

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 18 WORKFORCE INVESTMENT ACT (WIA) YOUTH ACTIVITIES

11.2.18.1 ISSUING AGENCY: New Mexico Department of Labor.
[11.2.18.1 NMAC – N, 8/15/01]

11.2.18.2 SCOPE: The State Administrative Entity (SAE), State Workforce Development Board (WDB), New Mexico Workforce Development Areas/Local Workforce Development Boards (NMWDAs/LWDBs), and other State WIA subrecipients.
[11.2.18.2 NMAC – N, 8/15/01]

11.2.18.3 STATUTORY AUTHORITY: The Workforce Investment Act of 1998 (Public Law 105-220, 29 U.S.S.C.C. 2801, et. seq.; Final Rule at Title I, Chapter 4, “Youth Activities,” Sections 126 through 129 and in the Federal Register Volume 65, Number 156, dated August 11, 2000, Part 664, “Youth Activities Under Title I of the Workforce Investment Act,” and any amendments thereto, Section 506(c), Pub. L. 105-220; 20 U.S.C. 9276(c); New Mexico Workforce Development Act, New Mexico House Bill 740, Chapter 260, Laws of 1999, Forty-fourth Legislature.
[11.2.18.3 NMAC – N, 8/15/01]

11.2.18.4 DURATION: Permanent.
[11.2.18.4 NMAC – N, 8/15/01]

11.2.18.5 EFFECTIVE DATE: August 15, 2001, unless a later date is cited at the end of a section.
[11.2.18.5 NMAC – N, 8/15/01]

11.2.18.6 OBJECTIVE: Youth activities offer a broad range of coordinated services to include opportunities for assistance in both academic and occupational learning, developing leadership skills, and preparing for further education, additional training and eventual employment. The varied services may be provided in combination or alone at different times during a youth’s development. Decision making is at the local level with Youth Councils responsible for recommending and coordinating youth policies and programs to the Local Workforce Developments Boards. Strong connections are to exist between youth program activities and the One-Stop service delivery system so that youth learn early how to access the services of the One-Stop system and continue to use those services throughout their working lives.
[11.2.18.6 NMAC – N, 8/15/01]

11.2.18.7 DEFINITIONS: [RESERVED].

[11.2.18.7 NMAC – N, 8/15/01]

11.2.18.8 ACTION: Guidance and instruction for the delivery of WIA services related to youth eligibility, Out-of-School Youth, program design, concurrent enrollment, summer employment opportunities, One-Stop services, and Youth Opportunity Grants are described below:

A. Eligibility. An eligible youth is an individual who is age 14 through 21, is a low income individual (one who receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program; or received an income, or is a member of a family that received a total family income, for the six-month period prior to application for the program involved [exclusive of unemployment compensation, child support payments, payments described in this paragraph, above, and old-age survivors insurance benefits received under the Social Security Act]) that, in relation to family size, does not exceed the higher of the poverty line, for an equivalent period; or is a member of a household that receives or has been determined within the six-month period prior to application for the program involved to be eligible to receive food stamps pursuant to the Food Stamp Act of 1977; or qualifies as a homeless individual, as defined in the Stewart B. McKinney Homeless Assistance Act; or is a foster child on behalf of whom State or local government payments are made; or in cases permitted by regulations promulgated by the United States Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in this paragraph, above, but who is a member of a family whose income does not meet such requirements; and is within one or more of the following categories:

(1) Deficient in basic literacy skills (i.e. computes or solves problems, reads, writes, or speaks English at or below grade level 8.9; or is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family or in society);

(2) School dropout;

(3) Homeless, runaway or foster child;

(4) Pregnant or parenting;

(5) Offender, or,

(6) Is an individual (including a youth with a disability) who requires additional assistance to complete an educational program, or to secure and hold employment. Local boards may define this category.

B. Up to five percent of youth participants served by youth programs in a local area may be individuals who do not meet the income criteria for eligible youth, provided that they are within one or more of the following categories: school dropout, basic skills deficient (as defined above), or are one or more grade level below the grade level appropriate to the individual's age, pregnant or parenting, possess one or more disabilities, including learning disabilities, homeless or runaway, offender, or face serious barriers to employment as identified by the local board.

C. The eligibility barriers for eligible youth are not the same as the eligibility barriers for the five percent of youth participants who do not have to meet income eligibility requirements. Both lists of eligibility barriers include school dropouts, homeless or runaway, pregnant or parenting, and offender, but each list contains barriers not included on the other list.

D. The criteria for income eligibility under the National School Lunch Program are not the same as the Act's income eligibility criteria. Therefore, the school lunch list may not be used as a substitute for income eligibility to determine who is eligible for services under the Act.

E. A disabled youth whose family does not meet income eligibility criteria under the Act may be eligible for youth services and considered to be a low-income individual if the youth's own income meets the income criteria established in the WIA or meets the income eligibility criteria for cash payments under any Federal, State or local public assistance program.

F. Enrollment. All youth participants must be registered in order to collect information to support a determination of eligibility. Equal Employment Opportunity (EEO) data must be collected on individuals during the registration process.

G. Out-of-School Youth. An out-of-school youth is an individual who: is an eligible youth who is a school dropout; or is an eligible youth who has either graduated from high school or holds a GED, but is basic skills deficient, unemployed or underemployed. A school dropout is defined as an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. A youth attending an alternative school is not a dropout.

H. At least 30 percent of the total amount of all funds allocated to a local area must be used to provide activities to out-of-school youth. Although it is not necessary to ensure that 30 percent of such funds spent on summer employment opportunities (or any other particular element of the youth program) or are spent on out-of-school youth, the funds spent on these activities are included in the total to which the 30 percent requirement applies. If the State Administrative Entity (SAE), after an analysis of the eligible youth population in the local area, determines that the local area will be unable to meet the out-of-school percentage due to a low number of out-of-school youth, a request to lower the percentage may be submitted to the USDOL by the SAE.

I. Program Design. For each youth participant that meets the eligibility requirements, the design framework of local youth programs must:

(1) Provide an objective assessment of each youth which includes assessment of the academic level, skill level, and service needs of each participant, to include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of the participant. A new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program;

(2) Develop an Employability Development Plan (EDP) that expresses an individual service strategy for each youth participant that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives to include up to three youth employment competencies as identified in the Act, and appropriate services for the participant taking into account the objective assessment above. A new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program; and,

(3) Provide preparation for postsecondary educational opportunities in appropriate cases, provide linkages between academic and occupational learning, provide preparation for employment, and provide effective connections to intermediary organizations that provide strong links to the job market and employers. Local boards must ensure appropriate links to entities

that will foster the participation of eligible local area youth. Such links may include connections to local area justice and law enforcement officials, local public housing authorities, local education agencies, Job Corps representatives and representatives of other area youth initiatives, including those that serve homeless youth and other public and private youth initiatives.

J. Program Elements. The programs shall provide elements consisting of:

(1) Tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(2) Alternative secondary school services, as appropriate;

(3) Summer employment opportunities that are directly linked to academic and occupational learning;

(4) Paid and unpaid work experiences are planned, structured learning experiences that take place in a workplace for a limited period of time. Funds under the Act may be used to pay wages and related benefits for work experiences. Work experience workplaces may be in the private, for-profit sector, the non-profit sector, or the public sector. The purpose is to provide the youth participant with the opportunities for career exploration and skill development and is not to benefit the employer, although the employer may, in fact, benefit from the activities performed by the youth. Work experiences may be subsidized or unsubsidized and may include the following elements:

(a) Instruction in employability skills or generic workplace skills such as those identified by the Secretary's Commission on Achieving Necessary Skills (SCANS);

(b) Exposure to various aspects of an industry;

(c) Progressively more complex tasks;

(d) Internships and job shadowing;

(e) The integration of basic academic skills into work activities;

(f) Supported work, work adjustment, and other transition activities;

(g) Entrepreneurship; and,

(h) Other elements designed to achieve the goals of work experience.

(5) In most cases, on-the-job training is not an appropriate work experience activity for youth participants under age 18. Local program operators may choose, however, to use this service strategy for eligible youth when it is appropriate based on the needs identified by the objective assessment of an individual youth participant;

(6) Occupational skill training, as appropriate;

(7) Leadership development opportunities, which may include exposure to postsecondary educational opportunities; community and service learning projects; peer-centered activities, including peer mentoring and tutoring; organizational and team work training, including team leadership training; training in decision-making, including determining priorities; citizenship training, including life skills training such as parenting, work behavior training, and budgeting of resources; employability; and positive social behaviors which are incorporated by many local programs as part of their menu of services which focus on areas that may include, but are not limited to, the following:

(a) Positive attitudinal development;

(b) Self esteem building;

(c) Cultural diversity training; and,

(d) Work simulation activities.

(8) Supportive services which may include linkages to community services; assistance with transportation costs; assistance with child care and dependent care costs;

assistance with housing costs; referrals to medical services; and assistance with uniforms or other appropriate work attire and work-related tool costs, including such items as eye glasses and protective eye gear;

(9) Adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months;

(10) All youth must receive some form of follow-up services for a minimum of 12 months after the completion of participation. Follow-up services may include: leadership development and supportive service activities; regular contact with a youth participant's employer, including assistance in addressing work-related problems that arise; assistance in securing better paying jobs, career development and further education; work-related peer support groups; adult mentoring, and tracking the progress of youth in employment after training. Follow-up services may be provided beyond twelve (12) months at the State or local board's discretion.

(11) Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate.

(12) Additional requirements may include:

(a) Those youth meeting eligibility and enrollment requirements shall be provided information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or One-Stop partners; and referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

(b) Applicants not meeting enrollment requirements or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs to meet the basic skills and training needs of the applicant.

(13) Concurrent Enrollment. Under the Act, eligible youth are 14 through 21 years of age. Adults are defined in the Act as individuals age 18 and older. Thus, individuals ages 18 through 21 may be eligible for and participate in both adult and youth programs concurrently. Such individuals must be eligible under the youth or adult eligibility criteria applicable to the services received. Local program operators may determine, for individuals in this age group, the appropriate level and balance of youth and/or adult services. Connections between the One-Stop system and youth service providers facilitate the coordination and provision of youth activities, connections to intermediaries with links to the job market and employers, and access to information about WIA youth programs and other youth service providers.

(14) Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult programs concurrently, and ensure that services are not duplicated.

(15) Individual Training Accounts are not allowed for youth participants. However, individuals age 18 and above, who are eligible for training services under the adult and dislocated worker program, may receive Individual Training Accounts through that program.

(16) Summer Employment Opportunities. Local boards are required to offer summer youth opportunities that provide direct linkages to academic and occupational learning as part of the menu of services required as described in Program Elements above as part of a comprehensive year-round program.

(17) The summer youth employment opportunities element is **not** intended to be a stand-alone program. Local programs should integrate a youth's participation in that element

into a comprehensive year-round strategy for addressing the youth's employment and training needs. All youth must be provided with a minimum of twelve months of follow-up services.

(18) If, in the administration of the summer employment opportunities element of the local youth program, providers other than the grant recipient/fiscal agent (the chief elected official) are used to provide summer youth employment opportunities, these providers must be selected by awarding a grantor contract on a competitive basis, based on the recommendation of the youth council and on criteria contained in the State Plan.

(19) The law provides specific core indicators of performance for youth, and requires that all participating youth be included in the determination of whether the local levels of performance are met. The following core indicators for eligible youth aged 14 through 18 apply to those participants in all youth activities:

(a) Attainment of basic skills, and, as appropriate, work readiness or occupational skills;

(b) Attainment of secondary school diplomas and their recognized equivalents; and,

(c) Placement and retention in postsecondary education, advanced training, military service, employment, or qualified apprenticeships.

(20) The following core indicators for eligible youth aged 19 through 21 apply to those participants in all youth activities:

(a) Entry into unsubsidized employment;

(b) Retention in unsubsidized employment six months after entry into the employment;

(c) Earnings received in unsubsidized employment six months after entry into the employment; and,

(d) Attainment of a recognized credential related to achievement of educational skills (such as secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter post-secondary education, advanced training, or unsubsidized employment.

(21) A single customer satisfaction measure for employers and a single customer satisfaction indicator for participants must be used for all adults, dislocated workers and youth.

(22) One-Stop Services to Youth. Connections between the youth program and the One-Stop system may include those that facilitate:

(a) The coordination and provision of youth activities;

(b) Linkages to the job market and employers;

(c) Access for eligible youth to the information and services as required above; and,

(d) Other activities designed to achieve the purposes of the youth program and youth activities.

(23) Local boards have the flexibility to offer services to area youth who are not eligible under the youth program through the One-Stop centers. However, One-Stop services for non-eligible youth must be funded by programs that are authorized to provide services to such youth. For example, basic labor exchange services under the Wagner-Peyser Act may be provided to any youth.

(24) Youth Opportunity Grants. Youth Opportunity Grants (YOG) are awarded through a competitive selection process. The USDOL Secretary establishes appropriate application procedures, selection criteria, and an approval process for awarding Youth

Opportunity Grants to accomplish the purpose of the Act. All individuals ages 14 through 21 who reside in the community identified in the grant are eligible to receive services under the grant. A local board is eligible to receive a Youth Opportunity Grant if it serves a community that:

(a) Has been designated as an empowerment zone (EZ) or enterprise community (EC) as noted within the Internal Revenue Code of 1986;

(b) Is located in a State that does not have an EZ or an EC and that has been designated by its Governor as a high poverty area; or,

(c) Is one of two areas in a State that been designated by the Governor as an area for which a local board may apply for a Youth Opportunity Grant, and that meets the poverty rate criteria in the Internal Revenue Code of 1986.

(25) An entity other than a local board is eligible to receive a grant if that entity:

(a) Is a WIA Indian and Native American grant recipient under WIA; and,

(b) Serves a community that:

(i) Meets the poverty rate criteria in the Internal Revenue Code of 1986; and,

(ii) Is located on an Indian reservation or serves Oklahoma Indians or Alaska Native villages or Native groups, as provided in the WIA.

(26) The USDOL Secretary negotiates performance measures, including appropriate performance levels for each indicator, with each selected grantee, based on information contained in the application.

(27) Prohibitions and Other Requirements. No provision of the WIA shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution, school, or school system.

(28) All of the funds made available under the WIA shall be used in accordance with the requirements of the Act. None of the funds made available under the act may be used to provide funding under the School- to-Work Opportunities Act of 1994, unless the programs funded under the Act serve only those participants eligible to participate in the programs under the Act.

(29) Noninterference and nonreplacement of regular academic requirements: no funds shall be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

(30) The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) is federal legislation that protects eligible student's privacy interest in his or her "educational records." FERPA affords eligible students the right to inspect their educational records, the right to have the records amended, and the right to have some control over the disclosure of information from the records. FERPA provides that education records, or personally identifiable information from such records, may be disclosed by educational agencies and institutions only after an eligible student provides written consent, except in statutorily specified circumstances. Note: In relation to WIA, this Act pertains to in-school youth and youth and adults attending post-secondary training.

(31) Youth Councils shall establish linkages with educational agencies responsible for services to participants as appropriate.

(32) The local board shall make opportunities available for individuals who have successfully participated in programs carried out under this section to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

[11.2.18.8 NMAC – N, 8/15/01]

11.2.18.9 RESCISSIONS: None. However, this Issuance supersedes State Information Notice (SIN) No. 35-99, dated December 1, 1999.

[11.2.18.9 NMAC – N, 8/15/01]

11.2.18.10 CONTACT ENTITY: Inquiries regarding this policy should be directed to the Job Training Division in Santa Fe at (505) 827-6827.

[11.2.18.10 NMAC – N, 8/15/01]

11.2.18.11 DISTRIBUTION: NM State and Local WDB Chairpersons, SAE NMDOL Legal Counsel, SAE NMDOL EO Officer, NMWDAs/LWDBs Administrative Staff, State WIA Subrecipients, USDOL Federal Representative, and New Mexico Records Center and Archives.

[11.2.18.11 NMAC – N, 8/15/01]

11.2.18.12 ATTACHMENTS: None.

[11.2.18.12 NMAC – N, 8/15/01]