

MASSACHUSETTS WORKFORCE DEVELOPMENT SYSTEM

# Mass Workforce Issuance

100 DCS 01.107

☒ Policy ☐ Information

**To:** Chief Elected Officials  
Workforce Development Board Chairs  
Workforce Development Board Directors  
Title I Administrators  
Career Center Directors  
Title I Fiscal Officers  
DCS Operations Managers

**cc:** WIOA State Partners

**From:** Alice Sweeney, Director  
Department of Career Services

**Date:** February 3, 2017

**Subject:** **WIOA Funds as Funds of Last Resort**

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**Purpose:** To notify Local Workforce Development Boards, One-Stop Career Center Operators and other local workforce partners of guidance set forth on the use of WIOA training funds as funds of last resort.

**Background:** The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), issued the Final Rule for the Workforce Innovation and Opportunity Act (WIOA) in the Federal Register in August, 2016 (§680.230).

WIOA funding for training is limited to participants who are unable to obtain grant assistance from other sources to pay the costs of their training; or require assistance beyond that available under grant assistance from other sources to pay the costs of such training. Programs and training providers must coordinate funds available to pay for training.

In making the determination, one-stop centers may take into account the full cost of participating in training services, including the cost of support services and other appropriate costs

Each local area and direct recipient of funds under Title I of WIOA must establish and maintain a procedure for limiting the use of WIOA funds for training services to instances when there is no other grant assistance available or inadequate grant assistance from other sources available to pay those costs.

**Policy:** The Commonwealth's WIOA policy for limiting the use of WIOA funds for training services is specified herein. The limited use of WIOA funds for training services policy shall apply to all Massachusetts Local Area Workforce Development recipients of WIOA Title I funds.

Any provisions contained in the WIOA Regulations, or other applicable laws and regulations shall apply, even if they are not explicitly stated in this policy. Nothing in this policy shall be construed to contradict prevailing laws and requirements for limited use of WIOA funds for training services or equal opportunity matters.

**Action**

**Required:** This Policy is in effect for all WIOA funds provided by the Executive Office of Labor and Workforce Development (EOLWD) Department of Career Services (DCS). All Local Workforce Development Boards must develop their own internal limited use of WIOA funds for training services policy in compliance with this policy. Please distribute copies of this policy to all appropriate individuals in your organization.

**Effective:** Effective for all WIOA funds provided by EOLWD/DCS

**References:** 20 CFR Part 680  
20 CFR Part 683.510

**Inquiries:** Please email all questions to [PolicyQA@MassMail.State.MA.US](mailto:PolicyQA@MassMail.State.MA.US). Also, indicate Issuance number and title.

## **WIOA REQUIREMENTS WHEN OTHER GRANT ASSISTANCE IS AVAILABLE TO PARTICIPANTS**

### **TYPE OF FUNDS COVERED BY THIS POLICY**

This policy specifically requires that WIOA funds not be used to pay for the costs of training when Pell Grant funds or grant assistance from other non-WIOA sources are available to pay the costs. WIOA funds supplement other sources of training grants. WIOA funding for training is limited to participants who are unable to obtain grant assistance from other sources to pay the costs of their training; or those who require assistance beyond that grant assistance available from other sources to pay the costs of such training. Examples of other assistance include, but are not limited to: Pell Grants, Trade Adjustment Assistance (TAA), stipends from the employer or union, self-payments, scholarships, fellowships, and no-cost programs.

### **REQUIREMENT FOR THE COORDINATION OF TRAINING COSTS**

Program operators and training providers are required to coordinate by entering into arrangements with the entities administering the alternate sources of funds, including eligible providers administering Pell Grants. These entities should consider all available sources of funds, excluding loans, in determining an individual's overall need for funds.

A WIOA participant may enroll in WIOA-funded training while his/her application for a Pell Grant is pending as long as the One-Stop operator has made arrangements with the training provider and the WIOA participant regarding allocation of the Pell Grant. Reimbursement is not required from the portion of Pell Grant assistance disbursed to the WIOA participant for education-related expenses. (§680.230)

### **FOCUS ON THE NEEDS OF THE PARTICIPANT**

The Pell Grant is a portable grant for which preliminary eligibility can, and should be determined before the participant enrolls in a particular school or training program. The application for determining eligibility and ultimately the amount of the grant should be readily available at all One-Stop Career Centers for assistance in the completion of these "gateway" financial aid applications.

Section 680.230 permits a WIOA participant to enroll in a training program with WIOA funds while an application for Pell Grant funds is pending, but requires that the local workforce development area be reimbursed for the amount of the Pell Grant used for training if the application is approved. Since Pell Grants are intended to provide for both tuition and other education-related costs, the Rule also clarifies that only the portion provided for tuition is subject to reimbursement. Reducing the amount of WIOA funds by the amount of Pell Grant funds designated for other education-related costs is not permitted. Participation in a training program under WIOA may not be conditioned on applying for or using a loan to help finance training costs.

### **CONTRACTS MAY BE USED IN LIMITED CASES**

The Act allows a system that maximizes customer choice in the selection of training providers.

- (a) Contracts for services may be used instead of ITAs only when one or more of the following five exceptions apply, and the local area has fulfilled the consumer choice requirements of § 680.340:

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.  
TDD/TTY 1-800-439-2370 - Voice 1-800-439-0183

- (1) When the services provided are on-the-job-training (OJT), customized training, incumbent worker training, or transitional jobs.
  - (2) When the Local WDB determines that there are an insufficient number of eligible training providers in the local area to accomplish the purpose of a system of ITAs. The determination process must include a public comment period for interested providers of at least 30 days, and be described in the Local Plan.
  - (3) When the Local WDB determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization or another private organization to serve individuals with barriers to employment, as described in paragraph (b) of this section. The Local WDB must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the individuals with barriers to employment to be served. The criteria may include:
    - (i) Financial stability of the organization;
    - (ii) Demonstrated performance in the delivery of services to individuals with barriers to employment through such means as program completion rate; attainment of the skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment; and retention in employment; and
    - (iii) How the specific program relates to the workforce development needs identified in the local plan.
  - (4) When the Local WDB determines that it would be most appropriate to contract with an institution of higher education (*see* WIOA sec. 3(28)) or other provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, provided that the contract does not limit consumer choice.
  - (5) When the Local WDB is considering entering into a Pay-for-Performance contract, and the Local WDB ensures that the contract is consistent with § 683.510.
- (b) Under paragraph (a)(3) of this section, individuals with barriers to employment include those individuals in one or more of the following categories, as prescribed by WIOA sec.3(24):
- (1) Displaced homemakers;
  - (2) Low-income individuals;
  - (3) Indians, Alaska Natives, and Native Hawaiians;
  - (4) Individuals with disabilities;
  - (5) Older individuals, i.e. those aged 55 or over;
  - (6) Ex-offenders;
  - (7) Homeless individuals;
  - (8) Youth who are in or have aged out of the foster care system;
  - (9) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers;
  - (10) Eligible migrant and seasonal farmworkers, defined in WIOA sec. 167(i);
  - (11) Individuals within 2 years of exhausting lifetime eligibility under TANF (part A of title IV of the Social Security Act);

- (12) Single-parents (including single pregnant women);
- (13) Long-term unemployed individuals; or
- (14) Other groups determined by the Governor to have barriers to employment.

Those training providers operating under the ITA exceptions still must qualify as eligible providers.

- (c) The Local Plan must describe the process to be used in selecting the providers under a contract for services.

### **CRITERIA FOR DEMONSTRATED EFFECTIVENESS**

The Regulation at § 680.320 (a)(3) provides that when the exception for special populations is used, the Local Board must apply criteria it develops to determine “demonstrated effectiveness,” particularly as it applies to the special participant population it proposes to serve. This determination is in addition to meeting the requirements for qualifying as an eligible training provider. The provisions in the regulation are illustrative and Local Boards should develop specific criteria applicable to their local areas.

### **TRADE ELIGIBLE DISLOCATED WORKERS**

Dislocated workers who are eligible for assistance under the Trade Act of 1974, as Amended and the Trade Reform Act of 2015 must utilize Trade funds for training prior to being eligible to utilize training funds under the Workforce Innovation and Opportunity Act. Participants who fail to obtain training by their TRA deadline under the Trade Act may lose their eligibility to access Trade Readjustment Assistance (TRA) cash benefits.