvement and to reward participants for achieving specific elements indicated in their employment plan. The incentive must be linked to an achievement and must be written into the individual service strategy (ISS) as an objective tied to a goal. The ISS must be signed and uploaded prior to completion of the funding obligation in the document management system of record. Upon successful completion of the activity, additional documentation or steps may be required for incentive to be issued.

Incentive payments are not guaranteed, nor are participants entitled to receive them. Incentive payments are based on availability of local office funds and are issued on a case-by-case basis depending on the participant's ISS. Achievements must be documented in the participant's file.

Achievements completed prior to WIOA Youth program enrollment do not qualify for incentives. Youth may receive incentive payments post-exit or during follow-up.

Incentive payments may be awarded for the following goal accomplishments:

- **Measurable Skills Gains**
 - Grade Point Average (GPA)
Participants may earn an incentive corresponding to their term GPA twice per year for full-time equivalent credit hours in an approved program. (Part-time students may earn a GPA incentive after completion of credit hours equivalent to full-time over multiple terms.) Approved programs include secondary schools and post-secondary programs on the Eligible Training Provider List. Youth participating in a training program that does not award a GPA are not eligible for this incentive. This includes Pass-Fail or Satisfactory-Unsatisfactory type of programs.

- \$25 for 2.5-2.9 GPA
- \$50 for 3.0-3.9 GPA
- \$100 for 4.0 GPA
- Educational Functioning Level

Participants who test as Basic Skills Deficient may earn a \$50 incentive for verifying an Educational Functioning Level gain utilizing an assessment approved by the National Reporting System. This incentive may only be earned once per program year.
- Skills Progression (Exam)

Participants who demonstrate progress in attaining technical or occupational skills through one of the following means may earn a \$50 incentive.

 - knowledge-based exam or certification of completion (e.g. Apartment Maintenance Technician Certificate)
 - exam or benchmark attainment (e.g. component exam in OJT or Registered Apprenticeship)
 - employer required knowledge-based exam
- **Credential Attainment**
 - \$200 will be paid for the attainment of a recognized secondary or post-secondary credential. Credential must be received by the Case Manager to receive this incentive. This achievement must be documented in the Credential tab in the case management system of record before the incentive is issued to the participant.
- **Work Based Learning**
 - Work Experience
 - \$100 will be paid for successful completion of 500 work experience hours. These hours are cumulative and may be achieved through multiple work experience placements. Documentation must include progress evaluation regarding measurable skills by the host employer. Placement must be marked as successful to be included in the cumulative hours.
 - On the Job Training
 - \$50 may be earned for completion of 50% of OJT hours contracted with an employer utilizing the Length Determination form. Verification of skills gained must be received by the Case Manager to receive this incentive. This achievement must be documented as a Measurable Skill Gain in the case management system of record before being the incentive is issued to the participant.
 - An additional \$100 may be paid out for completion of an OJT. Verification of skills gained must be received by the Case Manager to receive this incentive. This achievement must be documented as a Measurable Skill Gain in the case management system of record before being the incentive is issued to the participant.
- **Employment Preparation**
 - Bring Your 'A' Game Soft Skills Training
 - Participants may earn \$50 for completion of the Bring Your 'A' Game soft skills training
 - National Career Readiness Certificate
 - Participants may earn \$50 for completion of the three WorkKeys Assessments and earning a National Career Readiness Certificate (NCRC). The incentive will be issued after test scores, or a copy of the NCRC, are received by their Case Manager.
 - Participants may earn \$15 for completion of each of the following:
 - Resume and Mock Interview – Participant must create a high-quality resume with help from their Case Manager or partner program staff and complete a mock interview. Resume and notes from the mock interview are required for this incentive.
 - Labor Market Research and Job Search – Participant may earn this incentive for researching three occupations using Nebraska specific information available through

- NEworks or www.onetonline.org. Research must include availability of open jobs, average rate of pay, typical education required, and long-term outlook. Participant must discuss this information with their Case Manager and complete a staff-assisted job search.
- Career Fair/Hiring Event Attendance – Participant may earn this incentive by attending an event and learning about three employers with opportunities available. Participant must collect information regarding opportunities and contact information from the employer. Participant and Case Manager must meet to discuss the experience and opportunities available for payment of this incentive. Information gathered must be documented in case note or scanned into document management system of record.
 - Industry Research
 - Participants may earn \$30 for completion of research into an industry of interest. All four NEworks assessments (Job Skills, Personal Skills, Work Interests, and Work Values) must be completed. The Case Manager must review the combined results with the participant and walk through the “Find Matching Occupations and Jobs” tool. The participant must then meet with an employer or training provider regarding their industry of choice. A brief write-up of the industry, opportunities, and required training is required to pay out the incentive.
 - **Employment Retention**
 - Participants in follow up may receive an incentive for maintaining employment after program exit. The Participant must maintain contact with their Case Manager and provide verification of employment for payment of the incentive. Documentation must be uploaded and employment must be recorded in the follow up tab of NEworks.
 - \$50 for maintaining employment during Quarter 2 of follow up.
 - \$50 for maintaining employment during Quarter 4 of follow up.

Youth may earn and receive multiple incentives for completing different achievements. With the exception of Measurable Skill Gains, Youth cannot receive duplicate incentives for repeated achievements. Once an incentive type is obtained, they cannot receive it again, even if it is met multiple times.

Withholdings

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. 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. IRS publication 525 provides information on taxable and non-taxable income, which is accessible at <https://www.irs.gov/forms-pubs/about-publication-525>.

Program Elements

The 14 program elements described in this section must be made available to all youth participants.²⁶⁸ However, local youth programs are not required to provide every service to each youth participant and have the discretion to determine the services a youth participant receives based on the participant’s objective assessment and ISS.²⁶⁹

2. Tutoring, study skills training, instruction, and dropout prevention²⁷⁰

Tutoring, study skills training, and instruction that lead to a high school diploma include services such as providing academic support, helping youth identify areas of academic concern, assisting with overcoming learning obstacles, or providing tools and resources to develop learning strategies.

²⁶⁸ 20 CFR § 681.460(a)(1)-(14); TEGL 21-16

²⁶⁹ 20 CFR § 681.460(b); TEGL 21-16

²⁷⁰ 20 CFR § 681.460(a)(1); TEGL 21-16

Tutoring, study skills training, and instruction can be provided one-on-one, in a group setting, or through developed resources and workshops.

Dropout prevention strategies intended to lead to a high school diploma include activities that keep youth in school and engaged in a formal learning or training setting. Strategies include, but are not limited to, tutoring, literacy development, active learning experiences, after-school opportunities, and individualized instruction.

3. Alternative secondary school and dropout recovery

Alternative secondary school services are services that assist youth who have struggled in traditional secondary education.²⁷¹ Dropout recovery services are those that assist youth who have dropped out of school. Both types of services help youth to re-engage in education that leads to the completion of a recognized high school equivalent. Examples of activities under this program element include:

- Basic education skills training;
- Individualized academic instruction;
- English-as-a-second-language training;
- Credit recovery; and
- Counseling and educational plan development.

4. Paid and unpaid work experience

Work experience is a planned, structured learning experience that takes place in a workplace for a limited period.²⁷² Work experiences may be paid or unpaid, as appropriate. A work experience may take place in the private for-profit sector, non-profit sector, or public sector. Remote work experiences are allowable in the WIOA Title IB Youth program when possible and practical. Work experiences must include academic and occupational education components.

Types of work experiences include:

- Summer employment opportunities and other employment opportunities available throughout the year;
- Pre-apprenticeship programs;
- Registered Apprenticeship programs²⁷³
- Internships and job shadowing; and
- On-the-job training.

While 20 CFR § 681.600 states that youth work experiences must take place in a workplace, this includes a virtual workplace when remote work experiences are possible and practical.²⁷⁴

Work experiences must include academic and occupational education, meaning learning in academic and occupational contexts, which:

- May occur concurrently or sequentially with the work experience;
- May occur inside or outside the work site;
- Includes information needed to understand and work in specific industries or occupations; and
- Is provided by the employer or separately in a classroom setting or through other means.

For example, if a youth is participant in a work experience at a hospital:

²⁷¹ 20 CFR § 681.460(a)(2); TEGL 21-16

²⁷² 20 CFR §§ 681.460(a)(3) and 681.600; TEGLs 21-16

²⁷³ TEGL 9-22

²⁷⁴ TEGL 9-22

- academic education could involve learning information that individuals in those occupations need to know, such as why blood type matters, the name of a specific bone in the body, or the function of a specific ligament; and
- occupational education could involve learning about different types of hospital occupations, such as a phlebotomist, radiology tech, or physical therapist.

Local programs have the flexibility to determine the appropriate type of academic and occupational education necessary for a specific work experience.

5. Occupational Skills Training²⁷⁵

Occupational skills training is an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels. Youth programs must give priority to programs that lead to recognized postsecondary credentials that align with in-demand industry sectors or occupations in the local area.

Occupational skills training (OST) must:

- Be outcome-oriented and focused on an occupational goal specified in the participant's ISS;
- Be of sufficient duration to impart the skills needed to meet the occupational goal; and
- Lead to the attainment of a recognized postsecondary credential.

OSTs must be provided by²⁷⁶ competitively selected training providers or ETPs.

To enhance individual participant choice in the selection of education and training programs and provide flexibility to local youth programs, ITA funds may be used, when appropriate, for OST for OSY ages 16 through 24. Further guidance on ITAs can be found in Greater Nebraska's Individual Training Accounts (ITAs) policy.

6. Education offered concurrently with workforce preparation and training

Education offered concurrently with workforce preparation and training for a specific occupation refers to an integrated education and training model and describes how workforce preparation activities, basic academic skills, and hands-on occupational skills training are to be taught within the same period and connected to training in a specific occupation, occupational cluster, or career pathway.²⁷⁷

7. Leadership development opportunities²⁷⁸

Leadership development opportunities are opportunities that encourage responsibility, confidence, employability, self-determination, and other positive social behaviors. Leadership development includes activities such as:

- Exposure to postsecondary educational possibilities;
- Community and service learning projects;
- Peer-centered activities, including peer mentoring and tutoring;
- Organizational and teamwork training, including team leadership training;
- Training in decision making, including determining priorities and problem solving;
- Citizenship training, including life skills training such as parenting and work behavior training;

²⁷⁵ 20 CFR §§ 681.460(a)(4) and 681.540; TEGL 21-16

²⁷⁶ 20 CFR §§ 681.400 and 681.550

²⁷⁷ 20 CFR §§ 681.460(a)(5) and 681.630; TEGL 21-16

²⁷⁸ 20 CFR §§ 681.460(a)(6) and 681.520; TEGL 21-16

- Civic engagement activities that promote the quality of life in a community; and
- Other leadership activities that place youth in a leadership role, such as serving on youth leadership committees.

8. Supportive services²⁷⁹

Supportive services are services that enable a youth participant to take part in local youth program activities. For further information regarding the provision of supportive services see Greater Nebraska's Supportive Services policy.

9. Adult mentoring²⁸⁰

Adult mentoring is a formal relationship between a youth participant and an adult mentor that includes structured activities where the mentor offers guidance, support, and encouragement to develop the competence and character of the mentee. Mentoring may include workplace mentoring where the local program matches a youth participant with an employer or employee of a company. Adult mentoring must last at least 12 months and may take place during program participation and following exit from the program.

While group mentoring activities and mentoring through electronic means are allowable as part of the mentoring activities, the local youth program must, at a minimum, match the youth with an individual mentor with whom the youth interacts on a face-to-face basis.

USDOL acknowledges that in some areas of the country finding mentors may present a burden to a program. While USDOL strongly prefers that Case Managers not serve as mentors, the final rule allows Case Managers to serve as mentors in areas where adult mentors are scarce.

Greater Nebraska only pairs youth participants with an adult mentor from an established mentoring program that completes adequate screening including background checks. Examples include Teammates and the National Mentoring Partnership. Nebraska Department of Labor staff may also act as mentors.

10. Comprehensive guidance and counseling²⁸¹

Comprehensive guidance and counseling involves the provision of individualized counseling to participants. This program element also includes substance and alcohol abuse counseling, mental health counseling, and referrals to qualified partner programs. When referring participants to necessary counseling that cannot be provided by the local youth program or its service providers, the local youth program must coordinate with the organization to which it refers the youth participant in order to ensure continuity of service. When resources exist within the local program or its service providers, it is allowable to provide counseling services directly to participants rather than referring youth to partner programs.

It is important to note that, while youth program staff are not expected to be experts in mental health, there are many ways to assess mental health needs at program enrollment and throughout youth participation in the program and that mental health assessments are an allowable cost under WIOA. Greater Nebraska has approved the following screening tools during the development of the Objective Assessment:

- [Youth Mental Health Test – Mental Health America \(mhanational.org\)](http://mhanational.org)

²⁷⁹ WOA Sec. 3(59); 20 CFR §§ 681.460(a)(7) and 681.570; TEGL 21-16

²⁸⁰ 20 CFR §§ 681.460(a)(8) and 681.490; TEGL 21-16

²⁸¹ TEGL 9-22

- [Take a Mental Health Test – Mental Health America \(mhanational.org\)](#)
- [Patient Health Questionnaire-9 \(PHQ-9\) - Mental Health Screening - National HIV Curriculum \(uw.edu\)](#)
- [SCARED-form-Parent-and-Child-version.pdf \(ohsu.edu\)](#)
- [Social Phobia Inventory \(SPIN\) \(psychology-tools.com\)](#)
- [PTSD Checklist for DSM-5 \(PCL-5\) - Fillable Form \(va.gov\)](#)
- [CPSS-5-Scoring-Psychometrics.pdf \(istss.org\)](#)
- [Instrument: AUDIT-C Questionnaire | NIDA CTN Common Data Elements \(nih.gov\)](#)

Professional development for youth program staff is essential for ensuring staff have the appropriate skills, knowledge, and abilities to effectively serve youth program participants. Professional development is an allowable cost under WIOA.

Comprehensive guidance and counseling must not be confused with the provision of 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 (i.e., youth program element 12).²⁸²

11. Financial literacy education²⁸³

Financial literacy education refers to activities that provide youth with the knowledge and skills that they need to achieve long-term financial stability, including activities that:

- Support the ability of participants to create budgets, initiate checking and savings accounts at banks, and make informed financial decisions;
- Supports participants in learning how to effectively manage spending, credit, and debt, including student loans, consumer credit, and credit cards;
- Teach participants about the significance of credit reports and credit scores, what their rights are regarding their credit and financial information, how to determine the accuracy of a credit report and how to correct inaccuracies, and how to improve or maintain good credit;
- Support a participant's ability to understand, evaluate, and compare financial products, services, and opportunities and to make informed financial decisions;
- Educate participants about identity theft, ways to protect themselves from identify theft, how to resolve cases of identity theft, and understand their rights and protections related to personal identity and financial data;
- Support activities that address the particular financial literacy needs of non-English speakers, including providing the support through the development and distribution of multilingual financial literacy and education materials;
- Support activities that address the particular financial literacy needs of youth with disabilities, including connecting them to benefits planning and work incentives counseling;
- Provide financial education that is age appropriate, timely, and provides opportunities to put lessons into practice, such as providing access to safe and affordable financial products that enable money management and savings; and
- Implement other approaches to help participants gain the knowledge, skills, and confidence to make informed financial decisions that enable them to attain greater financial health and stability through the use of high quality, age-appropriate, and relevant strategies and channels, including, where possible, timely and customized information, guidance, tools, and instruction.

²⁸² TEGL 9-22

²⁸³ 20 CFR §§ 681.460(a)(11) and 681.500; TEGL 21-16

12. Entrepreneurial skills training²⁸⁴

Entrepreneurial skills training provides training on the basics of starting and operating a small business and must develop the skills associated with entrepreneurship, such as the ability to:

- take initiative;
- creatively seek out and identify business opportunities;
- develop budgets and forecast resource needs;
- understand various options for acquiring capital and the trade-offs associated with each option; and
- communicate effectively and market oneself and one's ideas.

Examples of approaches to teaching youth entrepreneurial skills include:

- entrepreneurship education that provides an introduction to the values and basics of starting and running a business, such as developing a business plan and simulations of business start-up and operation;
- enterprise development that provides supports and services that incubate and help youth develop their own businesses, such as helping youth access small loans or grants and providing more individualized attention to the development of viable business ideas; and
- experiential programs that provide youth with experience in the day-to-day operation of a business.

13. Labor market information services²⁸⁵

Labor market information (LMI) services refers to services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area and includes career awareness, career counseling, and career exploration services. LMI services also help youth identify employment opportunities and provide knowledge of job market expectations, including education and skill requirements and potential earnings.

14. Postsecondary preparation and transition activities²⁸⁶

Postsecondary preparation and transition activities are activities that help youth prepare for and transition to postsecondary education and training. These activities include helping youth explore postsecondary education options, including technical training schools, community colleges, four-year colleges and universities, and Registered Apprenticeship programs.

Examples of other postsecondary preparation and transition activities include:

- assisting youth with preparation for SAT/ACT testing;
- assisting with college admission applications;
- searching and applying for scholarships and grants;
- filling out the proper financial aid applications and adhering to changing guidelines; and connecting youth to postsecondary education programs.

15. Follow-up services²⁸⁷

Follow-up services are critical services provided following a youth's exit from the program to help ensure that youth are successful in employment and/or postsecondary education and training. Follow-up services may include:

²⁸⁴ 20 CFR §§ 681.460(a)(12) and 681.560; TEGL 21-16

²⁸⁵ 20 CFR § 681.460(a)(13); TEGL 21-16

²⁸⁶ 20 CFR § 681.460(a)(14); TEGL 21-16

²⁸⁷ 20 CFR §§ 681.460(a)(9) and 681.580(a)-(b)

- Regular contact with a youth participant’s employer, including assistance in addressing work-related problems that arise;
- Supportive services;
- Adult mentoring;
- Financial literacy education;
- Services that provide labor market and employment information and in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and
- Activities that help youth prepare for and transition to postsecondary education and training.

Requirements for the provision of youth follow-up services include:²⁸⁸

1. All participants must be offered an opportunity to receive follow-up services that align with their ISS. Types of follow-up services provided and the duration of follow-up services must be determined based on the needs of the individual and, therefore, the type and intensity of follow-up services may differ for each participant.
2. At the time of enrollment, youth must be informed that follow-up services will be provided for a minimum of 12 months following exit. If, at any point during participation in the program or during the 12 months following exit, the youth participant requests to opt out of follow-up services, they may do so. In this case, the participant’s request to opt out or discontinue follow-up services must be documented in case notes.
3. Follow-up services must be provided to all participants for a minimum of 12 months after the last expected date of service in the local youth program, and any NDOL-administered programs in which the participant may be co-enrolled, unless the participant declines to receive follow-up services or the participant cannot be located or contacted. When a participant cannot be located or contacted during a follow-up quarter the Case Manager must complete the follow up service as “cannot locate” and include a case note in the participant’s file.
4. Follow-up services may begin immediately following the last expected date of service. The exit date is determined when the participant has not received services through the local youth program, or any NDOL-administered programs in which the participant may be co-enrolled, for 90 days and no additional services are scheduled.
5. When the following program elements are provided as follow-up services, they must be recorded as follow-up services in NEworks, rather than program services, in order to (a) clearly differentiate follow-up services from program services provided prior to program exit and (b) prevent a change in the exit date and trigger re-enrollment in the program:
 - a. supportive services;
 - b. adult mentoring;
 - c. financial literacy education;
 - d. 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
 - e. activities that help youth prepare for and transition to postsecondary education and training.
 In addition, it must be documented in case notes that these program elements were provided as follow-up services after program exit.
6. Follow-up services must be more than just an attempt to contact the participant and must not be made just to secure documentation to support or report a performance outcome.

²⁸⁸ 20 CFR § 681.580(c); TEGL 21-16

Privacy

Case Managers must adhere to the confidentiality requirements of the Family Education Rights and Privacy Act, established under Section 444 of the General Education Provisions Act,²⁸⁹ including requirements regarding circumstances requiring written consent for disclosure of personally identifiable information from an education record.

Record Retention

In accordance with Federal requirements, Greater Nebraska maintains all records for a minimum of three years from the date of Nebraska Department of Labor's submission of the final expenditure report to USDOL for the applicable program year. Additionally, Greater Nebraska follows Schedule 45-2 Department of Labor: Office of Employment & Training as established by the Secretary of State under the Nebraska Records Management Act. Per 45-2, the following must be retained for five years:

45-2-1 Complaints

45-2-6 Planning Documents

45-2-7 Policy and Notices

45-2-8 Program Case Files

Disclaimer

This policy is based on Greater Nebraska's reading of the applicable statutes, regulations, rules, and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules, and guidance are issued.

²⁸⁹ 20 USC 1232g; 34 CFR Part 99
Youth Program