

New Jersey Workforce Innovation Notice 1-16 (A)

TO: Workforce Development System

FROM: John Bicica, Chief,
Office of WIOA Technical Assistance and Capacity Building

DATE: July 11, 2016

SUBJECT: Workforce Innovation and Opportunity Act Final Rules

Purpose

To announce the publication of the Workforce Innovation and Opportunity Act (WIOA) Final Rules on the United States Department of Labor Employment and Training Administration website. Please note, that the United States Department of Labor has submitted these rules to the Office of the Federal Register, and only the version published in the Federal Register is the official version.

Background

On Thursday, June 30, 2016, the following Final Rules were made available:

WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule

Link: <https://www.doleta.gov/wioa/Docs/wioa-regs-joint-final-rule.pdf>

WIOA Department of Labor Only Final Rules

Link: <https://www.doleta.gov/wioa/Docs/wioa-regs-labor-final-rule.pdf>

Programs Authorized under Adult Education and Family Literacy Act Final Rules

Link: <http://www.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-aeffa-final-rule.pdf>

Vocational Rehabilitation Services Limitations on Use of Subminimum Wage Final Rule

Link: <http://www.ed.gov/about/offices/list/osers/rsa/wioa-vr-final-rule.pdf>

Significant Changes from the Notice of Proposed Rulemaking

The following are some of the significant changes or clarifications where there is a difference between the Notice of Proposed Rulemaking (NPRM) and the Final Rules. Additional guidance will be issued on these topics.

Youth Services-WIOA Sec. 123 and the NPRM required that all youth program elements be procured through a competitive process. The Labor Final Rules at 681.400 significantly changes this, allowing the grant recipient (local area) to directly provide services:

(a) The grant recipient/fiscal agent has the option to provide directly some or all of the youth workforce investment activities.

(b) However, as provided in WIOA sec. 123, if a Local WDB chooses to award grants or contracts to youth service providers to carry out some or all of the youth workforce investment activities, the Local WDB must award such grants or contracts on a competitive basis, subject to the exception explained below at paragraph (b)(4) of this section:

(1) The Local WDB must identify youth service providers based on criteria established in the State Plan (including such quality criteria established by the Governor for a training program that leads to a recognized postsecondary credential) and take into consideration the ability of the provider to meet performance accountability measures based on the primary indicators of performance for youth programs.

(2) The Local WDB must procure the youth service providers in accordance with the Uniform Guidance at 2 CFR parts 200 and 2900, in addition to applicable State and local procurement laws.

(3) If the Local WDB establishes a standing youth committee under § 681.100 it may assign the committee the function of selecting of grants or contracts.

(4) Where the Local WDB determines there are an insufficient number of eligible youth providers in the local area, such as a rural area, the Local WDB may award grants or contracts on a sole source basis.

Comments-The United States Department of Labor provided the following comments on this change: “While this revision represents a significant change in that it provides local Workforce Development Boards with flexibility in determining which youth services to procure, the Department expects Local WDBs to continue to contract with youth service providers to provide the program elements which youth service providers are best positioned to offer. The intent of this flexibility is to allow for Local WDBs to directly provide the WIOA youth program elements that they can most efficiently and cost-effectively provide, such as labor market and employment information and framework services including assessment, intake, supportive services and follow-up services.”

Definition of Participant (WIOA Title I Youth Program)-The Joint Labor and Education Final Rules at 677.150(a)(2) provides a clarification of the definition of a WIOA Title I Youth participant, specifying that before being considered a participant, that in addition to having an eligibility determination and the provision of a program element, the youth must have received an objective assessment and have an individual service strategy:

For the Workforce Innovation and Opportunity Act (WIOA) title I youth program, a participant is a reportable individual who has satisfied all applicable program requirements for the provision of

services, including eligibility determination, an objective assessment, and development of an individual service strategy, and received 1 of the 14 WIOA youth program elements identified in sec. 129(c)(2) of WIOA.

Transfer Authority (WIOA Title I Adult and Dislocated Worker)-WIOA Sec. 133(b)(4) and the NPRM at 20 CFR 680.130 provided local areas the option of transferring up to 100 percent of adult program funds to the dislocated worker allocation and up to 100 percent of dislocated worker program funds to the adult allocation based on the approval of the State. The Labor Final Rules at 683.130(c) adds the requirement that the State **must** establish and document criteria or factors on which to base the approval, and that these must be documented:

“Before making any transfer described in paragraph (a) of this section, a Local WDB must obtain the Governor’s written approval. The Governor’s written approval must be based on criteria or factors that the Governor must establish in a written policy, such as the State Unified or Combined Plan or other written policy.”

Transfer to or from the youth program remains prohibited. The State will not approve any transfer requests until these criteria/factors have been documented in a written policy that is disseminated to the local workforce development areas.

New Jersey Workforce Innovation Notice Changes

Beginning with this document, in addition to the volume number and Program Year [i.e. NJWIN 1(Volume)-16(Program Year)], New Jersey Workforce Innovation Notices will also be assigned with a letter that designates a general subject area:

A-Administrative (General one-stop program guidance)

F-Fiscal (Procurement, resource sharing and related topics)

Y-Youth (WIOA Youth program guidance only)

Additional subject area designations may be added as necessary.

Also please note that beginning with this document, a “Rescissions” section is added which lists any previously issued New Jersey Workforce Innovation Notices that are rescinded.

Rescissions:

NJWIN 4-15 (Adult and Dislocated Worker Fund Transfer Requests)

NJWIN 10-15 (WIOA Youth Program Design and Leveraging)

Action Required

This document is to be distributed to all local area staff and relevant one-stop partners.

Authority

New Jersey Department of Labor and Workforce Development	X
State Employment And Training Commission	

Questions

For questions regarding this guidance, contact John Bicica, Chief, Office of WIOA Technical Assistance and Capacity Building, at john.bicica@dol.nj.gov