

## State Policy

## Workforce Innovation and Opportunity Act (WIOA)

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	Administrative Requirements
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	Allocation Planning – WIOA Title IB Adult, Dislocated Worker and Youth Funds, Change 2 (effective May 3, 2018)

## Youth, Adult, and Dislocated Worker Program Funding

### REFERENCE

Federal and state laws, regulations, rules, and other guidance and documentation relied upon for the development of this policy are cited in footnotes.

### BACKGROUND

NDOL must establish a policy that describes the methods and factors used to allocate funds to local areas for WIOA Title I adult, dislocated worker, and youth programs.<sup>1</sup> In addition, NDOL must establish criteria and factors for evaluation and approval of requests to transfer funds between adult and dislocated worker programs.<sup>2</sup>

### ACTION

This policy supersedes and cancels the State's<sup>3</sup> policy titled Allocation Planning – WIOA Title IB Adult, Dislocated Worker and Youth Funds, Change 2 (effective date May 3, 2018). Questions and comments on this policy may be submitted in writing to the WIOA policy mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

<sup>1</sup> WIOA Sec. 102(b)(2)(C)(iv)

<sup>2</sup> 20 CFR § 683.130; TEGL 19-16

<sup>3</sup> State refers to the Nebraska Workforce Development Board and the Nebraska Department of Labor (acting on the Governor's behalf pursuant to the Governor's Executive Order No. 15-03).

## CHANGES

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This policy establishes the following material changes to the superseded policy regarding requests to transfer funds between adult and dislocated worker programs:

- criteria and factors for evaluation and approval of transfer requests;
- requirements for submission of requests; and
- timelines for determinations on requests.

## POLICY

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This policy establishes requirements regarding:

- allocation, distribution, obligation, and availability of Title I funds;
- transfer of funds between adult and dislocated worker programs;
- recapture and reallocation of unobligated funds; and
- return of unexpended funds.

This policy has five sections and one appendix.

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### Section I. Allocation of funds

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#### (a) Adult and youth programs

Allocation of adult and youth funds to local areas is based on the formulas described in WIOA Secs. 133(b)(2) and 128(b)(2), respectively.<sup>4</sup>

#### (b) Dislocated worker program

Allocation of dislocated worker funds to local areas is based on factors and weights determined appropriate by the Governor, which are listed in Table 1.

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<sup>4</sup> 20 CFR § 683.120(a)(2)(i); TEGL 27-16

*Table 1. Dislocated worker funds allocation factors and weights<sup>5</sup>*

Factor	Weight
1. Insured unemployment data	15%
2. Unemployment concentrations	15%
3. Plant closings and mass layoff data	20%
4. Declining industries data	5%
5. Farmer-rancher economic hardship data	5%
6. Long-term unemployment data	20%
7. Dislocated worker program enrollment data <sup>6</sup>	20%
Total	100%

Calculation of local allocations of dislocated worker funds is made in two steps.

1. NDOL determines the portion of the state's allotment of dislocated worker funds to be assigned to each allocation factor described in Table 1 (the assigned portion).
2. NDOL determines the percentage amount of the assigned portion to be applied to each local area for each allocation factor.

**(c) Minimum allocations<sup>7</sup>**

Each local area must receive an allocation amount for a fiscal year that is equal to at least 90 percent of the average allocation amount the local area received for an individual program for the preceding two fiscal years. If necessary to comply with the 90 percent minimum local area allocation requirement, funds needed to increase an allocation to a local area are obtained by ratably reducing the funds to be allocated to other local areas. If the funds allotted to the state based on the fiscal year appropriation are not sufficient to meet the 90 percent minimum allocation, the amounts allocated to each local area must be ratably reduced.

## **Section II. Obligation, distribution, and availability of funds**

**(a) Obligation and distribution**

**(1) Youth funds<sup>8</sup>**

Youth funds may be made available for obligation by local areas beginning April 1 for the Program Year that begins the following July 1. Youth funds are typically available for distribution to local areas on July 1. The availability of youth funds for distribution to local areas is subject to the requirements and limitations of Federal fiscal year appropriations for programs and activities carried out under WIOA Title I. Youth funds must be made available by the state for distribution to a local area by the latter of:

<sup>5</sup> 20 CFR § 683.120(e)(2)(i) – (vi); TEGL 27-16

<sup>6</sup> This factor is established by the state.

<sup>7</sup> 20 CFR § 683.125(a), (b), (d), and (e). Calculation of minimum funding percentages for local area allocations must be performed on a program year (i.e., annual) basis.

<sup>8</sup> 20 CFR §§ 683.100(b) and 683.120(a)(2)(iii)

- 30 days after the funds are made available to the state; or
- seven days after the date of approval of the local plan or local plan modification.

#### (2) Adult and dislocated worker funds<sup>9</sup>

Adult and dislocated worker funds are available for obligation by local areas beginning July 1. Adult and dislocated worker program year funds (also known as base funds) are typically available for distribution to local areas on July 1, and fiscal year funds (also known as advance funds) are typically available for distribution to local areas on October 1. The availability of adult and dislocated worker funds for distribution to local areas is subject to the requirements and limitations of Federal fiscal year appropriations for programs and activities carried out under WIOA Title I. Adult and dislocated worker funds must be made available for distribution by the state to a local area by the latter of:

- 30 days after the funds are made available to the state; or
- seven days after the date of approval of the local plan or local plan modification.

#### (b) Availability<sup>10</sup>

Except as described in subsections (1) and (2) below, funds allocated to local areas for a Program Year<sup>11</sup> for the youth, adult, and dislocated worker programs are available for expenditure by the local board during that Program Year and one succeeding Program Year. This two-year period is referred to as the period of performance. During the period of performance, local boards must expend funds with the shortest period of availability first (e.g., first in first out) unless otherwise authorized in the grant agreement (or any subsequent modification of the grant agreement) issued to NDOL by a Federal Contracting Officer, in compliance with the Federal Acquisition Regulations.

#### (1) Obligation of funds<sup>12</sup>

At least 80 percent of the funds allocated to a local area for a Program Year for each of the youth, adult, and dislocated worker programs should be obligated by the end of that Program Year (June 30). If more than 20 percent of the funds remain unexpended or unobligated at the conclusion of the Program Year, the state may recapture the amount that exceeds 20 percent. Any recaptured amount is separately determined for each program. Calculation of the 20 percent amount must adjust for:

- funds reserved by the local board for administrative costs (up to 10 percent); and
- any transfer of funds between the local area adult and dislocated worker programs.

**EXAMPLE.** Funds are allocated to a local area for the dislocated worker program for a Program Year. At the conclusion of the Program Year, 27 percent of the funds remain unexpended or unobligated. Of the 27 percent, the state may recapture an amount equal to seven percent and the local board may retain the remaining 20 percent.

<sup>9</sup> 20 CFR §§ 683.100(a) and 683.120(a)(2)(iii)

<sup>10</sup> 20 CFR § 683.110(c)

<sup>11</sup> *Program Year* refers to the period beginning on July 1 and ending on June 30 of the following year.

<sup>12</sup> 20 CFR § 683.140(b)

## (2) Pay-for-performance exception

Funds obligated by a local board to carry out WIOA pay-for-performance contract strategies remain available until expended.<sup>13</sup>

### Section III. Transfer of adult and dislocated worker funds

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A local board may transfer up to 100 percent of a Program Year allocation for its adult program and dislocated worker program between the two programs.<sup>14</sup> The local board must obtain NDOL's written approval before the transfer can be made.<sup>15</sup>

#### (a) Criteria and factors

In its evaluation of a transfer request, NDOL may take into account the following criteria and factors:<sup>16</sup>

- employment and service needs of the local area (both job seekers and employers);
- current labor market information and demographics;
- consistency with broader strategies in the local plan;
- whether the local area is meeting negotiated levels of performance;
- that career and training services must continue to be made available to both adults and dislocated workers;
- availability of funds to support the transfer; and
- any other considerations NDOL considers necessary to determine the appropriateness of the transfer.

Any transfer request that is incomplete or conflicts with Federal, state, or local laws, rules, regulations, guidance, or policies will not be approved.

#### (b) Submission of requests

A local board must submit a written request to transfer funds using a transfer request form.<sup>17</sup> The request form must be submitted to the WIOA policy mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) and Kim Schreiner, Controller, at [kim.schreiner@nebraska.gov](mailto:kim.schreiner@nebraska.gov).

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<sup>13</sup> 20 CFR § 683.110(c)(1)(ii)

<sup>14</sup> 20 CFR § 683.130(a). Transfer of youth program funds to an adult or dislocated worker program is not permitted [20 CFR § 683.130(b)].

<sup>15</sup> 20 CFR § 681.130(c)

<sup>16</sup> TEGL 19-16

<sup>17</sup> The form is available by request to [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### (c) Determination on requests

Absent extenuating circumstances, a determination on a transfer request will be made in writing within 60 calendar days of NDOL's receipt of a fully completed transfer request form.

## Section IV. Recapture and reallocation of unobligated funds<sup>18</sup>

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In the event that a local board does not expend or obligate at least 80 percent of the funds allocated to the local area for a Program Year for each of its youth, adult, and dislocated worker programs, as described in [Section II\(b\)\(1\)](#), the state may recapture the amount that exceeds 20 percent and reallocate that amount to another local area for the same program from which the funds were recaptured. To be eligible for reallocated funds, a local board must have obligated at least 80 percent of the prior Program Year's allocation for the applicable program, less any amount reserved for the costs of administration (up to 10 percent). A local board's eligibility to receive a reallocation must be separately determined for each program. A local board that receives reallocated funds must fully expend the funds by June 30 of the Program Year during which it received the funds.

## Section V. Return of unexpended funds<sup>19</sup>

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Funds not expended by a local board during a two-year period of performance must be returned to the state. The returned funds may be used by the state during the following Program Year for:

- expenditure on statewide projects; or
- reallocation to eligible local boards.

An eligible local board is one that has fully expended its allocated funds for the same program within the same two-year period of performance. A local board that receives reallocated funds must fully expend the funds by June 30 of the Program Year during which it received the funds.

## DISCLAIMER

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This policy is based on NDOL's reading of the applicable statutes, regulations, rules, and guidance released by the US Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

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<sup>18</sup> 20 CFR § 683.140. Reallocation of funds may occur after consultation with the state board.

<sup>19</sup> 20 CFR § 683.110(c)(2)

## APPENDIX I. Definitions

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**PURPOSE.** Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. The terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

### 1. declining industries data

*Declining industries data* refers to data that identifies reductions in the number of jobs within given industries.

### 2. dislocated worker program enrollment data

*Dislocated worker program enrollment data* means data collected by the state regarding local area enrollments in local dislocated worker programs.

### 3. farmer-rancher economic hardship data

*Farmer-rancher economic hardship data* refers to data that identifies the number of:

- Chapter 12 farm bankruptcies in a local area; and
- farmers and ranchers in a local area whose net earnings are equal to or less than 70 percent of the Lower Living Standard Income Level for a family of three.

### 4. insured unemployment data

*Insured unemployment data* refers to data that identifies the relative average number of unemployed individuals who reside in the local area as compared to the total average number of unemployed individuals in the state.

### 5. long-term unemployed data

*Long-term unemployed<sup>20</sup> data* refers to data that identifies the number individuals in a local area who have been looking for work for 27 weeks or longer according to state-level unemployment insurance records.

### 6. plant closings and mass layoff data

*Plant closings and mass layoff data* means data that is manually collected by the state through Rapid Response activities.

### 7. unemployment concentrations

*Unemployment concentrations data* means data that identifies the average unemployment rate in each county as compared with the average unemployment rate for the state.

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<sup>20</sup> The term *long-term unemployed* is defined in TEGL 19-16.