



WORKFORCE INNOVATION AND OPPORTUNITY ACT

VIRGINIA WORKFORCE LETTER (VWL) No. 16-12

TO: Local Workforce Development Boards

FROM: Nicole Overley
Commissioner, Virginia Works *Nicole Overley*

SUBJECT: 5% Income Exception for WIOA Youth Programs

EFFECTIVE DATE: 2/15/2025

PURPOSE:

To provide guidance to Local Workforce Development Areas (LWDA) and partners on the use of the five percent income exception for youth participants in accordance to the Workforce Innovation and Opportunity Act of 2014 (WIOA).

REFERENCES:

Federal Register, August 19, 2016, Department of Labor, Employment and Training Administration, 20 CFR Part 681.310(b)
Federal Register, August 19, 2016, Department of Labor, Employment and Training Administration, 20 CFR Subpart B 681.250
WIOA (Pub. L. 113-128) Title I, Section 129 (3) (A) (i); Section 129 (a) (3) (A) (ii)
Training and Employment Guidance Letter (TEGL) No. 8-15: Operating Guidance for the Workforce Innovation and Opportunity Act
Virginia Workforce Letter (VWL) No. 14-04: Youth in Need Of Additional Assistance Requirements
Virginia Workforce Letter (VWL) No. 15-02: Eligibility Guidelines
Virginia Workforce Letter (VWL) No. 15-02, Attachment C: WIOA Youth Eligibility
Virginia Workforce Letter (VWL) No. 16-00, 2016 Poverty and 70% Lower Living Standard Income Levels
Virginia Workforce Letter (VWL) No. 16-11, Youth in Need of Additional Assistance Requirements and In- School Youth 5% Limitation Barrier

REVISIONS:

N/A

DEFINITIONS:

Covered Individual - WIOA defines an in-school youth and the following two categories of out-of-school youth as "covered individuals":

- 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.
- A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment (WIOA sec. 129 (a) (3) (A) (i)).

Low-Income Individual/Youth -An individual youth who meets one or more of the following:

- i. Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;
- ii. Is in a family with total income that does not exceed the higher of-
 - a. The poverty line; or
 - b. 70 percent of the lower living standard income level;
- iii. Is a homeless individual;
- iv. Receives or is eligible to receive free or reduced price lunch;
- v. Is a foster child on behalf of whom State or local government payments are made;
- vi. Is a youth who lives in a "high poverty area" defined in WIOA sec. 3(36).

Non-Low-Income Youth-An In-School Youth (ISY) or an Out-Of-School Youth (OSY) who does not meet the WIOA, Title I, eligibility criteria for low-Income Individual.

BACKGROUND:

The Workforce Innovation and Opportunity Act of 2014 (WIOA) outlines a broader youth vision that is grounded in evidence-based strategies to support a service delivery system that is dedicated to achieving high-levels of performance, accountability and quality in preparing

young people for the workforce. WIOA provides an exception to the low-income criteria under the youth program to allow for more disadvantaged youth to be served.

The exception allows LWDA's to enroll youth individuals who do not meet the low income criteria. Where applicable, a youth who does not meet the income criteria (non low-income youth) for the WIOA

Youth program, but would benefit from the program services, may be a candidate for the S percent income exception expressed in this VWL.

GUIDANCE:

A.5% Income Exception

In accordance with WIOA sec. 129 (a)(3)(A)(ii), each local workforce area must not enroll more than S percent of "covered individuals" who are not low-income into the WIOA Title I Youth program at any given time. The service provider must take appropriate action through the eligibility determination process to verify the individual may be served as non-low-income.

Note: A youth who lives in a high poverty area is automatically considered to be a low-income individual and would not be considered for the S percent exception.

B.5% Exception Determination Calculation

The S percent low-income exception under WIOA is calculated based on youth enrolled in a given program year who would ordinarily be required to meet the low-income criteria.

Example: A local area enrolled 200 youth. 100 of those youth were OSY who were not required to meet the low-income criteria, SO were OSY who were required to meet the low-income criteria, and SO were ISY. In this example, the SO OSY required to be low income and the SO ISY are the only youth factored into the S percent low-income exception calculation. Therefore, in this example of the 100 youth who ordinarily would be required to be low- income, only S (i.e. S percent) do not have to meet the low-income criteria based on the low-income exception.

Youth Enrolled in a LWDA	No.
OSY not required to meet the low-income criteria	100
OSY who are required to meet the low-income criteria	50
ISY	50
Total Youth Enrolled	200

5% Exception Determination	No.
OSY who are required to meet the low-income criteria	50
ISY (all ISY have to meet the low-income criteria)	50
Total	100
5% Exception Determination {5% of 100}	5

Result: *A maximum of 5 Youth who ordinarily would be required to be low-income do not have to meet the low-income criteria.*

Calculation Formula: *See **Appendix A** example for determining 5% Exception compliance calculation at any given time.*

C. Monitoring 5% Exception

LWDA's must develop a local policy and procedure for monitoring the 5 percent exception process. Evaluation of program performance should be conducted throughout the program year. Local workforce areas that exceed the 5 percent income exception may be subject to disallowed costs. The WIOA Title I Administrator will review possible disallowed costs on a case by case basis.

NOTE: This 5 percent exception differs from the 5 percent limitation in the WIOA, Title I Youth Program. Under the 5 percent limitation, not more than 5 percent of the *in-school youth (/SY)* in each local area may be determined eligible based on "*an individual who requires additional assistance to complete an educational program or to secure or hold employment*". See VWL No. 15- 02 Eligibility Guidelines, Attachment C

and VWL No. 16-11, Youth in Need of Additional Assistance and In-School Youth 5% Limitation for additional information.

ACTION REQUIRED:

Local Workforce Development Areas must be in compliance and practice with this policy issuance for 5% Income Exceptions for WIOA Youth Programs criterion.

INQUIRIES:

Please submit inquiries regarding this VWL to:

Virginia Works

WIOA Title I Administrator

2221 Edward Holland Drive,

Suite 500

Richmond, VA 23230

LWDBinquiries@viriniaworks.gov