

**Workforce Development System  
Technical Advisory #18-06.3  
April 22, 2024**

**To:** Workforce Development Community

**SUBJECT:** Primary Indicators of Performance for Titles I and III under the Workforce Innovation and Opportunity Act (WIOA)

**PURPOSE**

Identify the WIOA Primary Indicators of Performance and how they apply to the programs delivered under Titles I and III of WIOA.

Establish policy on performance goals and the assessment of performance for the Primary Indicators of Performance under WIOA for Title I Adult, Dislocated Worker (DW) and Youth programs, and Title III Wagner-Peyser Act (W-P) program.

Establish procedures for Local Workforce Development Boards (LWDBs) to negotiate and reach agreement with New York State (NYS) on Local Workforce Development Area (LWDA) goals for the Primary Indicators of Performance for Titles I and III.

Inform LWDBs of the New York State Department of Labor (NYSDOL) policy on issuing incentive payments for achievement of WIOA performance standards for the Title I Adult, DW, and Youth programs.

Rescind and replace Workforce Development System Technical Advisory (WDS TA) #17-5 – Primary Indicators of Performance: Local Workforce Development Area Goals and Negotiations for Workforce Innovation and Opportunity Act Program Years 2016 and 2017, Titles I and III (May 31, 2017).

**POLICY**

**WIOA Primary Indicators of Performance**

States and LWDBs are held to six (6) Primary Indicators of Performance established by WIOA for the Title I Adult, DW and Youth, and Title III Wagner-Peyser programs. Note that the majority of the indicators are not applied uniformly across each program; some indicators are not applicable to specific programs, and others have different definitions for certain programs. Effectiveness in Serving Employers indicator is the only indicator reported as a shared outcome among all six (6) core WIOA programs.

Table 1 identifies each indicator and the Title I and III programs it applies to:

	Adult/Dislocated Worker	Youth	Wagner-Peyser
Second Quarter Employment Rate	✓	✓	✓
Fourth Quarter Employment Rate	✓	✓	✓
Median Earnings	✓	✓	✓
Credential Attainment	✓	✓	
Measurable Skills Gains	✓	✓	
Effectiveness in Serving Employers	✓	✓	✓

Note that in NYS, participants of the Trade Adjustment Assistance (TAA) program are co-enrolled in the DW program. Therefore, TAA participants are included in the Primary Indicators of Performance as DWs.

The six (6) Primary Indicators of Performance\* are defined as:

1. Second Quarter Employment Rate – The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program.
  - Note that for Title I Youth, the indicator is the percentage of participants in education or training activities, or in unsubsidized employment during the second quarter after exit;
2. Fourth Quarter Employment Rate – The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.
  - Note that for Title I Youth, the indicator is the percentage of participants in education or training activities, or in unsubsidized employment during the fourth quarter after exit;
3. Median Earnings – The statistical median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;
4. Credential Attainment – The percentage of participants enrolled in an education or training program (excluding those in on-the-job training and customized training) who attained an industry recognized postsecondary credential, or

certificate of completion of an apprenticeship, or certificate approved by the NYS Education Department (NYSED) or another State agency, or a secondary school diploma. A participant who has attained a secondary school diploma or its recognized equivalent is included in the percentage of participants who have attained a secondary school diploma or its recognized equivalent only if the participant also is employed or is enrolled in an education or training program leading to a postsecondary credential approved by NYSED or another State agency within one (1) year after exit from the program;

5. Measurable Skill Gains – The percentage of program participants who, during a Program Year (PY), are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment. Measurable skill gains are defined as documented academic, technical, occupational, or other forms of progress toward a postsecondary credential or employment; and
6. Effectiveness in Serving Employers – Retention in unsubsidized employment with the same employer in the second and fourth quarters after exit.
  - Note that this is the only indicator reported as a shared outcome between the WIOA core programs and will begin to be reported in PY 2024.

\*Adult Priority of Service is not a Primary Indicator of Performance.

## Performance Goals

Performance goals for the Primary Indicators of Performance will be established at both the State and Local level through a negotiation process. WIOA identifies three (3) types of performance goals:

1. Proposed goals (referred to as “expected levels of performance” in Training and Employment Guidance Letter (TEGL) No. [11-19, Change 1](#)) – Performance goals established prior to the negotiation process that act as the starting point of the negotiation. NYSDOL will develop Proposed goals for LWDBs and the State;
2. Negotiated goals – Performance goals that are agreed upon by the parties involved in the negotiation process; and
3. Adjusted goals – Negotiated goals are recalculated after the end of each PY using the Statistical Adjustment Model\* to account for circumstances that take place during the PY that could not be anticipated during the negotiation process.

\*Additional information on the Statistical Adjustment Model is provided in the next part of this WDS TA.

The determination of Proposed and Negotiated goals must be based primarily on the following four (4) factors:

1. The Statistical Adjustment Model;

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- a. WIOA requires the use of a Statistical Adjustment Model that factors in actual economic conditions (unemployment rates, job losses or gains in specific industries, etc.), and characteristics of participants served (lack of or poor work history, lack of educational or occupational skills, lack of literacy or English proficiency, homelessness, justice involvement, etc.).

The United States Departments of Labor and Education (USDOL/USDOE) developed a model for use in State Performance negotiations, and additional information on the model can be found in TEGL 11-19, Change 1. Similarly, NYSDOL has developed a model for Local negotiations.

2. The promotion of Continuous Improvement;
3. The Government Performance and Results Act (GPRA) of 1993; and
4. Performance of similar states or LWDA's.

As noted previously, the Statistical Adjustment Model will be reapplied to the Negotiated goals after the end of the PY, resulting in the Adjusted goals.

### **Assessment of Performance**

WIOA establishes three (3) scores for the assessment of performance:

1. Individual indicator score – The actual outcomes for each of the primary indicators of performance are compared to the Adjusted goals within each program;
2. State Program score – The actual outcomes of a core program across all indicators are compared to the Adjusted goals for that program. The percentages are then averaged, resulting in the overall State program score for each core program (i.e., Title I Adult, DW, and Youth, Title II Adult Ed, Title III Wagner-Peyser, and Title IV Vocational Rehabilitation); and
3. State Indicator score – The individual indicator score for each of the primary indicators of performance across all programs (i.e. Title I Adult, DW, and Youth, Title II Adult Ed, Title III Wagner-Peyser, and Title IV Vocational Rehabilitation) is averaged to calculate the State Indicator score. Note that the individual indicator score must be calculated first.

These scores are applied differently at the State and Local level as follows:

#### **State-Level Performance**

State-level performance is assessed by USDOL's Employment & Training Administration (ETA) based on all three (3) scores: Individual Indicator score; State Program score; and State Indicator score.

State performance is considered unsatisfactory when any of the following occur:

- Any of the Individual Indicator scores fall below 50% for the PY;

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- Any State Program score falls below 90% for the PY; or
- Any State Indicator score falls below 90% for the PY.

If the State receives an unsatisfactory performance rating, the State will receive technical assistance, including assistance in the development of a Performance Improvement Plan (PIP), provided by USDOL/ETA. Furthermore, fiscal sanctions will be applied if the State receives an unsatisfactory performance rating on the same measure for two (2) consecutive PYs.

Note that this does not apply to the Adult Priority of Service metric, which is not negotiated with USDOL/ETA. A rate of 75% has been set by USDOL/ETA for every state and territory, with a requirement that each state/territory serve at least 50.1% of Adult Program participants in individualized and training services from one (1) of three (3) priority groups. Therefore, the State is required to strictly meet the 50.1% requirement and not at least 50% of the established 75% goal.

### **Local-Level Performance**

Local-level performance is assessed by NYSDOL on the Individual Indicator score only, and is limited to performance of the Title I (Adult, DW, and Youth) programs. Actual performance outcomes will be compared to the LWDB's Adjusted goals after the close of the PY to determine if Local performance goals were achieved.

WIOA allows the State flexibility in defining unsatisfactory performance at the Local level. As such, NYS's unsatisfactory performance threshold is an outcome-to-goal ratio of less than 80% per indicator for a PY.

The LWDB must develop a PIP for unsatisfactory performance of an indicator in a PY. NYSDOL will also provide technical assistance, which may include assistance in the development of the PIP, and/or other actions designed to assist the local area in improving performance.

If a local area receives unsatisfactory performance for the same indicator for three (3) consecutive PYs, the Governor must take corrective action which includes development of a reorganization plan. The Governor will:

- Require the appointment and certification of a new LWDB; or
- Prohibit the use of eligible providers and one-stop partners that have been identified as achieving poor levels of performance; or
- Take other significant actions as deemed appropriate.

Note that Local-Level Performance impacts State-Level Performance. Therefore, unsatisfactory performance on the Local level can lead to fiscal sanctions at the State level.

### **Local-Level and Adult Priority of Service Performance Incentive Payments**

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Beginning in PY 2024, NYSDOL will set aside up to \$5M of its State-level WIOA funding to award to LWDBs as performance incentive payments for meeting 15 of the 15 WIOA Primary Indicators of Performance in the proceeding PY. Note that incentive payments are not currently available for the Effectiveness in Serving Employers indicator.

NYSDOL recognizes the importance of serving priority populations most in need. Per WDS TA #[23-01](#): Serving Priority Populations and Priority of Service under the Workforce Innovation and Opportunity Act (WIOA) Title I Adult Program, NYSDOL requires at least 50.1% WIOA Title I Adults receiving individualized career or training services in each LWDA to fall into at least one (1) of the following three (3) priority populations for the Adult Priority of Service metric:

1. Recipients of public assistance;
2. Other low-income individuals; and
3. Individuals who are basic skills deficient, which includes English Language Learners.

To ensure these populations receive appropriate individualized and training services, and are adequately identified in the State's case management system, NYSDOL is including this metric in performance incentives. At NYSDOL's discretion, additional incentive payments may be made to those LWDBs increasing their Adult Priority of Service percentage by 10% or more over the course of a PY.

Note that annual incentive payments for both local-level and Adult Priority of Service performance is not guaranteed and is based on funding availability.

## **ACTION**

LWDBs must:

1. Ensure all NYS Career Center staff understand the Primary Indicators of Performance, Local goals, and the operational procedures to achieve the goals; and
2. Negotiate Local Primary Indicators of Performance goals.

At the beginning of each negotiation cycle, NYSDOL will calculate Proposed goals for each LWDA based primarily on the Statistical Adjustment Model and provide them on the NYSDOL website at [Performance Indicators & Goals | Department of Labor \(ny.gov\)](#).

NYSDOL will notify LWDB Directors via email when the Proposed goals for the PYs being negotiated are ready. The notification will contain deadlines related to the process and any necessary additional instructions.

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LWDBs must review Proposed goals for their LWDA in collaboration with One-Stop Career Center Managers and determine if the Proposed goals are acceptable or need to be negotiated further.

Each LWDB must provide its determination to NYSDOL via email to [DEWS.Performance@labor.ny.gov](mailto:DEWS.Performance@labor.ny.gov), with a copy to their local State Program Monitor, using the subject line "{LWDA Name} Performance Goal Negotiation."

The body of the email must demonstrate collaboration with Career Center Managers in the LWDA, and contain:

- a. The PY(s) the LWDB wishes to negotiate;
- b. The indicator(s) the LWDB wishes to negotiate and the desired goal for each indicator;
- c. Justification of the level of desired goal; and
- d. The indicators which the LWDB accepts from the Proposed goals provided by NYSDOL, thereby making them Negotiated goals.

Upon receipt of this email from an LWDB, NYSDOL will coordinate with the LWDB to negotiate agreement on the goals for the identified indicator(s) as necessary. The negotiation process will be conducted via email. If NYSDOL and the LWDB are unable to reach agreement via email, NYSDOL will schedule a conference call to complete the negotiation process.

Once negotiations are complete, the Negotiated goals will be posted on the NYSDOL website at [Performance Indicators & Goals | Department of Labor \(ny.gov\)](https://www.labor.ny.gov/performance-indicators-goals).

Negotiated goals are revised after the end of the PY using the Statistical Adjustment Model, resulting in Adjusted goals. Adjusted goals will also be posted on the NYSDOL website at [Performance Indicators & Goals | Department of Labor \(ny.gov\)](https://www.labor.ny.gov/performance-indicators-goals) and will be used to determine Local Performance as noted in the Policy section of this WDS TA.

## REFERENCES

Workforce Innovation and Opportunity Act §677.155, §677.190, §677.200, §677.215, and §677.220

WIOA Effectiveness in Serving Employers Performance Indicator [Final Rule](#) (February 23, 2024)

[TEGL No. 10-16, Change 2](#) (September 15, 2022), Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Core Programs

[TEGL No. 11-19, Change 1](#) (May 10, 2023), Negotiations and Sanctions Guidance for the Workforce Innovation and Opportunity Act (WIOA) Core Programs

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WDS TA #[23-01](#): Serving Priority Populations and Priority of Service under the Workforce Innovation and Opportunity Act (WIOA) Title I Adult Program

**INQUIRIES**

Questions regarding this TA may be directed to [DEWS.Performance@labor.ny.gov](mailto:DEWS.Performance@labor.ny.gov).

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