

The intent of Section 599 of the New York State Unemployment Insurance Law is to return the unemployed worker to the labor market with the necessary skills required to provide the customer with the opportunity to secure employment of a substantially equal or higher skill level than the customer's past employment. When determining a customer's need for training, careful consideration must be given to existing and prospective conditions of the customer's regional or local labor market, taking into account present and anticipated supply and demand for the occupation or skill for which the training relates. The training course or program must relate to a specific occupational goal and provide the necessary qualifications or skills required for immediate employment upon completion of training. Any training given under public or private auspices designed to develop an occupational skill, will be considered career and related training.

### 1.1 Definitions

**Career and related training** is any course or training program clearly leading to the qualifications or skills for a specific occupation, including but not limited to occupational skills, Basic Education Skills, GED and ESL. Basic literacy skills or remedial skills training in subject areas, such as math, reading or writing are not considered career and related training and cannot be approved as stand-alone training. Basic literacy skills or remedial skills training may be approved when taken in combination with occupational skills training.

**The regular occupation** is one for which the customer is reasonably fitted by training and experience. In determining the customer's regular occupation, the customer's prior work history and previous training must be considered.

**An unskilled occupation** is any occupation requiring only short-term or moderate-term on-the-job training as defined in the New York State Employment Prospects. The standard "training time" identifies the required skills level necessary for work in a specific occupation.

**A prerequisite** is a specific course or subject that must be completed to satisfy the minimum requirements for admission to a college or university program. Generally, the prerequisites for a course are listed in the school's catalogue under course description.

**Local In-Demand Occupation List** is a compilation of demand occupations developed by each Local Workforce Development Board (LWDB) in New York State as required under Title I of the Workforce Innovation and Opportunity Act of 2014 (WIOA). The lists are comprised of occupations in which trainees would have a reasonable expectation of securing employment once they complete the required training for the occupation.

## **2.1 Criterion #1: The Customer Needs Training to Return to the Labor Market**

The first step in assessing the customer's need for training is to identify the regular occupation. Familiarity with educational and licensing requirements that may be applicable to the customer's regular occupation is essential to ensure that the customer's need for training is correctly assessed. Careful consideration must also be given to existing or prospective conditions in the customer's local labor market.

The Department of Labor (DOL) will consider the customer to be in need of training, if one or more of the following conditions exist:

- a) The training will upgrade the customer's existing work skills.
- b) The training will lead to more regular long-term employment.
- c) The customer's employment opportunities in the region or local labor market are limited.

### **2.1.a The Training Will Upgrade Existing Skills**

Customers must be allowed take full advantage of education and training opportunities that will enhance their marketability and improve their chances of re-employment. Any occupational skills training, basic education skills training, postsecondary training or professional development training that will impart the skills and knowledge needed for career advancement, will be considered an upgrade of the customer's existing work skills provided:

- The training fulfills the job requirements and credentials necessary for the customer to stay current of the latest changes in their regular occupation pursuant to the industry standard.
- The training will enable the customer to advance to a higher level skilled job within the same field or industry or may result in a substantial increase in earnings potential.
- The customer has an occupational skill but needs basic education skills, such as English proficiency (ESL) or a high school diploma (GED) to obtain employment in their primary skill area.

### **2.1.b The Training Will Lead To More Regular Long-Term Employment**

Employment opportunities in the customer's regular occupation, even if a demand occupation, will be considered limited if any one of the following conditions exists:

- The customer has multiple or back-to-back unemployment insurance (UI) claims or three or more UI claims within a five year period.
- The customer has a history of irregular or sporadic employment, as evidenced by more than three employers of short duration within the past year.
- The customer's regular occupation is characterized as seasonal employment.

### **2.1.c The Customer's Employment Opportunities Are Limited**

Employment opportunities may be limited due to the prevailing conditions in the customer's regional or local labor market area, or other relevant factors, such as a lack of or limited skills proficiency, and a highly competitive job market. The customer's employment opportunities will be considered substantially impaired if one or more of the following conditions exist:

- Employment prospects for the customer's regular occupation are either "unfavorable" or "very unfavorable" in the customer's labor market region.
- The customer's loss of employment was due to a mass layoff or business closure.
- The customer's level of education is a High School Diploma or Less (no formal training beyond high school or equivalent).
- The customer's regular occupation is unskilled.
- The customer's jobs have been low wage.
- The customer's regular occupation requires long-term on-the-job training, and the job skills acquired through practical work experience are not readily transferable because of the uniqueness of the occupation (i.e., Air Traffic Controller).
- The customer has a documented medical disability that prevents them from returning to their regular occupation.
- The customer is an ex-serviceman who served in the armed forces for at least one year and has a UI claim that is based on military wages.

#### Workforce Innovation and Opportunity Act (WIOA) Approved Training

When training is being funded partially or fully with WIOA funds, 599 approval is granted provided the customer's attendance in training meets the minimum 12-hour requirement (see 12-Hour Full-time Attendance Requirement below) and the training will be completed within 24 months or less.

#### Trade Adjustment Assistance (TAA) Approved Training

Customers who are enrolled in TAA (or its amended programs TGAA or TAAEA) approved training are eligible under section 599 and are not required to submit a 599 application. The local One-Stop counselor determines eligibility for TAA (or TGAA or TAAEA) training benefits.

### **2.2 Criterion #2: 12-Hour Full-time Attendance Requirement**

According to regulatory standards, the customer must be enrolled in 12 credits or 12 structured classroom hours per week to be considered a full-time student. The 12 hour requirement must involve attendance at approved training courses or activities. It does not include homework time, self study time, or unsupervised activities. It can include "lab hours", required internships or clinical rotations to the extent that these are part of the credits earned for such training.

If the customer is enrolled in online training, only credits may be counted towards fulfilling the full-time requirement. The length of a typical semester is 15-20 weeks long. If a customer is attending a school with non-traditional semester periods, this timeframe may be used to calculate an appropriate semester equivalent to determine full-time status.

For good cause shown, the Commissioner may waive a standard not required by statute in order to approve training. A customer may be waived from the 12 classroom or 12 credit hour requirement when it has been determined that it is impossible for the customer to attend school full-time or the requirement will cause undue hardship for the customer. To be waived from the regulatory 12-hour requirement, the customer must be able to complete the training within the shortest timeframe possible, but in no case more than 24 months, and there must be convincing evidence that participation in the proposed training is likely to lead to long-term employment.

The 12-hour full-time attendance requirement may be waived under the following conditions:

- When the customer is attending school fewer than 12 hours per week or is registered for fewer than 12 credit hours in the current semester due to a documented medical disability. Acceptable documentation of the customer's disability may include official documentation from the customer's physician, the school, or ACCESS (formerly known as VESID).
- When the customer is attending school fewer than 12 hours per week or is registered for fewer than 12 credit hours at the time the 599 application is submitted to DOL; and the customer is unable to add additional courses because the "Add/Drop" period has lapsed; and the customer intends to register for 12 or more hours in the subsequent semester(s).
- When the customer is in the final semester or school session, and the school verifies that the courses the customer is taking are the only courses needed to satisfy the certificate or degree requirements.
- When the customer's attendance in a certificate or degree program is less than 12 credits of class hours due to the school's policy that limits the number of class hours or credits the students can register for due to the nature or intensity of the program's curriculum.

**Note:** The time spent on homework, self-study time or non-credit labs cannot be used to satisfy the 12-hour requirement.

### Repeat Training

In general, any student who maintains a satisfactory cumulative grade point average consistent with the school's academic standard for graduation and who is in compliance with the school's attendance policy will be considered to have met Section 599 requirements provided the training completion date does not exceed 24 months.

A student may need to repeat a course while completing their 599 approved training program either because they withdrew from the course in lieu of failing or because the first grade they received was unacceptably low. Some schools allow students to repeat a course in which they received a grade of a C- or less. Although recent changes in the regulations governing federal student aid expanded the definition of a full-time student and currently allow for one repetition of a course without regard to whether the student previously passed the course, DEWS customers are required to complete their training in the shortest amount of time possible. Therefore, if repeating a course is not required in order for the student to show that they are making progress towards graduation requirements, the customer's participation in such a course will not count for 599 eligibility purposes, and the time spent retaking the course will not be used to satisfy the 12-hour requirement.

A student who fails a course or withdraws from a class in lieu of failing will be allowed to retake the course provided the customer offers reasonable assurance to DEWS CRU that he or she will be able to successfully complete the course and the number of hours the customer is registered for in the following semester, including the repeat course, is at least 12 hours. In addition, the customer must complete the training by the previously approved completion date. Reasonable assurance that a customer will be able to successfully complete a repeat course may include but is not limited to a letter from the customer's academic advisor or other authorized school official that verifies that the customer has taken steps to ensure his or her success in the class (i.e., A document that verifies that the customer is registered with the school's Career/ Student Center for tutoring assistance).

If the customer notifies DEWS CRU that their training completion date will be extended as a result of retaking a course, the customer's 599 approval will not be subject to termination if it can be demonstrated that the customer has made every effort to complete the training in the shortest amount of time possible, the customer is in good academic standing, and the training completion date does not exceed the 24 month limitation.

### **2.3 Criterion #3: Training Must Be Completed Within 24 Months**

The course or training program must be completed within 24 months. To determine if the training can be completed within 24 months or less, the reviewer must consider the length of time it will take the customer to acquire the skills, certificates, or degree necessary to meet the basic requirements of the occupational goal. The customer must be fully qualified for employment in the occupational goal by the training completion date.

To determine if the training completion date is within 24 months, it is necessary to determine the amount of time remaining in the customer's training program. When the customer is already in training at the time the 599 application is submitted to DOL, the 24-month period is measured by the length of time remaining in the course or training program as of the date the application is reviewed by the DOL employee. When the training is scheduled to begin in the future, the 24-month period is measured as of the training start date.

#### Self-Paced Training

Training is considered self-paced when the duration of the course or program is determined by the customer's own individual progress (learning pace) rather than an established period of time set by the training facility for all students. Individuals, who are enrolled in a course or training program that is self-paced, do not have a set limit on the time it will take to complete their training. To be considered for approval under Section 599, the customer's training must have a defined curriculum of an appropriate duration, a definite start and end date, and the training course or program must be completed within a period of 24 months or less.

#### Prerequisites & Occupational Skills Training

When the customer is taking prerequisite courses in combination with occupational skills training, the prerequisites and occupational skills component must be completed within 24 months or less.

### Adult Basic Education Programs & Occupational Skills Training

When the customer is enrolled in a GED, ESL or Adult Basic Education program in combination with occupational skills training, the required coursework for the certificate or diploma being sought; and the occupational skills component, must be completed within 24 months or less.

### Basic Literacy and Remedial Courses

Basic literacy or remedial skills training that improve proficiency in basic reading, writing and math skills, fall short of meeting the definition of career and related training, because they do not provide the requisite skills needed for employment in a specific occupation. Generally, the goal of adult literacy and basic skills education programs is to impart the knowledge and skills needed for the adult learner to quickly transition into certificate or degree programs. Adult literacy and basic skills education programs may be provided as stand-alone training or in combination with occupational skills training. To be approvable under Section 599, the customer's training program must include an occupational skills component. When a customer is enrolled in a basic skills training program that does not include an occupational skills component, approval under section 599 cannot be granted.

## **2.4 Criterion #4 Training Relates To a Specific Occupational Goal**

A customer's training must meet the basic educational requirements, and any other requirements, that are essential for employment in the occupational goal. The specific educational requirements for the occupational goal, should be used as a guide when determining whether the customer's training is sufficient to provide the necessary knowledge and skills required for employment in that occupation. Careful consideration must be given to educational and occupational certification requirements that may be applicable to the customer's occupational goal. Occupational or professional certification, such as a license or certificate, constitutes acceptable evidence that a person with those credentials is qualified to work in an occupation. Employer job postings and exam announcements that identify the minimum qualifications or level of education required to fill a specific job opening can be very helpful in identifying whether the customer's training meets the minimum qualifications and/or educational requirements for a specific occupation.

In addition to having the required employment credentials, the customer must also be able to perform the physical and mental work demands of the job with reasonable employer accommodations, as defined in the Americans with Disabilities Act (ADA). In accordance with ADA guidelines, an employer must provide reasonable accommodations in order to ensure that individuals, who would otherwise qualify for a job, have the opportunity to apply for a job, perform a job, or gain equal access to the benefits and privileges of the job.

### Pre-Employment Training Related Activities

Employment preparation programs often include short-term pre-vocational services, such as but not limited to resume writing, interviewing skills, communication, punctuality and professional conduct. These programs do not meet the definition of career and related training because they do not provide a specific occupational job skill. Pre-employment related activities may be provided as stand-alone training or in combination with occupational skills training. When a "job readiness" program includes an occupational skills component, the customer's training may be approved provided the occupational skills component meets the full-time criteria and all other 599 eligibility requirements. The time spent in the job readiness component cannot be used to satisfy the minimum 12-hour requirement.

### Additional Teacher Certification Programs

Approval under Section 599 may be granted to a New York State certified teacher who is enrolled in a course or program of study that will allow them to complete the coursework required for the additional certificate they seek, provided the customer submits documentation to DOL from either the Office of Teaching Initiatives or the school district that clearly outlines the required coursework that must be completed to satisfy the certificate requirements; and the customer has met with an academic advisor and the academic advisor after reviewing the Notice of Uncompleted Requirements can determine the date the customer can reasonably be expected to complete all required coursework; and the duration of training is appropriate and does not exceed the time it takes for the customer to complete the required coursework; and the customer's training meets all other 599 eligibility requirements. To be approvable under Section 599, school verification is needed to show when the customer is expected to complete all required coursework for the certificate being sought.

### Internships

Approval under Section 599 may be granted to a customer who is participating in an unpaid internship program provided the customer will receive academic credit for his/her participation in the program and the training program is completed under the supervision of the degree granting institution. If the customer is enrolled in a certificate program, the internship must be a required component of the training program and receipt of the training certificate must be contingent on successful completion of the internship program.

## **2.5 Criterion #5 Reasonable Employment Opportunities**

The course or training program must provide the skills and/or qualifications for an in-demand occupation and there must be a reasonable expectation that the customer will be able to secure employment in their occupational goal upon completion of the degree or certificate program. To determine whether sufficient job openings are expected to be available in the claimant's occupational goal, the reviewer must rely on the most current labor market information available in the state, region or local labor market area where the customer intends to seek employment.

The Department of Labor has the most current labor market information for occupations in New York State (NYS). "Favorable" or "very favorable" employment prospects, as outlined in the NYS Workforce & Industry Data: Employment Prospects is a reliable indicator that reasonable employment opportunities are expected to be available in an occupation. In addition, local demand occupation lists established under WIA, current job listings by prospective employers, and state job bank listings can also provide reasonable assurance that employment opportunities in a specific occupation are expected to be available locally.

Due to labor market fluctuations, the reviewer must be cognizant of employment opportunities in the area not reflected in the regional or statewide labor market information. When the employment prospects in the customer's occupational goal are said to be "unfavorable" or "very unfavorable", the reviewer should consult with the local One-Stop Career Center or regional Labor Market Analyst to determine if employment opportunities exist in the local area. When employment opportunities in the customer's occupational goal are not expected to be available in the state, region or local labor market area, approval under Section 599 cannot be granted.

## 2.6 Criterion #6 Competent and Reliable Training Provider

The customer's training course or program must be offered by a competent and reliable educational institution. A competent and reliable training provider is any entity approved by the State Education Department (SED); or other appropriate state agency; or a provider of employment and training services that has a record of demonstrated effectiveness in providing such services under the auspices of a government agency or an established entity that provides satisfactory evidence to the commissioner of Labor that it is capable of providing a program of career and related training.

Training providers listed on any of the following sites are considered competent and reliable.

### New York's Eligible Training Provider List (ETPL)

The ETPL was established in compliance with the Workforce Investment Act (WIA) of 1998. The purpose of the ETPL is to provide customer-focused employment training for adults and dislocated workers. Training providers who are eligible to receive Individual Training Accounts (ITAs) through WIA Title I-B funds are listed on the ETPL.

- New York State ETPL: <https://applications.labor.ny.gov/ETPL/>
- Out-of-State ETPL: <http://www.careeronestop.org/WiaProviderSearch.asp>

### The New York State Education Department (NYSED)

NYSED is responsible for the supervision for all public schools in New York State, as well as all standardized testing, and the production and administration of state tests and regents examinations.

- NYSED List of Approved Degree Granting Institutions: [www.highered.nysed.gov/ocue](http://www.highered.nysed.gov/ocue)
- NYSED Bureau of Proprietary School Supervision's List of Non-Degree Granting Schools and Programs: [www.highered.nysed.gov/bps/home.html](http://www.highered.nysed.gov/bps/home.html)
- NYSED List of Distance Learning Providers: [www.highered.nysed.gov/ocue/ded/database.html](http://www.highered.nysed.gov/ocue/ded/database.html)
- Out-of State Training Providers: Use appropriate SED lists in the state where the training provider is located.

### Higher Learning Commission (HLC)

The United States Department of Education and the Council for Higher Education Accreditation recognize HLC as a regional accrediting organization. The Commission accredits degree-granting institutions of higher education. Institutional accreditations are provided by regional associations of schools and colleges and are named after the region in which they operate.

- Middle States Association of Colleges and Schools: [www.msche.org](http://www.msche.org)  
(New York, Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, the Virgin Islands)



- New England Association of Colleges and Schools: <http://cihe.neasc.org>  
(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
- North Central Association of Colleges and Schools: [www.ncahigherlearningcommission.org](http://www.ncahigherlearningcommission.org)  
(Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming)
- Northwest Commission of Colleges and Universities: [www.nwccu.org](http://www.nwccu.org)  
(Alaska, Idaho, Montana, Oregon, Utah, Washington)
- Southern Association of Colleges and Schools: [www.sacscoc.org](http://www.sacscoc.org)  
(Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and Latin America)
- Western Association of Colleges and Schools:  
(California, Hawaii, the Territories of Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands)
  - Accrediting Commission for Community and Junior Colleges: [www.accjc.org](http://www.accjc.org)
  - Accrediting Commission for Senior Colleges and Universities: [www.wascweb.org](http://www.wascweb.org)

## 2.7 Criterion #7 Aptitude to Complete Training Successfully

The customer must have the aptitude to successfully complete the course or training program for which training approval is being requested and possess the qualifications to subsequently become employed in their occupational goal. When assessing the likelihood that a 599 customer will be able to successfully complete their training, the reviewer must also ensure with reasonable certainty that the customer will be able to fulfill the educational requirements for the degree or certificate program they seek.

To determine if the customer has the required competencies that will enable them to successfully complete their training program, the following questions should be explored:

- a) What education does the customer have?
- b) What skills do they possess?
- c) What is the customer's academic record?
- d) If the customer will require remedial training, how long will it take for the customer to complete the remedial courses?
- e) Will the remedial courses and occupational skills training be completed within 24 months or less?

A student's matriculated status and good academic standing are granted at the time a student is accepted into their training program. Therefore, when an applicant submits a 599 application prior to the start of their training, the reviewer may request that the customer provide acceptable evidence to demonstrate that the training meets the school's curriculum requirements and they are capable of successfully completing the

program. Acceptable documentation may include a letter of acceptance from the educational institution, transcripts from prior training, the customer’s work history or a comprehensive assessment from a qualified source, such as from a One-Stop Employment Counselor. If the customer is already enrolled in training at the time the 599 application is submitted to DOL, acceptable evidence that the customer is capable of successfully completing their training may include transcripts from the last semester they attended or documentation that shows an acceptable GPA, as determined by the training provider.

**Note:** Admissions requirement vary from school to school. A customer may be accepted into a training program even though, based on a comprehensive assessment, the customer does not have the aptitude to successfully complete their Training program. When the results of a comprehensive assessment, show that the customer does not have the required aptitude to successfully complete their training, approval under Section 599 cannot be granted. Under these special circumstances, the One-Stop staff should work with the customer to identify suitable training.

<b>Section 3</b>	<b>Resources</b>
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The Department of Labor has made available a number of occupational resources that are intended to assist DOL staff when evaluating labor market information and making informed decisions regarding the approvability of a customer’s 599 application. The resources identified in this section are considered reliable sources and should be utilized by DOL staff during the fact-finding phase of the 599 application process.

### **3.1 The New York State Workforce & Industry Data - Employment Prospects**

The NYS Employment Prospects is the primary source that is used to determine the standard educational requirement for employment in a specific occupation. This source is available at <http://labor.ny.gov/stats/lproj.shtm>. Occupations listed in the Employment Prospects are categorized based on the most significant source of post-secondary education or training needed for a customer to become fully qualified to work in the occupation. DOL staff must review all of the information provided under “Training time”. The standard training time identifies the average length of time the customer will need to become fully qualified to work in their occupational goal. Post-secondary training, if generally needed to enter an occupation, takes precedent over work-related training even though additional skills or experience may be needed for the customer to become fully qualified.

### **3.2 USDOL Occupational Outlook Handbook**

The Occupational Outlook Handbook (OOH) is a secondary resource that may be used to determine if the training satisfies the educational requirements for a specific occupation. This publication is very helpful in identifying the type of training and educational requirements, as well as the job duties, working conditions, potential earnings and expected job prospects for a wide range of occupations. The publication is available at <http://www.bls.gov/oco/>. When OOH includes licensing requirements for an occupation, DOL staff must also review the NYS licensing provisions for that occupation.

### **3.3 O\*NET Code Connector**

O\*NET was designed specifically to assist workforce professionals in identifying the correct occupational code for job applicants and UI customers. The O\*NET database contains occupation specific information, including a job description, detailed work activities, tasks, and related occupations. O\*NET is to be used in conjunction with the NYS Employment Prospect to ensure that the customer's regular occupation and occupational goal have been correctly identified.