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STATE INSTRUCTION NUMBER 19-05

To: Local Workforce Area Signatory Officials
Local Workforce Area Board Chairs
Local Workforce Area Administrators

Subject: Workforce Innovation and Opportunity Act Youth Program Eligibility, Expenditures, and Service Requirements

Issuance Date: May 15, 2020

Effective Date: Immediately

Purpose: To provide guidance on the Workforce Innovation and Opportunity Act Youth program eligibility, expenditures, and service requirements. This guidance replaces State Instructions 15-13 and 15-13, Change 1.

References:

- Workforce Innovation and Opportunity Act, Public Law 113-128 § 129
- 20 CFR Part 681
- Training and Employment Guidance Letter (TEGL) 23-14
- Training and Employment Guidance Letter (TEGL) 8-15
- Training and Employment Guidance Letter (TEGL) 21-16
- Training and Employment Notice (TEN) 22-19

Background: Title I of WIOA outlines a broad youth vision that supports an integrated service delivery system and provides a framework through which states and Local Workforce Development Areas (LWDAs) can leverage other federal, state, local, and philanthropic resources to support in-school youth (ISY) and out-of-school youth (OSY). To be eligible for the WIOA youth program, individuals must meet one or more of the eligibility barriers listed in WIOA § 129(a)(1)(B)(iii) for OSY and WIOA § 129(a)(1)(C)(iv) for ISY. The WIOA youth program includes requirements and exceptions for low-income status for ISY and OSY.

Policy: Specific requirements regarding the WIOA youth program eligibility, expenditures, and service requirements are outlined below.

I. Eligibility

WIOA defines eligibility criteria for OSY and ISY and expands the age of eligibility for OSY to 24.

An OSY is an individual who is not younger than age 16 or older than 24 at the time of enrollment, is not attending any school, and is one or more of the following:

- School Dropout
- Youth who is within the age of compulsory school attendance (defined as under the age of 17 in South Carolina), but has not attended school for at least the most recent complete school year calendar quarter (based on how a local school district defines its school year quarters)
- Low-income individual who is a recipient of a secondary school diploma, or its recognized equivalent, and is either basic skills deficient or an English language learner
- Individual who is subject to the juvenile or adult justice system
- Homeless individual (as defined in the Violence Against Women Act of 1994 or the McKinney-Vento Homeless Assistance Act), a runaway, an individual who is in foster care or who has aged out of the foster care system, a child eligible for assistance under the Social Security Act § 477, or an individual who is in an out-of-home placement
- Individual who is pregnant or parenting
- Individual with a disability
- Low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment

An ISY is an individual who is not younger than age 14 or older than 21 at the time of enrollment, is attending school, is low-income, and is one or more of the following:

- Basic skills deficient
- English language learner
- Offender
- Homeless individual (as defined in the Violence Against Women Act of 1994 or the McKinney-Vento Homeless Assistance Act), a runaway, an individual who is in foster care or who has aged out of the foster care system, a child eligible for assistance under the Social Security Act § 477, or an individual who is in an out-of-home placement
- Individual who is pregnant or parenting
- Individual with a disability
- Individual who requires additional assistance to complete an educational program or to secure or hold employment

School refers to both secondary and post-secondary school. However, the US Department of Labor (DOL) does not consider providers of Adult Education under Title II of WIOA, YouthBuild programs, the Job Corps programs, high school equivalency programs, and dropout re-engagement programs to be schools for the purposes of determining school status for eligibility. Youth attending these programs are considered to be OSY for WIOA youth program eligibility with one exception. Youth attending high school equivalency (HSE) programs, including those considered to be dropout re-engagement programs, funded by the K-12 school system that are classified by the school system as still enrolled in school are considered ISY.

Local Workforce Development Boards (LWDBs) must establish definitions and eligibility requirements in written policies when using the “requires additional assistance” criteria for OSY, as well as ISY. Policies should be reasonable, quantifiable, and based on evidence that the specific characteristic of the youth identified in the policy objectively requires additional assistance.

Low-Income Requirements

The low-income requirements for the WIOA youth program is satisfied when an individual meets any one of the following criteria:

- Receives, or in the past six months has received, or is a member of a family that is receiving, or in the past six months has received, assistance through the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance for Needy Families (TANF) program, or the Supplemental Security Income (SSI) program, or state or local income-based public assistance;
- Receives an income, or is a member of a family that receives an income that, in relation to family size, is not in excess of the most recent Family Income guidelines issued via State Instruction;
- Is a homeless individual as defined in the McKinney-Vento Homeless Act or the Violence Against Women Act of 1994;
- Receives, or is eligible to receive, a free or reduced-price lunch under the Richard B. Russell National School Lunch Act (based on an individual student’s eligibility as opposed to school-wide eligibility for free or reduced-price lunch)
- Is a foster child on behalf of whom state or local government payments are made;
- Is an individual with a disability whose own income meets the income requirement above, but who is a member of a family whose income does not meet this requirement; and/or
- Lives in a high poverty area.

High Poverty Area

A youth who lives in a high poverty area is automatically considered to be a low-income individual. A high poverty area is a census tract that has a poverty rate of at least twenty-five percent as set every five years using the American Community Survey 5-Year data.

The attached instructions should be used to find high poverty census tracts by address. The step-by-step instructions utilize the *Poverty Equal To or Greater Than 25%* spreadsheet, located on SCWOS in Staff Online Resources, and the GeoCoding website of the US Census Bureau.

Five Percent Low-Income Exception

Five percent of LWDA participants, who ordinarily would need to be low-income, do not need to meet the low-income provision. This includes all ISY and those OSY with a high school diploma, or its recognized equivalent who are either basic skills deficient or an English language learner, or those OSY who require additional assistance, as their only barriers. In each LWDA, the five percent is calculated based on the percent of newly enrolled youth each program year who would ordinarily be required to meet the low-income criteria.

For example, a LWDA served 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% low-income exception calculation. Therefore, 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.

Five Percent In-School Youth Limitation

Not more than five percent of ISY may be individuals whose only barrier is “requires additional assistance to complete an educational program or to secure and hold employment.” In each LWDA, this limitation is applied to all ISY newly enrolled each program year.

Basic Skills Deficient

Basic Skills Deficient means the youth has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test. A youth who scores a Department of Education’s National Reporting System (NRS) level 4 or below on the TABE 11&12 is considered Basic Skills Deficient (BSD). A youth may also be BSD if the youth 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. If a LWDA chooses to use this second definition of basic skills deficient, expanding beyond the sole use of TABE, the LWDB must issue a policy defining how a youth is basic skills deficient under this definition.

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 basic skills assessment, local programs are not required to use a NRS-approved assessment, 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.

In addition to being valid and reliable, any formalized testing used must 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. If a LWDA chooses to use less formal alternative assessment techniques to define basic skills deficiency, the LWDB policy defining basic skills deficient must include clear guidelines for when it is appropriate to use these alternative assessment techniques. Local programs may use previous basic skills assessment results if such previous assessments have been conducted within the past six months.

NOTE: in contrast to the initial basic skills assessment described above, if measuring EFL gains after program enrollment under the measureable skill gains indicator, local programs must use a NRS-approved assessment for both the EFL pre-test and post-test to determine an individual's EFL. Neither WIN Ready to Work, nor WorkKeys, are NRS-approved assessments.

II. Expenditures

Expenditures on Out-of-School Youth

A minimum of 75% of WIOA youth funds is required to be spent on OSY. Administrative costs are not a part of the 75% OSY expenditure calculation. Further, the 75% expenditure rate is a minimum requirement. Therefore, LWDA's may spend up to 100% of their youth funds on OSY if they choose. The OSY expenditure rate is tracked for a specific program year allocation. While compliance with the requirement is evaluated upon full expenditure of allocated funds, LWDA's should review expenditures on OSY at least quarterly to ensure the requirement is met at the end of the grant period.

Work-Based Activities

Under WIOA, a minimum of 20% of LWDA youth funds must be spent on work-based activities. Administrative costs are not included in the 20% requirement. Additionally, the 20% expenditure requirement is not applied separately for ISY and OSY; it is applied to the youth program expenditures as a whole. The 20% minimum work-based activities expenditure requirement is tracked for a specific program year allocation. While compliance with the requirement is evaluated upon full expenditure of allocated funds, LWDA's should review expenditures on work-based activities at least quarterly to ensure the requirement is met at the end of the grant period. Paid and unpaid work-based activities that have both academic and occupational education as a component may include the following four categories as discussed in 20 CFR § 681.600(c):

- Summer employment opportunities and other employment opportunities available throughout the school year
- Pre-apprenticeship programs
- Internships and job shadowing
- On-the-job training opportunities

These four categories of work experiences are not all inclusive of the types of activities that could count for a work experience. Under 20 CFR § 681.600(a), an activity meets the definition of work experience if the activity is a planned, structured learning experience that takes place in a workplace for a limited period of time. For example, volunteer or community service work may be a type of work experience. While community service also falls under the program element of leadership development, if it meets the definition of work experience (i.e., a planned, structured learning experience that takes place in a workplace for a limited period of time), it could be considered a work experience activity and count toward the work experience expenditure requirement.

Program expenditures on work-based activities include wages as well as staffing costs for the development and management of work-based learning opportunities. Allowable expenditures beyond wages can include the following:

- Staff time spent identifying potential work-based opportunities
- Staff time working with employers to develop the work-based learning activity
- Staff time spent working with employers to ensure a successful work-based learning experience
- Staff time spent evaluating the work-based activity
- Participant work-based activity orientation sessions
- Classroom training or the required academic education component directly related to the work-based activity
- Orientations for employers

III. Service Requirements

Program Elements

WIOA requires that local WIOA youth programs make each of the 14 program elements available to youth participants. The following program elements can be made available through specific service providers or partner programs as well as through leveraged resources:

- Tutoring, study skills training, instruction and evidence-based dropout prevention and recovery strategies that lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized post-secondary credential
- Alternative secondary school services, or dropout recovery services, as appropriate
- Paid and unpaid work experiences that have academic and occupational education as a component of the work experience, which may include the following types of work experiences listed above
- Occupational skill training, which includes priority consideration for training programs that lead to recognized post-secondary credentials that align with demand industry sectors or occupations in the LWDA involved, if the LWDB determines that the programs meet the quality criteria described in WIOA § 123

Note: ISY cannot use youth program-funded ITAs. However, ISY may co-enroll in the WIOA adult program, and may receive training services through an ITA funded by the adult program, if the young adult's individual needs, knowledge, skills, and interests align with the adult program.

- Education offered concurrently with and, in the same context as, workforce preparation activities and training for a specific occupation or occupational cluster
- Leadership development opportunities, including community service and peer-centered activities encouraging responsibility and other positive social and civic behaviors
- Supportive services
- Adult mentoring for a duration of at least twelve months that may occur both during and after program participation
- Follow-up services for not less than twelve months after the completion of participation
- Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling, as well as referrals to counseling, as appropriate to the needs of the individual youth
- Financial literacy education
- Entrepreneurial skills training
- Services that provide labor market and employment information about in-demand industry sectors or occupations available in the LWDA, such as career awareness, career counseling, and career exploration services
- Activities that help youth prepare for and transition to post-secondary education and training

Action: Please ensure that all appropriate staff receive and understand this policy guidance.

Inquiries: Questions may be directed to Policies and Procedures at PolnPro@dew.sc.gov.



Kevin Cummings, Director

Technical Services, Policies and Reporting

Attachment: Instructions for Finding High Poverty Census Tract by Address