State Policy

Workforce Innovation and Opportunity Act (WIOA)

Nebraska Department of Labor (NDOL)
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Policy category
Performance Accountability

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Performance Accountability
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Performance Accountability, Change 1

REFERENCE

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

BACKGROUND

The US Departments of Education and Labor have established performance accountability requirements to assess the effectiveness of the workforce development system's 6 core programs and 10 non-core programs (listed in Table 1) in achieving positive outcomes for individuals served by the programs.

Table 1. Programs participating in the WIOA Performance Accountability System[1]

Program type	Program name	Authorizing legislation
Core	Youth	WIOA Title I
Core	Adult	WIOA Title I
Core	Dislocated worker	WIOA Title I
Core	Adult Education and Family Literacy Act	WIOA Title II
Core	Wagner-Peyser Employment Service, including the Monitor Advocate System[2]	WIOA Title III
Core	Vocational Rehabilitation	WIOA Title IV

[1] TEGL 10-16 Change 1; TEGL 14-18

[2] The Monitor Advocate System is not a stand-alone program. It is a system that protects the standards of services provided to migrant and seasonal farmworkers under the Title III Wagner-Peyser Employment Service [TEGL 14-18].

Program type	Program name	Authorizing legislation
Non-core	Jobs for Veterans State Grants	38 USC Chapter 41
Non-core	National Dislocated Worker Grants	WIOA Sec. 170
Non-core	Trade Adjustment Assistance	19 USC 2271 et seq.
Non-core	H-1B Job Training (grants awarded July 1, 2016 and later)	29 USC § 3224a
Non-core	Indian and Native American	WIOA Sec. 166
Non-core	Job Corps	WIOA Secs. 141 – 162
Non-core	National Farmworker Jobs Program	WIOA Sec. 167
Non-core	Reentry Employment Opportunities	WIOA Sec. 169
Non-core	Senior Community Service Employment Program	42 USC 3056 et seq.
Non-core	YouthBuild	WIOA Sec. 171

ACTION

This policy supersedes and cancels the State's[3] policy titled Performance Accountability (effective date September 19, 2019). Questions and comments on this policy may be submitted in writing to the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov.

CHANGES

Section II(d) has been revised to clarify requirements relating to co-enrollment of program participants. No other material changes have been made to the superseded policy.

POLICY

This policy establishes performance accountability requirements applicable to:

- Title I youth, adult, and dislocated worker programs;
- NDOL-administered programs:
    - Title III Wagner-Peyser Employment Service (Wagner-Peyser), including the Monitor Advocate System;
    - Jobs for Veterans State Grant program (JVSG); and
    - Trade Adjustment Assistance program (TAA);
- National Dislocated Worker Grant programs (DWG).

[3] *State* refers to the Nebraska Workforce Development Board and the Nebraska Department of Labor (acting on the Governor's behalf pursuant to the Governor's Executive Order No. 15-03).

This policy has five sections and three appendices.

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Section I. Primary indicators of performance

The US Department of Labor (USDOL) measures performance of USDOL-funded programs using six primary indicators of performance.[4] This policy discusses how the performance indicators apply to:

- local youth, adult, and dislocated worker programs;
- Wagner-Peyser, including the Monitor Advocate System;
- JVSG;
- TAA; and
- DWG.

The six primary indicators of performance are described below in Sections I(a) through I(f).

(a) Employment rate, second quarter after exit

For the programs listed below, this indicator measures program performance based on the percentage of participants who are in unsubsidized employment during the second quarter after exit:[5]

- local adult and dislocated worker programs;
- Wagner-Peyser;
- JVSG;
- TAA; and
- DWG.

[4] WIOA Sec. 116(b)(2)(A)(i) – (ii); 20 CFR § 677.155(a)(1); TEGL 10-16 Change 1; TEGL 14-18
[5] TEGL 10-16 Change 1; TEGL 14-18 Appendix I and Attachments 4 and 10

For local youth programs, this indicator measures program performance based on the percentage of participants in unsubsidized employment *or* education or training activities during the second quarter after exit.[6]

(1) Monitor Advocate System[7]

For the Monitor Advocate System, USDOL monitors the equitable provision of employment services for migrant and seasonal farmworkers (MSFWs) by comparing outcomes on this indicator for MSFWs in Wagner-Peyser to outcomes for non-MSFWs in Wagner-Peyser. This is achieved by using outcomes on this indicator for non-MSFWs as a:

- proxy to calculate the minimum service level indicator for MSFWs placed in unsubsidized employment; and
- data point necessary for calculating the proxy for the minimum service level indicator for MSFWs placed long-term in unsubsidized non-agriculture employment for the fourth-quarter employment rate indicator.

(b) Employment rate, fourth quarter after exit

For the programs listed below, this indicator measures program performance based on the percentage of participants who are in unsubsidized employment during the fourth quarter after exit:[8]

- local adult and dislocated worker programs;
- Wagner-Peyser;
- JVSG;
- TAA; and
- DWG.

For local youth programs, this indicator measures program performance based on the percentage of participants in unsubsidized employment *or* education or training activities during the fourth quarter after exit.[9]

(1) Monitor Advocate System[10]

For the Monitor Advocate System, USDOL monitors the equitable provision of employment services for MSFWs by comparing outcomes on this indicator for MSFWs in Wagner-Peyser to outcomes for non-MSFWs in Wagner-Peyser. This is achieved by using outcomes on this indicator for non-MSFWs as a proxy to calculate the minimum service level indicator for MSFWs placed long-term in unsubsidized non-agriculture employment.

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[6] TEGL 10-16 Change 1; TEGL 14-18 Appendix I
[7] TEGL 14-18 Attachment 5
[8] TEGL 10-16 Change 1; TEGL 14-18 Appendix I and Attachments 4 and 10
[9] TEGL 10-16 Change 1; TEGL 14-18 Appendix I
[10] TEGL 14-18 Attachment 5

(c) Median earning rate, second quarter after exit

For the programs listed below, this indicator measures program performance based on the median earnings of participants who are in unsubsidized employment during the second quarter after exit:[11]

- local youth, adult, and dislocated worker programs;
- Wagner-Peyser;
- JVSG;
- TAA; and
- DWG.

(1) Monitor Advocate System[12]

For the Monitor Advocate System, USDOL monitors the equitable provision of employment services for MSFWs by comparing outcomes on this indicator for MSFWs in Wagner-Peyser to outcomes for non-MSFWs in Wagner-Peyser. This is achieved by using outcomes on this indicator for non-MSFWs as a proxy to calculate the minimum service level indicator of median earnings for MSFWs placed in unsubsidized employment.

(d) Credential attainment rate

For the programs listed below, this indicator measures program performance based on the percentage of participants enrolled in an education or training program who attain a recognized postsecondary credential *or* a secondary school diploma (or recognized equivalent) during program participation or within one year after exit:[13]

- local youth, adult, and dislocated worker programs;
- TAA; and
- DWG.

Participants who attain secondary school diplomas (or recognized equivalents) are included in performance calculations for this indicator *only* if they are also employed *or* enrolled in an education or training program leading to a recognized postsecondary credential *within* one year after exit.

This performance indicator *does not* apply to Wagner-Peyser, including the Monitor Advocate System, or JVSG.[14]

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[11] TEGL 10-16 Change 1; TEGL 14-18 Appendix I and Attachments 4 and 10. Measurement of the performance of local youth programs on this indicator will begin once USDOL has collected baseline data sufficient to establish expected levels of performance.
[12] TEGL 14-18 Attachment 5
[13] TEGL 10-16 Change 1; TEGL 14-18 Appendix I and Attachment 10
[14] TEGL 10-16 Change 1; TEGL 14-18 Appendix I and Attachment 4

(1) Types of credentials

The credential attainment indicator measures attainment of two types of credentials, recognized postsecondary credentials and secondary school diplomas (or recognized equivalents).

(i) Recognized postsecondary credential

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.[15] These technical or industry/occupational skills generally are based on standards developed or endorsed by employers or industry associations. A variety of different public and private entities issue recognized postsecondary credentials, examples of which include:

- state educational agencies or state agencies responsible for administering vocational and technical education within a state;
- institutions of higher education that are qualified to participate in Federal student financial aid programs authorized by the Higher Education Act, including community colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in Federal student financial aid programs;
- institutions of higher education that are formally controlled, or have been formally sanctioned or chartered, by the governing body of Indian tribes;
- professional, industry, or employer organizations;
- product manufacturers or developers using valid and reliable assessments of individuals' knowledge, skills and abilities;
- USDOL Office of Apprenticeship or recognized state apprenticeship agencies;
- public regulatory agencies that award credentials upon an individual's fulfillment of educational, work experience, or skill requirements that are legally necessary for individuals to use occupational or professional titles or to practice occupations or professions;
- programs approved by the Department of Veterans Affairs to offer education benefits to Veterans and other eligible persons; and
- Job Corps, which issues certificates for completing career-training programs based on industry skills standards and certification requirements.

Not all credentials offered by these entities meet the definition of recognized postsecondary credential.[16]

[15] TEGL 10-16 Change 1; TEGL 14-18 Appendix I
[16] TEGL 10-16 Change 1; TEGL 14-18 Attachment 1

(ii) Secondary school diploma or recognized equivalent[17]

A secondary school diploma is one that is recognized by a state. A secondary school equivalency certification signifies that a student has completed the requirements for a high school education as recognized by a state.

Examples of secondary school diplomas and equivalents recognized by individual states include:

- secondary school diplomas obtained through credit-bearing secondary education programs sanctioned by state law, code, or regulation;
- certification of passing state-recognized competency-based assessments, such as GED tests; and
- certification of attaining passing scores on state-recognized high school equivalency tests.

(2) Credentials that count[18]

The following are acceptable types of credentials that count toward the credential attainment rate for local youth, adult, and dislocated worker programs, TAA, and DWG:

- secondary school diplomas (or recognized equivalents);
- associate degrees;
- bachelor degrees;
- occupational licenses (examples: Federal Aviation Administration aviation mechanic licenses and asbestos inspector licenses);
- occupational certificates (examples: Registered Apprenticeship certificates of completion and Career and Technical Education educational certificates);
- occupational certifications (examples: National Institute for Automotive Service Excellence certifications and National Institute for Metalworking Skills, Inc. Machining Level I credentials); and
- other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment (example: Microsoft Information Technology certificates).

[17] TEGL 10-16 Change 1; TEGL 14-18 Appendix I
[18] 20 CFR § 680.420(a); TEGL 10-16 Change 1; TEGL 14-18 Appendix I

(i) TAA only

In addition to the credentials listed above, the following are acceptable credentials types that count toward the credential attainment rate *for TAA only*:

- post-baccalaureate certificate: an award that *requires* completion of an organized program of study equivalent to 18 semester credit hours beyond the bachelor's degree *but does not meet* the requirements of a master's degree;

- post-master's certificate: an award that requires completion of an organized program of study equivalent to 24 semester credit hours beyond a master's degree but does not meet the requirements of academic degrees at the doctor's level;

- first-professional certificate (post-degree): an award that requires completion of an organized program of study designed for persons who have completed the first-professional degree (examples: refresher courses or additional units of study in a specialty or subspecialty);

- graduate degrees:

    - master's: an award that requires the successful completion of a program of study of at least the full-time equivalent of one or more academic years of work beyond the bachelor's degree; and

    - doctor's: highest award a student can earn for graduate study (examples: Doctor of Education, Doctor of Juridical Science, Doctor of Public Health, and Doctor of Philosophy);

- first-professional degree: an award that requires completion of a program that meets *all* of the following criteria:

    - completion of the academic requirements to begin practice in a profession;

    - at least two years of college work prior to entering the program;

    - a total of at least six academic years of college work to complete the degree program, including prior required college work plus the length of the professional program itself; and

    - awarded in the following fields: Chiropractic (DC or DCM) Dentistry (DDS. or DMD) Law (LLB or JD) Medicine (MD) Optometry (OD) Osteopathic Medicine (DO) Pharmacy (PharmD) Podiatry (DPM, DP, or PodD) Theology (MDiv, MHL, BD, or Ordination) Veterinary Medicine (DVM).

(3) Credentials that *do not* count[19]

For local youth, adult, and dislocated worker programs, TAA, and DWG, the following types of credentials *do not* count toward the credential attainment rate:

- certificates awarded by local boards and work readiness certificates, because they do not document measurable technical or industry/occupational skills necessary to gain employment or advance within an occupation; and
- certificates awarded for general skills, such as safety and hygiene, even if broadly required to qualify for entry-level employment or advancement in employment (examples: OSHA and food handler certificates).

In addition to the credentials listed above, the following types of credentials *do not* count toward the credential attainment rate for local youth, adult, and dislocated worker programs and DWG:

- post-baccalaureate certificate;
- graduate degrees (master's and doctor's);
- post-master's certificate;
- first-professional certificate (post-degree); and
- first-professional degree.

(e) Measurable skill gains

For the programs listed below, this indicator measures program performance based on the percentage of program participants who are, *during a program year* (a) in an education or training program that leads to a recognized postsecondary credential or employment *and* (b) achieving measurable skill gains, which are defined as documented academic, technical, occupational, or other forms of progress, towards such a credential or employment:[20]

- local youth, adult, and dislocated worker programs;
- TAA; and
- DWG.

The measurable skill gains indicator *is not* an exit-based measure. In addition to using this indicator to measure program performance *during the program year*, it is important to understand its secondary, but equally important function: *Documenting measurable skill gains is a useful case-management tool for tracking interim progress of participants who are enrolled in education or training services during the program year*.

[19] TEGL 10-16 Change 1; TEGL 14-18 Appendix I.
[20] TEGL 10-16 Change 1; TEGL 14-18 Appendix I and Attachment 10. Measurement of performance on this indicator for local Title I programs and TAA will begin after USDOL has collected baseline data sufficient to establish expected levels of performance [TEGL 10-16 Change 1; TEGL 14-18 Appendix I].

The measurable skill gains performance indicator *does not* apply to JVSG or Wagner-Peyser, including the Monitor Advocate System.[21]

(1) Types of measurable skill gains[22]

Depending on the type of education or training program in which a participant is enrolled, documented progress is defined as one of the following:

1. documented achievement of at least one educational functioning level by a participant who is receiving instruction below the postsecondary education level;

2. documented attainment of a secondary school diploma (or recognized equivalent);

3. secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting academic standards;

4. satisfactory (or better) progress report, from an employer or training provider who is providing training, towards established milestones, such as completion of OJT or completion of one year of an apprenticeship program or other similar milestones; or

5. successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade-related benchmarks, such as knowledge-based exams.

(2) Measurable skill gains that count[23]

Skill gains that that count as measurable skill gains are those that meet the documentation requirements described below in subsections (i) through (v).

(i) Documented achievement of at least one educational functioning level of a participant who is receiving instruction below the postsecondary level

Achievement of educational-functioning gains can be documented in one of three ways:

1. compare a participant's initial educational-functioning levels measured by pre-tests with the participant's educational functioning levels measured by post-tests;

2. adult basic education programs that lead to a recognized equivalent for a secondary school diploma or recognized equivalent *and* measure and report educational gains through the awarding of credits or Carnegie units; or

3. report an educational-functioning level gain for participants who exit a program below the postsecondary level[24] *and then* enroll in postsecondary education and training *during the same program year*.

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[21] TEGL 10-16 Change 1 and TEGL 14-18 Appendix I and Attachment 4
[22] Ibid.
[23] TEGL 10-16 Change 1 and TEGL 14-18 Appendix I
[24] *Program below the postsecondary level* refers to an adult basic education program [TEGL 10-16 Change 1; TEGL 14-18 Appendix I].

(ii) Documented attainment of a secondary school diploma or recognized equivalent

Attainment of secondary school diploma or recognized equivalents can be documented as a measurable skill gain if a participant obtains a:

- secondary school diploma; or
- certification of passing state-recognized competency-based assessments, such as GED tests.

(iii) Secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the state unit's academic standards

For secondary and postsecondary education, this gain may be documented based on transcripts or report cards showing that a participant is meeting academic standards for *one* semester.

Full-time postsecondary education

For participants enrolled in postsecondary education as *full-time* students, this gain must demonstrate participants are meeting academic standards by attaining 12 credit hours per *one* completed semester, or the equivalent for the applicable academic system in use by the postsecondary institution in which the participants are enrolled.

Part-time postsecondary education

For participants enrolled in postsecondary education as *part-time* students, this gain must demonstrate participants are meeting academic standards by attaining 12 credit hours over the course of *two* completed semesters during a 12-month period, or the equivalent for the applicable academic system in use by the postsecondary institution in which the participant is enrolled.

For example, if a participant completed six credit hours in one semester and six credit hours in another semester and both semesters occurred during the same program year, they would count as a skill gain during that program year. However, if a participant completed six credit hours in one semester and six credit hours in the next semester and those semesters crossed two program years, credit hours earned during the first semester would not count as a skill gain in the first program year but credit hours earned during the second semester would count as a skill gain in the second program year.

(iv) Satisfactory or better progress report toward established milestones, such as completion of OJT, completion of one year of an apprenticeship program, or similar milestones from an employer or training provider who is providing training

Documentation for this gain may vary based upon the nature of training services being provided but must be based on *satisfactory* or *better* progress reports from an employer or training provider. The report must verify substantive skill development achieved by the participant, such as a training report on milestones completed as the participant masters required job skills or completion of one-year of an apprenticeship program. Increases in pay resulting from newly acquired skills or increased performance also may be used to document progress for this type of gain, based on pay stubs or similar wage records provided by the participant.

NOTE. In the description of this type of measurable skill gains, "completion of one year of an apprenticeship" is just one example of a timeframe that may be established for achieving a *satisfactory* or *better* progress report toward a specific milestone. In addition, the one-year timeframe should not be taken as a required timeframe or the only way that participants in an apprenticeship may achieve a measurable skill gain.

(v) Successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupation skills as evidenced by trade-related benchmarks, such as knowledge-based exams

Documentation for this gain may include:

- passage of component exams in Registered Apprenticeship programs;
- employer-required knowledge-based exams;
- satisfactory attainment of an element of industry or occupational competency-based assessments; or
- other completion tests necessary to obtain credentials.

(f) Effectiveness in serving employers[25]

The US Departments of Education and Labor (the Departments) are piloting three approaches to measuring the effectiveness of the core programs[26] in serving employers.

1. Retention with the same employer. This approach addresses the programs' efforts to provide employers with skilled workers. Performance is measured based on the percentage of participants who exit the programs *and* are employed with the same employer during the second and fourth quarters after exit.

2. Repeat business customers. This approach addresses efforts to provide quality engagement and services to employers and sectors and establish productive relationships with employers and sectors over extended periods. Performance is measured based on the percentage of employers that use program services more than once during the last three reporting periods.

3. Employer penetration rate. This approach addresses efforts to provide quality engagement and services to all employers and sectors within a state and local economy. Performance is measured based on the percentage of employers using core program services out of all employers in the state.

Under this pilot program, the core programs in each state collectively choose two of the three approaches to measuring effectiveness. Nebraska's core programs selected approaches 1 and 2, retention with the same employer and repeat business customers. Performance on this

[25] TEGL 10-16 Change 1

[26] *Core programs* refers to the Title I youth, adult, and dislocated worker programs, Title I Adult and Family Literacy Act Program, Title III Wagner-Peyser Employment Service, and Title IV vocational rehabilitation programs.

indicator is measured at the state level only and expected levels of performance will be determined once the Departments have collected sufficient baseline data.

Starting in Program Year 2018 (or the point at which wage-matching data becomes available for this indicator) and throughout the duration of the pilot program, JVSG and DWG will begin tracking effectiveness in serving employers using approach 1.

Section II. Categories of enrollment and exit

There are two points to understand in reading the definitions for *reportable individual* and *participant*.[27]

1. All participants are reportable individuals *but* not all reportable individuals are participants.
2. An individual can be a:
    a. participant in multiple programs;
    b. reportable individual in multiple programs; or
    c. participant in one program and just a reportable individual in a different program.

(a) Reportable individual[28]

A reportable individual is an individual who has taken action that demonstrates an intent to use local youth, adult, or dislocated worker, Wagner-Peyser, or DWG program services *and* who meets specific reporting criteria of the applicable program, including when the individual:

- provides identifying information;
- only uses the self-service system; or
- only receives information-only services or activities.

USDOL does not negotiate levels of performance or impose sanctions based on the outcomes of reportable individuals, because only *participants* are included in the performance indicators.[29] However, USDOL requires inclusion of certain information in states' quarterly performance reports and related WIOA performance reporting tools or program-specific performance reporting tools, in order to track the number of reportable individuals served by the system.

The reportable individual category does not apply to JVSG or TAA.

[27] TEGL 14-18
[28] 20 CFR § 677.150(b); TEGL 10-16, Change 1; TEGL 14-18 Attachment 6
[29] TEGL 10-16 Change 1; TEGL 14-18 Appendix I; ETA 9172 (OMB Control Number 1205-0521, expiration date: 06-30-2021)

(b) Participant[30]

While the definition of participant is consistent across the core programs, there are slight differences to account for programmatic requirements.

In general, for local youth, adult, and dislocated worker programs and Wagner-Peyser, a participant is a reportable individual who has received services other than self-service only or information-only services or activities after satisfying all applicable programmatic requirements for the provision of services. The following individuals are not participants of local youth, adult, and dislocated worker programs and Wagner-Peyser:

- those who only use the self-service system; and
- those who receive information-only services or activities, which provide readily available information that does not require an assessment of the individual's skills, education, or career objectives by a staff member.

For JVSG, TAA, and DWG in general, a participant is an individual who has received grant-funded services after satisfying all applicable programmatic requirements for the provision of program services, such as eligibility determination.

(1) Local youth programs

For local youth programs, reportable individuals become participants when they have satisfied all of the following program requirements for the provision of services:[31]

- eligibility determination;
- an objective assessment;
- development of an individual service strategy; and
- received one or more of the 14 youth program elements.[32]

Refer to Table A in APPENDIX I for a list of the participant-level services that trigger a reportable individual's inclusion as a participant in the youth program.

(2) Local adult and dislocated worker programs

For local adult and dislocated worker programs, reportable individuals become participants when they receive any: [33]

- training service or individualized career service; or
- basic career service that is neither self-service only nor information-only.

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[30] 20 CFR § 677.150(a)(3); TEGL 10-16 Change 1; TEGL 14-18
[31] TEGL 10-16 Change 1; TEGL 14-18
[32] Refer also to the state's current youth program policy for a list of the 14 youth program elements. The policy is accessible at https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/Policies.
[33] TEGL 10-16 Change 1; TEGL 14-18

Refer to Table B in APPENDIX I for a list of the participant-level services that trigger a reportable individual's inclusion as a participant in adult and dislocated worker programs.

(3) Wagner-Peyser

For Wagner-Peyser, reportable individuals become participants when they receive any:[34]

- individualized career service; or
- basic career service that is neither self-service only nor or an information-only service or activity.

Refer to Table B in APPENDIX I for a list of the participant-level services that trigger a reportable individual's inclusion as a participant in Wagner-Peyser.

(4) JVSG

JVSG defines a participant as an individual who has received a JVSG-funded service from a Disabled Veteran Outreach Program (DVOP) specialist, after satisfying all applicable programmatic requirements for the provision of services, such as an eligibility determination.[35]

(5) TAA

TAA defines a participant as an individual who has received benefits or services funded by the TAA program, after satisfying all applicable programmatic requirements for the provision of services, such as an eligibility determination.[36]

(6) DWG

DWG defines participant as a reportable individual who has:[37]

- received an employment or training service *or* disaster relief employment, funded in whole or in part with DWG funds, as authorized under WIOA Sec. 170(b) and described in 20 CFR § 687.180(a) for Employment Recovery DWGs or 20 CFR § 687.180(b) for Disaster Recovery DWGs; and
- satisfied all applicable programmatic requirements for the provision of services, including an eligibility determination.

Refer to Table C in APPENDIX I for a list of the participant-level services that trigger a reportable individual's inclusion as a participant in DWG.

[34] TEGL 10-16 Change 1; TEGL 14-18
[35] TEGL 14-18 Attachment 4
[36] TEGL 14-18 Attachment 10
[37] TEGL 14-18 Attachment 6

(c) Period of participation[38]

For all performance indicators *except* measurable skill gains, a period of participation begins when an individual becomes a participant and ends on the participant's date of exit from the program.

For all performance indicators *except* measurable skill gains, states must count each participant's exit during the same program year as a separate period of participation for purposes of calculating levels of performance. In other words, a new period of participation is counted each time a participant enters and exits the program, even if more than one exit occurs during the same program year.

For the measurable skill gains indicator, a new period of participation is counted each time a participant enrolls, even if both enrollments occur within the same program year. It is not necessary to wait until the participant exits the program in order to count a measurable skill gain because the *measurable skill gains indicator is not an exit-based indicator*. A measurable skill gain may be counted as soon as it is earned at any point during the program year in which it was earned.

(d) Co-enrollment

Co-enrolling participants in partner programs maximizes use of program funding, as well as the number of individuals served by Nebraska's one-stop delivery system. Co-enrolling participants also ensures participants have access to and receive the full spectrum of services available through the one-stop delivery system, including follow-up services.

Subsections (1) and (2) below outline state- and Federal-level co-enrollment requirements.

(1) State-level co-enrollment requirements

NDOL requires that co-enrollment of participants occur whenever eligibility permits. The state-level co-enrollment requirement applies to:

- local youth, adult, and dislocated worker programs;
- Wagner-Peyser;
- JVSG;
- TAA; and
- DWG, whether administered at the state- or local-level.

Note. All DWG and TAA participants must be, at a minimum, co-enrolled in a local dislocated worker program.

(2) Federal-level co-enrollment requirements

In addition to NDOL's co-enrollment requirements, there are Federal co-enrollment requirements for certain programs.

[38] TEGL 10-16 Change 1; TEGL 14-18

- Local youth programs must co-enroll any in-school youth (ISY) in an adult or dislocated worker program in order for the ISY to use an Individual Training Account for occupational skills training provided by an Eligible Training Provider.[39]

- Individuals participating in Nebraska's RESEA program (i.e., NEres) must be co-enrolled in Wagner-Peyser.[40]

- Homeless Veterans Reintegration Programs (HVRP) must co-enroll all HVRP participants in a Wagner-Peyser, JVSG, or local youth, adult, or dislocated worker program.[41]

It should be noted that the Monitor Advocate System does not have a co-enrollment requirement, because the Monitor Advocate System is a system that uses performance data within Wagner-Peyser and does not operate as a completely separate program.[42]

(3) Partner programs

For the programs listed in subsection (1) above, partner programs in which participants could be co-enrolled include, but are not limited to:

- local youth, adult, and dislocated worker programs;
- Adult Education and Family Literacy Act program;
- Wagner-Peyser;
- vocational rehabilitation programs provided by the:
    - Nebraska Commission for the Blind and Visually Impaired; and
    - Nebraska Vocational Rehabilitation Program;
- DWG;
- Indian and Native American (INA) employment and training programs;
- Job Corps;
- JVSG;
- National Farmworker Jobs Program provided by Proteus;
- Senior Community Service Employment Program (SCSEP) provided through the Nebraska Department of Health and Human Services;
- TAA;

[39] TEGL 21-16
[40] UIPLs 8-18 and 7-19
[41] TEGLs 4-16 and 14-18
[42] TEGL 14-18

- Unemployment Insurance; and
- employment and training programs provided by:
    - Supplemental Nutrition Assistance Program (SNAP); and
    - Temporary Assistance for Needy Families program (TANF);
- YouthBuild.

(e) Exit

Exit from a program generally occurs, as described below, when a participant has not received services for a specified period and has no additional services scheduled.[43]

(1) Reportable individuals[44]

Although reportable individuals do not "exit" as defined in 20 CFR § 677.150(c) because they are never considered participants, a new period of self-service activity occurs when more than 90 consecutive calendar days have elapsed since the last self-service only or information-only service or activity occurred. This is necessary to prevent reportable individuals who have stopped receiving self-service only or information-only services from remaining in the system indefinitely. Therefore, for tracking purposes, the date of exit for reportable individuals is determined when each of following three criteria are met.

1. The individual does not become a participant.
2. The individual is served under a local youth, adult, or dislocated worker program or Wagner-Peyser through receipt of services that do not result in the individual becoming a participant.
3. 90 days have elapsed since the individual was identified as a reportable individual *and* has not received additional self-service only or information-only services or activities during that 90-day period.

The date of exit for reportable individuals cannot be determined until 90 days have elapsed since the reportable individual last received any of the following services:

- self-service only;
- information-only services or activities; or
- services under a local youth, adult, or dislocated worker program or Wagner-Peyser that do not result in the individual becoming a participant with no future services scheduled.

At that point, the date of exit is applied retroactively.

[43] 20 CFR § 677.150(c); TEGL 10-16 Change 1
[44] TEGL 10-16 Change 1

(2) Participants[45]

For participants in local youth, adult, and dislocated worker programs, Wagner-Peyser, JVSG, TAA, and DWG, the date of exit from the program is the last date of service. The date of exit cannot be determined until 90 days have elapsed since the participant last received services *and* there must be no plans to provide the participant with future services. At that point, the date of exit is applied retroactively to the last date of service. There are other factors to consider in relation to program exit.

- Because the date of exit is retroactive to the last date of service, follow-up services provided under youth programs may begin immediately following the last date of service if it is expected that participants will not receive any future services other than follow-up services.

- Follow-up services provided under adult and dislocated worker programs and DWG may begin immediately following placement into unsubsidized employment if it is expected that participants will not receive any future services other than follow-up services.

- Follow-up services provided through local youth, adult, and dislocated worker programs and DWG do not trigger a change in the exit date or delay exit, because follow-up services occur after exit. Even though Wagner-Peyser, JVSG, and TAA programs do not provide follow-up services, this is an important point to understand with respect to common-exit for participants who are co-enrolled in local youth, adult, or dislocated worker programs or DWG.

- Supportive services do not delay exit from local youth programs. Under youth programs, supportive services may be provided as a follow-up service[46] and can take place after exit without delaying the exit date.

- Under adult and dislocated worker programs and DWG, only participants may receive supportive services. In other words, individuals who have exited adult and dislocated worker programs and DWG are not eligible for supportive services.

(f) Common exit[47]

A *common exit* occurs when a participant enrolled in one or more programs has not received services from any of those programs for at least 90 days *and* no future services are planned. A participant is exited from all co-enrolled programs only when all exit criteria is met for all co-enrolled programs.

NDOL implemented this common exit requirement and it applies to all participants who are co-enrolled in:

- local youth, adult, and dislocated worker programs;

- Wagner-Peyser;

[45] TEGL 10-16 Change 1; TEGL 14-18 Attachments 4 and 10
[46] Refer to the State's youth program policy for information on youth follow-up services. The policy is accessible at https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/Policies.
[47] 20 CFR § 677.150(c)(3)(i); TEGL 10-16 Change 1; TEGL 14-18

- JVSG;
- TAA; and
- DWG.

This common exit requirement *does not* apply to participants who are co-enrolled in other partner programs.

(g) Exclusions from participation

Under very limited circumstances, participants who are exited for certain reasons may be excluded from performance calculations.[48] Table 2 describes those circumstances in detail. Participants *cannot* be excluded from participation because one of those circumstances occurs *after* the participant's date of exit. Program staff must provide source documentation that supports a request to exclude a participant from performance.

Table 2. Circumstances permitting exclusion from participation

Circumstance	Explanation	Applicable programs
Institutionalization	The participant exits the program because the participant has become incarcerated in a correctional institution or has become a resident of an institution or facility providing 24-hour support, such as a hospital or treatment center, during the course of receiving services as a participant.	▪ local youth, adult, and dislocated worker programs ▪ Wagner-Peyser ▪ JVSG ▪ TAA ▪ DWG
Health/medical	The participant exits the program because of medical treatment, and that treatment is expected to last longer than 90 days and precludes entry into unsubsidized employment or continued participation in the program.	▪ local youth, adult, and dislocated worker programs ▪ Wagner-Peyser ▪ JVSG ▪ TAA ▪ DWG
Death	The participant is deceased.	▪ local youth, adult, and dislocated worker programs ▪ Wagner-Peyser ▪ JVSG ▪ TAA ▪ DWG
Reserve forces called to active duty	The participant exits the program because the participant is a member of the National Guard or other reserve military unit of the Armed Forces and is called to *active duty** for at least 90 days.	▪ local youth, adult, and dislocated worker programs ▪ Wagner-Peyser ▪ JVSG ▪ TAA ▪ DWG
Foster care	The participant is in the foster care system, as defined in 45 CFR 1355.20(a), and exits the program because the participant has moved from the local workforce area as part of such a program or system.	▪ local youth programs only

[48] TEGL 10-16 Change 1; TEGL 14-18

* *Active duty*[49] 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.

Section III. Incumbent worker training and performance accountability[50]

Individuals receiving incumbent worker training are not considered participants for the purpose of inclusion in performance indicator calculations because of the unique eligibility requirements for incumbent worker training. Unlike other types of training, incumbent worker eligibility is determined at the employer level by the local board (i.e., whether the employer is eligible to have its employees receive incumbent worker training).[51] There is no separate determination of the eligibility of any particular employee to receive incumbent worker training. Therefore, an incumbent worker does not have to meet eligibility requirements for services for local youth, adult, or dislocated worker programs. However, if the incumbent worker meets eligibility requirements, the individual may be (a) enrolled as a participant and receive services from a local youth, adult, or dislocated worker program or (b) a participant in a separate WIOA program. In both cases, those individuals' participation would be reported under the appropriate indicators of performance.

Even though individuals receiving incumbent worker training are not participants for the purpose of performance indicator calculations, states and local areas are still required to report certain participant and performance data on all individuals who receive only incumbent worker training. The required elements for these incumbent worker individuals are limited to basic information and the elements needed to calculate incumbent worker training performance indicators for:

- employment in the second and fourth quarters after exit;
- median earnings in the second quarter after exit;
- credential attainment; and
- measurable skill gains.

For purposes of calculating these metrics, the exit date for an individual who has received only incumbent worker training will be the last date of training, as indicated in the training contract with the employer.

NDOL and local boards may require additional elements be reported to collect additional information on incumbent workers, which should also be reported if collected. All recipients of incumbent worker training, including incumbent worker training funded with statewide Rapid Response funds, must be reported in the USDOL-only PIRL (ETA Form 9172), regardless of whether they become a participant in one or more WIOA programs. USDOL encourages the collection of incumbent worker Social Security Numbers (SSNs), as part of the training contract

[49] 10 USC § 101(d)(1)
[50] TEGL 10-16 Change 1
[51] WIOA Sec. 134(d)(4)

with the employer, so that wage records will be available for these individuals. If SSNs are not available, the local board may utilize supplemental wage information to verify the wages reported.

Section IV. Administrative requirements of performance accountability

(a) Reporting

(1) Youth, adult, and dislocated worker programs and Wagner-Peyser

(i) Quarterly statewide and local performance reports

NDOL must submit quarterly statewide and local performance reports (ETA Form 9173) for local youth, adult, and dislocated worker programs and Wagner-Peyser *within 45 days of the end of each quarter*.[52] The report covers program performance for the previous full quarter.

(ii) Annual statewide and local performance report

In addition to quarterly reports, NDOL must submit an annual statewide and local performance report (ETA Form 9169) for local youth, adult, and dislocated worker programs and Wagner-Peyser *by October 1*, or the first business day thereafter should that date fall on a weekend.[53] The report covers performance data from the four full previous quarters.[54] Failure to submit the report by the due date will result in a five percent reduction of the Governor's reserve authorized under WIOA Sec. 128.[55]

(iii) Annual statewide and local performance report narrative

NDOL must submit an annual statewide performance report *narrative* for local youth, adult, and dislocated worker programs and Wagner-Peyser *by December 1*, or the first business day thereafter should that date fall on a weekend.[56] The narrative serves as a complement to the annual statewide performance report described above. The narrative must be no more than 25 pages, excluding appendices. States have flexibility regarding the contents of the narrative, as long as they address the requested items and stay within the 25-page limit.

The requested items for the annual statewide performance report *narrative* include information on:[57]

- waivers that the state has had in place for at least one program year;
- approaches the state has chosen for the *effectiveness in serving employers* performance indicator pilot;

[52] US Department of Labor, "Quarterly Report," under "WIOA Time Periods for Reporting," https://www.doleta.gov/performance/reporting/timeline.cfm [accessed August 15, 2019]
[53] TEGL 3-17
[54] WIOA Sec. 116(d)(2); TEGL 3-17
[55] TEGL 3-17
[56] TEGL 5-18
[57] Refer to TEGL 5-18 for a detailed description of requested and suggested content for narratives.

- completed, current, or planned evaluation and related research projects; state efforts to provide data, survey responses, and timely site visits for Federal evaluations; and any continuous improvement strategies utilizing results from studies and evidence-based practices; and

- the state's approach to customer satisfaction.

In the report, states should also consider providing information on:

- progress made in achieving the state's strategic vision and goals, as described in the state's Combined State Plan;

- progress made in implementing sector strategies and career pathways;

- the state's performance accountability system;

- activities provided by state funds;

- DWG awarded to or within the state;

- technical assistance needs of the state workforce system;

- promising practices, lessons learned, and success stories that focus on serving employers, communities, and individuals with barriers to employment;

- challenges the state workforce system faces; and

- strategies/polices relating to pay-for-performance contracting.

NDOL must also submit the annual statewide performance report *narrative* to the Governor, Nebraska Legislature, and Nebraska Workforce Development Board *by November 30*.[58]

(iv) Annual ETP performance report

NDOL must submit an annual Eligible Training Provider (ETP) performance report (ETA Form 9171) *by October 1*, or the first business day thereafter should that date fall on a weekend.[59] The report must include the following information regarding each program on the Eligible Training Provider List:[60]

- total number of local youth, adult, and dislocated worker program participants who received training from an ETP, disaggregated by the type of entity that provided the training, during the most recent full program year and the three preceding program years;

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[58] Neb. Rev. Stat. § 48-3304

[59] WIOA Sec. 116(d)(4) and (d)(6)(B); 20 CFR 677.260(a)(5); TEGL 3-18.

[60] 20 CFR §§ 677.160(c) and 677.230(a); TEGL 3-18. The PY 2018 report, due October 1, 2019, will require only data collected in PY 2018 and each subsequent program year will add another year of data to the report until the requirement for data for the most recent program year and the previous three program years is met [TEGL 3-18]. Registered Apprenticeship programs are not required to submit ETP performance information. If a Registered Apprenticeship program voluntarily submits performance information to NDOL, the information must be included in the ETP performance report. [20 CFR § 677.230(b)]

- total number of local youth, adult, and dislocated worker program participants who exited from training from an ETP, disaggregated by the type of entity that provided the training, during the most recent full program year and the three preceding program years;

- average cost per participant for the local youth, adult, and dislocated worker program participants who received training from an ETP, disaggregated by the type of entity that provided the training, during the most recent full program year and the three preceding program years;

- total number of local youth, adult, and dislocated worker program participants who received training from an ETP, disaggregated by barriers to employment, race, ethnicity, sex, and age;

- total number of individuals (i.e., all students, not just local youth, adult, and dislocated worker program participants) exiting from the program of study;[61] and

- levels of performance achieved for individuals (i.e., all students, not just local youth, adult, and dislocated worker program participants) engaging in the program of study, specifically:[62]

    - percentage who are in unsubsidized employment during the second and fourth quarters after exit from the program;

    - median earnings of individuals who are in unsubsidized employment during the second quarter after exit from the program; and

    - percentage who obtain a recognized postsecondary credential, or a secondary school diploma (or recognized equivalent), during participation in or within one year after exit from the program.

In addition, NDOL is required to make available and publish the annual ETP performance reports for Nebraska's ETPs who provide training services pursuant to WIOA Sec. 122 of WIOA.[63]

(2) JVSG

JVSG is not required to submit an annual state report narrative. However, the quarterly reporting requirements for JVSG include the submission of quarterly narrative reports (Manager's Report on Services to Veterans and Technical Performance Narrative (TPN).[64]

(3) MSFW

NDOL submits an annual narrative report for its Monitor Advocate System through the Labor Exchange Agricultural Reporting System (LEARS) on services provided to MSFWs.[65]

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[61] A state may be excluded from reporting on all-student data if the state has a waiver approved by USDOL.
[62] Ibid.
[63] 20 CFR § 677.230(a) and (c)
[64] TEGL 14-18 Attachment 4; VPL 1-15
[65] 20 CFR § 653. l08(s)

(4) TAA

NDOL must submit quarterly performance reports (ETA Form 9173) for TAA programs *within 45 days of the end of each quarter*.[66] The report covers program performance for the previous full quarter.

Requirements relating to NDOL's required annual statewide performance report narrative, as described in Section IV(a)(1)(iii), do not apply to TAA.[67]

(5) DWG

NDOL's annual statewide performance report narrative for local youth, adult, and dislocated worker programs and Wagner-Peyser must include information on DWGs awarded to Nebraska at the state or local level.[68]

(b) Use of SSNs[69]

In general, SSNs are collected for reporting on primary indicators of performance for:

- employment status in the second and fourth quarters after exit;
- median earnings in the second quarter after exit; and
- post-exit employment status for participants who attain secondary school diplomas or their recognized equivalent.

SSNs are also collected for reporting on the effectiveness in serving employers indicator regarding approach 1, retention with the same employer, which is described in Section I(f). Matching a participant's SSN against quarterly wage record information is, where a wage match is available, the most efficient method for determining employment status and earnings for a program participant.

NOTE. Program services *must not* be withheld if an individual is unwilling or unable to disclose an SSN.[70] More specifically, program eligibility *is not* contingent on the provision of an SSN for any of the core programs.[71]

(c) Supplemental wage data[72]

While the most efficient method for determining employment status and earnings for program participants is to obtain quarterly wage records for those participants, wage records may not be available in all circumstances. Supplemental wage information may be used for the employment-

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[66] TEGL 1-19. US Department of Labor, "Quarterly Report," under "WIOA Time Periods for Reporting," https://www.doleta.gov/performance/reporting/timeline.cfm [accessed August 15, 2019]
[67] TEGL 14-18 Attachment 10
[68] TEGL 5-18; TEGL 14-18 Attachment 6
[69] TEGL 14-18
[70] Sec. 7(a)(1) of the Privacy Act of 1974 [5 USC 552a note]
[71] *Core programs* refers to Title I programs (youth, adult, and dislocated worker), Title I programs (Adult Education and Family Literacy Act), Title III (Wagner-Peyser Employment Service), and Title IV programs (vocational rehabilitation).
[72] TEGL 10-16 Change 1; TEGL 14-18

related performance indicators *only* in those circumstances where wage records are not available or may not apply (e.g., for participants who are self-employed or are unwilling or unable to provide a social security number). In such circumstances, the applicable program must gather supplemental wage information to determine employment and earnings status for performance reporting purposes. In addition, supplemental wage information must be well documented for monitoring and data validation purposes and is subject to records retention policies.[73] When it is determined that supplemental wage information is needed, acceptable forms of supplemental wage information, include, but are not limited to:[74]

- employment records from Federal and state sources, such as:
    - state department of revenue or taxation; or
    - Railroad Retirement System;
- tax documents, payroll records, and employer records such as:
    - copies of quarterly tax payment forms to the internal revenue service, such as a form 941 (employer's quarterly tax return);
    - copies of pay stubs (minimum of two pay stubs required); or
    - signed letter or other information from employer on company letterhead attesting to an individual's employment status and earnings;
- other supplemental wage records:
    - follow-up survey from program participants (self-reported);
    - income earned from commission in sales or other similar positions;
    - detailed case notes, verified by the employer and signed by the case manager, if appropriate to the program;
    - automated database systems or data matching with other partners with whom data sharing agreements exist;
    - administrative records of one-stop operating systems, such as current records of eligibility for programs with income-based eligibility, such as TANF and SNAP; or
    - self-employment worksheets signed and attested to by program participants.

Program staff conducting supplemental wage information follow-up should be trained in the implementation of follow-up procedures, including:

- what to say to former participants or their employers to encourage their cooperation;

[73] Refer to the State's policy on records management. The State's policies are accessible at https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/Policies.
[74] TEGL 26-16

- ways to encourage voluntary and truthful disclosure;
- how to document the information received; and
- how to respond to questions related to the supplemental wage information follow-up process.[75]

Program staff should be thoroughly familiar with all follow-up procedures established for their respective program *before* beginning the follow-up process.

NDOL will provide technical assistance to programs regarding the collection of supplemental wage information.

(d) Negotiated levels of performance

USDOL issued guidance regarding negotiation of state and local performance goals for PY 2016 through PY 2019 under TEGLs 26-15 and 9-17. Guidance on negotiation of performance goals for subsequent program years has not been issued. NDOL assumes guidance for future program years will align with that issued under TEGLs 26-15 and 9-17. Until future Federal guidance is issued, NDOL establishes the requirements in this Section III(d) based on the requirements of TEGLs 26-15 and 9-17. When subsequent guidance is issued, this policy will be revised as necessary.

The following definitions apply to state and local performance negotiations.[76] For purposes of this policy, the following definitions apply to youth, adult, and dislocated worker programs and Wagner-Peyser.

- *Expected levels of performance* are the levels of performance for each primary indicator of performance (described in Section I) for youth, adult, and dislocated worker programs and Wagner-Peyser, as submitted with the state's current Combined State Plan prior to negotiations for the applicable program years.
- *Negotiated levels of performance* are the levels of performance for each primary indicator of performance for youth, adult, and dislocated worker programs and Wagner-Peyser, and agreed to by the state and the Secretary of Labor prior to the start of the program year. The agreed-upon *negotiated levels of performance* are incorporated into the Combined State Plan.
- *Adjusted levels of performance* are the *negotiated levels of performance* after being revised at the end of the program year using the *statistical adjustment model* (described below). The *statistical adjustment model* is run before a program year and after the close of a program year to account for actual economic conditions and characteristics of participants served. The difference between projected levels of performance (estimated by USDOL) before and after a program year yield an adjustment factor. The adjustment

[75] TEGL 14-18 Appendix VI. A technical assistance resource for training purposes on is available on the WIOA Resources page at https://dol.nebraska.gov/EmploymentAndTraining/LCRWP/WIOA/Resources. Additional technical assistance is available upon written request by email to ndol.wioa_policy@nebraska.gov.
[76] TEGLs 26-15 and 9-17. Administrators of JVSG, TAA, and DWG programs must refer to program-specific laws, regulations, and guidance regarding performance levels for their respective programs.

factor is added to the *negotiated level of performance* to determine the *adjusted level of performance*.

- *Actual results* are the results reported by NDOL for each primary indicator of performance. *Actual results* are compared to the *adjusted levels of performance* at the close of the program year to determine if the state failed to meet *adjusted levels of performance*.

- *Baseline indicators*[77] are certain primary indicators of performance that will be used as baseline data to inform the process for determining *negotiated levels of performance* in future program years. The selection of a certain primary indicators of performance for designation as a *baseline indicator* is based on the likelihood of a state having adequate data with which to make a reasonable determination of an expected level of performance. While USDOL will not use *baseline indicators* in performance calculations and *baseline indicators* will not be used to determine if the state failed to meet its *adjusted levels of performance* for purposes of sanctions, the state must collect and report data for all primary indicators of performance, including those that have been designated as *baseline indicators*. The performance data reported by the state for *baseline indicators* serves to support negotiations and continue to build and refine the *statistical adjustment model* in future years.

- The *Statistical adjustment model*[78] is an objective statistical regression model used by USDOL and a state when determining *negotiated levels of performance* and when making adjustments to a state's *negotiated levels of performance*, at the end of the program year, to account for actual economic conditions and the characteristics of participants served.

NOTE. *Adjusted levels of performance* will be used to determine performance success or failure. Determinations of financial sanctions due to performance failure based on *adjusted levels of performance* for any overall state program score or indicator score *or* any single indicator will not occur until at least two full years of WIOA outcome data have been reported and used in the *statistical adjustment model* in the negotiation process.

(1) Use of the statistical adjustment model[79]

The statistical adjustment model is used to ensure that the negotiated levels of performance are based on the characteristics of participants and actual economic conditions. Characteristics of participants include indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency.[80] Actual economic conditions include differences in unemployment rates and job losses or gains in particular industries.[81]

The statistical adjustment model provides two major functions in performance negotiations and assessment. First, it is one of the factors used when coming to mutual agreement on the negotiated levels of performance. It is used to account for the expected characteristics of

[77] Baseline indicators for PY18 and PY19 include median earnings for youth programs and measurable skill gains for adult and dislocate worker programs.
[78] Required under WIOA Sec. 116(b)(3)(viii)
[79] TEGL 26-15. Refer to Attachment II of TEGL 26-15 for an executive summary of the statistical adjustment model methodology.
[80] Refer to Table A in Appendix II for a list of the explanatory variables on participant characteristics,
[81] Refer to Table B in Appendix II for a list of the explanatory variables on economic conditions.

participants to be served in the state and/or local areas and the expected economic conditions. Second, it is applied at the close of a program year to the negotiated level of performance, to adjust for actual characteristics of participants and actual economic conditions experienced. States and local areas are encouraged to reference available data tools to identify characteristics of state and local area populations and economic trends. A list of some of the available data tools is provided in APPENDIX III.

(2) State-level negotiations for youth, adult, and dislocated worker programs and Wagner-Peyser

Negotiation of performance levels for youth, adult, and dislocated worker programs and Wagner-Peyser is based on the statistical adjustment model and negotiated with USDOL biennially, when Nebraska's four-year Combined State Plan is submitted[82] and two-year modification of the Combined State Plan is submitted.[83]

NOTE. USDOL does not engage in mid-plan or mid-year renegotiations. Any changes in economic conditions during each two-year cycle are accounted for in the application of the statistical adjustment model at the end of the applicable program year when determining adjusted levels of performance.

(3) Local-level performance negotiations for youth, adult, and dislocated worker programs[84]

In addition to the negotiating state levels of performance with USDOL, NDOL must work with local workforce development areas to establish performance goals for local youth, adult, and dislocated worker programs. Negotiation of performance levels for local youth, adult, and dislocated worker programs is based on the statistical adjustment model and negotiated with NDOL biennially, when each local board's four-year local plan is submitted[85] and two-year modification of the local plan is submitted.[86]

The local board, chief elected official (CEO), and NDOL (on the Governor's behalf) must negotiate and reach agreement on local levels of performance based on the NDOL's negotiated levels of performance. In negotiating the local levels of performance, the local board, CEO, and NDOL must make adjustments for the expected economic conditions of the local area and expected characteristics of participants to be served in the local area, using the statistical adjustment model developed at the Federal level for local-level negotiations.

Performance negotiations with local boards will occur in two phases.

1. Prior to NDOL's negotiation of state-level performance levels for local youth, adult, and dislocated worker programs with USDOL, NDOL requires local-level input from each local board and CEO in the form of data provided through the local-level statistical adjustment model, which NDOL will provide. This input is necessary to assure accurate representation of the local-level characteristics of local youth, adult, and dislocated worker programs during state-level negotiations with USDOL.

[82] TEGL 26-15
[83] TEGL 9-17
[84] Ibid.
[85] TEGL 26-15
[86] TEGL 9-17

2. Following state-level negotiations with USDOL, NDOL will negotiate and reach agreement with the local board and CEO on local levels of performance based on the NDOL's negotiated levels of performance. Agreement on local levels of performance must be reached *by September 30* of each biennial negotiation cycle.

Requirements for local-level performance negotiations, including timelines, will be provided to local boards and CEOs in an Employment and Training Notice issued by NDOL.

NOTE. NDOL does not engage in mid-plan or mid-year renegotiations. Any changes in economic conditions during each two-year cycle are accounted for in the application of the statistical adjustment model at the end of the applicable program year when determining adjusted levels of performance.

Section V. Corrective action and sanctions[87]

(a) Sanctions against the state

Negotiated levels of performance for Nebraska's youth, adult, and dislocated worker programs and Wagner-Peyser program are adjusted annually at the close of each program year, through the application of the statistical adjustment model to account for actual characteristics of participants and actual economic conditions experienced during a program year. If Nebraska fails to meet adjusted levels of performance for the primary indicators of performance for youth, adult, and dislocated worker programs and Wagner-Peyser for any program year, Nebraska will receive technical assistance, including assistance in the development of a performance improvement plan provided by the Secretary of Labor. Whether Nebraska has failed to meet adjusted levels of performance for a program will be determined using the following three criteria.

1. The overall state program score, which is expressed as the percent achieved, compares the actual results achieved by a program on the primary indicators of performance to the adjusted levels of performance for that program. The average of the percentages achieved of the adjusted level of performance for each of the primary indicators by a core program constitutes the overall state program score. However, until all indicators for the program have at least two years of complete data, the overall state program score will be based on a comparison of the actual results achieved to the adjusted level of performance for each of the primary indicators that have at least two years of complete data for that program.

2. The overall state indicator score, which is expressed as the percent achieved, compares the actual results achieved on a primary indicator of performance by all core programs in the state to the adjusted levels of performance for that primary indicator. The average of the percentages achieved of the adjusted level of performance by all of the core programs on that indicator will constitute the overall state indicator score. However, until all indicators for the state have at least two years of complete data, the overall state indicator score will be based on a comparison of the actual results achieved to the adjusted level of performance for each of the primary indicators that have at least two years of complete data in the state.

[87] 20 CFR § 677.190

3. The individual indicator score, which is expressed as the percent achieved, compares the actual results achieved by each core program on each of the individual primary indicators to the adjusted levels of performance for each of the program's primary indicators of performance.

A performance failure occurs when:

- any overall state program score or overall state indicator score falls below 90 percent for the program year; or
- any of the state's individual indicator scores fall below 50 percent for the program year.

Nebraska will be subject to financial sanction under WIOA Sec. 116(f) if, for two consecutive program years, it fails to meet:[88]

- 90 percent of the overall state program score for the same program;
- 90 percent of the overall state indicator score for the same indicator; or
- 50 percent of the same indicator score for the same program.

In addition to financial sanctions for failure to meet adjusted levels of performance, Nebraska will be subject to administrative actions in the case of poor performance.[89] Further, Nebraska's performance achievement on the individual primary indicators will be assessed in addition to the overall state program score and overall state indicator score. Based on this assessment for performance on any individual primary indicator, the Secretary of Labor will require Nebraska to establish a performance risk plan to address continuous improvement on the individual primary indicator.

(b) Corrective action or sanctions against local areas[90]

If a local area fails to meet adjusted levels of performance for primary indicators of performance for youth, adult, and dislocated worker programs authorized in any program year, technical assistance must be provided by NDOL or, upon the Governor's request, by the Secretary of Labor. Technical assistance may include:

- assistance in the development of a performance improvement plan;
- development of a modified local or regional plan; or
- other actions designed to assist the local area in improving performance.

If a local area fails to meet adjusted levels of performance for the same primary indicators of performance for the same program for a third consecutive program year, the Governor must take corrective actions. Corrective actions must include the development of a reorganization plan, under which the Governor:

[88] 20 CFR § 677.195
[89] 20 CFR § 677.200
[90] 20 CFR § 677.220

- requires the appointment and certification of a new local board, consistent with the criteria established under 20 CFR § 679.350;
- prohibits the use of eligible providers and one-stop partners that have been identified as achieving poor levels of performance; or
- takes such other significant actions as the Governor determines are appropriate.

(1) Appeal[91]

The local board and CEO for a local area that is subject to a reorganization plan under WIOA Sec. 116(g)(2)(A) may appeal to the Governor, not later than 30 days after receiving notice of the reorganization plan, to rescind or revise the reorganization plan. The Governor must make a final decision within 30 days after receipt of the appeal.

The local board and CEO may appeal the final decision of the Governor to the Secretary of Labor no later than 30 days after receiving the decision from the Governor. Any appeal of the Governor's final decision must be:

- appealed jointly by the local board and CEO to the Secretary of Labor according to 20 CFR § 683.650; and
- must be submitted by certified mail, return receipt requested, to the Secretary of Labor, US Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, Attention: ASET; *and* a copy of the appeal must be simultaneously provided to the Governor.

Upon receipt of the joint appeal from the local board and CEO, the Secretary of Labor must make a final decision within 30 days. In making this determination, the Secretary of Labor may consider any comments submitted by the Governor in response to the appeal.

The decision by the Governor on the appeal becomes effective at the time it is issued and remains in effect unless the Secretary of Labor rescinds or revises the reorganization plan pursuant to WIOA Sec. 116(g)(2)(C).

DISCLAIMER

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

[91] 20 CFR § 677.225

APPENDIX I. Participation level services charts[92]

Table A. Participation-level services chart for Title I Youth programs

Youth Service Type Section 129(c)(2)	Service triggers inclusion as a participant[1]	Category of Service[2]
Tutoring, study skills training, dropout prevention	Yes	Career Service
Alternative secondary school services	Yes	Career Service
Paid and unpaid work experience	Yes	Career Service
Occupational skills training	Yes	Training
Education offered concurrently with workforce preparation	Yes	Career Service
Leadership development	Yes	Career Service
Supportive Services	Yes	Career Service
Adult mentoring	Yes	Career Service
Follow-up services	No	Career Service
Comprehensive guidance and counseling	Yes	Career Service
Financial literacy education	Yes	Career Service
Entrepreneurial skills training	Yes	Career Service
Services that provide labor market information	Yes	Career Service
Postsecondary preparation and transition activities	Yes	Career Service

[1] All Youth program elements, except follow-up services, trigger participation following eligibility determination, objective assessment, and completion of the individual service strategy.

[2] Note that the categorization of career services and training services for the title I Youth program differs from the title I Adult and Dislocated Worker programs.

Table B. Participation-level services chart for Title I Adult and Dislocated Worker programs and Title III Wagner-Peyser Employment Service[1]

Service type (WIOA Sec. 134(c))	Service triggers inclusion as a participant	Category of service
Eligibility Determination	No	Basic Career Service
Outreach, Intake, Orientation	No	Basic Career Service
Initial assessment of skill levels & supportive service needs	Yes	Basic Career Service
Job search assistance (Self-directed)	No	Basic Career Service
Job search assistance (Staff-assisted)	Yes	Basic Career Service
Placement assistance (includes “Referred to Employment”) (Staff-assisted)	Yes	Basic Career Service
Career Counseling (includes “Staff-assisted career guidance”)	Yes	Basic Career Service
Providing info on in-demand sectors, occupations, or nontraditional employment	No	Basic Career Service
Provision of referrals and associated coordination of activities with other programs and services	No	Basic Career Service

[92] TEGL 14-18 Appendix III

Service type (WIOA Sec. 134(c))	Service triggers inclusion as a participant	Category of service
Provision of workforce and labor market employment statistics information	No	Basic Career Service
Provision of info on job vacancies	No	Basic Career Service
Provision of info on job skills necessary to fill vacancies	No	Basic Career Service
Provision of info on local demand occupations, with earnings, skill requirements, and opportunities for advancement for those jobs	No	Basic Career Service
Provision of performance and program cost info for providers of education and training	No	Basic Career Service
Provision of info on local performance	No	Basic Career Service
Provision of info on availability of supportive services or assistance	No	Basic Career Service
Referral to supportive services	No	Basic Career Service
Provision of information and meaningful assistance filing for UI	Yes	Basic Career Service
Assistance establishing eligibility for financial aid	Yes	Basic Career Service
Comprehensive and specialized assessments	Yes	Individualized Career Service
Development of IEP	Yes	Individualized Career Service
Group Counseling	Yes	Individualized Career Service
Individual Counseling	Yes	Individualized Career Service
Career Planning	Yes	Individualized Career Service
Short-term prevocational services	Yes	Individualized Career Service
Internships and work experiences (including transitional jobs)	Yes	Individualized Career Service
Workforce preparation activities	Yes	Individualized Career Service
Financial literacy services	Yes	Individualized Career Service
Out-of-area job search assistance and relocation assistance	Yes	Individualized Career Service
English-language acquisition and integrated education and training programs	Yes	Individualized Career Service
Follow up services	NA (must be a participant first to receive)	Follow up Service
Training services under Sec. 134(c)(3)(D) with exception of Sec. 134(c)(3)(D)(iii) (incumbent worker training)	Yes	Training
Incumbent Worker Training	No[2]	Training

[1] This this chart does not include all available services that may be provided, but rather those services specifically authorized under WIOA Sec. 134(c)(2). Additionally, these services do not indicate whether an individual is a participant, but rather which services trigger an individual to become a participant.

[2] Although Incumbent Worker Training is not a self-service or information-only service, individuals are not required to meet eligibility requirements for the Adult or Dislocated Worker programs to receive Incumbent Worker Training.

Table C. Participation-level services chart for DWG

Service Type (WIOA Secs. 134(c) and 170(d))	Does this service trigger inclusion as a participant?	Category of service
Eligibility Determination	No	Basic Career Service
Outreach, Intake, Orientation	No	Basic Career Service
Initial assessment of skill level & other service needs	Yes	Basic Career Service
Job search assistance (Self-directed)	No	Basic Career Service
Job search assistance (Staff-assisted)	Yes	Basic Career Service
Placement assistance (includes "Referred to Employment") (Staff-assisted)	Yes	Basic Career Service
Career Counseling (includes "Staff-assisted career guidance")	Yes	Basic Career Service
Providing info on in-demand sectors, occupations, or nontraditional employment	No	Basic Career Service
Provision of referrals and associated coordination of activities with other programs and services	Yes	Basic Career Service
Provision of workforce and labor market employment statistics information	No	Basic Career Service
Provision of info on job vacancies	No	Basic Career Service
Provision of info on job skills necessary to fill vacancies	No	Basic Career Service
Provision of info on local demand occupations, with earnings, skill requirements, and opportunities for advancement for those jobs	No	Basic Career Service
Provision of performance and program cost info for providers of education and training	No	Basic Career Service
Provision of info on local performance	No	Basic Career Service
Provision of info on availability of supportive services or assistance	No	Basic Career Service
Referral to supportive services	Yes	Basic Career Service
Provision of information and meaningful assistance filing for UI	Yes	Basic Career Service
Assistance establishing eligibility for financial aid	Yes	Basic Career Service
Comprehensive and specialized assessments	Yes	Individualized Career Service
Development of IEP	Yes	Individualized Career Service
Group Counseling	Yes	Individualized Career Service
Individual Counseling	Yes	Individualized Career Service
Career Planning	Yes	Individualized Career Service
Short-term prevocational services	Yes	Individualized Career Service
Internships and work experiences (including transitional jobs)	Yes	Individualized Career Service
Workforce preparation activities	Yes	Individualized Career Service
Financial literacy services	Yes	Individualized Career Service
Out-of-area job search assistance and relocation assistance	Yes	Individualized Career Service
English-language acquisition and integrated education and training programs	Yes	Individualized Career Service

Service Type (WIOA Secs. 134(c) and 170(d))	Does this service trigger inclusion as a participant?	Category of service
Training services under WIOA section 134(c)(3)(D) with exception of section 134(c)(3)(D)(iii) (incumbent worker training)	Yes	Training
Received Disaster Relief Employment on projects as defined in WIOA section 170(d)(1)(A) (Disaster Recovery DWG only)	Yes	Disaster Relief Employment
Safety orientation, safety training, equipment training (for Disaster Relief Employment under Disaster Recovery DWG only)	Yes	Disaster Relief Employment
Supportive Services authorized in WIOA section 134(d)(2) and defined in 20 CFR 680.900	No	Supportive Services

* The DWG Participation Level Services Chart aligns with WIOA Title I Dislocated Worker program definitions.

APPENDIX II. Statistical adjustment model explanatory variables[93]

Table A. Explanatory variables on participant characteristics

Variable description	Adult	Dislocated worker	Youth	Wagner-Peyser
Female	X	X	X	X
14<=Age<=15	NA	NA	X	NA
16<=Age<=17	NA	NA	X	NA
Age=18	NA	NA	X	NA
19<=Age<=20	NA	NA	X	NA
26<=Age<=35	X	X	NA	X
36<=Age<=45	X	X	NA	X
46<=Age<=55	X	X	NA	X
56<=Age<=65	X	X	NA	X
66<=Age	X	X	NA	X
Hispanic ethnicity	X	X	X	X
Race: Asian (not Hispanic)	X	X	X	X
Race: Black (not Hispanic)	X	X	X	X
Race: Hawaiian/Pacific Islander (not Hispanic)	X	X	X	X
Race: American Indian or Native Alaskan (not Hispanic)	X	X	X	X
Race: More than one (not Hispanic)	X	X	X	X
Highest grade completed: Less than High School graduate	X	X	X	X
Highest grade completed: High school equivalency	X	X	X	X
Highest grade completed: Some college	X	X	X	X
Highest grade completed: Certificate or Other Post-Secondary Degree	X	X	X	X
Highest grade completed: Associate degree	X	X	NA	X
Highest grade completed: Bachelor degree	X	X	NA	X
Employed at participation	X	X	X	NA
Individual with a disability	X	X	X	NA
Veteran	X	X	NA	NA
Had earnings in 2nd and 3rd preprogram quarters	X	X	NA	X
Had earnings in 3rd preprogram quarter	X	X	NA	X
Had earnings in 2nd preprogram quarter	X	X	NA	X
Received services financially assisted under the Wagner-Peyser Act	X	X	X	NA
Limited English-language proficiency	X	X	X	NA
Single parent	X	X	NA	NA
Low income	X	X	X	NA
TANF recipient	X	X	X	NA
Other public assistance recipient	X	X	X	NA
Homeless	X	X	X	NA
Offender	X	X	X	NA
Unemployment insurance claimant, non-exhaustee	X	X	X	NA
Unemployment insurance claimant, exhaustee	X	X	X	NA
Received supportive services	X	X	NA	NA
Received needs-related payments	X	X	NA	NA

[93] TEGL 26-15 Attachment II

Variable description	Adult	Dislocated worker	Youth	Wagner-Peyser
Received intensive services	X	X	NA	NA
Received training services	X	X	NA	NA
Established Individual Training Account (ITA)	X	X	NA	NA
Pell grant recipient	X	X	X	NA
Received pre-vocational activity services	X	X	NA	NA
Pregnant or parenting youth	NA	NA	X	NA
Youth who needs additional assistance	NA	NA	X	NA
Youth enrolled in education at or during program participation	NA	NA	X	NA
Youth enrolled in education at exit	NA	NA	X	NA
Youth enrolled in education at participation	NA	NA	X	NA
Youth with basic literacy skills deficiency (at or below 8th grade)	NA	NA	X	NA
Youth that is or was in foster care	NA	NA	X	NA
Youth that received educational achievement services	NA	NA	X	NA
Youth that received employment opportunities	NA	NA	X	NA
Youth participated in an alternative school	NA	NA	X	NA
Average educational functioning level for Youth participants	NA	NA	X	NA
Average standardized pre-test score	NA	NA	X	NA
Average standardized post-test score	NA	NA	X	NA

Table B. Explanatory variables on economic conditions

variable	Definition
UnempRate	Not seasonally adjusted quarterly unemployment rate
NatResEmp	Percentage of total employment in NAICS 1133-Logging, and Sector 21-Mining
ConstEmp	Percentage of total employment in Sector 23-Construction
ManfEmp	Percentage of total employment in Sectors 31, 32, 33-Manufacturing
TechEmp	Percentage of total employment in Sector 51-Information, Sector 52-Finance and Insurance, Sector 53-Real Estate and Rental and Leasing, Sector 54-Professional, Scientific, and Technical Services, Sector 55-Management of Companies and Enterprises, and Sector 56-Administrative and Waste Services
EdHealthEmp	Percentage of total employment in Sector 61-Eductaional Services, and Sector 62-Health Care and Social Assistance
LeisHospEmp	Percentage of total employment in Sector 71-Arts, Entertainment, and Recreation, and Sector 71-Accommodations and Food Services
OtherServEmp	Percentage of total employment in Sector 81-Other Services
PublicAdminEmp	Percentage of total employment in Federal, State, and Local Government

APPENDIX III. Data tools for identifying characteristics of participants and economic conditions

A number of data tools are available to identify characteristics of a state's population and its economic trends:

- State Labor Market Information department websites:
  - https://www.careerinfonet.org/state1.asp?next=state1&id=11&nodeid=12&soccode=&menuMode=&stfips=31&x=30&y=10; and
  - https://neworks.nebraska.gov/vosnet/lmi/default.aspx?pu=1
- StatsAmerica: http://www.statsamerica.org
- Census Bureau Population Data: https://www.census.gov/topics/population.html
- Regional Economic Data: http://www.bea.gov/regional/
- Business and Economic Data: https://www.census.gov/econ/geography.html
- Quarterly Census of Employment and Wages: http://www.bls.gov/cew/datatoc.htm
- Demographic Narrative Profiles: https://www.census.gov/acs/www/data/data-tables-and-tools/narrative-profiles/2017/
- American FactFinder: https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml
- Disability Data Resources: https://www.dol.gov/odep/pubs/fact/data.htm
- Educational Attainment Profiles: https://nces.ed.gov/programs/maped/