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New York State Education Department
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89 Washington Ave.
Albany, NY 12234
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New York State Office of Children & Family Services
New York State Commission for the Blind
52 Washington Street
Rensselaer, NY 12144
www.ocfs.ny.gov/main/cb/

New York State Office of Temporary and Disability Assistance
40 North Pearl Street
Albany, NY 12243
www.otda.ny.gov

New York State Office for the Aging
2 Empire State Plaza
Albany, NY 12223
www.aging.ny.gov

New York Department of State
One Commerce Plaza
99 Washington Ave., 11th Floor
Albany, NY 12231
www.dos.ny.gov

Workforce Development System Technical Advisory #20-2.1 December 1, 2020

To: Workforce Development Community

SUBJECT: Local Workforce Development Board (LWDB) Memorandum of Understanding (MOU)

PURPOSE

Provide guidance to the New York State (NYS) One-Stop Career Center System (System) on the requirements of the LWDA MOU developed and executed between the LWDB and required Career Center partners.

This Technical Advisory (TA) was developed collaboratively by the Workforce Innovation and Opportunity Act (WIOA) Interagency Team, which includes the NYS Department of Labor (NYSDOL); the NYS Education Department's (NYSED) Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR), Adult Education, and Career & Technical Education (CTE) offices; the NYS Office of Children and Family Services/NYS Commission for the Blind (OCFS/NYSCB); the NYS Office of Temporary and Disability Assistance (OTDA); the NYS Office for the Aging (NYSOFA); and the NYS Department of State (DOS).

Rescind and replace Workforce Development System (WDS) TA #18-3, Local Workforce Development Area (LWDA) Memorandum of Understanding (MOU).

POLICY

Each required System partner, providing access to its programs in the LWDA, must enter into an MOU with the LWDB, not less than once every three (3) years, relating to the operation of the System.

ACTION

LWDBs must utilize the New York State Local Workforce Development Area Memorandum of Understanding Guidance and Template (two separate documents), available on the [NYSDOL website](#), to implement the WIOA-required MOU.

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The MOU requires the partners to review and agree to all elements of the MOU. To demonstrate this action, the MOU must be signed by all parties. This includes the Chief Elected Official(s) (CEOs), LWDB, required System partners, and additional partner(s), if approved by the CEO(s) and LWDB. The MOU constitutes the entire agreement between the parties.

LWDBs are required to follow the Guidance and Template documents to complete the MOU. The LWDB MOU must include the following:

- A description of the services to be provided through the System, including the manner in which these services will be coordinated and delivered;
- An estimated Applicable Career Services budget for providing System services;
- Methods for the referral of individuals between the One-Stop System Operator and System partners for appropriate services and activities;
- Methods to address the needs of workers and youth, and individuals with barriers to employment, including individuals with disabilities;
- The budget for the sharing of infrastructure costs of each Comprehensive, Affiliate, and Specialized Career Center in the LWDA;
- Identification of each co-located partner's infrastructure cost share for each Comprehensive, Affiliate, and Specialized Center in the LWDA;
- Narrative detailing the cost sharing methodology(ies) used during partner negotiations; and
- Documentation demonstrating the collaboration used to reach consensus.

LWDBs must submit the initial draft of the MOU by February 26, 2021 to LWDB@labor.ny.gov with the subject line “[LWDA Name] MOU.”

Note that if LWDBs are unable to contact a partner, or if the partner is non-responsive to the LWDB during the MOU negotiation process, the LWDB must document outreach and notify the State by sending an email to LWDB@labor.ny.gov with the subject line “[LWDA Name] Unresponsive MOU Partner(s).”

Also note that if partners reach an impasse during the negotiation of the infrastructure portion of the MOU, LWDBs must notify the State as soon as practical, but not less than 30 days prior to the due date of the MOU. Notification is to be submitted via email to LWDB@labor.ny.gov using the subject line “[LWDA Name] Infrastructure Funding Impasse.” The email must include all appropriate and relevant materials used in the local negotiation process, including:

- The WIOA Local Plan (can provide a website link);
- The cost allocation methodology(ies) proposed by the partners to be used in determining proportionate share;
- The proposed infrastructure budget for each Career Center in the local area;

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- The amount of total partner funds included in the proposed budget(s);
- The type of funds available;
- The most recent draft(s) of any partially agreed upon or proposed Infrastructure Funding MOUs;
- Identification of the partners who agreed and the partners who did not agree to the submitted infrastructure cost sharing budget and methodology(ies);
- A summary of the technical assistance requested and received from the State to help local partners reach agreement and assistance prior to this notification;
- The certification status of each Career Center in the local area; and
- Any other documentation requested by the State.

The State partners will attempt to find a solution to the impasse with the LWDB, but if one cannot be found the State Funding Mechanism (SFM) will be utilized following all applicable WIOA law/regulations and consistent with Federal cost principles for each of the affected one-stop partners.

Local one-stop partners will be afforded an opportunity to appeal determinations by NYS associated with the partner's allocation under the SFM. An appeal can be accepted from any, or all, of the local one-stop partners subject to the SFM.

Appeals must be:

- Postmarked within 30 days of the issuance of the notice of infrastructure cost allocation under the SFM;
- Submitted to the NYSDOL Director of DEWS; and
- Provided concurrently to any other local one-stop partners affected by, but not parties to, the appeal.

The appeal must clearly identify the disputed aspects of the determination and demonstrate how the basis of the determination is inconsistent with the requirements of the SFM.

NYS will respond to any appeal within 30 days of receipt. If a response is not possible within 30 days, NYS will notify the appellant (and any other local one-stop partner) of the reason for the delay and a reasonable date by which a decision will be issued.

REFERENCES

Workforce Innovation and Opportunity Act (WIOA) of 2014, §121(c).

Regulations: WIOA, Part 678 Subpart C, Part 678.420, and Part 678.500.

INQUIRIES

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Inquiries regarding this TA may be directed to: LWDB@labor.ny.gov with the subject line “LWDA MOU Questions.”

A Question and Answer document will be updated regularly and posted on the State Workforce Investment Board ([SWIB](#)) webpage.

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