



September 4, 2018

Workforce Innovation and Opportunity Act Policy Letter No. 15-03.1

To: Workforce Innovation and Opportunity Act Local Workforce Development Boards, Fiscal Agents, and OhioMeansJobs Center Operators

From: Cynthia C. Dungey, Director

Subject: WIOA Youth Program Eligibility

I. Purpose

To communicate requirements and guidance for determining Workforce Innovation and Opportunity Act (WIOA) youth program eligibility.

II. Effective Date

Immediately

III. Rescission

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-03, Youth Program Eligibility, (July 15, 2015).

IV. Background

Title I of WIOA outlines an integrated service delivery system and provides a framework through which states and local workforce development areas (local areas) can leverage other federal, state, local, and philanthropic resources to support in-school and out-of-school youth. The WIOA youth program is designed to provide services, employment, and training opportunities to those who can benefit from and who need such opportunities. Meeting the eligibility criteria for a WIOA-funded program does not entitle an individual to receive program elements and services. All elements must be made available to the eligible youth population, whether funded by WIOA or other resources, but the local decision on whether to provide a specific service to a youth participant must be based upon the individual's needs, appropriateness for the service, and funding availability.

The implementation of the Comprehensive Case Management and Employment Program (CCMEP) in Ohio transformed the network of human services and workforce programs by integrating youth programs funded by Temporary Assistance for Needy Families (TANF) and WIOA into one program in local areas that opt to participate. The braiding of WIOA and TANF dollars and co-funding of services when feasible leverages federal dollars to provide integrated wrap-around services that address the various needs of participants who are eligible for these separate funding sources.

Each local workforce development board (WDB) is responsible for establishing the WIOA youth program within the overall strategy of the workforce development system. Per section 5116.20 of the Revised Code, the local WDB is required to decide whether to authorize the use of WIOA youth funds allocated to the local area for CCMEP implementation. The local WDB's decision applies to all counties contained within the local area governed by the board. By authorizing the WIOA funds to be used for CCMEP, the local WDB agrees to adhere to all provisions of CCMEP, including the implementing legislation, procedure letters, and other guidance pertaining to the delivery of services.

Per section 5116.21 of the Revised Code, if the local WDB does not authorize the use of WIOA youth funds for CCMEP, the local area will administer a WIOA-only youth program and forgo access to the additional TANF funds dedicated to CCMEP. In this case, the local area will adhere to the eligibility requirements contained in this policy.

V. Definitions

Alternative secondary school services: Services provided to youth who have struggled in traditional secondary education to help them re-engage and persist in education to complete a high school diploma or recognized equivalent, including basic education skills training, individualized academic instruction, and English as a Second Language training.

Attending school: An individual who is enrolled in and/or attending secondary or postsecondary school, including alternative secondary school services.

Basic skills deficient: A youth who has English reading, writing, or computing skills at or below the eighth grade level, based on a generally accepted standardized test, or who is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

Charter school: Public, nonprofit, nonsectarian, tuition-free schools operating independently of a school district, but under contract with a Sponsor that has been approved by the Ohio Department of Education (ODE).

Comprehensive Case Management and Employment Program (CCMEP): An integrated intervention program that combines Temporary Assistance for Needy Families (TANF) and the WIOA youth program to provide employment and training services to individuals ages 14 through 24 years.

Covered individual: An eligible WIOA youth who is:

1. An in-school youth, or
2. An out-of-school youth who is low income and meets one of the following criteria:
 - a. Has a secondary school diploma or its recognized equivalent and is basic skills deficient or an English language learner; or
 - b. Requires additional assistance to enter or complete an educational program or to secure or hold employment.

English language learner: An individual who has limited ability in reading, writing, speaking, or comprehending the English language, and whose native language is a language other than English or who lives in a family or community environment where a language other than English is the dominant language.

Family: Per 20 C.F.R. 675.300, two or more persons related by blood, marriage, or decree of court, who are living in a single residence and are included in one or more of the following categories:

1. A married couple and dependent children;
2. A parent or guardian and dependent children; or
3. A married couple.

Homeless child or youth (as defined in 42 U.S.C. 11434a(2)): An individual who lacks a fixed, regular, and adequate nighttime residence and includes the following:

1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children (as such term is defined in 20 U.S.C. 6399) who qualify as homeless for the purposes of this part because the children are living in one of the previously mentioned circumstances.

Homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (34 U.S.C. 12473(6)): An individual who lacks a fixed, regular, and adequate nighttime residence and includes:

1. An individual who:
 - a. Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
 - b. Is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;
 - c. Is living in an emergency or transitional shelter;
 - d. Is abandoned in a hospital; or
 - e. Is awaiting foster care placement.
2. An individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or
3. Migratory children who qualify as homeless because the children are living in circumstances listed above.

Individual with a disability: An individual who:

1. Has a physical or mental impairment that substantially limits one or more major life activities of such individual;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment.

Low income individual (as defined in 29 U.S.C. 3102(36)(A)): An individual who:

1. Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through the supplemental nutrition assistance program (SNAP), temporary assistance for needy families (TANF), or supplemental security income (SSI), or State or local income-based public assistance;
2. Is in a family with total family income that does not exceed the higher of –
 - a. The poverty line; or
 - b. 70 percent of the lower living standard income level.
3. Is a homeless individual or homeless child or youth;
4. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), (does not include students in school districts participating in the Community Eligibility Provision (CEP) Healthy, Hunger-Free Kids Act of 2010);
5. Is a foster child on behalf of whom the State or local government payments are made; or
6. Is an individual with a disability whose own income meets the eligibility income requirement of clause (2) but who is a member of a family whose income does not meet this requirement.

Offender: An adult or juvenile who:

1. Is or has been subject to any stage of the criminal justice process and for whom services under WIOA may be beneficial; or

2. Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Participation: The point at which the individual has been determined eligible for youth program services, has received an assessment, and has received or is receiving at least one program element and the point at which the individual is to be included in calculations for performance measures.

Postsecondary school: Any schooling that follows graduation from high school or completion of high school equivalency, including community colleges, four-year colleges and universities, and technical and trade schools.

School dropout: As defined in section 3(54) of WIOA, an individual who is no longer attending any school and has not received a secondary school diploma or its recognized equivalent.

School year calendar quarter: The timeframe identified as an academic quarter by the local school district or charter school that a youth last attended, or the calendar quarter if not defined by the district or school.

Secondary School: A school operated by a board of education, a community school established under Chapter 3314 of the Revised Code, or a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code that provides secondary education as determined under State law, except that the term does not include any education beyond grade 12.

VI. Requirements

Local areas implementing WIOA Youth program services must ensure that participant eligibility for such services and participant school status are accurately determined based on the following requirements. Each eligibility factor must be verified in accordance with the policy on source documentation for WIOA programs.

A. In-School Youth (ISY) Eligibility Requirements

An individual is eligible as an in-school youth if, at the time of enrollment, he or she is:

1. Attending school, including secondary and postsecondary school;
2. Not younger than age 14 or older than age 21 (unless an individual with a disability who is attending secondary school under state law);
3. A low-income individual; and
4. Has one or more of the following barriers:
 - a. Basic skills deficient;
 - b. An English language learner;
 - c. An offender;
 - d. A homeless individual, homeless child or youth, or a runaway;

- e. An individual in foster care or has aged out of the foster care system or has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under the John H. Chafee Foster Care Independence Program, or in an out-of-home placement;
- f. An individual who is pregnant or parenting (which may include a mother or father, custodial or non-custodial);
- g. An individual with a disability; or
- h. An individual who requires additional assistance to complete an education program or to secure or hold employment.

B. Out-of-School Youth (OSY) Eligibility Requirements

An individual is eligible as an out-of-school youth if, at the time of enrollment, he or she is:

- 1. Not attending any school;
- 2. Not younger than age 16 or older than age 24; and
- 3. Has one or more of the following barriers:
 - a. A school dropout;
 - b. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter;
 - c. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is basic skills deficient or an English language learner;
 - d. An offender;
 - e. A homeless individual, homeless child or youth, or a runaway;
 - f. An individual in foster care or has aged out of the foster care system or has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under the John H. Chafee Foster Care Independence Program, or an individual in an out-of-home placement;
 - g. An individual who is pregnant or parenting (which may include a custodial or non-custodial mother or father);
 - h. A youth who is an individual with a disability; or
 - i. A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

C. Determining School Status

School status must be based on status at the time the eligibility determination portion of program enrollment is made. Once the school status of a youth is determined, that school status remains the same throughout the youth's participation in the WIOA youth program, unless the youth exits from the program, reapplies, and is again determined eligible.

For the purposes of determining ISY status, the school attended may be either a secondary school (including alternative secondary school services) or postsecondary school. If the youth participant is enrolled in credit-bearing postsecondary classes, including credit-bearing community college and credit-bearing continuing education classes, he or she is attending postsecondary education and is an ISY. If the youth is only enrolled in non-credit bearing postsecondary classes, he or she would be considered an OSY.

For the purposes of WIOA school status, the following are not considered to be schools, so youth enrolled only in these programs are OSY:

- Adult education programs under Title II of WIOA (in Ohio, called Aspire);
- YouthBuild programs; and
- JobCorps programs.

Youth enrolled in high school equivalency programs and dropout re-engagement programs are also generally considered OSY, unless the program is funded by the public K-12 school system and the youth is enrolled in the school system, in which case the youth is an ISY.

If a youth is determined eligible for the WIOA youth program during the summer and is in between school years, the youth is considered an ISY if enrolled to continue school in the fall. A youth who is determined eligible for the WIOA youth program between high school graduation and postsecondary education is considered an ISY once he or she has registered for postsecondary courses (i.e., when courses for the upcoming term have been selected and confirmed) even if classes have not yet begun. However, if a youth who completed secondary education has not yet registered for postsecondary courses at the time of eligibility determination, he or she is an OSY, even if he or she has been accepted into a postsecondary education program.

Regardless of the prior paragraph, a secondary student earning postsecondary credit through the College Credit Plus program defined in Chapter 3365 of the Revised Code who intends to continue attending the same postsecondary school after graduating secondary school remains an ISY during the period between completion of secondary school and enrollment in the postsecondary school.

For the purposes of this policy, if a child is being homeschooled in accordance with the requirements of ODE, the child is in school.

D. Dropout Barrier

Local areas must verify a youth's dropout status at the time of program enrollment. If a youth has not received a high school diploma or a

recognized equivalent and is not attending any school at the time of eligibility determination, he or she is considered a dropout and is an OSY. A dropout only includes an individual who is currently a secondary school dropout at the time of enrollment and does not include a youth who previously dropped out of secondary school but subsequently returned.

A youth receiving alternative secondary school services at the time of enrollment is not a dropout. A youth who is an OSY at the time of enrollment and is subsequently placed in alternative secondary school services (or any school) remains an OSY. Additionally, a youth who has stopped attending postsecondary education is not a dropout for the purposes of youth program eligibility.

E. Not Attending School Barrier

In Ohio, children between the ages of 6 and 18 are required to attend school, whether it be public, private, or home schooling. Exceptions from compulsory school attendance are granted to children who:

1. Received a high school diploma before the age of 18;
2. Are over 14 years old, lawfully employed, and it is necessary that they work; or
3. Have a physical or mental condition that does not allow for school attendance.

To meet OSY eligibility, youth who are excused from compulsory school attendance due to one of the above exceptions would need to be facing some other barrier besides not attending school.

F. Basic Skills Deficient Barrier

In assessing basic skills, local programs must use assessment instruments that are valid and appropriate for the target population. The local program must also provide reasonable accommodation in the assessment process, if necessary, for people with disabilities.

G. Additional Assistance Barrier

For both ISY and OSY, as stated in Ohio's Combined State Plan, an individual who requires additional assistance to complete an education program or to secure or hold employment is a youth who receives, or in the past six months received assistance from the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or Supplemental Security Income (SSI), or who meets the criteria defined by the local WDB.

The local WDB must establish definitions and eligibility documentation requirements to verify that the local criteria have been met by youth who require additional assistance to enter or complete an educational program

or to secure or hold employment. The local area's policy should be reasonable, quantifiable, and based on evidence that the specific characteristics of the youth identified in the policy objectively require additional assistance.

Of the total ISY enrolled by a local area during a program year, no more than five percent may be individuals who require additional assistance to complete an educational program or to secure or hold employment.

H. Youth Living in a High-Poverty Area

For WIOA eligibility purposes, living in a high-poverty area is an additional criterion establishing that the youth is a low-income individual. Per 20 C.F.R. 681.260, a high-poverty area is defined as a Census tract or a set of contiguous Census tracts with a poverty rate of at least 25 percent based on the American Community Survey data.

Instructions on determining if a county or Census tract is a high-poverty area using the Census Bureau's American Fact Finder homepage are available in Attachment 2 of the Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) No. 21-16.

I. Five Percent Low-Income Exception for Youth Eligibility

Youth participants whose eligibility criteria require them to be low-income individuals are defined as covered individuals. Up to five percent of a local area's covered individuals may be enrolled in the youth program if they meet all other eligibility criteria except the low-income criterion. In a program year, the number of newly enrolled covered individuals who are not low-income must not exceed five percent of the local area's total new enrollments of covered individuals.

J. Selective Service Eligibility

Male youth participants who are 18 years of age and older and have fulfilled registration requirements of the Military Selective Service Act (MSSA), 32 C.F.R. Part 1605, are eligible to participate in WIOA-funded programs and services. The WIOA policy letter on selective service registration provides further guidance on this requirement.

If a male reaches his 18th birthday during WIOA program participation, he must register for selective service to continue receiving WIOA youth program services. A male youth applicant who is 18 years old or older who has not registered for the selective service or who is unwilling to register will be denied any WIOA program services.

K. Co-Enrollment with Other Programs

Youth may participate in both the WIOA youth program and the adult program at the same time if they are eligible and appropriate for both. The determination of the appropriateness for co-enrollment is based on the participant's service needs, career readiness, occupational skills, prior work experience, and employability. If such concurrent enrollment occurs, the local area must track expenditures separately by program.

Youth may not be co-enrolled in the WIOA dislocated worker program because any youth meeting the eligibility for the dislocated worker program would have already successfully attained a job and would most likely be more appropriately served under the dislocated worker program.

Youth who are eligible under both programs may enroll concurrently in the WIOA youth program and Aspire program services under WIOA Title II.

VII. Out-of School Priority

For any program year, not less than 75 percent of the youth funds available to local areas shall be used to provide youth workforce investment activities for OSY.

VIII. Reporting

As sub-recipients of WIOA youth program funds, local areas are required to maintain and report accurate program and financial information. Per rule 5101:9-30-04 of the Ohio Administrative Code (O.A.C.), program information including participant demographic data, activities, and performance must be accurately entered, within 30 days, into the Ohio Workforce Case Management System (OWCMS) and financial information must be accurately entered into the County Finance Information System (CFIS).

IX. Monitoring

The local area must conduct oversight and monitoring of the implementation of the WIOA youth program to ensure that participants enrolled in the program are eligible and that eligibility has been properly documented.

Through the state's monitoring system, ODJFS program monitors will review the local area's determination of WIOA youth program eligibility and the provision of services to eligible youth during the annual onsite monitoring review for compliance with federal and state laws and regulations. Any issues will be handled through the state's monitoring resolution process.

X. Technical Assistance

For technical assistance, you may send your request to the Office of Workforce Development: WIOAQNA@jfs.ohio.gov.

XI. References

Workforce Innovation and Opportunity Act, §129, Pub. L. 113-128.

20 C.F.R. §§ 681.200 – 681.410.

29 U.S.C. § 3101, et seq.

O.R.C. § 3321.01, et seq.

O.A.C. rules 5101:9-30-04, 5101:10-3-01, and 5101:14-1-01 - 5101:14-1-07.

USDOL, Training and Employment Guidance Letter WIOA No. 21-16, Third Workforce Innovation and Opportunity Act (WIOA) Title I Youth Formula Program Guidance, (March 2, 2017).

USDOL, Training and Employment Guidance Letter WIOA No. 08-15, Second Title I WIOA Youth Program Transition Guidance, (November 17, 2015).

USDOL, Training and Employment Guidance Letter WIOA No. 23-14, Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition, (March 26, 2015).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-04, Selective Service Registration, (July 15, 2015).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-07.1, Source Documentation for WIOA Title I Program Eligibility, (June 25, 2018).