

**Workforce Development System  
Technical Advisory #19-2  
August 15, 2019**

**To:** Workforce Development Community

**SUBJECT:** Workforce Innovation and Opportunity Act (WIOA) Title I Youth Program – Participant Eligibility Criteria

**PURPOSE**

Provide guidance related to WIOA Title I Youth Program (hereafter “Youth Program”) eligibility criteria determined by New York State (NYS) or Local Workforce Development Boards (LWDBs).

**POLICY**

NYS defines the attending versus not attending school Youth Program eligibility criteria for In-School Youth (ISY) and Out-of-School Youth (OSY) per NYS Education law.

LWDBs establish local policy for basic skills deficiency criteria described in the WIOA regulations at 20 CFR §681.290(a)(2).

LWDBs determine whether to use the needs additional assistance eligibility criteria. If using the criteria, LWDBs must establish local needs additional assistance policy for both OSY and ISY, if applicable.

**ACTION**

LWDBs must take action related to the three (3) eligibility criteria identified in the Policy section of this Workforce Development System Technical Advisory: attending vs. not attending school, basic skills deficiency, and needs additional assistance.

**Attending versus Not Attending School**

Each LWDB must:

- Update its attending/not attending school eligibility determination, processes, and procedures to support WIOA compliance; and
- Determine the age of compulsory school attendance for the school districts in its local area.

Note that although NYS Education law mandates school attendance through the school year in which a minor turns 16 years of age, some school districts may mandate attendance through the school year in which a minor turns 17 years of age.

### **Basic Skills Deficiency**

LWDBs utilizing the basic skills deficiency criteria at 20 CFR §681.290(a)(1) must use standardized testing instruments to demonstrate a youth reads at or below the 8th grade level.

Per WIOA regulations at 20 CFR §681.290(b), LWDBs must create a basic skills deficiency policy for youth who are 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. This policy must be submitted to the New York State Department of Labor (NYS DOL) as part of the LWDB's Local Plan.

In assessing whether a youth meets the basic skills deficiency definition, LWDBs must:

- Use valid and reliable assessment(s) that are appropriate for the target population, showing that the youth is unable to demonstrate the competencies described in the definition;
- Use appropriate, fair, and cost-effective assessments that are well-matched to the test administrator's qualifications, easy to administer, and have results which are easy to interpret; and
- Provide reasonable accommodation in the assessment process, if necessary, for special populations (i.e., individuals with disabilities and individuals who are Limited English Proficient).

Note that the policy must indicate the special populations eligible to receive reasonable accommodation.

Basic skills deficiency assessments are not required to be approved for use by the United States Department of Education's National Reporting System (NRS).

LWDBs are expected to work with local partners with expertise in implementing valid and reliable assessments, appropriate for the target population.

Note, LWDBs may use previous basic skills assessment results if the assessments were conducted within the past six (6) months.

### **Needs Additional Assistance**

If a LWDB chooses to use the needs additional assistance criteria for eligibility, policies must be developed for:

- OSY to enter or complete an educational program or to secure or hold employment; and

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- ISY to complete an educational program or to secure and hold employment, if serving ISY.

An individual who needs additional assistance may include, but is not limited to, a youth who is, failing a core subject; a victim of abuse; suffering from substance or medical issues; an expectant father; and/or the child of an incarcerated parent. The LWDB is expected to tailor its needs additional assistance policy to reflect the specific characteristics prevalent of youth in the local area and who may benefit from Youth Program services or do not have other local services available.

Needs additional assistance policies must be reasonable, quantifiable, and based on evidence that specific characteristics of the youth identified in the policy objectively needs additional assistance.

Note that the specific needs additional assistance characteristics are different than WIOA Youth Program eligibility barriers and needs additional assistance criteria is limited to 5% of newly enrolled ISY in each program year.

LWDBs developing a policy for the needs additional assistance criteria must submit the policy to NYSDOL as part of their Local Plan.

## **ADDITIONAL INFORMATION**

For further information on ISY and OSY attending or not attending school, age of compulsory school attendance, basic skills deficiency, and other eligibility criteria, see the [WIOA Title I Youth Program Eligibility Guide](#).

## **REFERENCES**

The Workforce Innovation and Opportunity Act (WIOA) §129(a)

WIOA Regulations at 20 CFR §681.200 – §681.320

Training and Employment Guidance Letter (TEGL) No. 21-16, Operational Guidance for the Workforce Innovation and Opportunity Act

NYS Education Law §3205

## **INQUIRIES**

Inquiries regarding this TA may be directed to: [YouthTeam@labor.ny.gov](mailto:YouthTeam@labor.ny.gov).

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