



Administrative Policy

**POLICY  
NUMBER  
095**

<b>Title:</b>	<b>Youth Program Eligibility</b>
<b>Program:</b>	<b>Workforce Innovation and Opportunity Act (WIOA)</b>
<b>Adopted:</b>	<b>April 25, 2017</b>
<b>Effective:</b>	<b>April 25, 2017</b>

### **I. PURPOSE AND SCOPE**

The purpose of this policy is to provide the Workforce Innovation and Opportunity Act (WIOA) youth eligibility requirements to Local Workforce Development Boards (LWDBs) and youth program service providers.

### **II. BACKGROUND**

WIOA was signed into law on July 22, 2014 and supersedes Titles I and II of the Workforce Investment Act (WIA) of 1998, and amends the Wagner-Peyser Act and the Rehabilitation Act of 1973. The Department of Labor and Education published a set of regulations for implementing WIOA. These WIOA Final Rules were made public on July 1, 2016, and the rules covering the Title I youth formula program became effective on October 18, 2016.

WIOA outlines a broad vision that supports an integrated service delivery system and provides a framework through states and local areas can leverage federal, state and local resources to support the WIOA youth program. WIOA also promotes career pathways, increased attainment of recognized credentials and post-secondary certificates or degrees for youth.

### **III. AUTHORITY**

[Public Law 113-128](#) Section 129(a), *Workforce Innovation and Opportunity Act (WIOA)*

Training and Employment Guidance Letter [\(TEGL\) 21-16](#), *WIOA Youth Program Transition*, (March 2, 2017)

Training and Employment Guidance Letter [\(TEGL\) No. 8-15](#), *Second Title I WIOA Youth Program Transition Guidance*, (November 17, 2015)

Training and Employment Guidance Letter ([TEGL No. 23-14](#)), *WIOA Youth Program Transition*, (March 26, 2015)

Training and Employment Guidance Letter ([TEGL No. 02-14](#)), *Eligibility of Deferred Action for Childhood Arrivals Participants for Workforce Investment Act and Wagner-Peyser Act Programs* (July 14, 2014)

Code of Federal Regulations, [Title 20 Part 681](#)

[Sections 445.003](#), [445.004\(5\)\(a\)](#) and [445.004\(5\)\(b\)\(1\)](#), Florida Statutes

## IV. POLICY

### 1. Eligibility Criteria

WIOA Section 129(a) (1) establishes the eligibility criteria that an individual must meet to participate in the WIOA youth program. Every individual receiving services under the WIOA youth program must meet either the In-School Youth or as an Out-of-School Youth eligibility criteria and enroll in the program. All youth must be a United States citizen or have the right to work in the U.S. and males must comply with selective service registration requirements.

Separate eligibility criteria for ISY and OSY are outlined below.

#### A. In School Youth (ISY)

An individual who meets the ISY eligibility criteria must:

1. Be attending school, including secondary or postsecondary school and,
2. Be between the ages of 14 and 21 at the time of enrollment and,
3. Low-income, and
4. Meet one or more of the following conditions:
  - Basic skills deficient.
  - An English language learner.
  - An offender.
  - A homeless individual.
  - A runaway.
  - An individual in foster care or has aged out of the foster care system.
  - A child eligible for assistance under section 477 of the Social Security Act or in an out-of-home placement.
  - An individual who is pregnant or parenting.
  - A youth who is an individual with a disability.
  - An individual who requires additional assistance to complete an educational program or to secure or hold employment. Note: Up to five percent of youth in a given program year (ISY and OSY, who ordinarily would be required to meet the low-income criteria for eligibility purposes, are allowed a low-income exemption based on this barrier).

**Out-of-School Youth (OSY)**

An individual who meets the OSY eligibility criteria must:

1. Not be attending school and,
2. Be between the ages of 16 to 24 at the time of enrollment, and
3. Meet one or more of the following conditions:
  - A school dropout.
  - A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.
  - A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is—
    - Basic skills deficient or
    - An English language learner.
  - An offender.
  - A homeless individual.
  - A runaway.
  - In foster care or has aged out of the foster care system.
  - Eligible for assistance under section 477 of the Social Security Act
  - In an out-of-home placement.
  - Pregnant or parenting.
  - Have a documented disability.
  - A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment. Note: Up to five percent of youth in a given program year (ISY and OSY), who ordinarily would be required to meet the low-income criteria for eligibility purposes, are allowed a low-income exemption based on this barrier.

**2. OSY Priority**

WIOA requires a minimum of 75 percent of OSY funds available to local workforce development areas be used to serve OSY.

**3. Requires Additional Assistance to Complete An Education Program or to Secure or Hold Employment**

The LWDB must establish a definition and eligibility documentation requirements for the “requires additional assistance to complete an educational program, or to obtain or retain employment” criterion of In-School Youth (ISY) and Out-of-School (OSY) eligibility. The definition should be reasonable, quantifiable, and based on evidence that the specific characteristic of the youth identified in the definition objectively requires additional assistance. However, as required by WIOA Sec. 129 (a)(3)(B), not more than five percent of the ISY newly enrolled in a given program year may be deemed eligible based on the “requires additional assistance to complete an educational program or to secure or hold employment” criterion.

**Note:** The local definition of “requires additional assistance” cannot simply list youth barriers already identified in WIOA and in section IV. 1. A. of this policy. The local

definition must describe the circumstances or other criteria it will use to qualify a youth as “requires additional assistance”.

#### **4. Determining Low Income Status**

Income is determined by collecting information from the family for the complete six month period prior to application. After verification of family size and the total reported six month income is collected, this figure is then doubled (annualized) and compared to the Lower Living Standard Income Level (LLSIL).

All ISY and some OSY must be “low income” to qualify for WIOA services (unless they qualify under the five percent window/low income exception as outlined in the next section).

#### **5. Low Income Eligibility Exception**

The WIOA five percent low-income eligibility exception exists where five percent of local area participants who ordinarily would need to be low-income do not need to meet the low-income provision.

#### **6. High Poverty Area Designation**

In accordance with Section 129(a) (2), the term low-income includes a youth living in a high-poverty area. An area is designated as high poverty if it has a poverty rate of at least 25 percent as set every five years using American Community Survey five-year data. The Department of Economic Opportunity (DEO) developed a [Poverty Rate Map](#) as a tool to assist staff in determining if an area meets the high poverty area criteria. Each LWDB using the high poverty rate special rule to determine eligibility for WIOA youth program services, must still record and collect the appropriate documentation of a youth’s income for federal data reporting purposes.

#### **7. Compulsory School Attendance Laws**

In order to comply with the State's compulsory attendance law and WIOA's priority and noninterference requirements, youth at an age where they are required to attend school do not have an exception to the regular school attendance requirements as outlined in Section 1003.21, Florida Statutes. Youth who have not graduated may be served as an out-of-school youth if the LWDB makes school attendance a priority and provides services outside of the regular school day. Therefore, services provided to out-of-school youth within the age of compulsory attendance must be provided outside of the regular or mandatory school day. For purposes of compliance with the compulsory attendance law, a regular school schedule is defined as the days and time during which school is normally held, as set by the local school board.

#### **8. Selective Service Registration**

Males age 18 or older must be registered with the Selective Service in order to be eligible for WIOA Youth services. In order to maintain eligibility for the WIOA services, a male participant who turns age 18 while participating in the program must register for Selective Service.

## 9. Youth with Disabilities

WIOA has made youth with a disability a separate eligibility criteria. OSY with a disability are not required to be low income but ISY with a disability must be low income. However, an individual with disability verification is not based on the family income but the income of the youth.<sup>1</sup>

## 10. Eligibility Documentation

In order for an individual to receive WIOA youth program services, a youth must meet the eligibility criteria for either an ISY or OSY. Each LWDB is required to collect supporting eligibility documentation used to determine eligibility. WIOA establishes strict participant eligibility, priorities and requirements for participation to account for the proper use of Title I funds. Local Workforce Development Boards must establish a local process for collecting and maintaining eligibility verification documentation and ensure that the documentation that is collected is made available for review by auditors and local, state and federal representatives. Youth service providers must obtain and maintain documentation that supports the determination for eligibility and continuous participation.

## 11. Deferred Action for Childhood Arrivals

WIOA section 188(a)(5) contains a specific nondiscrimination provision that provides that participation under the WIOA is available to citizens and nationals of the United States; lawfully admitted permanent resident aliens, refugees, asylees and parolees; and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization qualify under this provision as “immigrants authorized by the Attorney General to work in the United States.” This includes “Deferred Action for Childhood Arrivals” ([DACA](#)) participants with employment authorization. Participants identified as DACA participants must meet the WIOA eligibility requirements to access any WIOA services for which they would otherwise qualify. LWDB staff must obtain appropriate documentation of employment authorization. The documentation must include self-attestation, at a minimum. The DACA process is for individuals who came to the United States as children and:

- Were under the age of 31 as of June 15, 2012.
- Came to the United States before reaching their 16<sup>th</sup> birthday.
- Have continuously resided in the United States since June 15, 2007, up to the present time.
- Were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with U.S. Citizenship and Immigration Services (USCIS).
- Entered without inspection before June 15, 2012, or their lawful immigration status expired as of June 15, 2012.

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<sup>1</sup> 20 CFR 681.280 states: For a youth with a disability, income level for eligibility purposes is based on the youth’s own income rather than his or her family’s income. WIOA sec. 3(36)(A)(vi) states that an individual with a disability whose own income meets the low-income definition in clause (ii) (income that does not exceed the higher of the poverty line or 70 percent of the lower living standard income level), but who is a member of a family whose income exceeds this income requirement is eligible for youth services.

- Are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or other equivalent State-authorized exam in the United States, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.
- Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

The DACA process may result in a two-year period of “deferred action,” or relief from removal from the country or from entering into removal proceedings, subject to renewal, and issuance of employment authorization for the period of deferred action. Therefore, a DACA participant whose case has been deferred is eligible to receive employment authorization for the period of deferred action, provided he or she can demonstrate “an economic necessity for employment.”

## V. DEFINITIONS

**Basic Skills Deficient:** A youth or adult individual that has English reading, writing, or computing skills at or below the 8<sup>th</sup> grade level on a generally accepted standardized test; or who is a youth or adult, that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.

**Compulsory School Attendance:** WIOA section 129(a)(5) and section 1003.21, Florida Statute, states that all children who are either six years of age, will be six years old by February 1 of any school year, or are older than six years of age but who have not attained the age of 16 years, must attend school regularly during the entire school term. A student who attains the age of 16 years during the school year is not subject to compulsory attendance beyond the date the student attains that age if he/she files a formal declaration of intent to terminate school enrollment with the school district.

**Documentation:** physical evidence which is obtained through the verification process, including written confirmation by an authorized agency or organization of one or more WIOA eligibility criteria, and which reflects the individual’s status as of the date of registration for such eligibility criteria.

**Dropout:** An individual who is no longer attending any school and who has not received a secondary school diploma; or its recognized equivalent. An individual who is between the ages of 16 and 24 at the time of enrollment into a WIOA-funded youth activity, who is not attending a regular or alternative school, but is enrolled in an adult education or GED program. A dropout, for purposes of WIOA, is also an out of school youth who has not received a high school diploma.

**English Language Learner:** An eligible individual who has limited ability in reading, writing, speaking or comprehending the English language, and whose native language is a

language other than English or who lives in a family or community environment where a language other than English is the dominant language.

**Foster Care:** A temporary arrangement in which adults provide for the care of a child or children whose birthparent is unable to care for them.

**Homeless** as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), a homeless child or youth (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2)), which is defined as: An individual who lacks a fixed, regular and adequate nighttime residence and includes an individual who:

- Is sharing the housing of other persons due to loss of housing, economic hardship or similar reason;
- Is living in a motel, hotel, trailer park or campground due to the lack of alternative adequate accommodations;
- Is living in an emergency or transitional shelter;
- Is abandoned in a hospital;
- Is living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting;
- Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as regular sleeping accommodation for human beings; or
- Is a migratory child living in circumstances described in this definition.

**Low-Income Individual:** An individual who:

- Receives, or has received in the past 6 months, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program (SNAP), or the supplemental security income program established under Title XVI of the Social Security Act, or State or local income-based public assistance.
- Is in a family with total income that does not exceed the higher of –
  - The poverty line; or
  - 70 percent of the lower living standard income level.
- Is a homeless individual.
- Receives or is eligible to receive free or reduced price lunch.
- Is a foster child on behalf of whom State or local government payments are made.
- Is an individual with a disability whose own income meets the low-income level for eligibility purposes but who is a member of a family whose income does not meet this requirement.
- Is a youth who resides in a high poverty area.

**Migratory Child:** A child who is, or whose parent or spouse, is a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work – has moved from one

residence to another residence and from one school district to another due to economic necessity.<sup>2</sup>

**Offender:** An adult or juvenile who:

- Is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or
- Requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

**Participant:** For the Workforce Innovation and Opportunity Act (WIOA) Title I youth program, a participant is a reportable individual who has satisfied all applicable program requirements for the provision of services, including eligibility determination, an objective assessment, and development of an individual service strategy, and received one of the 14 WIOA youth program elements identified in sec. 129(c)(2) of WIOA.

**Reportable Individual:** An individual who has taken action that demonstrates an intent to use program services and who meets specific reporting criteria of the program, including: (1) Individuals who provide identifying information; (2) Individuals who only use the self-service system; or (3) Individuals who only receive information-only services or activities.

**Significant Misdemeanor:** A misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

- Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
- If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.
- The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE). Notwithstanding the above, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence of the criminal history outlined above, or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion. Department of Homeland Security (DHS) retains the discretion to determine that an individual does not warrant deferred action on the basis of a single criminal offense for which the individual was sentenced to time in custody of 90 days or less.

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<sup>2</sup> 20 U.S. C. 6399



**Verification:** To confirm an eligibility requirement through examination of official documents.

**VI. RESOURCES**

[United States Citizenship and Immigration Employer Handbook](#)

[Florida High Poverty Rate Map](#)