

**TITLE 11
CHAPTER 2
PART 16**

**LABOR AND WORKERS' COMPENSATION
JOB TRAINING
ADULT AND DISLOCATED WORKER ACTIVITIES AND USE OF FUNDS
UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT (WIA)**

11.2.16.1 **ISSUING AGENCY:** New Mexico Department of Labor
[11.2.16.1 NMAC – N, 7/1/2000]

11.2.16.2 **SCOPE:** The State Administrative Entity (SAE), New Mexico Workforce Development Areas/Local Workforce Development Boards (NMWDAs/LWDBs) and WIA Subrecipients.
[11.2.16.2 NMAC – N, 7/1/2000]

11.2.16.3 **STATUTORY AUTHORITY:** This policy adheres to the Workforce Investment Act; Interim Final Rule, Section 134, "Use of Funds for Employment and Training Activities," as well as the Federal Register Volume 64, Number 72, dated April 15, 1999, under Part 663, "Adult and Dislocated Worker 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), and Workforce Development Act, New Mexico House Bill 740, Chapter 260, Laws of 1999, Forty Fourth Legislature.
[11.2.16.3 NMAC – N, 7/1/2000]

11.2.16.4 **DURATION:** Permanent.
[11.2.16.4 NMAC – N, 7/1/2000]

11.2.16.5 **EFFECTIVE DATE:** July 1, 2000 unless a later date is cited in the history at the end of a section.
[11.2.16.5 NMAC – N, 7/1/2000]

11.2.16.6 **OBJECTIVE:** The backbone of the One-Stop delivery system consists of the required adult and dislocated worker services (described as core, intensive, and training services) along with Wagner-Peyser labor exchange services. The WIA goal of universal access to core services is achieved through close integration of services provided by the Wagner-Peyser, WIA adult and dislocated worker partners and other partners in the One-Stop center and system. Intensive and training services are available to individuals who meet the eligibility requirements for the funding streams and who are determined to need these services to achieve employment, or in the case of employed individuals, to obtain or retain self-sufficient employment. Supportive services, to enable individuals to participate in these other activities, including needs-related payments for individuals in training, may also be provided. Individuals are expected to take a proactive role in choosing the training services which meet their needs.
[11.2.16.6 NMAC – N, 7/1/2000]

11.2.16.7 **DEFINITIONS:** [Reserved].
[11.2.16.7 NMAC – N, 7/1/2000]

11.2.16.8 **ACTION:** The One-Stop system is the basic delivery system for services to adults and dislocated workers.

A. Individuals who are primarily seeking information and do not seek direct, one-on-one staff assistance, do not need to be registered. Eligibility must be determined when an individual seeks more than minimal assistance from staff in taking the next steps toward self-sufficient employment. Registration is the point at which information that is used in performance measurement begins to be collected. Equal Opportunity (EO) data must be collected on individuals when any assessment or discretionary decision regarding a specific individual is made. Conducting evaluations of WIA activities are required for adults, dislocated workers and youth, in order to establish and promote methods for continuously improving activities to achieve high-level performance within, and high-level outcomes from, the Statewide workforce investment system. Such evaluations must be conducted in coordination with Local Boards in the State and, to the maximum extent practicable, in coordination with Federal evaluations carried out under WIA Section 172. A displaced homemaker who has been dependent on the income of another family member but is no longer supported by that income, is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment, may receive assistance with funds available to Local Boards for services to dislocated workers. Core services, intensive and training services must be provided for Title I adult and dislocated workers and the mix of the three services is determined by the Local Boards. Service at one level is a prerequisite to moving to the next level. The regulations establish the concept of a tiered approach but allow significant flexibility at the local level. Any core service, such as an initial assessment or job search and placement

assistance, could be the gateway activity. In intensive services, the gateway activity could be the development of an individual employment plan, individual counseling and career planning or another intensive service. Key to these gateway activities is the determination made at the local level, that intensive or training services are required for the participant to achieve the goal of obtaining or retraining self-sufficient employment. All of the core services that are listed in the Act must be made available in each local area through the One-Stop system. Follow-up services must be available for a minimum of 12 months after employment begins, to registered participants who are placed in unsubsidized employment. Among the core services available is information on targeted assistance available through the One-Stop system for specific groups of workers, such as Migrant and Seasonal Farm Workers, and veterans. Core services also include assistance in establishing eligibility for the Welfare-to-Work program and programs of financial aid for training and education programs. The specific form of this assistance is determined at the local level based on the participant's needs and in coordination with the other partner programs. This assistance may include: referrals to specific agencies, information relating to, or provision of, required applications or other forms; or specific on-site assistance. Another core service is the provision of information relating to the availability of supportive services, including childcare and transportation, available in the local area, and referral to such services as appropriate. Local Boards are encouraged to establish strong linkages with a variety of supportive service programs, including Food Stamps and Medicaid programs. Such programs provide key supports for low-income working families and families making the transition from welfare to self-sufficiency. Local Boards are also encouraged to establish strong linkages to child support agencies and organizations serving fathers.

(1) Funds reserved by the Governor for Statewide workforce investment activities may be combined and used for any of the activities authorized in WIA, regardless of whether the funds were allotted through the youth, adult, or dislocated worker funding streams.

(2) Required Statewide workforce investment activities are:

(a) Required rapid response activities as described herein;

(b) Dissemination of the State list of eligible providers of training services (including those providing non-traditional training services), for adults and dislocated workers;

(c) Dissemination of information identifying eligible providers of on-the-job training and customized training; and,

(d) Dissemination of performance and program cost information about these providers, as described in 20 CFR 663.540.

(3) Establishing and implementing innovative incumbent worker training programs, which may include an employer loan program to assist in skills upgrading, and programs targeted to empowerment zones and enterprise communities is allowable.

(4) Implementing innovative programs for displaced homemakers, and programs to increase the number of individuals trained for and placed in non-traditional employment is allowable.

(5) The One-Stop system is the basic delivery system for adult and dislocated worker services. Through this system, adults and dislocated workers can access a continuum of services. The services are organized into three levels; core, intensive, and training.

(6) The chief elected official or his/her designee(s), as the local grant recipient(s) for the adult and dislocated worker programs, is a required One-Stop partner and is subject to the provisions relating to such partners described in 20 CFR Part 662 and NMAC 11.2.5, "Description of the One-Stop System Under Title I of the Workforce Investment Act."

(7) Core services for adults and dislocated workers must be made available in at least one comprehensive One-Stop center in each local workforce investment area. Services may also be available elsewhere, either at affiliated sites or at specialized centers. For example, specialized centers may be established to serve workers being dislocated from a particular employer or industry, or to serve residents of public housing. Core services may be provided through contracts with service providers that are approved by the Local Board. The Local Board may only be a provider of core services when approved by the chief elected official and the Governor in accordance with the requirements of WIA Section 117(f)(2) and 20 CFR 661.310.

(8) The One-Stop centers also make intensive services available to adults and dislocated workers, as needed, either by the One-Stop operator directly or through contracts with service providers that are approved by the Local Board.

(9) Through the One-Stop system, adults and dislocated workers needing training are provided Individual Training Accounts (ITAs), and access to lists of eligible providers of training. These lists contain quality consumer information, including cost and performance information for each of the providers, so that participants can make informed choices on where to use their ITAs. See 11.2.7 NMAC, "Workforce Investment Act (WIA) Individual Training Accounts (ITAs)", and any amendment thereto.

(10) Registration is the process for collecting information for supporting a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application.

(11) Adults and dislocated workers who receive services funded under Title I other than self-service or informational activities must be registered and determined eligible.

(12) EEO data must be collected on individuals during the registration process.

(13) To be an eligible adult in the adult and dislocated worker program, an individual must be 18 years of age or older.

(14) To be an eligible dislocated worker in the adult and dislocated worker program, an individual must meet the definition of "dislocated worker" at WIA Section 101(a).

(15) Displaced homemakers are eligible for dislocated worker activities under WIA without any additional determination. The definition of displaced homemaker under JTPA includes individuals who had been dependent on public assistance under Aid for Families with Dependent Children (AFDC) as well as those who had been dependent on the income of another family member. The definition in WIA Section 101(10) includes only those individuals who were dependent on a family member's income. Those individuals who have been dependent on public assistance may be served in the adult program.

(16) WIA Title I formula funds allocated to local areas for adults and dislocated workers must be used to provide core, intensive and training services through the One-Stop delivery system.. Local Boards determine the most appropriate mix of these services, but all three types must be available for both adults and dislocated workers.

(17) WIA Title I funds may also be used to provide the other services described in WIA Section 134(e):

(a) Discretionary One-Stop delivery activities, including:

(i) Customized screening and referral of qualified participants in training services to employment; and,

(ii) Customized employment-related services to employers on a fee-for-service basis that are in addition to labor exchange services available to employers under the Wagner-Peyser Act.

(b) Supportive services, including needs-related payments as described in 20 CFR Sections 663.800 through 663.840.

(18) Follow-up services must be made available, for a minimum 12 months following the first day of employment, to registered participants who are placed in unsubsidized employment.

(19) At a minimum, an individual must receive at least one core service, such as an initial assessment or job search and placement assistance, before receiving intensive services. The initial assessment determines the individual's skill levels, aptitudes, and supportive services needs. The job search and placement assistance helps the individual determine whether he or she is unable to obtain employment, and thus requires more intensive services to obtain employment. The decision to determine core services to provide, and the timing of their delivery, may be made on a case-by-case basis at the local level depending upon the needs of the participant.

(20) A determination of the need for intensive services under 20 CFR Section 663.220, as established by the initial assessment or the individual's inability to obtain employment through the core services provided, must be contained in the participant's case file.

(21) There is no Federally-required minimum time period for participation in core services before receiving intensive services, [WIA Section 134(d)(3)].

B. Intensive Services

(1) Intensive services are listed in WIA Section 134(d)(3)(c). The list in the Act is not all-inclusive and such as out-of-area job search assistance, literacy activities related to basic workforce readiness, relocation assistance, internships, and work experience may be provided, based on an assessment of an individual employment plan.

(2) For the purposes of (1) above, work experience is a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A work experience workplace may be in the private for profit sector, the non-profit sector, or the public sector.

(3) Intensive services must be provided through the One-Stop delivery system. Intensive services may be provided directly by the One-Stop operator or through contracts with service providers that are approved by the Local Board, [WIA Sections 117(d)(2)(D) and 134(d)(3)(B)].

(4) The Local Board may only be a provider of intensive services when approved by the chief elected official and the Governor in accordance with WIA Section 117(f)(2) and 20 CFR 661.310.

(5) There are two categories of adults and dislocated workers who may receive intensive services:

(a) Adults and dislocated workers who are unemployed, have received at least one core service and are unable to obtain employment through core services, and are determined by a One-Stop operator to be in need of more intensive services to obtain employment; and

(b) Adults and dislocated workers who are employed, have received at least one core service, and are determined by a One-Stop operator to be in need of intensive services to obtain or retain employment that leads to self-sufficiency, as described in F. below.

(6) State Boards or Local Boards must set 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 Section 101(24). Self-sufficiency for a dislocated worker may be defined in relation to a percentage of the layoff wage.

(7) At a minimum, an individual must receive at least one intensive service, such as development of an individual employment plan with a case manager or individual counseling and career planning, before the individual may receive training services.

(8) The case file must contain a determination of need for training services under 20 CFR Section 663.310, as identified in the individual employment plan, comprehensive assessment, or through any other intensive service received.

(9) The individual employment plan is an ongoing strategy jointly developed by the participant and the case manager that identifies the participant's employment goals, the appropriate achievement objectives, and the appropriate combination of services for the participant to achieve the employment goals.

(10) There is no Federally-required minimum time period for participation in intensive services before receiving training services, (WIA Section 134(d)(4)(A)(i)).

C. Training Services

(1) Training services are listed in WIA Section 134(d)(4)(D). The list in the Act is not all-inclusive and additional training service may be provided. Training services may include:

(a) Occupational skills training, including training for nontraditional employment;

(b) On-the-job training;

(c) Programs that combine workplace training with related instruction, which may include cooperative education programs;

(d) Training programs operated by the private sector;

(e) Skill upgrading and retraining;

(f) Entrepreneurial training;

(g) Job readiness training;

(h) Adult education and literacy activities provided in combination with services described in any of the above clauses; and,

(i) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(2) Training services may be made available to employed and unemployed adults and dislocated workers who:

(a) Have met the eligibility criteria requirements for intensive services, have received at least one intensive service under 20 CFR Section 663.240, and have been determined to be unable to obtain or retain employment through such services;

(b) After an interview, evaluation, or assessment, and case management, have been determined by a One-Stop operator or One-Stop partner, to be in need of training services and to have the skills and qualifications to successfully complete the selected training program;

(c) Select a program of services that is directly linked to the employment opportunities either in the local area or in another area to which the individual is willing to relocate;

(d) Are unable to obtain grant assistance from other sources to pay the costs of such, training, including Federal Pell Grants established under Title IV of the Higher Education Act of 1965, or require WIA assistance in addition to other sources of grant assistance, including Federal Pell Grants (provisions relating to fund coordination are found at 20 CFR Section 663.320 and WIA Section 134 (d)(4)(B)); and,

(e) For individuals whose services are provided through the adult funding stream are determined eligible in accordance with the State and local priority system, if any, in effect for adults under WIA Section 134(d)(4)(E) and 20 CFR Section 663.600, [WIA Section 134(d)(4)(A)].

D. Individual Training Accounts

(1) Except under the three (3) conditions described in WIA Section 134(d)(4)(G)(ii) and 20 CFR Section 663.430(a), the Individual Training Account (ITA) is established for eligible individuals to finance training

services. Local Boards may only provide training services under Section 663.430 if they receive a waiver from the Governor and meet the requirements of 20 CFR 661.310 and WIA Section 117(f)(1), [WIA Section 134(d)(4)(G)].

(2) The ITA is established on behalf of a participant. WIA Title I adult 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, or other appropriate methods. Payments may also be made in increments; through payment of a portion of the costs at different points in the training course, [WIA Section 134(d)(4)(G)].

(3) The State or Local Board may impose limits on ITAs, such as limitations on the dollar amount and/or duration. Limits to ITAs may be established in different ways:

(a) There may be a limit for an individual participant that is based on the needs identified in the individual employment plan; or

(b) There may be a policy decision by the State Board or Local Board to establish a range of amounts and/or a maximum amount applicable to all ITAs.

(4) Limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but should not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in the selection of an eligible training provider.

(5) Contracts for services may be used instead of ITAs only when one of the following three exceptions applies:

(a) When the services provided are on-the-job training (OJT) or customized training;

(b) When the Local Board determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of ITAs. The Local Plan must describe the process to be used in selecting the providers under a contract for services. This process must include a public comment period for interested providers of at least 30 days; and,

(c) When the Local Board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization (CBO) or another private organization to serve special participant populations that face multiple barriers to employment, as described in (6) below. The Local Board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the special participant population to be served. The criteria may include:

(i) Financial stability of the organization;

(ii) Demonstrated performance in measures appropriate to the program including program completion rate; attainment of the skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment; and retention in employment; and,

(iii) How the specific program relates to the workforce investment needs identified in the plan.

(6) Noted above, special participant populations that face multiple barriers to employment are populations of low-income individuals that are included in one or more of the following categories:

(a) Individuals with substantial language or cultural barriers;

(b) Offenders;

(c) Homeless individuals; and,

(d) Other hard-to-serve populations as defined by the Governor.

(7) Training services, whether ITAs or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider.

(8) Each Local Board, through the One-Stop center, must make available to customers the State list of eligible providers required in WIA Section 122(e). The list included a description of the programs through which the providers may offer the training services, the information identifying eligible providers of on-the-job training and customized training required under WIA Section 122(h), where applicable, and the performance and cost information about eligible providers of training services described in WIA Sections 122(e) and (h).

(9) An individual who has been determined eligible for training services under 20 CFR Section 663.310 may select a provider after consultation with a case manager. Unless the program has exhausted funds for the program year, the operator must refer the individual to the selected provider or establish an ITA for the individual to pay for training. A referral may be carried out by providing a voucher or certificate to the individual to obtain the training.

(10) The cost of referral of an individual with an ITA to a training provider is paid by the applicable adult or dislocated worker program under Title I of WIA.

(11) Eligible Training Providers are described in NMAC 11.2.11, "Identification of Eligible Providers of Training Services."

E. Priority and Special Populations

(1) WIA states, in Section 134(d)(4)(E), that in the event that funds allocated to a local area for adult employment and training activities are limited, 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.

(2) Since funding is generally limited, States and local areas must establish criteria by which local areas can determine the availability of funds and the process by which any priority will be applied under WIA Section 134(d)(2)(E). Such criteria may include the availability of other funds for providing employment and training-related services in the local area, the needs of the specific groups within the local area, and other appropriate factors.

(3) States and local areas must give priority for adult intensive and training services to recipients of public assistance and other low-income individuals, unless the local area has determined that funds are not limited under the criteria established under B. above.

(4) The process for determining whether to apply the priority established under (2). above does not necessarily mean that only the recipients of public assistance and other low income individuals may receive WIA adult funded intensive and training services when funds are determined to be limited in a local area. The Local Board and the Governor may establish a process that gives priority for services to the recipients of public assistance and other low income individuals and that also serves other individuals meeting eligibility requirements.

(5) The statutory priority applies to adult funds for intensive and training services only. Funds allocated for dislocated workers are not subject to this requirement.

(6) The local Welfare-to-Work (WtW) program operator is a required partner in the One-Stop delivery system 20 CFR Part 662 describes the roles of such partners in the One-Stop delivery system and applies to the Welfare-to-Work program operator. WtW programs serve individuals who may also be served by the WIA programs and, through appropriate linkages and referrals, these customers will have access to a broader range of services through the cooperation of the WtW program in the One-Stop system. WtW participants, who are determined to be WIA eligible, and who need occupational skills training may be referred through the One-Stop system to receive WIA training. WIA participants who are also determined WtW eligible, may be referred to the WtW operator for job placement and other WtW assistance.

(7) The local Temporary Aid to Needy Families (TANF) agency is specifically suggested under WIA as an additional partner in the One-Stop system. TANF recipients will have access to more information about employment opportunities and services when the TANF agency participates in the One-Stop delivery system. The Governor and Local Board should encourage the TANF agency to become a One-Stop partner to improve the quality of services to the WtW and TANF-eligible populations. In addition, becoming a One-Stop partner will ensure that the TANF agency is represented on the Local Board and participated in developing workforce investment strategies that help cash assistance recipients secure lasting employment.

(8) Displaced homemakers may be eligible to receive assistance under Title I in a variety of ways, including:

(a) Core services provided by the One-Stop partners through the One-Stop delivery system;
(b) Intensive or training services for which an individual qualifies as a dislocated worker/
displaced homemaker if the requirements of Title I are met;

(c) Intensive or training services for which an individual is eligible if the requirements of Title I are met; and,

(d) Statewide employment and training projects conducted with reserve funds for innovative programs for displaced homemakers, as described in 20 CFR 665.210(f).

(9) If the family of a disabled individual does not meet the income eligibility criteria, the disabled individual is to be considered a low-income individual if the individual's own income:

(a) Meets the income criteria established in WIA Section 101(25)(B); or
(b) Meets the income eligibility criteria for cash payments under any Federal, State or local public assistance program, [WIA Section 101(25)(F)].

F. On-the-Job Training(OJT) and Customized Training

(1) On-the-job training (OJT) is defined at WIA Section 101(31). OJT is provided by an employer in the public, private non-profit, or private for profit sector. A contract may be developed between the employer and the local program that provides occupational training for the WIA participant in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs, [WIA Section 101(31)(B)].

(2) The local program must not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working

conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work, [WIA Section 195(4)].

(3) 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 skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan, [WIA Section 101(31)(c)].

(4) OJT contracts may be written for eligible employed workers when:

(a) The employee is not earning a self-sufficient wage as determined by Local Board policy;

(b) The requirements in 20 CFR Section 663.700 are met; and,

(c) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local Board.

(5) On-the-job training payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of the participants.

(6) Employers are not required to document such extraordinary costs.

(7) Customized training is training:

(a) That is designed to meet the special requirements of an employer (including a group of employers);

(b) That is conducted with a commitment by the employer to employ, or in the case of incumbent workers, continue to employ, an individual on successful completion of the training; and,

(c) For which the employer pays for not less than 50 percent of the cost of the training. [WIA Section 101(8)].

(8) Customized training of an eligible employed individual may be provided for an employer or a group of employers when:

(a) The employee is not earning a self-sufficient wage as determined by Local Board policy;

(b) The requirements in 20 CFR Section 663.715 are met; and,

(c) The customized training relates to the purposes described in 20 CFR Section 663.705 [c] or other appropriate purposes identified by the Local Board.

G. Rapid Response Activities

(1) Rapid response activities encompass the activities necessary to plan and deliver services to enable dislocated workers to transition to new employment as quickly as possible, following either a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job dislocation.

(2) The State is responsible for providing rapid response activities. Rapid response is a required activity carried out in local areas by the State, or an entity designated by the State, in conjunction with the Local Board and chief elected officials. The State must establish methods by which to provide additional assistance to local areas that experience disasters, mass layoffs, plant closings, or other dislocation events when such events substantially increase the number of unemployed individuals.

(3) States must establish a rapid response dislocated worker unit to carry out Statewide rapid response activities .

(4) Rapid response activities must include:

(a) Layoff plans and schedule of the employer;

(b) Potential for averting the layoff(s) in consultation with State or local economic development agencies, including private sector economic development entities;

(c) Background and probable assistance needs of the affected workers;

(d) Reemployment prospects for workers in the local community;

(e) Available resources to meet the short and long-term assistance needs of the affected workers.

(f) The provision of information and access to unemployment compensation benefits, comprehensive One-Stop system services, and employment and training activities, including information on the Trade Adjustment Assistance program and the NAFTA-TAA program;

(5) The provision of guidance and/or financial assistance in establishing a labor-management committee voluntarily agreed to by labor and management, or a workforce transition committee comprised of representatives of the employer, the affected workers and the local community.

(6) The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. The assistance to this committee may include:

(a) The provision of training and technical assistance to members of the committee;
(b) Funding the operating costs of a committee to enable it to provide advice and assistance in carrying out rapid response activities and in the design and delivery of WIA-authorized services to affected workers. Typically, such support will last no longer than six months; and,

(c) Providing a list of potential candidates to serve as a neutral chairperson of the committee.

(i) The provision of emergency assistance adapted to the particular closing layoff or disaster.

(ii) The provision of assistance to the Local Board and chief elected official(s) to develop a coordinated response to the dislocation event and, as needed, obtain access to State economic development assistance. Such coordinated response may include the development of an application for National Emergency Grant under 20 CFR Part 671, [WIA Sections 101(38) and 134(a)(2)(A)].

(7) A State or designated entity may provide additional rapid response activities in addition to the activities required to be provided under (4) above. In order to provide effective rapid response upon notification of a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job dislocation, the State or designated entity may:

(a) In conjunction with other appropriate Federal, State and Local agencies and officials, employer associations, technical councils or other industry business councils, and labor organizations:

(i) Develop prospective strategies for addressing dislocation events, that ensure rapid access to the broad range of allowable assistance;

(ii) Identify strategies for the aversion of layoffs; and,

(iii) Develop and maintain mechanisms for the regular exchange of information relating to potential dislocations, available adjustment assistance, and the effectiveness of rapid response strategies.

(b) In collaboration with the appropriate State agency(ies), collect and analyze information related to economic dislocations, including potential closing and layoffs, and all available resources in the State for dislocated workers in order to provide an adequate basis for effective program management, review and evaluation of rapid response and layoff aversion efforts in the State.

(c) Participate in capacity building activities, including providing information about innovative and successful strategies for serving dislocated workers, with local areas serving smaller layoffs.

(d) Assist in devising and overseeing strategies for:

(i) Layoff aversion, such as pre-feasibility studies of avoiding a plant closure through an option for a company or group, including the workers, to purchase the plant or company and continue it in operation;

(ii) Incumbent worker training, including employer loan programs for employee skill upgrading; and,

(iii) Linkages with economic development activities at the Federal, State and local levels, including Federal Department of Commerce programs and available State and local business retention and recruitment activities.

(8) The Governor must ensure that rapid response activities under WIA are made available to workers who, under the NAFTA Worker Security Act are members of a group of workers (including those in any agricultural firm or subdivision of an agricultural firm) for which the Governor has made a finding that:

(a) The sales or production, or both, of such firm or subdivision have decreased absolutely, and

(b) Imports from Mexico or Canada of articles like or directly competitive with those produced by such firm or subdivision have increased; or,

(c) There has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles which are produced by the firm or subdivision.

(9) Funds for Statewide rapid response activities are reserved under WIA Section 133(a)(2) and may be used to provide the activities authorized at Section 134(1)(2)(A), WIA Sections 129(b), 133(a)(2)(B), and 134(a)(3)(A).

H. Supportive Services

(1) Supportive services for adults and dislocated workers are defined at WIA Sections 101(46) and 134(e)(2) and (3). They include services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under WIA Title I. Local Boards, in consultation with the One-Stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area, such policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise 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, [WIA Section 134(d)(2)(H)].

(2) Supportive services may only be provided to individuals who are:

- (a) Participating in core, intensive or training services; and,
- (b) Unable to obtain supportive services through other programs providing such services.

(3) Supportive services may only be provided when they are necessary to enable individuals to participate in Title I activities.

(4) Local Boards may establish limits on the provision of supportive services or provide the One-Stop operator with the authority to establish such limits, including a maximum amount of funding and maximum length of time for supportive services to be available to participants.

(5) Procedures may also be established to allow One-Stop operators to grant exceptions to the limits established under (4) above.

(6) Needs-related payments provide financial assistance to participants for the purpose of enabling individuals to participate in training and are one of the supportive services authorized by WIA.

(7) In order to be eligible to receive needs-related payments, adults must:

- (a) Be unemployed;
- (b) Not qualify for, or have ceased qualifying for, unemployment compensation; and,
- (c) Be enrolled in a program of training services under WIA.

(8) In order to be eligible to receive needs-related payments, a dislocated worker must:

- (a) Be unemployed, and:
 - (i) Have ceased to qualify for unemployment compensation or trade readjustment assistance under TAA or NAFTA-TAA; and,

(ii) Be enrolled in a program of training services under WIA by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months; or

(b) Be unemployed and did not qualify for unemployment compensation or trade readjustment assistance under TAA or NAFTA-TAA.

(9) Payments may be provided if the participant is waiting to start training classes and has been accepted in a training program that will begin within 30 calendar days. The Governor may authorize local areas to extend the 30 day period to address appropriate circumstances.

(10) The needs-related payment level for adults must be established by the Local Board.

(11) For dislocated workers, payments must not exceed the greater of either of the following levels:

(a) 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

(b) 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. [11.2.16.8 NMAC – N, 7/1/2000]

11.2.16.9 RECISSIONS: None.

[11.2.16.9 NMAC – N, 7/1/2000]

11.2.16.10 CONTACT ENTITY: Inquiries regarding this policy should be directed to the New Mexico Department of Labor at (505) 827-6827 in Santa Fe.

[11.2.16.10 NMAC – N, 7/1/2000]

11.2.16.11 DISTRIBUTION: NMWDA and LWDB Chairperson, SAE/ NMWDA/LWDB Legal Counsel, NMWDA/LWDB Administrative Entities, SAE/ NMWDA/LWDB EO Office, SAE Subrecipients, NMWDA/LWDA Subrecipients, USDOL Federal Representative and NM State Records Center and Archives.

[11.2.16.11 NMAC – N, 7/1/2000]

11.2.16.12 ATTACHMENTS: [RESERVED]

[11.2.16.12 NMAC – N, 7/1/2000]