

COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM

WORKFORCE INVESTMENT ACT

VIRGINIA WORKFORCE LETTER (VWL) #01-04 (REVISED)

TO: LOCAL WORKFORCE INVESTMENT BOARDS
FROM: WORKFORCE DEVELOPMENT SERVICES
SUBJECT: LOCAL WIA PROGRAM POLICY IMPLEMENTATION
DATE: NOVEMBER 20, 2001 (REVISED JANUARY 2002)

The Workforce Investment Act (WIA) emphasizes the significance of local decision-making and its impact on the successful implementation and development of the local one-stop system. Local policies and procedures provide the framework for local governance; therefore, it is important that they are consistent with the Local Workforce Investment Board's (LWIB) strategic plan, the WIA, federal regulations and State policies. This memo provides technical assistance regarding policies and procedures to be prepared at the local level as required by the WIA.

A. LWIB Member Selection {Reference: 20 CFR 661.300, 661.315 and WIA §117}

The LWIB members are appointed by the chief local elected official (CLEO) in accordance with State criteria established under WIA §117 (b) and is certified by the Governor every two years, in accordance with WIA §117 (c) (2). If a local area includes more than one unit of general local government, the CLEOs of such units may execute an agreement to describe their responsibilities. If, after a reasonable effort, the CLEOs are unable to reach an agreement, the Governor may appoint the members of the LWIB from individuals who have been nominated or recommended.

In the event that this situation should occur, this procedure should address the process for nominating LWIB members.

B. Out-of-Area Assistance and Relocation Assistance {Reference: 20 CFR 663.200}

This policy should address the eligibility requirements for participants seeking to receive services outside of the local area. Additionally, this policy should outline the local procedure for participants seeking to receive relocation assistance.

C. Self-Sufficiency {Reference: 20 CFR 663.230}

This policy should provide the local definition of self-sufficiency and the criteria for determining whether employment leads to self-sufficiency. At a minimum, such criteria must provide that self-sufficiency means employment that pays at least the lower living standard income level, as defined in WIA §101(24). Self-sufficiency for a dislocated worker may be defined in relation to a percentage of the layoff wage.

The special needs of individuals with disabilities, or other barriers to employment, should also be taken into account when setting criteria to determine self-sufficiency.

D. Individual Training Account {Reference: 20 CFR 663.420}

An Individual Training Account (ITA) is established for eligible individuals to finance training services. WIA Title I adults and dislocated workers purchase training services from eligible providers they select in consultation with the case manager. Payments from ITAs may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, incrementally (through payment of a portion of the costs at different points in the training course) or other appropriate methods.

This policy should describe the limits imposed on ITAs at the local level, such as limitations on the dollar amount and/or duration. Per 20 CFR 663.420(b), there may be a limit for a participant that is based on the needs identified in the individual's employment plan. There may also be a policy decision to establish a range of amounts and/or a maximum amount applicable to all ITAs. These locally established limitations must be described in the local strategic plan but should not inhibit customer choice in the selection of an eligible training provider.

ITA limitations may provide for exceptions to the limitations in individual cases. For example, an individual may select training that costs more than the maximum amount available for ITAs under 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.

E. Priority of Service {Reference: 20 CFR 663.600}

The Preamble to the WIA denotes that adult funds are generally limited, but the regulations imply that the determination of whether or not adult funds are limited is a local level decision. Because conditions vary from one area to another, the regulations require that the LWIB consider the resources available and the populations to whom the services will be provided to determine whether, or not, adult funds are limited in that local area. The availability of other federal funding, such as TANF and Welfare-to-Work funds, should be taken into consideration, as well. Once the LWIB has determined the status of the availability of funds, it must declare that adult funds:

1. Are limited in the local area – if this declaration is made, priority for intensive and training services funded with Title I adult funds must be given to recipients of public assistance and other low-income individuals in the local area; or

2. Are not limited in the local area – if this declaration is made, the LWIB is not required to use priority of service when determining who may receive intensive and training services funded with Title I adult funds.

This policy must declare whether or not adult funds are limited in the local area and establish both, the criteria by which local areas will determine the availability of funds and the process by which any priority will be applied. Such criteria may include the availability of other funds for providing employment and training-related services in the local area and the needs of the specific groups within the local area.

Additionally, a policy statement regarding this declaration must be included in the local plan and reviewed (minimally, on an annual basis) to ensure that the economic dynamics previously fostering the determination are still present. Any change to the declaration must be submitted to the WIA Unit for approval prior to implementation.

F. On-the-Job Training {Reference: 20 CFR 663.700(c)}

On-the-Job Training (OJT), defined at WIA §101(31)(C), is provided under contract with an employer in the public, private non-profit or private sector. Through the OJT contract, occupational training is provided for the WIA participant in exchange for the reimbursement of up to 50% of the wage rate to compensate for the employer's extraordinary costs.

This policy should provide the time limitation of OJT contracts. Per 20 CFR 663.700(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:

1. Skill requirements of the occupation;
2. Academic and occupational skill level of the participant;
3. Prior work experience; and
4. Participant's individual employment plan.

This policy should also include provisions that prevent the local program from contracting with an employer who has previously exhibited negative employment practices.

G. Customized Training {Reference: 20 CFR 663.715 – 663.730}

Customized training should be designed to meet the special requirements of an employer, or group of employers and conducted with a commitment by the employer to employ, or continue to employ, an individual on successful completion of the training. Additionally, the employer must pay for not less than 50 percent of the cost of customized training.

This policy should address the local procedure for employers to request customized training. When developing this procedure, consider the guidance outlined in 20 CFR 663.720 and 663.730 regarding the requirements for customized training for employed workers.

H. Supportive Services {References: 20 CFR 663.800 - 663.840, WIA §101(46) and 134(e)(2-3)}

Supportive services for adults and dislocated workers are defined in WIA §101(46) and §134(e)(2-3) and include services such as transportation, child care, dependent care, housing and needs-related payments. These types of services are made available, when necessary, to enable an individual to participate in activities authorized under WIA Title I.

This policy must outline the resources available in the local area and the procedures for referral to such services, including how such services will be funded when they are not 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 core services that must be available to adults and dislocated workers through the one-stop delivery system.

This policy must also address the payment level of needs-related payments for adults. Needs-related payments provide financial assistance to participants for the purpose of enabling individuals to participate in training. The eligibility requirements for adults and dislocated workers to receive needs-related payments are outlined in 20 CFR 663.820 and 20 CFR 663.825. When preparing this policy, consider the guidelines discussed in 20 CFR 663.840 which state, “For dislocated workers, payments must not exceed the greater of either of the following levels:

1. For participants who were eligible for unemployment compensation as a result of the qualifying dislocation, the payment may not exceed the applicable weekly level of the unemployment compensation benefit; or
2. For participants who did not qualify for unemployment compensation as a result of the qualifying layoff, the weekly payment may not exceed the poverty level for an equivalent period. The weekly payment level must be adjusted to reflect changes in total family income as determined by Local Board policies.”

I. Youth {Reference: 20 CFR 664.220 (h)}

Up to five percent of youth participants served by youth programs in a local area may be individuals who do not meet the income criterion for eligible youth, provided that they are within one or more of the following categories:

1. School dropout
2. Basic skills deficient
3. Are one or more grade levels below the grade level appropriate to the youth’s age
4. Pregnant or parenting

5. Possess one or more disabilities (including learning disabilities)
6. Homeless or runaway
7. Offender
8. Face serious barriers to employment (must be identified by the Local Board)

This policy should outline the barriers to employment identified at the local level that would enable a youth who does not meet the income criterion for eligible youth to receive services through the five percent window.

J. Grievances and Complaints {References: 20 CFR 667.600}

WIA requires each local area and direct recipient of funds under title I, excluding Job Corps, to establish and maintain a procedure for grievances and complaints. Local grievance and complaint procedures must provide:

1. A process for dealing with grievances and complaints from participants and other interested parties affected by the local one-stop system;
2. An opportunity for an informal resolution and a hearing to be completed within 60 days of the filing of the grievance or complaint;
3. A process which allows an individual alleging a labor standards violation to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and
4. An opportunity for a local level appeal to a State entity when no decision is reached within 60 days or either party is dissatisfied with the local hearing decision.

K. Confidentiality {Reference: 20 CFR pg. 49316}

In order to further continuous improvement efforts, WIA strongly encourages local areas to seek customer feedback regarding the quality of services available. When collecting this type of data, it is important to do so in a manner that is consistent with rules governing confidentiality.

This policy statement should define the local area's commitment to protect the confidentiality of its customers. The statement should be shared with all participants upon registration.

L. Equal Opportunity & Nondiscrimination {Reference: WIA §188}

This policy should express the equal opportunity and nondiscrimination foundation of the LWIB. Suggested language is denoted below:

The LWIB and all partners in the local one-stop system agree to:

1. Comply with the nondiscrimination and equal opportunity provisions of WIA §188. These regulations prohibit discrimination in its employment practices or services on the basis of gender, age, race, color, creed, religion, national origin, disability, political affiliation, veteran's status, or on the basis of any other classification protected under state or federal law;
2. Have policies/procedures in place to address these issues, give these policies/procedures to all participants and post these policies/procedures, as required by law;
3. Furnish all necessary books, records, accounts, etc. to the Commonwealth for purposes of investigation to ascertain compliance with these provisions; and
4. Be responsible for, and agree to indemnify and hold harmless, the Commonwealth of Virginia from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth of Virginia as a result of a party's failure to comply with these provisions.

M. Monitoring Sub-Recipients and Contractors {References: 20 CFR §667.410 (a) (1-3)}

Each recipient and sub-recipient must conduct regular oversight and monitoring of its WIA activities and those of its sub-recipients and contractors. Monitoring is conducted to determine that expenditures have been made against the cost categories and within the cost limitations specified in the WIA and the regulations. Monitoring also allows the recipient to provide technical assistance as necessary and to determine whether or not there is compliance with other provisions of the WIA and other applicable laws and regulations.

This policy statement should define the criteria that will be used to monitor sub-recipients and contractors in the local workforce system and should be made available to all parties that will be monitored.

NOTE: This memorandum is not offered as an all-inclusive listing of local policy requirements, nor does it exclude the local area from developing additional guidance necessary to foster the success of the local workforce development system.