

# New Jersey

## Workforce Innovation Notice 18-16(A)

**TO:** Workforce Development System

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

**SUBJECT:** Training and Employment Guidance Letter 19-16

**DATE:** March 29, 2017

**Purpose:** To provide the federal guidance related to the provision of WIOA Title Adult and Dislocated Worker and Title II services.

### **Background**

The United States Department of Labor (DOL) issued Training and Employment Guidance Letter (TEGL) 19-16, which provides guidance on the provision of services in one-stop career centers. The full TEGL can be accessed here: [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_19-16.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_19-16.pdf) Below are key provisions of the TEGL:

### **Basic Career Services**

Basic career services are universally accessible and must be made available to all individuals seeking employment and training services in at least one comprehensive American Job Center per local area. Generally, these services involve less staff time and involvement and include services such as: eligibility determinations, initial skill assessments, labor exchange services, provision of information on programs and services, and program referrals. These services may be provided by both the Adult and Dislocated Worker programs, as well as by the Employment Service.

### **Individualized Career Services**

Individualized career services must be provided to participants after American Job Center staff determine that such services are required to retain or obtain employment, consistent with any applicable statutory priorities. Generally, these services involve significant staff time and customization to each individual's need. Individualized career services include services such as: specialized assessments, developing an individual employment plan, counseling, work experiences (including transitional jobs), etc.

Local Workforce Development Boards (WDBs) must identify the assessments to be used to determine eligibility, and ensure eligibility determination procedures are consistent with state

policies. American Job Center staff may use recent previous interviews, evaluations, or assessments by partner programs to determine if individualized career services would be appropriate. These services generally will be provided by the Adult and Dislocated Worker programs, although it may be appropriate for the Employment Service to provide some of these services.

### **Follow-up Services**

States and local areas must provide follow-up services for adults and dislocated worker participants who are placed in unsubsidized employment, for up to 12 months after the first day of employment. States and local areas must establish policies that define what are considered to be appropriate follow-up services, as well as policies for identifying when to provide follow-up services to participants. One type of follow-up service highlighted in WIOA is to provide individuals counseling about the work place. Follow-up services do not extend the date of exit in performance reporting; for more information on performance reporting see TEG 10-16.

**Transitional Jobs.** Transitional jobs are a type of work-experience Local WDBs may provide under WIOA and are considered an individualized career service. Transitional jobs are time-limited and wage-paid work experiences that are subsidized up to 100 percent. These jobs are in the public, private, or nonprofit sectors and are only available for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history, as determined by the Local WDB. Transitional jobs provide an individual with work experience that takes place within the context of an employee-employer relationship, in which the program provider generally acts as the employer, and with an opportunity to develop important workplace skills. The WIOA Final Rule governs the requirements for transitional jobs at 20 CFR 680.190 and .195.

This service must be combined with career and supportive services. These jobs must be designed to establish a work history for the individual, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment. Unlike on-the-job training (OJT), there is no requirement that the employer retains the individual upon completion of the transitional job; however, retention, where appropriate, is preferred for the benefit of the worker and employer. Under section 134(d)(5) of WIOA and 20 CFR 680.195 of the Final Rule, Local WDBs may use up to 10 percent of their combined total of adult and dislocated worker funds to provide transitional jobs to individuals. For example, if a local area receives \$1.5 million in adult funds and \$1.0 million in DW funds, the Local WDB may use up to \$250,000 (10% of the total) for transitional jobs.

If the Local WDB uses transitional jobs as part of its service delivery strategy, it must adopt policies and identify appropriate employers (public, private, or nonprofit). Additionally, these policies must include plans on the amount of reimbursements for the jobs (up to 100 percent of the wage), what supportive services must be included, and the limits on the duration of the transitional job. If states and Local WDBs choose to use transitional jobs as a strategy, they must develop policies for defining and identifying individuals who are “chronically unemployed” or “have an inconsistent work history”. The Department encourages targeting individuals who are long-term unemployed, ex-offenders, and individuals who are currently receiving or have exhausted TANF benefits when developing these policies. Additionally, the Department

encourages utilizing job readiness training in combination with transitional jobs if determined appropriate by the Local WDB.

### **Career Services provided by ES staff**

Labor exchange services, which are the primary services provided by ES staff, fall under the basic career services discussed in Section 4 of this TEG. Additionally, all of the basic career services must be made available by ES staff in coordination with other American Job Center partners. ES staff may also make available the individualized career services discussed in Section 4 of this TEG, and the Department encourages states to make these services available, particularly for those individuals with barriers to employment, such as the long-term unemployed, as defined in WIOA sec. 3(24). The WIOA Final Rules discuss career services provided by the ES program in 20 CFR 652.206 and 208.

### **Training Services**

Under WIOA, training services may be provided if the American Job Center staff, including partner programs' staff, determines after conducting an interview, an evaluation, or assessment, and career planning, that the individual:

Is unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services alone;

- Is in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment;
- Has the skills and qualifications to successfully participate in the selected program of training services;
- Is unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as State-funded training funds or Federal Pell Grants established under title IV of the Higher Education Act of 1965, or requires WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants (20 CFR 680.230 and WIOA sec. 134(c)(3)(B) contain provisions relating to fund coordination.);
- Is a member of a worker group covered under a petition filed for Trade Adjustment Assistance (TAA) and is awaiting a determination. If the petition is certified, the worker may then transition to TAA approved training. If the petition is denied, the worker will continue training under WIOA;
- Is determined eligible in accordance with the State and local priority system in effect for adults under WIOA sec. 134(c)(3)(E) if training services are provided through the adult funding stream; and
- Selected a program of training services that is directly linked to the employment opportunities in the local area or the planning region, or in another area to which the individual is willing to commute or relocate.

The Adult and Dislocated Worker Eligibility Guidelines provides information about recording these criteria.

Training services, when determined appropriate, must be provided either through an Individual Training Account (ITA) or through a training contract discussed in Section 8 of this TEG. Except in certain instances listed in WIOA sec. 122(h) and 20 CFR sec. 680.320, training services must be provided by an Eligible Training Provider (ETP) in accordance with WIOA sec. 122(d). Training is available through a State Eligible Training Provider and Program List (ETPL), comprised of entities determined eligible to receive funds through WIOA title I, subtitle B, according to the Governor's eligibility criteria and procedure. As described in TEG 41-14, the State ETPL ensures the accountability, quality and labor-market relevance of programs, and ensures informed customer choice for individuals eligible for training. WIOA also provides enhanced access and flexibility for work-based training options, such as Registered Apprenticeship (RA), on-the-job training, customized training, and incumbent worker training.

The list of ETPs must be made available to the Local WDB within the state by the State Workforce Agency (SWA), and to the participant by the Local WDB, in order to maximize consumer choice. The selection of training services should be conducted in a manner that maximizes customer choice, is linked to in-demand occupations, is informed by the performance of relevant training providers, and is coordinated to the extent possible with other sources of assistance, including Pell Grants (see WIOA sec. 134(c)(3)).

### **Training Contracts**

Individual Training Accounts (ITAs) are the primary method to be used for procuring training services under WIOA, similar to the provision of training services under WIA. However, in certain circumstances, a training contract may be used to provide training services, instead of an ITA. These circumstances are referred to as the "training exceptions" or "contract exceptions". Training contracts may only be used if at least one of the five circumstances listed below applies and the process for their use is described in the Local Plan. Additionally, the Local WDB must have fulfilled the consumer choice requirements of 20 CFR 680.340. Under section 134(c)(3)(G)(ii) of WIOA and consistent with 20 CFR 680.320, 680.340, and 680.530, states may use the contract exceptions as described below:

- On-the-job training, which may include paying for the on-the-job training portion of an RA program, customized training, incumbent worker training, or transitional jobs;
- If the Local WDB determines that there are an insufficient number of Eligible Training Providers in the local area to accomplish the purpose of a system of ITAs. This determination process must include a public comment period for interested providers of at least 30 days and must be described in the Local Plan;
- To use a training services program of demonstrated effectiveness offered in a local area by a community-based organization or other private organization to serve individuals with barriers to employment. The Local WDB must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to individuals with barriers to employment to be served. The criteria may include:

- o Financial stability of the organization;
- o Demonstrated performance in the delivery of services to individuals with barriers to employment through such means as program completion rate; attainment of the skills, certificates, or degrees the program is designed to provide; placement after training in unsubsidized employment, and retention in employment; and
- o How the specific program relates to the workforce investment needs identified in the local plan;
- If the Local WDB determines that the most appropriate training could be provided by an institution of higher education or other provider of training services in order to facilitate the training of a cohort of multiple individuals for jobs in-demand sectors or occupations, provided that the contract does not limit consumer choice; and
- If the Local WDB determines, a pay-for-performance contract is suitable consistent with 683.500 (note that no more than 10 percent of the local funds may be spent on pay-for-performance contract strategies as they are defined in section 3(47) of WIOA, and be consistent with 20 CFR 683.510).

Additionally, a Local WDB may determine that providing training through a combination of ITAs and contracts is the most effective approach. This approach could be used to support placing participants in programs such as Registered Apprenticeships and other similar types of training.

Under WIOA, there is no exclusion of payments for unemployment compensation, child support payments, and old-age survivors insurance benefits from the income calculations for determining if an individual is low-income. These exclusions that were previously provided under WIA sec. 101(25) no longer apply.

#### **Veterans and “Other Grant Assistance”**

Additionally, the WIOA Final Rules at 20 CFR 680.230, require coordinating WIOA funded training with “other grant assistance”, such as Federal Pell Grants. Some service providers have interpreted these provisions to mean that veterans or spouses who are eligible for the GI Bill or other forms of VA funded education or training are required to coordinate their entitlement to those benefits with their eligibility for WIOA funded training. Some have further interpreted the coordination requirement to mean that the VA funded training entitlement must be exhausted before the veteran or eligible spouse can be enrolled in WIOA funded training. However, VA benefits for education and training services do not constitute “other grant assistance” under WIOA’s eligibility requirements. Therefore, eligibility for VA benefits for education or training services do not preclude a veteran or the veteran’s eligible spouse from receiving WIOA funded services, including training funds. Similarly, WIOA program operators may not require veterans or spouses to exhaust their entitlement to VA funded training benefits prior to allowing them to enroll in WIOA funded training.

#### **References and Links**

TEGL 10-16 [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_10-16.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_10-16.pdf)

**Action Required**

This guidance should be shared with all relevant one-stop center staff and partner agencies.

**Rescissions**

None

**Authority**

New Jersey Department of Labor and Workforce Development	<b>X</b>
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](mailto:john.bicica@dol.nj.gov)