

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 8 WORKFORCE INVESTMENT ACT (WIA) INDIVIDUAL TRAINING ACCOUNTS
(ITAs)

11.2.8.1 ISSUING AGENCY: The New Mexico Office of Workforce Training and Development (OWTD).
[11.2.8.1 NMAC - Rp, 11.2.8.1 NMAC 12/31/2005]

11.2.8.2 SCOPE: The Workforce Investment Act (WIA) state administrative entity (SAE), state workforce development board (SWDB), local workforce development boards (LWDBs) and all SAE WIA subrecipients.
[11.2.8.2 NMAC - Rp, 11.2.8.2 NMAC 12/31/2005]

11.2.8.3 STATUTORY AUTHORITY: Workforce Development Act Chapter 50, Article 14, NMSA 1978.
[11.2.8.3 NMAC - Rp, 11.2.8.3 NMAC 12/31/2005]

11.2.8.4 DURATION: Permanent.
[11.2.8.4 NMAC - Rp, 11.2.8.4 NMAC 12/31/2005]

11.2.8.5 EFFECTIVE DATE: December 31, 2005 unless a later date is cited at the end of a section.
[11.2.8.5 NMAC - Rp, 11.2.8.5 NMAC 12/31/2005]

11.2.8.6 OBJECTIVE: To establish policy for local workforce development boards regarding individual training accounts.
[11.2.8.6 NMAC - Rp, 11.2.8.6 NMAC 12/31/2005]

11.2.8.7 DEFINITIONS: [RESERVED]

11.2.8.8 BACKGROUND: The individual training account (ITA) is established on behalf of a participant to finance training services. Adult and dislocated workers purchase training services from eligible providers selected from the *single* statewide list of approved providers and in consultation with the case manager.
[11.2.8.8 NMAC - N, 12/31/2005]

11.2.8.9 ACTION: References include the following: Public Law 105-220, Workforce Investment Act (WIA), Section 134 (d)(4)(G), 20 CFR Part 652 *et al.*, Section 663.400, Section 663.410, Section 663.420, Section 663.430 and Section 663.440.

A. ITAs:

(1) shall be limited to individuals unable to obtain other grant assistance or require assistance beyond that available from other grant assistance programs; the LWDB or its designee, at each training enrollment period (i.e., semester, quarter), shall document the unavailability of other funding sources such as pell grants, TAA, TANF or other federal grants;

(2) shall only be issued to individuals who have been determined to need training services to obtain employment; ITAs are not considered an *entitlement*; and

(3) shall be developed jointly by the individual and case manager using the results of the assessment and employment development plan and must adhere to any time limitations or dollar amounts established by the LWDB in the local five-year plan; the case manager shall verify that the participant meets the provider's enrollment criteria for admission to the training program or course of study as well as coordinate the provider's acceptance of the participant into the program and coordination of case management.

B. Training programs may only be selected from the approved *single* statewide list and must lead to an "occupation in demand" in the local area or area where the participant is willing to relocate. An "occupation in demand" shall be defined by the LWDB and the method for identifying those occupations shall be documented. No documentation is required if the occupation is listed as an "in demand" occupation by the economic research and analysis bureau of the New Mexico department of labor.

C. The LWDB or its designee shall establish a mechanism for payment to an approved training provider. This process shall include tracking expenditures of all resources paying for the participant's training, including WIA Title I funds of the ITA.

(1) Participants shall be able to use their ITAs to acquire training from any eligible training provider on the state list or training provider lists of other states where the state of New Mexico has entered into reciprocal agreements.

(2) When an individual is approved for training and an eligible provider is selected, an application for an ITA must be completed by the individual. The application should contain a commitment to complete training, to provide attendance information, grades or progress reports, and credentials, to utilize the provider's resources for placement, and when hired, to provide placement and follow-up information to the case manager. Provisions should also be included for follow-up activities to determine employment retention and wages after employment, to include authorization for access to unemployment insurance (UI) wage records.

(3) Full payment at the beginning of each semester, quarter or other training period will be allowed only if the provider has a published prorated refund policy applicable for all students who may drop out of that training institution. Full payments for entire programs beyond each training period are not allowed.

(4) LWDBs may impose limitations on the dollar amount and/or duration of an ITA.

D. A LWDB may develop reciprocal agreements with other LWDBs, one-stop operators, and service providers, as necessary to effect seamless training services. Such agreements should include arrangements for the provision of case management and any fiscal reimbursement terms and conditions.

E. LWDBs may request the SAE to develop reciprocal agreements with other states in the provision of case management and other training or reporting needs.

F. Use of an ITA is necessary for the following types of training:

- (1) occupational skills training services, including training for nontraditional employment;
- (2) programs that combine workplace training with related instruction, which includes appropriate education programs;
- (3) training programs for occupations in demand operated by the private sector;
- (4) skill upgrading and retraining;
- (5) entrepreneurial training;
- (6) adult basic education/ESL/literacy provided **in combination with** the above training;
- (7) post-secondary education for careers in demand; and
- (8) BAT approved apprenticeship programs.

G. **An ITA is not used for short-term prevocational activities.** Short-term prevocational activities are intensive services that prepare individuals for employment, or enable workers with skills to acquire a necessary occupational credential through short-term continuing education. Examples include development of (1) basic learning, communication and interviewing skills, such as punctuality, personal maintenance and personal conduct skills, (2) employability skills training such as job preparation and work maturity skills developed in SCANS (secretary's committee on achieving necessary skills) and (3) in the development of occupational literacy skills to complete a training program or class, such as a basic computer class in Word.

H. ITAs are not used for OJT, customized training or a training services program of demonstrated effectiveness serving special participant populations that face multiple barriers to employment. These exceptions to the use of ITAs are addressed in other SAE rules.

I. A LWDB or its designee shall monitor the use of ITAs to ensure that training services are provided in a manner that maximizes customer choice, that sound accounting and payment procedures are used and that any local limitations are observed.

J. LWDBs shall make provisions for the maintenance and retention of ITA records, including systems of issuance, funding obligations/expenditures, oversight and completion in accordance with WIA record retention requirements. Such records shall be retained for a period of three program years from the date the individual participant exits unless an unresolved audit is pending. In that case, records must be retained until final resolution of the audit.

K. LWDBs or their designee shall ensure that selected training providers are afforded appropriate training and technical assistance necessary to deliver the required WIA services.

[11.2.8.9 NMAC - Rp, 11.2.8.8 NMAC 12/31/2005]

11.2.8.10 CONTACT ENTITY: Inquiries regarding this rule should be directed to the state administrative entity (SAE) in Santa Fe at (505) 827-6827.

[11.2.8.10 NMAC - Rp, 11.2.8.10 NMAC 12/31/2005]

11.2.8.11 DISTRIBUTION: SWDB and LWDB chairpersons, LWDB administrative entities, all SAE WIA subrecipients, SAE legal counsel, SAE EEO officer, USDOL federal representative and New Mexico commission on public records.
[11.2.8.11 NMAC - Rp, 11.2.8.11 NMAC 12/31/2005]

HISTORY OF 11.2.8 NMAC:

History of Repealed Material:

11.2.8 NMAC, Workforce Investment Act (WIA) Individual Training Accounts (ITAs), filed 06/16/00 - Repealed 12/31/2005