

Wagner-Peyser Act that are proposed for waiver, if any;

(5) The statutory and regulatory requirements of the OAA that are proposed for waiver, if any;

(6) The outcomes to be achieved by the waivers described in paragraphs (b)(1) through (5) of this section including, where appropriate, revisions to adjusted levels of performance included in the State or local plan under title I of WIOA, and a description of the data or other information the State will use to track and assess outcomes; and

(7) The measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) A State's workforce flexibility plan may accompany the State's Unified or Combined State Plan, 2-year modification, or may be submitted separately as a modification to that plan.

(d) The Secretary may approve a workforce flexibility plan consistent with the period of approval of the State's Unified or Combined State Plan, and not for more than 5 years.

(e) Before submitting a workforce flexibility plan to the Secretary for approval, the State must provide adequate notice and a reasonable opportunity for comment on the proposed waiver requests under the workforce flexibility plan to all interested parties and to the general public.

(f) The Secretary will issue guidelines under which States may request designation as a work-flex State. These guidelines may require a State to implement an evaluation of the impact of work-flex in the State.

§ 679.640 What limitations apply to the State's workforce flexibility plan authority under the Workforce Innovation and Opportunity Act?

(a)(1) Under work-flex waiver authority a State must not waive the WIOA, Wagner-Peyser Act or OAA requirements which are excepted from the work-flex waiver authority and described in § 679.630(a).

(2) Requests to waive statutory and regulatory requirements of title I of WIOA applicable at the State level may not be granted under work-flex waiver authority granted to a State. Such requests only may be granted by

the Secretary under the general waiver authority described at §§ 679.610 through 679.620.

(b) As required in § 679.630(b)(6), States must address the outcomes to result from work-flex waivers as part of its workforce flexibility plan. The Secretary may terminate a State's work-flex designation if the State fails to meet agreed-upon outcomes or other terms and conditions contained in its workforce flexibility plan.

PART 680—ADULT AND DISLOCATED WORKER ACTIVITIES UNDER TITLE I OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

Subpart A—Delivery of Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act

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Subpart A—Delivery of Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act

§ 680.100 What is the role of the adult and dislocated worker programs in the one-stop delivery system?

(a) The one-stop delivery system is the basic delivery system for adult and dislocated worker services. Through this system, adults and dislocated workers can access a continuum of services. The services are classified as career and training services.

(b) The chief elected official or his/her designee(s), as the local grant recipient(s) for the adult and dislocated worker programs, is a required one-stop partner and is subject to the provisions relating to such partners de-

scribed in part 678 of this chapter. Consistent with those provisions:

(1) Career services for adults and dislocated workers must be made available in at least one one-stop center in each local area. Services also may be available elsewhere, either at affiliated sites or at specialized centers. For example, specialized centers may be established to serve workers being dislocated from a particular employer or industry, or to serve residents of public housing.

(2) Through the one-stop delivery system, adults and dislocated workers needing training are provided Individual Training Accounts (ITAs) and access to lists of eligible training providers and programs of training. These lists contain quality consumer information, including cost and performance information for each of the providers' programs, so that participants can make informed choices on where to use their ITAs. (ITAs are more fully discussed in subpart C of this part.)

§ 680.110 When must adults and dislocated workers be registered and considered a participant?

(a) Registration is the process for collecting information to support a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application. Individuals are considered participants when they have received a Workforce Innovation and Opportunity Act (WIOA) service other than self-service or information-only activities and have satisfied all applicable programmatic requirements for the provision of services, such as eligibility determination (*see* § 677.150(a) of this chapter).

(b) Adults and dislocated workers who receive services funded under WIOA title I other than self-service or information-only activities must be registered and must be a participant.

(c) EO data, as defined in § 675.300 of this chapter, must be collected on every individual who is interested in being considered for WIOA title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a

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request from the grant recipient or designated service provider.

§ 680.120 What are the eligibility criteria for career services for adults in the adult and dislocated worker programs?

To be eligible to receive career services as an adult in the adult and dislocated worker programs, an individual must be 18 years of age or older. To be eligible for any dislocated worker programs, an eligible adult must meet the criteria of § 680.130. Eligibility criteria for training services are found at § 680.210.

§ 680.130 What are the eligibility criteria for career services for dislocated workers in the adult and dislocated worker programs?

(a) To be eligible to receive career services as a dislocated worker in the adult and dislocated worker programs, an individual must meet the definition of “dislocated worker” at WIOA sec. 3(15). Eligibility criteria for training services are found at § 680.210.

(b) Governors and Local Workforce Development Boards (WDBs) may establish policies and procedures for one-stop centers to use in determining an individual’s eligibility as a dislocated worker, consistent with the definition at WIOA sec. 3(15). These policies and procedures may address such conditions as:

(1) What constitutes a “general announcement” of plant closing under WIOA sec. 3(15)(B)(ii) or (iii);

(2) What constitutes “unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters” for determining the eligibility of self-employed individuals, including family members and farm workers or ranch hands, under WIOA sec. 3(15)(C); and

(3) What constitutes “unlikely to return to a previous industry or occupation” under WIOA sec. 3(15)(A)(iii), consistent with § 680.660.

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§ 680.140 What Workforce Innovation and Opportunity Act title I adult and dislocated worker services are Local Workforce Development Boards required and permitted to provide?

(a) WIOA title I formula funds allocated to local areas for adults and dislocated workers must be used to provide career and training services through the one-stop delivery system. Local WDBs determine the most appropriate mix of these services, but both types must be available for eligible adults and dislocated workers. Different eligibility criteria apply for each type of services. See §§ 680.120, 680.130, and 680.210.

(b) WIOA title I funds also may be used to provide the additional services described in WIOA sec. 134(d), including:

(1) Job seeker services, such as:

(i) Customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities;

(ii) Training programs for displaced homemakers and for individuals training for nontraditional employment (as defined in WIOA sec. 3(37) as occupations or fields of work in which individuals of one gender comprise less than 25 percent of the individuals so employed), in conjunction with programs operated in the local area;

(iii) Work support activities for low-wage workers, in coordination with one-stop partners, which will provide opportunities for these workers to retain or enhance employment. These activities may include any activities available under the WIOA adult and dislocated worker programs in coordination with activities and resources available through partner programs. These activities may be provided in a manner that enhances the worker’s ability to participate, for example by providing them at nontraditional hours or providing on-site child care;

(iv) Supportive services, including needs-related payments, as described in subpart G of this part; and

(v) Transitional jobs, as described in § 680.190, to individuals with barriers to

employment who are chronically unemployed or have an inconsistent work history;

(2) Employer services, such as:

(i) Customized screening and referral of qualified participants in training services to employers;

(ii) Customized employment-related services to employers, employer associations, or other such organization on a fee-for-service basis that are in addition to labor exchange services available to employers under the Wagner-Peyser Act Employment Service;

(iii) Activities to provide business services and strategies that meet the workforce investment needs of area employers, as determined by the Local WDB and consistent with the local plan (see §678.435 of this chapter and WIOA sec. 134(d)(1)(A)(ix)); and

(3) Coordination activities, such as:

(i) Employment and training activities in coordination with child support enforcement activities, as well as child support services and assistance activities, of the State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 *et seq.*);

(ii) Employment and training activities in coordination with cooperative extension programs carried out by the Department of Agriculture;

(iii) Employment and training activities in coordination with activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

(iv) Improving coordination between workforce investment activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;

(v) Improving services and linkages between the local workforce development system (including the local one-stop delivery system) and employers, including small employers, in the local area;

(vi) Strengthening linkages between the one-stop delivery system and the unemployment insurance programs; and

(vii) Improving coordination between employment and training activities and programs carried out in the local

area for individuals with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by State-wide Independent Living Councils established under sec. 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of chapter 1 of title VII of such Act (29 U.S.C. 796e *et seq.*), and activities carried out by centers for independent living, as defined in sec. 702 of such Act (29 U.S.C. 796a);

(4) Implementing a Pay-for-Performance contract strategy for training services in accordance with §§683.500 through 683.530 of this chapter for which up to 10 percent of the Local WDB's total adult and dislocated worker funds may be used;

(5) Technical assistance for one-stop centers, partners, and eligible training providers (ETPs) on the provision of service to individuals with disabilities in local areas, including staff training and development, provision of outreach and intake assessments, service delivery, service coordination across providers and programs, and development of performance accountability measures;

(6) Activities to adjust the economic self-sufficiency standards referred to in WIOA sec. 134(a)(3)(A)(xii) for local factors or activities to adopt, calculate or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations;

(7) Implementing promising service to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising; and

(8) Incumbent worker training programs, as described in subpart F of this part.

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§ 680.150 What career services must be provided to adults and dislocated workers?

(a) At a minimum, all of the basic career services described in WIOA secs. 134(c)(2)(A)(i)–(xi) and § 678.430(a) of this chapter must be provided in each local area through the one-stop delivery system.

(b) Individualized career services described in WIOA sec. 134(c)(2)(A)(xii) and § 678.430(b) of this chapter must be made available, if determined appropriate in order for an individual to obtain or retain employment.

(c) Follow-up services, as described in WIOA sec. 134(c)(2)(A)(xiii) and § 678.430(c) of this chapter, must be made available, as determined appropriate by the Local WDB, for a minimum of 12 months following the first day of employment, to participants who are placed in unsubsidized employment.

§ 680.160 How are career services delivered?

Career services must be provided through the one-stop delivery system. Career services may be provided directly by the one-stop operator or through contracts with service providers that are approved by the Local WDB. The Local WDB only may be a provider of career services when approved by the chief elected official and the Governor in accordance with the requirements of WIOA sec. 107(g)(2) and § 679.410 of this chapter.

§ 680.170 What is the individual employment plan?

The individual employment plan (IEP) is an individualized career service, under WIOA sec. 134(c)(2)(A)(xii)(II), that is developed jointly by the participant and career planner when determined appropriate by the one-stop center or one-stop partner. The plan is an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for the participant to achieve the employment goals.

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§ 680.180 What is an internship or work experience for adults and dislocated workers?

For the purposes of WIOA sec. 134(c)(2)(A)(xii)(VII), an internship or work experience is a planned, structured learning experience that takes place in a workplace for a limited period of time. Internships and other work experience may be paid or unpaid, as appropriate and consistent with other laws, such as the Fair Labor Standards Act. An internship or other work experience may be arranged within the private for profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience setting where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists. Transitional jobs are a type of work experience, as described in §§ 680.190 and 680.195.

§ 680.190 What is a transitional job?

A transitional job is one that provides a time-limited work experience, that is wage-paid and subsidized, and is in the public, private, or non-profit sectors for those individuals with barriers to employment who are chronically unemployed or have inconsistent work history, as determined by the Local WDB. These jobs are designed to enable an individual to establish a work history, demonstrate work success in an employee-employer relationship, and develop the skills that lead to unsubsidized employment.

§ 680.195 What funds may be used for transitional jobs?

The local area may use up to 10 percent of their combined total of adult and dislocated worker allocations for transitional jobs as described in § 680.190. Transitional jobs must be combined with comprehensive career services (*see* § 680.150) and supportive services (*see* § 680.900).

Subpart B—Training Services

§ 680.200 What are training services for adults and dislocated workers?

Types of training services are listed in WIOA sec. 134(c)(3)(D) and in paragraphs (a) through (k) of this section.

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This list is not all-inclusive and additional training services may be provided.

(a) Occupational skills training, including training for nontraditional employment;

(b) On-the-job training (OJT) (*see* §§ 680.700, 680.710, 680.720, and 680.730);

(c) Incumbent worker training, in accordance with WIOA sec. 134(d)(4) and §§ 680.780, 680.790, 680.800, 680.810, and 680.820;

(d) Programs that combine workplace training with related instruction, which may include cooperative education programs;

(e) Training programs operated by the private sector;

(f) Skills upgrading and retraining;

(g) Entrepreneurial training;

(h) Transitional jobs in accordance with WIOA sec 134(d)(5) and §§ 680.190 and 680.195;

(i) Job readiness training provided in combination with services listed in paragraphs (a) through (h) of this section;

(j) Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with training services listed in paragraphs (a) through (g) of this section; and

(k) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training (*see* §§ 680.760 and 680.770).

§ 680.210 Who may receive training services?

Under WIOA sec. 134(c)(3)(A) training services may be made available to employed and unemployed adults and dislocated workers who:

(a) A one-stop center or one-stop partner determines, after an interview, evaluation, or assessment, and career planning, are:

(1) 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;

(2) In need of training services to obtain or retain employment leading to

economic self-sufficiency or wages comparable to or higher than wages from previous employment; and

(3) Have the skills and qualifications to participate successfully in training services;

(b) Select 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 individuals are willing to commute or relocate;

(c) Are unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as State-funded training funds, Trade Adjustment Assistance (TAA), and Federal Pell Grants established under title IV of the Higher Education Act of 1965, or require WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants (provisions relating to fund coordination are found at § 680.230 and WIOA sec. 134(c)(3)(B)); and

(d) If training services are provided through the adult funding stream, are determined eligible in accordance with the State and local priority system in effect for adults under WIOA sec. 134(c)(3)(E) and § 680.600.

§ 680.220 Are there particular career services an individual must receive before receiving training services under the Workforce Innovation and Opportunity Act?

(a) Yes, except as provided by paragraph (b) of this section, an individual must at a minimum receive either an interview, evaluation, or assessment, and career planning or any other method through which the one-stop center or partner can obtain enough information to make an eligibility determination to be determined eligible for training services under WIOA sec. 134(c)(3)(A)(i) and § 680.210. Where appropriate, a recent interview, evaluation, or assessment, may be used for the assessment purpose.

(b) The case file must contain a determination of need for training services under § 680.210 as determined through the interview, evaluation, or assessment, and career planning informed by local labor market information and training provider performance

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information, or through any other career service received. There is no requirement that career services be provided as a condition to receipt of training services; however, if career services are not provided before training, the Local WDB must document the circumstances that justified its determination to provide training without first providing the services described in paragraph (a) of this section.

(c) There is no Federally required minimum time period for participation in career services before receiving training services.

§ 680.230 What are the requirements for coordination of Workforce Innovation and Opportunity Act training funds and other grant assistance?

(a) WIOA funding for training is limited to participants who:

(1) Are unable to obtain grant assistance from other sources to pay the costs of their training; or

(2) Require assistance beyond that available under grant assistance from other sources to pay the costs of such training. Programs and training providers must coordinate funds available to pay for training as described in paragraphs (b) and (c) of this section. In making the determination under this paragraph (a), one-stop centers may take into account the full cost of participating in training services, including the cost of support services and other appropriate costs.

(b) One-stop centers must coordinate training funds available and make funding arrangements with one-stop partners and other entities to apply the provisions of paragraph (a) of this section. One-stop centers must consider the availability of other sources of grants to pay for training costs such as Temporary Assistance for Needy Families (TANF), State-funded training funds, and Federal Pell Grants, so that WIOA funds supplement other sources of training grants.

(c) A WIOA participant may enroll in WIOA-funded training while his/her application for a Pell Grant is pending as long as the one-stop center has made arrangements with the training provider and the WIOA participant regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the

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training provider must reimburse the one-stop center the WIOA funds used to underwrite the training for the amount the Pell Grant covers, including any education fees the training provider charges to attend training. Reimbursement is not required from the portion of Pell Grant assistance disbursed to the WIOA participant for education-related expenses.

Subpart C—Individual Training Accounts

§ 680.300 How are training services provided?

Training services for eligible individuals are typically provided by training providers who receive payment for their services through an ITA. The ITA is a payment agreement established on behalf of a participant with a training provider. WIOA title I adult and dislocated workers purchase training services from State eligible training providers they select in consultation with the career planner, which includes discussion of program quality and performance information on the available eligible training providers. Payments from ITAs may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments also may be made incrementally, for example, through payment of a portion of the costs at different points in the training course. Under limited conditions, as provided in § 680.320 and WIOA sec. 134(d)(3)(G), a Local WDB may contract for these services, rather than using an ITA for this purpose. In some limited circumstances, the Local WDB may itself provide the training services, but only if it obtains a waiver from the Governor for this purpose, and the Local WDB meets the other requirements of § 679.410 of this chapter and WIOA sec. 107(g)(1).

§ 680.310 Can the duration and amount of Individual Training Accounts be limited?

(a) Yes, the State or Local WDB may impose limits on ITAs, such as limitations on the dollar amount and/or duration.

(b) Limits to ITAs may be established in different ways:

(1) There may be a limit for an individual participant that is based on the needs identified in the IEP, such as the participant's occupational choice or goal and the level of training needed to succeed in that goal; or

(2) There may be a policy decision by the State WDB or Local WDB to establish a range of amounts and/or a maximum amount applicable to all ITAs.

(c) Limitations established by State or Local WDB policies must be described in the State or Local Plan, respectively, but must not be implemented in a manner that undermines WIOA's requirement that training services are provided in a manner that maximizes customer choice in the selection of an ETP. Exceptions to ITA limitations may be provided for individual cases and must be described in State or Local WDB policies.

(d) An individual may select training that costs more than the maximum amount available for ITAs under a State or local policy when other sources of funds are available to supplement the ITA. These other sources may include: Pell Grants; scholarships; severance pay; and other sources.

§ 680.320 Under what circumstances may mechanisms other than Individual Training Accounts be used to provide training services?

(a) Contracts for services may be used instead of ITAs only when one or more of the following five exceptions apply, and the local area has fulfilled the consumer choice requirements of § 680.340:

(1) When the services provided are on-the-job-training (OJT), customized training, incumbent worker training, or transitional jobs.

(2) When 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. The determination process must include a public comment period for interested providers of at least 30 days, and be described in the Local Plan.

(3) When the Local WDB determines that there is a training services program of demonstrated effectiveness of-

ferred in the area by a community-based organization or another private organization to serve individuals with barriers to employment, as described in paragraph (b) of this section. The Local WDB must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the individuals with barriers to employment to be served. The criteria may include:

(i) Financial stability of the organization;

(ii) 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

(iii) How the specific program relates to the workforce investment needs identified in the local plan.

(4) When the Local WDB determines that it would be most appropriate to contract with an institution of higher education (*see* WIOA sec. 3(28)) or other provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, provided that the contract does not limit consumer choice.

(5) When the Local WDB is considering entering into a Pay-for-Performance contract, and the Local WDB ensures that the contract is consistent with § 683.510 of this chapter.

(b) Under paragraph (a)(3) of this section, individuals with barriers to employment include those individuals in one or more of the following categories, as prescribed by WIOA sec. 3(24):

- (1) Displaced homemakers;
- (2) Low-income individuals;
- (3) Indians, Alaska Natives, and Native Hawaiians;
- (4) Individuals with disabilities;
- (5) Older individuals, *i.e.*, those aged 55 or over;
- (6) Ex-offenders;
- (7) Homeless individuals;
- (8) Youth who are in or have aged out of the foster care system;
- (9) Individuals who are English language learners, individuals who have

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low levels of literacy, and individuals facing substantial cultural barriers;

(10) Eligible migrant and seasonal farmworkers, defined in WIOA sec. 167(i);

(11) Individuals within 2 years of exhausting lifetime eligibility under TANF (part A of title IV of the Social Security Act);

(12) Single-parents (including single pregnant women);

(13) Long-term unemployed individuals; or

(14) Other groups determined by the Governor to have barriers to employment.

(c) The Local Plan must describe the process to be used in selecting the providers under a contract for services.

§ 680.330 How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?

Registered apprenticeships automatically qualify to be on a State's eligible training provider list (ETPL) as described in § 680.470.

(a) ITAs can be used to support placing participants in registered apprenticeship through:

(1) Pre-apprenticeship training, as defined in § 681.480 of this chapter; and

(2) Training services provided under a registered apprenticeship program.

(b) Supportive services may be provided as described in §§ 680.900 and 680.910.

(c) Needs-related payments may be provided as described in §§ 680.930, 680.940, 680.950, 680.960, and 680.970.

(d) Work-based training options also may be used to support participants in registered apprenticeship programs (*see* §§ 680.740 and 680.750).

§ 680.340 What are the requirements for consumer choice?

(a) Training services, whether under ITAs or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider.

(b) Each Local WDB, through the one-stop center, must make available

to customers the State list of eligible training providers required in WIOA sec. 122(d). The list includes a description of the programs through which the providers may offer the training services, and the performance and cost information about those providers described in WIOA sec. 122(d). Additionally, the Local WDB must make available information identifying eligible providers as may be required by the Governor under WIOA sec. 122(h) (where applicable).

(c) An individual who has been determined eligible for training services under § 680.210 may select a provider described in paragraph (b) of this section after consultation with a career planner. Unless the program has exhausted training funds for the program year, the one-stop center must refer the individual to the selected provider, and establish an ITA for the individual to pay for training. For purposes of this paragraph (c), a referral may be carried out by providing a voucher or certificate to the individual to obtain the training.

(d) The cost of referral of an individual with an ITA to a training provider is paid by the applicable adult or dislocated worker program under title I of WIOA.

(e) Each Local WDB, through the one-stop center, may coordinate funding for ITAs with funding from other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.

(f) Consistent with paragraph (a) of this section, priority consideration must be given to programs that lead to recognized postsecondary credentials (defined at WIOA sec. 3(52)) that are aligned with in-demand industry sectors or occupations in the local area.

§ 680.350 May Workforce Innovation and Opportunity Act title I adult and dislocated worker funds be used to directly support adult education and literacy activities?

Yes, under WIOA sec. 134(c)(3)(D)(x), title I funds may provide adult education and literacy activities if they are provided concurrently or in combination with one or more of the following training services:

- (a) Occupational skills training, including training for nontraditional employment;
- (b) OJT;
- (c) Incumbent worker training (as described in §§ 680.780, 680.790, 680.800, 680.810, and 680.820);
- (d) Programs that combined workplace training and related instruction, which may include cooperative education programs;
- (e) Training programs operated by the private sector;
- (f) Skill upgrading and retraining; or
- (g) Entrepreneurial training.

Subpart D—Eligible Training Providers

§ 680.400 What is the purpose of this subpart?

(a) This subpart describes the process for determining eligible training providers and programs for WIOA title I, subtitle B adult, dislocated worker, and out-of-school youth (OSY) aged 16–24 training participants and for publicly disseminating the list of these providers with relevant information about their programs. The workforce development system established under WIOA emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principles.

(b) The State list of eligible training providers and programs and the related eligibility procedures ensure the accountability, quality and labor-market relevance of programs of training services that receive funds through WIOA title I, subtitle B. The State list of eligible training providers and programs also is a means for ensuring informed customer choice for individuals eligible for training. In administering the eligible training provider eligibility process, States and local areas must work to ensure that qualified providers offering a wide variety of job-driven programs of training services are available. The State list of eligible training providers and programs is made publicly available online through Web sites and searchable databases as well as any other means the State uses to

disseminate information to consumers, including formats accessible to individuals with disabilities. The list must be accompanied by relevant performance and cost information and must be presented in a way that is easily understood, in order to maximize informed consumer choice and serve all significant population groups, and also must be available in an electronic format. The State eligible training provider performance reports, as required under WIOA sec. 116(d)(4), are addressed separately in § 677.230 of this chapter.

§ 680.410 What is an eligible training provider?

An ETP:

- (a) Is the only type of entity that receives funding for training services, as defined in § 680.200, through an individual training account;
- (b) Must be included on the State list of eligible training providers and programs under this subpart;
- (c) Must provide a program of training services; and
- (d) Must be one of the following types of entities:
 - (1) Institutions of higher education that provide a program which leads to a recognized postsecondary credential;
 - (2) Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50 *et seq.*); or
 - (3) Other public or private providers of training services, which may include:
 - (i) Community-based organizations;
 - (ii) Joint labor-management organizations; and
 - (iii) Eligible providers of adult education and literacy activities under title II of WIOA if such activities are provided in combination with training services described at § 680.350.

§ 680.420 What is a “program of training services”?

A program of training services is one or more courses or classes, or a structured regimen, that provides the services in § 680.200 and leads to:

- (a) An industry-recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the State involved or the Federal government, an associate or baccalaureate degree;

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(b) Consistent with § 680.350, a secondary school diploma or its equivalent;

(c) Employment; or

(d) Measurable skill gains toward a credential described in paragraph (a) or (b) of this section or employment.

§ 680.430 Who is responsible for managing the training provider eligibility process?

(a) The Governor, in consultation with the State WDB, establishes the criteria, information requirements, and procedures, including procedures identifying the respective roles of the State and local areas, governing the eligibility of providers and programs of training services to receive funds through ITAs.

(b) The Governor may designate a State agency (or appropriate State entity) to assist in carrying out the process and procedures for determining the eligibility of training providers and programs of training services. The Governor or such agency (or appropriate State entity) is responsible for:

(1) Ensuring the development and maintenance of the State list of eligible training providers and programs, as described in §§ 680.450 (initial eligibility), 680.460 (continued eligibility), and 680.490 (performance and cost information reporting requirements);

(2) Ensuring that programs meet eligibility criteria and performance levels established by the State, including verifying the accuracy of the information;

(3) Removing programs that do not meet State-established program criteria or performance levels, as described in § 680.480(c);

(4) Taking appropriate enforcement actions against providers that intentionally provide inaccurate information, or that substantially violate the requirements of WIOA, as described in § 680.480(a) and (b); and

(5) Disseminating the State list of eligible training providers and programs, accompanied by performance and cost information relating to each program, to the public and the Local WDBs throughout the State, as further described in § 680.500.

(c) The Local WDB must:

(1) Carry out the procedures assigned to the Local WDB by the State, such as determining the initial eligibility of entities providing a program of training services, renewing the eligibility of providers and programs, and considering the possible termination of an eligible training provider due to the provider's submission of inaccurate eligibility and performance information or the provider's substantial violation of WIOA requirements;

(2) Work with the State to ensure there are sufficient numbers and types of providers of training services, including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities described under WIOA sec. 107(d)(10)(E), serving the local area; and

(3) Ensure the dissemination and appropriate use of the State list of eligible training providers and programs through the local one-stop delivery system, including formats accessible to individuals with disabilities.

(d) The Local WDB may make recommendations to the Governor on the procedure used in determining eligibility of providers and programs.

(e) The Local WDB may, except with respect to registered apprenticeship programs:

(1) Require additional criteria and information from local providers as criteria to become or remain eligible in that local area; and

(2) Set higher levels of performance than those required by the State as criteria for local programs to become or remain eligible to provide services in that local area.

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§ 680.450 What is the initial eligibility process for new providers and programs?

(a) All providers and programs that have not previously been eligible to provide training services under WIOA sec. 122 or WIA sec. 122, except for registered apprenticeship programs, must submit required information to be considered for initial eligibility in accordance with the Governor's procedures.

(b) Apprenticeship programs registered under the National Apprenticeship Act are exempt from initial eligibility procedures. Registered apprenticeship programs must be included and maintained on the State list of eligible training providers and programs as long as the program remains registered, unless the registered apprenticeship program is removed from the list for a reason set forth in §680.470. Procedures for registered apprenticeship programs to be included and maintained on the list are described in §680.470.

(c) In establishing the State requirements described in paragraph (e) of this section, the Governor must, in consultation with the State WDB, develop a procedure for determining the eligibility of training providers and programs. This procedure, which must be described in the State Plan, must be developed after:

(1) Soliciting and taking into consideration recommendations from Local WDBs and providers of training services within the State;

(2) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on the procedure; and

(3) Designating a specific time period for soliciting and considering the recommendations of Local WDBs and providers, and for providing an opportunity for public comment.

(d) For institutions of higher education that provide a program that leads to a recognized postsecondary credential and for other public or private providers of programs of training services, including joint labor-management organizations, and providers of adult education and literacy activities, the Governor must establish criteria and State requirements for providers and programs seeking initial eligibility.

(e) The Governor must require providers and programs seeking initial eligibility to provide verifiable program specific performance information. At a minimum, these criteria must require applicant providers to:

(1) Describe each program of training services to be offered;

(2) Provide information addressing a factor related to the indicators of performance, as described in WIOA secs. 116(b)(2)(A)(i)(I)-(IV) and §680.460(g)(1) through (4) which include unsubsidized employment during the second quarter after exit, unsubsidized employment during the fourth quarter after exit, median earnings and credentials attainment;

(3) Describe whether the provider is in a partnership with a business;

(4) Provide other information the Governor may require in order to demonstrate high quality programs of training services, which may include information related to training services that lead to a recognized postsecondary credential; and

(5) Provide information that addresses alignment of the training services with in-demand industry sectors and occupations, to the extent possible.

(f) In establishing the initial eligibility procedures and criteria, the Governor may establish minimum performance standards, based on the performance information described in paragraph (e) of this section.

(g) Under WIOA sec. 122(b)(4)(B), eligible training providers receive initial eligibility for only 1 year for a particular program.

(h) After the initial eligibility expires, these initially eligible training providers are subject to the Governor's application procedures for continued eligibility, described at §680.460, in order to remain eligible.

§ 680.460 What is the application procedure for continued eligibility?

(a) The Governor must establish an application procedure for eligible training providers and programs to maintain their continued eligibility. The application procedure must take into account the program's prior eligibility status.

(1) Training providers and programs that were previously eligible under WIA will be subject to the application procedure for continued eligibility after the close of the Governor's transition period for implementation.

(2) Training providers and programs that were not previously eligible under WIA and have been determined to be initially eligible under WIOA, under

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the procedures described at § 680.450, will be subject to the application procedure for continued eligibility after their initial eligibility expires.

(b) The Governor must develop this procedure after:

(1) Soliciting and taking into consideration recommendations from Local WDBs and providers of training services within the State;

(2) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure; and

(3) Designating a specific time period for soliciting and considering the recommendations of Local WDBs and providers, and for providing an opportunity for public comment.

(c) Procedures for registered apprenticeship programs to be included and maintained on the list are described in § 680.470. Apprenticeship programs registered under the National Apprenticeship Act must be included and maintained on the State list of eligible training providers and programs as long as the program remains registered, unless the registered apprenticeship program is removed from the list for a reason set forth in § 680.470.

(d) The application procedure must describe the roles of the State and local areas in receiving and reviewing provider applications and in making eligibility determinations.

(e) The application procedure must be described in the State Plan.

(f) In establishing eligibility criteria, the Governor must take into account:

(1) The performance of the eligible training provider's program on:

(i) The performance accountability measures described in WIOA secs. 116(b)(2)(A)(i)(I)-(IV) and the other matters required by WIOA sec. 122(b)(2);

(ii) Other appropriate measures of performance outcomes determined by the Governor for program participants receiving training services under WIOA title I, subtitle B, taking into consideration the characteristics of the population served and relevant economic conditions; and

(iii) Outcomes of the program for students in general with respect to em-

ployment and earnings as defined in WIOA sec. 116(b)(2).

(iv) All of these measures may include minimum performance standards.

(v) Until data from the conclusion of each performance indicator's first data cycle are available, the Governor may take into account alternate factors related to the measures described in paragraphs (f)(1)(i) through (iv) of this section.

(2) Ensuring access to training services throughout the State, including in rural areas, and through the use of technology;

(3) Information reported to State agencies on Federal and State training programs other than programs within WIOA title I, subtitle B;

(4) The degree to which programs of training services relate to in-demand industry sectors and occupations in the State;

(5) State licensure requirements of training providers;

(6) Encouraging the use of industry-recognized certificates and credentials;

(7) The ability of providers to offer programs of training services that lead to postsecondary credentials;

(8) The quality of the program of training services including a program that leads to a recognized postsecondary credential;

(9) The ability of the providers to provide training services to individuals who are employed and individuals with barriers to employment;

(10) Whether the providers timely and accurately submitted all of the information required for completion of eligible training provider performance reports required under WIOA sec. 116(d)(4) and all of the information required for initial and continued eligibility in this subpart; and

(11) Other factors that the Governor determines are appropriate in order to ensure: The accountability of providers; that one-stop centers in the State will meet the needs of local employers and participants; and, that participants will be given an informed choice among providers.

(g) The information requirements that the Governor establishes under

paragraph (f)(1) of this section must require eligible training providers to submit appropriate, accurate, and timely information for participants receiving training under WIOA title I, subtitle B. That information must include:

(1) The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;

(2) The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;

(3) The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;

(4) The percentage of program participants who obtain a recognized post-secondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program;

(5) Information on recognized post-secondary credentials received by program participants;

(6) Information on cost of attendance, including costs of tuition and fees, for program participants;

(7) Information on the program completion rate for such participants.

(h) The eligibility criteria must require that:

(1) Providers submit performance and cost information as described in paragraph (g) of this section and in the Governor's procedures for each program of training services for which the provider has been determined to be eligible, in a timeframe and manner determined by the State, but at least every 2 years; and

(2) That the collection of information required to demonstrate compliance with the criteria is not unduly burdensome or costly to providers.

(i) The procedure for continued eligibility also must provide for the State biennially to review provider eligibility information to assess the renewal of training provider eligibility. Such procedures may establish minimum levels of training provider performance as criteria for continued eligibility.

(j) The procedure for biennial review of the provider eligibility must include verification of the registration status

of registered apprenticeship programs and removal of any registered apprenticeship programs as described in § 680.470.

(k) The Governor may establish procedures and timeframes for providing technical assistance to eligible training providers who are not intentionally supplying inaccurate information or who have not substantially violated any of the requirements under this section but are failing to meet the criteria and information requirements due to undue cost or burden.

(1) The Governor's procedures must include what the Governor considers to be a substantial violation of the requirement to timely and accurately submit all of the information required for completion of the eligible training provider performance reports required under WIOA sec. 116(d)(4) and all of the information required for initial and continued eligibility in this subpart.

(1) The Governor's procedures on determining a substantial violation must take into account exceptional circumstances beyond the provider's control, such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues.

(2) Providers who substantially violate the requirement in paragraph (g) of this section to timely and accurately submit all required information must be removed from the State list of eligible training providers and programs, as provided in § 680.480(b).

§ 680.470 What are the procedures for including and removing registered apprenticeship programs on a State list of eligible training providers and programs?

(a) All registered apprenticeship programs that are registered with the U.S. Department of Labor, Office of Apprenticeship, or a recognized State apprenticeship agency, are automatically eligible to be included in the State list of eligible training providers and programs. All registered apprenticeship programs must be informed of their automatic eligibility to be included on the list, and must be provided an opportunity to consent to their inclusion, before being placed on the State list of eligible training providers and programs. The Governor must establish a

mechanism for registered apprenticeship program sponsors in the State to be informed of their automatic eligibility and to indicate that the program sponsor wishes to be included on the State list of eligible training providers and programs. This mechanism must place minimal burden on registered apprenticeship program sponsors and must be developed in accordance with guidance from the U.S. Department of Labor Office of Apprenticeship or with the assistance of the recognized State apprenticeship agency, as applicable.

(b) Once on the State list of eligible training providers and programs, registered apprenticeship programs will remain on the list:

(1) Until they are deregistered;

(2) Until the registered apprenticeship program notifies the State that it no longer wants to be included on the list; or

(3) Until the registered apprenticeship program is determined to have intentionally supplied inaccurate information or to have substantially violated any provision of title I of WIOA or the WIOA regulations, including 29 CFR part 38.

(c) A registered apprenticeship program whose eligibility is terminated under paragraph (b)(3) of this section must be terminated for not less than 2 years and is liable to repay all youth, adult, and dislocated worker training funds it received during the period of noncompliance. The Governor must specify in the procedures required by § 680.480 which individual or entity is responsible for making these determinations and the process by which the determination will be made, which must include an opportunity for a hearing that meets the requirements of § 683.630(b) of this chapter.

(d) Inclusion of a registered apprenticeship in the State list of eligible training providers and programs allows an individual who is eligible to use WIOA title I, subtitle B funds to use those funds toward registered apprenticeship training, consistent with their availability and limitations as prescribed by § 680.300. The use of ITAs and other WIOA title I, subtitle B funds toward registered apprenticeship training is further described in § 680.330.

(e) The Governor is encouraged to consult with the State and Local WDBs, ETA's Office of Apprenticeship, recognized State apprenticeship agencies (where they exist in the Governor's State) or other State agencies, to establish voluntary reporting of performance information.

(f) Pre-apprenticeship providers that wish to provide training services to participants using WIOA title I, subtitle B funds are subject to the eligibility procedures of this subpart.

§ 680.480 May an eligible training provider lose its eligibility?

(a) Yes. A training provider must meet the Governors requirements for eligibility and provide accurate information in order to retain its status as an eligible training provider.

(b) Providers determined to have intentionally supplied inaccurate information or to have substantially violated any provision of title I of WIOA or the WIOA regulations, including 29 CFR part 38, must be removed from the State list of eligible training providers and programs in accordance with the enforcement provisions of WIOA sec. 122(f). A provider whose eligibility is terminated under these conditions must be terminated for not less than 2 years and is liable to repay all youth, adult, and dislocated worker training funds it received during the period of noncompliance. The Governor must specify in the procedures which individual or entity is responsible for making these determinations and the process by which the determination will be made, which must include an opportunity for a hearing that meets the requirements of § 683.630(b) of this chapter.

(c) As a part of the biennial review of eligibility established by the Governor, the State must remove programs of training services that fail to meet criteria established by the Governor to remain eligible, which may include failure to meet established minimum performance levels. Registered apprenticeship programs only may be removed for the reasons set forth in § 680.470.

(d) The Governor must establish an appeals procedure for providers of training services to appeal a denial of eligibility under this subpart that

meets the requirements of § 683.630(b) of this chapter, which explains the appeals process for denial or termination of eligibility of a provider of training services.

(e) Where a Local WDB has established higher minimum performance standards, according to § 680.430(e), the Local WDB may remove a program of training services from the eligible programs in that local area for failure to meet those higher performance standards. Training providers may appeal a denial of eligibility under § 683.630(b) of this chapter.

§ 680.490 What kind of performance and cost information must eligible training providers other than registered apprenticeship programs provide for each program of training services?

(a) In accordance with the State procedure under § 680.460(i), eligible training providers, except registered apprenticeship programs, must submit, at least every 2 years, appropriate, timely, and accurate performance and cost information.

(b) Program-specific performance information must include:

(1) The information described in WIOA sec. 122(b)(2)(A) for individuals participating in the programs of training services who are receiving assistance under WIOA. This information includes indicators of performance as described in WIOA secs. 116(b)(2)(I)–(IV) and § 680.460(g)(1) through (4);

(2) Information identifying the recognized postsecondary credentials received by such participants in § 680.460(g)(5);

(3) Program cost information, including tuition and fees, for WIOA participants in the program in § 680.460(g)(6); and

(4) Information on the program completion rate for WIOA participants in § 680.460(g)(7).

(c) Governors may require any additional performance information (such as the information described at WIOA sec. 122(b)(1)) that the Governor determines to be appropriate to determine, maintain eligibility, or better to inform consumers.

(d) Governors must establish a procedure by which a provider can demonstrate that providing additional in-

formation required under this section would be unduly burdensome or costly. If the Governor determines that providers have demonstrated such extraordinary costs or undue burden:

(1) The Governor must provide access to cost-effective methods for the collection of the information;

(2) The Governor may provide additional resources to assist providers in the collection of the information from funds for statewide workforce investment activities reserved under WIOA secs. 128(a) and 133(a)(1); or

(3) The Governor may take other steps to assist eligible training providers in collecting and supplying required information such as offering technical assistance.

§ 680.500 How is the State list of eligible training providers and programs disseminated?

(a) In order to assist participants in choosing employment and training activities, the Governor or State agency must disseminate the State list of eligible training providers and programs and accompanying performance and cost information to Local WDBs in the State and to members of the public online, including through Web sites and searchable databases, and through whatever other means the State uses to disseminate information to consumers, including the one-stop delivery system and its program partners throughout the State.

(b) The State list of eligible training providers and programs and information must be updated regularly and provider and program eligibility must be reviewed biennially according to the procedures established by the Governor in § 680.460(i).

(c) In order to ensure informed consumer choice, the State list of eligible training providers and programs and accompanying information must be widely available to the public through electronic means, including Web sites and searchable databases, as well as through any other means the State uses to disseminate information to consumers. The list and accompanying information must be available through the one-stop delivery system and its partners including the State's secondary and postsecondary education

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systems. The list must be accessible to individuals seeking information on training outcomes, as well as participants in employment and training activities funded under WIOA, including those under § 680.210, and other programs. In accordance with WIOA sec. 188, the State list also must be accessible to individuals with disabilities.

(d) The State list of eligible training providers and programs must be accompanied by appropriate information to assist participants in choosing employment and programs of training services. Such information must include:

(1) Recognized postsecondary credential(s) offered;

(2) Provider information supplied to meet the Governor's eligibility procedure as described in §§ 680.450 and 680.460;

(3) Performance and cost information as described in § 680.490; and

(4) Additional information as the Governor determines appropriate.

(e) The State list of eligible training providers and programs and accompanying information must be made available in a manner that does not reveal personally identifiable information about an individual participant. In addition, in developing the information to accompany the State list described in § 680.490(b), disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Educational Rights and Privacy Act, including the circumstances relating to prior written consent.

§ 680.510 In what ways can a Local Workforce Development Board supplement the information available from the State list of eligible training providers and programs?

(a) Local WDBs may supplement the criteria and information requirements established by the Governor in order to support informed consumer choice and the achievement of local performance indicators. However, the Local WDB may not do so for registered apprenticeship programs.

(b) This additional information may include:

(1) Information on programs of training services that are linked to occupations in demand in the local area;

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(2) Performance and cost information, including program-specific performance and cost information, for the local outlet(s) of multi-site eligible training providers;

(3) Information that shows how programs are responsive to local requirements; and

(4) Other appropriate information related to the objectives of WIOA.

§ 680.520 May individuals choose training providers and programs located outside of the local area or outside of the State?

(a) An individual may choose training providers and programs outside of the local area provided the training program is on the State list, in accordance with local policies and procedures.

(b) An individual may choose eligible training providers and programs outside of the State consistent with State and local policies and procedures. State policies and procedures may provide for reciprocal or other agreements established with another State to permit eligible training providers in a State to accept ITAs provided by the other State.

§ 680.530 What eligibility requirements apply to providers of on-the-job training, customized training, incumbent worker training, and other training exceptions?

(a) Providers of on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience, or transitional jobs are not subject to the requirements applicable to entities listed on the eligible training provider list, and are not included on the State list of eligible training providers and programs.

(b) For providers of training described in paragraph (a) of this section, the Governor may establish performance criteria those providers must meet to receive funds under the adult or dislocated worker programs pursuant to a contract as provided in § 680.320.

(c) One-stop operators in a local area must collect such performance information as the Governor may require and determine whether the providers meet any performance criteria the

Governor may establish under paragraph (b) of this section.

(d) One-stop operators must disseminate information identifying providers and programs that have met the Governor's performance criteria, along with the relevant performance information about them, through the one-stop delivery system.

Subpart E—Priority and Special Populations

§ 680.600 What priority must be given to low-income adults and public assistance recipients and individuals who are basic skills deficient served with adult funds under title I of the Workforce Innovation and Opportunity Act?

(a) WIOA sec. 134(c)(3)(E) states that priority for individualized career services (*see* § 678.430(b) of this chapter) and training services funded with title I adult funds must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient (as defined in WIOA sec. 3(5)(B)) in the local area.

(b) States and local areas must establish criteria by which the one-stop center will apply the priority under WIOA sec. 134(c)(3)(E). Such criteria may include the availability of other funds for providing employment and training-related services in the local area, the needs of the specific groups within the local area, and other appropriate factors.

(c) The priority established under paragraph (a) of this section does not necessarily mean that these services only may be provided to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. The Local WDB and the Governor may establish a process that also gives priority to other individuals eligible to receive such services, provided that it is consistent with priority of service for veterans (*see* § 680.650) and the priority provisions of WIOA sec. 134(c)(3)(E), discussed above in paragraphs (a) and (b) of this section.

§ 680.610 Does the statutory priority for use of adult funds also apply to dislocated worker funds?

No, the statutory priority only applies to adult funds and only applies to providing individualized career services, as described in § 680.150(b), and training services. Funds allocated for dislocated workers are not subject to this requirement.

§ 680.620 How does the Temporary Assistance for Needy Families program relate to the one-stop delivery system?

The local TANF program is a required partner in the one-stop delivery system. Part 678 of this chapter describes the roles of such partners in the one-stop delivery system and it applies to the TANF program. TANF serves individuals who also may be served by the WIOA programs and, through appropriate linkages and referrals, these customers will have access to a broader range of services through the cooperation of the TANF program in the one-stop delivery system. TANF participants, who are determined to be WIOA eligible, and who need occupational skills training may be referred through the one-stop delivery system to receive WIOA training, when TANF grant and other grant funds are not available to the individual in accordance with § 680.230(a). WIOA participants who also are determined TANF eligible may be referred to the TANF program for assistance.

§ 680.630 How does a displaced homemaker qualify for services under title I of the Workforce Innovation and Opportunity Act?

(a) Individuals who meet the definitions of a "displaced homemaker" (*see* WIOA sec. 3(16)) qualify for career and training services with dislocated worker title I funds.

(b) Displaced homemakers also may qualify for career and training services with adult funds under title I if the requirements of this part are met (*see* §§ 680.120 and 680.600).

(c) Displaced homemakers also may be served in statewide employment and training projects conducted with reserve funds for innovative programs for

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displaced homemakers, as described in § 682.210(c) of this chapter.

(d) The definition of displaced homemaker includes the dependent spouse of a member of the Armed Forces on active duty (as defined in sec. 101(d)(1) of title 10, United States Code) and whose family income is significantly reduced because of a deployment, a call or order to active duty under a provision of law referred to in sec. 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected death or disability of the member.

§ 680.640 May an individual with a disability whose family does not meet income eligibility criteria under the Workforce Innovation and Opportunity Act be eligible for priority as a low-income adult?

Yes, even if the family of an individual with a disability does not meet the income eligibility criteria, the individual with a disability is to be considered a low-income individual if the individual's own income:

(a) Meets the income criteria established in WIOA sec. 3(36)(A)(vi); or

(b) Meets the income eligibility criteria for payments under any Federal, State or local public assistance program (see WIOA sec. 3(36)(A)(i)).

§ 680.650 Do veterans receive priority of service under the Workforce Innovation and Opportunity Act?

Yes, veterans, as defined under WIOA sec. 3(63)(A) and 38 U.S.C. 101, receive priority of service in all Department of Labor-funded training programs under 38 U.S.C. 4215 and described in 20 CFR part 1010. A veteran still must meet each program's eligibility criteria to receive services under the respective employment and training program. For income-based eligibility determinations, amounts paid while on active duty or paid by the Department of Veterans Affairs (VA) for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income, in accordance with 38 U.S.C. 4213 and § 683.230 of this chapter.

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§ 680.660 Are separating military service members eligible for dislocated worker activities under the Workforce Innovation and Opportunity Act?

If the separating service member is separating from the Armed Forces with a discharge that is anything other than dishonorable, the separating service member qualifies for dislocated worker activities based on the following criteria:

(a) The separating service member has received a notice of separation, a DD-214 from the Department of Defense, or other documentation showing a separation or imminent separation from the Armed Forces to satisfy the termination or layoff part of the dislocated worker eligibility criteria in WIOA sec. 3(15)(A)(i);

(b) The separating service member qualifies for the dislocated worker eligibility criteria on eligibility for or exhaustion of unemployment compensation in WIOA sec. 3(15)(A)(ii)(I) or (II); and,

(c) As a separating service member, the individual meets the dislocated worker eligibility criteria that the individual is unlikely to return to a previous industry or occupation in WIOA sec. 3(15)(A)(iii).

Subpart F—Work-Based Training

§ 680.700 What are the requirements for on-the-job training?

(a) OJT is defined at WIOA sec. 3(44). OJT is provided under a contract with an employer or registered apprenticeship program sponsor in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training. In limited circumstances, as provided in WIOA sec. 134(c)(3)(h) and § 680.730, the reimbursement may be up to 75 percent of the wage rate of the participant.

(b) OJT contracts under WIOA title I, must not be entered into with an employer who has received payments under previous contracts under WIOA

or WIA if the employer has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(c) An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's IEP.

§ 680.710 What are the requirements for on-the-job training contracts for employed workers?

OJT contracts may be written for eligible employed workers when:

(a) The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment, as determined by Local WDB policy;

(b) The requirements in § 680.700 are met; and

(c) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local WDB.

§ 680.720 What conditions govern on-the-job training payments to employers?

(a) OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and potentially lower productivity of the participants while in the OJT.

(b) Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant, and up to 75 percent using the criteria in § 680.730, for the extraordinary costs of providing the training and additional supervision related to the OJT.

(c) Employers are not required to document such extraordinary costs.

§ 680.730 Under what conditions may a Governor or Local Workforce Development Board raise the on-the-job training reimbursement rate up to 75 percent of the wage rate?

(a) The Governor may increase the reimbursement rate for OJT contracts funded through the statewide employment and training activities described in § 682.210 of this chapter up to 75 percent, and the Local WDB also may increase the reimbursement rate for OJT contracts described in § 680.320(a)(1) up to 75 percent, when taking into account the following factors:

(1) The characteristics of the participants taking into consideration whether they are "individuals with barriers to employment," as defined in WIOA sec. 3(24);

(2) The size of the employer, with an emphasis on small businesses;

(3) The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and

(4) Other factors the Governor or Local WDB may determine to be appropriate, which may include the number of employees participating, wage and benefit levels of the employees (both at present and after completion), and relation of the training to the competitiveness of the participant.

(b) Governors or Local WDBs must document the factors used when deciding to increase the wage reimbursement levels above 50 percent up to 75 percent.

§ 680.740 How can on-the-job training funds be used to support placing participants into a registered apprenticeship program?

(a) OJT contracts may be entered into with registered apprenticeship program sponsors or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program consistent with § 680.700. Depending on the length of the registered apprenticeship and State and local OJT policies, these funds may cover some or all of the registered apprenticeship training.

§ 680.750

(b) If the apprentice is unemployed at the time of participation, the OJT must be conducted as described in § 680.700. If the apprentice is employed at the time of participation, the OJT must be conducted as described in § 680.710.

§ 680.750 Can Individual Training Account and on-the-job training funds be combined to support placing participants into a registered apprenticeship program?

There is no Federal prohibition on using both ITA and OJT funds when placing participants into a registered apprenticeship program. See § 680.330 on using ITAs to support participants in registered apprenticeship.

§ 680.760 What is customized training?

Customized training is training:

(a) That is designed to meet the special requirements of an employer (including a group of employers);

(b) That is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and

(c) For which the employer pays for a significant cost of the training, as determined by the Local WDB in accordance with the factors identified in WIOA sec. 3(14).

§ 680.770 What are the requirements for customized training for employed workers?

Customized training of an eligible employed individual may be provided for an employer or a group of employers when:

(a) The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment, as determined by Local WDB policy;

(b) The requirements in § 680.760 are met; and

(c) The customized training relates to the purposes described in § 680.710(c) or other appropriate purposes identified by the Local WDB.

§ 680.780 Who is an “incumbent worker” for purposes of statewide and local employment and training activities?

States and local areas must establish policies and definitions to determine

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which workers, or groups of workers, are eligible for incumbent worker services. To qualify as an incumbent worker, the incumbent worker needs to be employed, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have an established employment history with the employer for 6 months or more, with the following exception: In the event that the incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as a majority of those employees being trained do meet the employment history requirement. An incumbent worker does not have to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA, unless they also are enrolled as a participant in the WIOA adult or dislocated worker program.

§ 680.790 What is incumbent worker training?

Incumbent worker training must satisfy the requirements in WIOA sec. 134(d)(4) and increase the competitiveness of the employee or employer. For purposes of WIOA sec. 134(d)(4)(B), incumbent worker training is training:

(a) Designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.

(b) Conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained.

§ 680.800 What funds may be used for incumbent worker training?

(a) The local area may reserve up to 20 percent of their combined total of adult and dislocated worker allocations for incumbent worker training as described in § 680.790;

(b) The State may use their statewide activities funds (per WIOA sec. 134(a)(3)(A)(i)) and Rapid Response funds for statewide incumbent worker training activities (see §§ 682.210(b) and 682.320(b)(4) of this chapter).

§ 680.810 What criteria must be taken into account for an employer to be eligible to receive local incumbent worker training funds?

The Local WDB must consider under WIOA sec. 134(d)(4)(A)(ii):

(a) The characteristics of the individuals in the program;

(b) The relationship of the training to the competitiveness of an individual and the employer; and

(c) Other factors the Local WDB determines appropriate, including number of employees trained, wages and benefits including post training increases, and the existence of other training opportunities provided by the employer.

§ 680.820 Are there cost sharing requirements for local area incumbent worker training?

Yes. Under WIOA secs. 134(d)(4)(C) and 134(d)(4)(D)(i)–(iii), employers participating in incumbent worker training are required to pay the non-Federal share of the cost of providing training to their incumbent workers. The amount of the non-Federal share depends upon the limits established under WIOA secs. 134(d)(4)(ii)(C) and (D).

§ 680.830 May funds provided to employers for work-based training be used to assist, promote, or deter union organizing?

No. Funds provided to employers for work-based training, as described in this subpart, must not be used to directly or indirectly assist, promote, or deter union organizing.

§ 680.840 May funds provided to employers for work-based training and other work experiences be used to fill job openings as a result of a labor dispute?

No. Funds provided to employers for work-based training, as described in this subpart and in subpart A of this part, may not be used to directly or indirectly aid in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage.

Subpart G—Supportive Services

§ 680.900 What are supportive services for adults and dislocated workers?

Supportive services for adults and dislocated workers are defined at WIOA sec. 3(59) and secs. 134(d)(2) and (3). Local WDBs, in consultation with the one-stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area. The policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise available from other sources. The provision of accurate information about the availability of supportive services in the local area, as well as referral to such activities, is one of the career services that must be available to adults and dislocated workers through the one-stop delivery system. (WIOA sec. 134(c)(2)(A)(ix) and § 678.430 of this chapter). Local WDBs must ensure that needs-related payments are made in a manner consistent with §§ 680.930, 680.940, 680.950, 680.960, and 680.970. Supportive services are services that are necessary to enable an individual to participate in activities authorized under WIOA sec. 134(c)(2) and (3). These services may include, but are not limited to, the following:

- (a) Linkages to community services;
- (b) Assistance with transportation;
- (c) Assistance with child care and dependent care;
- (d) Assistance with housing;
- (e) Needs-related payments, as described at §§ 680.930, 680.940, 680.950, 680.960, and 680.970;
- (f) Assistance with educational testing;
- (g) Reasonable accommodations for individuals with disabilities;
- (h) Legal aid services;
- (i) Referrals to health care;
- (j) Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear;
- (k) Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes; and

§ 680.910

(1) Payments and fees for employment and training-related applications, tests, and certifications.

§ 680.910 When may supportive services be provided to participants?

(a) Supportive services may only be provided to individuals who are:

(1) Participating in career or training services as defined in WIOA secs. 134(c)(2) and (3); and

(2) Unable to obtain supportive services through other programs providing such services.

(b) Supportive services only may be provided when they are necessary to enable individuals to participate in career service or training activities.

§ 680.920 Are there limits on the amount or duration of funds for supportive services?

(a) Local WDBs may establish limits on the provision of supportive services or provide the one-stop center with the authority to establish such limits, including a maximum amount of funding and maximum length of time for supportive services to be available to participants.

(b) Procedures also may be established to allow one-stop centers to grant exceptions to the limits established under paragraph (a) of this section.

§ 680.930 What are needs-related payments?

Needs-related payments provide financial assistance to participants for the purpose of enabling them to participate in training and are a supportive service authorized by WIOA sec. 134(d)(3). Unlike other supportive services, in order to qualify for needs-related payments a participant must be enrolled in training.

§ 680.940 What are the eligibility requirements for adults to receive needs-related payments?

Adults must:

(a) Be unemployed;

(b) Not qualify for, or have ceased qualifying for, unemployment compensation; and

(c) Be enrolled in a program of training services under WIOA sec. 134(c)(3).

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§ 680.950 What are the eligibility requirements for dislocated workers to receive needs-related payments?

To receive needs-related payments, a dislocated worker must:

(a) Be unemployed, and:

(1) Have ceased to qualify for unemployment compensation or trade readjustment allowance under TAA; and

(2) Be enrolled in a program of training services under WIOA sec. 134(c)(3) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months; or

(b) Be unemployed and did not qualify for unemployment compensation or trade readjustment assistance under TAA and be enrolled in a program of training services under WIOA sec. 134(c)(3).

§ 680.960 May needs-related payments be paid while a participant is waiting to start training classes?

Yes, payments may be provided if the participant has been accepted in a training program that will begin within 30 calendar days. The Governor may authorize local areas to extend the 30-day period to address appropriate circumstances.

§ 680.970 How is the level of needs-related payments determined?

(a) The payment level for adults must be established by the Local WDB. For statewide projects, the payment level for adults must be established by the State WDB.

(b) For dislocated workers, payments must not exceed the greater of either of the following levels:

(1) The applicable weekly level of the unemployment compensation benefit, for participants who were eligible for unemployment compensation as a result of the qualifying dislocation; or

(2) The poverty level for an equivalent period, for participants who did not qualify for unemployment compensation as a result of the qualifying layoff. The weekly payment level must be adjusted to reflect changes in total family income, as determined by Local WDB policies.