APPENDIX III
WIOA Adult, Dislocated Worker, and Youth Program-Specific Requirements (Revised)

WIOA Adult, Dislocated Worker, and Youth Activities

Regions and Local Workforce Development Areas. The designated four regional Workforce Development Areas in New Mexico include Central, Eastern, Northern and Southwestern. Each Workforce Development Area has a Local Workforce Development Board that administers employment and training programs through the New Mexico Workforce Connection Centers (NMWCs), or one-stops.

The four local workforce development boards are as follows:
- Central Area Local Workforce Development Board
- Eastern Area Local Workforce Development Board
- Northern Area Local Workforce Development Board
- Southwestern Area Local Workforce Development Board

The New Mexico Department of Workforce Solutions has a policy to provide guidance and process for the designation and redesignation of workforce development areas in New Mexico, along with the process for appealing designation decisions. The Workforce Innovation and Opportunity Act mandates that the State Workforce Development Board must assist the Governor in designation of workforce development areas, as required in WIOA Section 106, and that an appeals process must be in place.

The Governor of the State must designate local workforce development areas within the State through consultation with the State Board; and after consultation with Chief Elected Officials and after consideration of comments received through the public comment process as described in Section 102 (b)(2)(E)(iii)(II). WIOA further states that the considerations should include:
- extent to which the areas are consistent with the labor market areas in the State;
- extent to which the areas are consistent with regional economic development areas in the State; and
- extent to which the areas have available the federal and non-federal resources necessary to effectively administer activities under subtitle B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

WIOA states that a unit of general local government (including a combination of such units) or grant recipient that requests, but is not granted designation of an area as a local area, may submit an appeal to the State under an appeal process established in the State plan. WIOA requires that existing federally recognized workforce areas are designated during the first two program years, which is referred to as Initial Designation, and again after the first two program years, which is referred to as Subsequent Designation. Units of local government that desire to become a new local workforce area should follow the New Area designation requirements.

Definitions.
- The term “performed successfully”, used with respect to a local area, means the local area met or exceeded the levels of performance for primary indicators of performance described
in section 116(b)(2)(A) (or, if applicable, core indicators of performance described in section 136(b)(2)(A) of the Workforce Investment Act of 1998, as in effect the day before the date of enactment of this Act) for each of the last two consecutive years for which data are available preceding the determination of performance under this paragraph.

- The term “sustained fiscal integrity,” used with respect to a local area, means that the Secretary or the State in place of the Secretary has not made a formal determination, during either of the last two consecutive years preceding the determination regarding such integrity, that either the grant recipient or the administrative entity of the area misexpended funds provided under subtitle B (or, if applicable, title I of the Workforce Investment Act of 1998 as in effect prior to the effective date of such subtitle B) due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

- Business Leader - A business member of the Local Workforce Development Board or representative of other business organization, such as a chamber of commerce.

- Community Leader - An officer or director of an association, community or civic organization whose focus or activities are related to the services provided by the one-stop delivery system.

**Initial WIOA Designation for Existing Regions.** Existing workforce regions operating in accordance with the Workforce Investment Act of 1998 may request initial designation as a Local Workforce Development Area if they have performed successfully and sustained fiscal integrity. A request for initial designation must be submitted to the State by May 1, 2015 for consideration for the next program year (July 1 – June 30). An area seeking initial designation must address the following:

- Submit the request in writing to the State.
- Provide evidence that the area, in program years 2012 and 2013, met or exceeded the agreed upon adjusted levels of performance for the common measures, as defined by existing performance agreements, and was not subject to the sanctions process resulting from missing the same measure two years in a row.
- During program years 2012 or 2013, the U.S. Secretary of Labor or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has misexpended funds due to willful disregard, gross negligence, or failure to comply with accepted standards of administration.
- In program years 2012 and 2013, was committed to providing quality service through continuous improvement efforts and implemented plans that supported sector partnerships or career pathways; or enhanced services to employers, or outreach efforts to the local community.

The State will recommend approval to the Governor of a local area’s request that satisfies these requirements in accordance with WIOA section 106(b) (2). Initial designation as a local area will remain valid until June 30, 2017.

**Subsequent WIOA Designation.** Local areas that receive initial designation may request subsequent designation as a local workforce development area if they have performed successfully, sustained fiscal integrity, and met the requirements for involvement in regional planning. A request for subsequent designation for those receiving initial designation for July 1, 2015 must be submitted to the State by the date to be designated by the State but no later than May 30, 2017, for consideration for the next program year (July 1 – June 30). An area seeking subsequent designation must address the following:

- Submit the request in writing to the State.
• Provide evidence that the area, in program years 2014 and 2015, met or exceeded the negotiated levels of performance for primary indicators of performance and was not subject to the sanctions process resulting from missing the same measure two years in a row.

• Provide assurance that during program years 2014 or 2015, the U.S. Secretary of Labor, or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has misexpended funds due to willful disregard, gross negligence, or failure to comply with accepted standards of administration.

• Provide evidence that the area, if a part of a planning region, has fulfilled its obligations to engage in regional planning efforts during program years 2015 and 2016.

• Provide evidence that the area, in program years 2014 and 2015, was committed to providing quality service through continuous improvement efforts and implemented plans that supported sector partnerships or career pathways; enhanced services to employers; or outreach efforts to the local community.

The State will recommend approval to the Governor of a local area’s request that satisfies these requirements in accordance with WIOA section 106(b)(2).

WIOA Designation for New Areas. Any unit of general local government may request designation as a local workforce development area under WIOA. New local area designations will only become effective on July 1 of the next program year. In order for designation to be approved for the start of the next program year, the following steps and timeline must be met. A statement of intent to request designation must be submitted to the State. The full request for designation as a local workforce development area must include the following components and steps.

• Submit the request in writing to the State that clearly states the circumstances for the request of designation.

• The request must also address and explain how the following criteria are met.
  
  o Consistency with natural labor market areas.
  
  o Consistency with regional economic development areas.
  
  o Existence of education and training providers, such as institutions of higher education and career and technical education schools in the area.
  
  o Submission of a service delivery plan that includes a description of resources that would be available to the area to provide services.
  
  o Coordination of multiple resources within areas that are based on labor markets and natural travel patterns of local residents.
  
  o Local support of the implementation strategies to provide quality services to employers and individuals by county commissioners, municipal elected officials including mayors and/or city council members, where appropriate, and business or community leaders within the area as demonstrated by letters of support or a vote of support by a city council or other applicable board.
  
  o Local ownership, exhibited by strong involvement of local elected officials and community leaders on the Local Workforce Development Board.
  
  o Local capacity to manage funds, provide oversight of programs, and provide for
the proper stewardship of public funds.

- Evidence that the area, in the two program years for which data is available prior to the request, met or exceeded the adjusted levels of performance for primary indicators of performance and was not subject to the sanctions process resulting from missing the same measure two years in a row, if applicable.

- Assurance that during the two program years prior to the request, the U.S. Secretary of Labor, or the State in place of the Secretary, has not made a formal determination that the grant recipient or administrative entity for the local area has misexpended funds due to willful disregard, gross negligence, or failure to comply with accepted standards of administration, if applicable.

- The request must address how the proposed new area designation will impact those other workforce areas from which it is withdrawing. It should be understood by any county, city or combination of such seeking designation, that the new area will only secure the formula allocated funds for each WIOA funding stream based on the formula factors as defined by WIOA.

- If opposition to the request is voiced by municipalities or counties within the area seeking designation, then the requesting county, city or combination of such will address their request at a public hearing. If a hearing is necessary, it will be held within 45 days of receipt of the request.

- The State will take the request and comments from the public hearing and make a recommendation to the full State Workforce Development Board within 25 days of the public hearing.

- The State Workforce Development Board will submit its recommendation to the Governor within five business days of the State Board vote.

- The final decision rests with the Governor and shall be made prior to May 29th, four weeks prior to the beginning of the fiscal and program year (July 1st).

**Appeals Process.** An area or areas seeking to be designated or re-designated, as a Local Workforce Development Area, which has requested but has been denied its request for designation or re-designation as a Local Area, may appeal the decision to the State Workforce Development Board, as follows.

- An appeal must be in writing and filed with the State within fourteen (14) days after notification of the decision.

- The appeal must contain a specific statement of the grounds upon which the appeal is sought.

- The State Workforce Development Board will have 60 days to review the appeal and make a recommendation to the Governor.

- The final decision rests with the Governor.

- If the decision of the appeal reverses the decision it will become effective July 1st of the following year.

- If a decision on the appeal is not rendered in a timely manner or if the appeal does not result in designation, the entity may request review by the Secretary of Labor, under the procedures set forth at 20 CFR 667.640(a).
**Infrastructure Funding**

The State follows the requirements of WIOA section 121(h)(2)(E), relating to determinations for infrastructure funding, which states that the local board, chief elected officials, and one–stop partners in a local area may fund the costs of infrastructure of one–stop centers in the local area through methods agreed on by the local board, chief elected officials, and one–stop partners, or through the state infrastructure funding mechanism, if no consensus agreement on methods is reached. NMDWS, as the State Administrative Entity, has a Memorandum of Understanding policy that provides guidance and direction to the local workforce development boards on the development of a memorandum of understanding (MOU) between local boards and workforce system partners. The MOU is the agreement between one stop partners and the local workforce development boards to establish a process to maintain and govern the operation of the one-stop delivery system in the local areas, as required by federal law. The policy states that each MOU must contain, at a minimum, the following components.

- Description of the services to be provided through the one-stop delivery system.
- Description of the functional organization, customer flow, and service delivery.
- Methods for referral of individuals to workforce system partners.
- Duration of the MOU and the procedures for amending the MOU.
- A resource sharing agreement (RSA) and a cost allocation plan (CAP) are included as addendums to the MOU and updated as needed.
  - Resource sharing agreements outline how services and operating costs of the system will be funded; methodology for cost sharing; and invoicing and payment processes.
  - Cost allocation plans outline partner cost based on accepted a methodology.

The policy also includes a dispute resolution process that states if a dispute arises over the administration of part of the MOU, the parties must meet and confer. If consensus is not achieved, the final decision regarding all disputes resides with the NMDWS cabinet secretary as State Administrative Entity designated to act on behalf of the Governor.

**Statewide Activities**

This section explains statewide activities as it relates to Rapid Response, Trade Adjustment Assistance, and other statewide initiatives. When the Governor receives set aside funding those dollars go towards supporting such statewide activities, and to shore up the previously discussed activities of WIOA-funded programs.

**Rapid Response.** Rapid Response is typically initiated when the state Dislocated Worker Unit or Rapid Response team learns of impending layoffs. Many companies will contact the Rapid Response team to notify them of a layoff and invite them to come on site to help the dislocated workers. In accordance with the Worker Adjustment and Retraining (WARN) Act, a WARN notice is required when a business with 100 or more full-time workers is laying off at least 50 people at a single site of employment or employs 100 or more workers who work at least a combined 4,000 hours per week, and is a private for-profit business, private non-profit organization, or quasi-public entity separately organized from regular government. The WARN Act requires employers to provide written notice at least 60 calendar days in advance of covered plant closings and mass layoffs. An employer's notice assures that assistance can be provided to affected workers, their families, and
the appropriate communities through the State Rapid Response Dislocated Worker Unit, and gives workers and their family transition time to seek alternative jobs or enter skills training programs.

State Rapid Response teams respond within 12 to 24 hours of notification of a layoff by coordinating with the employer to provide on-site information to the workers and employers about employment and retraining services that are designed to help participants find new jobs. In cases of natural disaster or other emergency situations, response teams will also coordinate with FEMA and other entities to provide additional assistance to local areas that experience such dislocation events that exceed the capacity of the local area to respond with existing resources. Rapid Response services may include information on unemployment insurance, job search and placement assistance; labor market information (occupational information and economic trends); on-the-job training; classroom training; and/or referral to basic and remedial education. Teams also address at-risk companies and workers by educating employers about layoff aversion strategies.

The Trade Adjustment Assistance (TAA) Program. The TAA program is a federal program that provides a path for employment growth and opportunity through aid to U.S. workers who have lost their jobs as a result of foreign trade. The State provides early intervention to worker groups on whose behalf a TAA petition has been filed. A petition must be filed with the U.S. Department of Labor by or on behalf of a group of workers who have lost or may lose their jobs or experienced a reduction in wages as a result of foreign trade. After the Department of Labor investigates the facts behind the petition, it applies statutory criteria to determine whether foreign trade was an important cause of the threatened or actual job loss or wage reduction. If the Department grants the petition to certify the worker group, individual workers in the group may apply for TAA benefits and services through the Workforce Connection Centers.

TAA offers a variety of benefits and services to support workers in their search for reemployment, including opportunities to obtain the skills, resources, and support they need to become reemployed. The program benefits and services available to individual workers are administered by the State. Program eligibility, technical assistance, and oversight are conducted by state merit staff. This includes job training, job search and relocation allowances, income support, and assistance with healthcare premium costs. These services are administered by cooperating state agencies using federal funds.

TAA participants come from a variety of backgrounds and industries, and therefore many enter the program with a wide array of skills and experience. However, the majority of TAA participants who enter the program face similar challenges in obtaining reemployment, which can include no post-secondary degree, job skills solely in the manufacturing sector, and an average age of 46 with over 12 years of experience in a specific job that may no longer exist. The TAA program has been developed through legislation, regulation, and administrative guidance to best serve the needs of this unique population.

The State administers the Trade Adjustment Assistance Program in both Albuquerque and Silver City, which pays for 100 percent of books, tuition, fees, and supplies for qualified individuals. In 2015, New Mexico was awarded a $15 million grant from the Department of Labor’s Trade Adjustment Assistance Community College and Career Training (TAACCCT), called the New Mexico Skill Up Network: Pathways Acceleration in Technology and Health Care (SUN PATH). Participants include TAA workers, veterans and low-skilled adults. The grant funds half the salaries and office space of seven of the State’s Employment Services staff who work with the consortium of New Mexico colleges as job development coaches. The goals of the grant are to:
• expand capacity and systemic improvements in the delivery of healthcare career pathways that align with industry needs.

• increase the attainment of degrees, certifications, and industry-recognized credentials; and

• create strategic alignment between education and workforce systems, resulting in improved employment outcomes, retention, and average earnings.

**Alternative Training Models**

New Mexico provides the following types of training allowed by the Workforce Innovation and Opportunity Act:

• occupational skills training, including training for nontraditional employment;

• on-the-job training;

• incumbent worker training;

• programs that combine workplace training with related instruction, which may include cooperative education programs;

• training programs operated by the private sector;

• skill upgrading and retraining;

• entrepreneurial training;

• transitional jobs;

• job readiness training;

• adult education and literacy activities, including activities of English language acquisition;

• integrated education and training programs; and

• customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

The following section highlights New Mexico’s approach to select training models.

*On-the-Job Training (OJT).* OJT provides financial assistance to employers who agree to train WIOA eligible and suitable individuals. The financial assistance is compensation for the extraordinary costs associated with training participants and the costs associated with lower productivity of new employees. The purpose of an OJT is placement of individuals into appropriate skilled employment. Local boards are not required to procure employers for OJT and customized training. However, if a local board chooses to offer OJT, it must establish local policies for identifying employers for OJT. Local boards must administer OJT pursuant to a contract instead of using an individual training account. Local boards may engage in OJT opportunities with existing employers in the workforce area or new or relocating businesses as appropriate. Any public, private non-profit, or private sector employer may utilize OJT, with the some exceptions. OJT’s involve participant eligibility, employer orientation, participant orientation, training plans, and duration and reimbursement requirements.

*Customized Training.* Overall, customized training is training designed to meet the needs of a specific employer, or group of employers. It can be provided for the introduction of new technologies, or new production or service procedures, upgrading existing skills, workplace literacy, or other appropriate purposes identified by the local board. The employer must commit to employ, or continue to employ, the worker(s) upon successful completion of any form of customized training. Customized training focuses on the needs of business and is conducted to employ or continue to employ an individual upon successful completion of the training. It enables trainees to obtain industry or employer-recognized skills identified by the employer and the employer pays for not less than 50 percent of the cost of the training.
Incumbent Worker Training. Incumbent worker training provides both workers and employers with the opportunity to build and maintain a quality workforce. Incumbent worker training can be used to help avert potential layoffs of employees, or to increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers. Under section 134(d)(4) of WIOA, local boards can use up to 20 percent of their Adult and Dislocated Worker funds to provide for the federal share of the cost of providing Incumbent worker training. Incumbent worker training needs to take into account the following factors:

- characteristics of the participants in the program;
- relationship of the training to the competitiveness of a participant and the employer; and
- other factors the State or local boards may determine appropriate (i.e. the number of employees participating in the training, wage and benefit levels of those employees, and the existence of other training and advancement opportunities provided by the employer).

Transitional Jobs. Transitional jobs are a new type of work-based training that is allowed under WIOA. Transitional jobs are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors for individuals with barriers to employment who are chronically unemployed or have an inconsistent work history, and are combined with comprehensive career and supportive services. The goal of transitional jobs is to establish a work history for the individual that demonstrates success in the workplace, and develops the skills that lead to entry into and retention in unsubsidized employment. Unlike OJT, there is no assumption that the individual will be retained in their transitional job after the experience is over, though that would be a successful experience and outcome. Under section 134(d) (5) of WIOA, local boards may use up to 10 percent of their adult and dislocated worker funds to provide transitional jobs to individuals. If local areas choose to use transitional jobs as part of their service delivery strategy, they should adopt policies and identify employers (public, private or nonprofit) that can provide quality experiences for individuals to eventually obtain unsubsidized employment. Additionally, these policies should include plans on the amount reimbursements would be for the jobs, what supportive services should be included, and any limits on the duration of the transitional job.

Individual Training Accounts (ITAs). Training services, when determined appropriate, must be provided either through an ITA or through a training contract. Training services must be linked to in-demand employment opportunities in the local area or planning region or in a geographic area in which the adult or dislocated worker is willing to commute or relocate. The intent of the ITA is to augment the quality of skills training, to meet the needs of both employers and job seekers alike. ITAs are funded with Adult and Dislocated Worker funds authorized under WIOA and they pay for training in demand occupations. The local boards, in partnership with the State identify training providers whose performance qualifies them to receive WIOA funds to train adults and dislocated workers. The State requires local board policy for ITAs to address processes, such as those related assessment, counseling, and development of an individual employment plan; documentation of participant training-related financial assistance needs; assurance that training services are restricted to occupations in demand; award limits; and monitoring of the local internal ITA processes.

Contracts for services may be used instead of an ITA in instances such as on-the-job training, which may include placing participants in a Registered Apprenticeship program, customized training, incumbent worker training, or transitional job. Additionally, a local board may determine that providing training through a combination of ITAs and contracts is the most effective approach. This
approach could be used to support placing participants in programs such as Registered Apprenticeship and other similar types of training. The local board must establish criteria to be used in determining demonstrated effectiveness offered by a community-based organization or other private organization, particularly, as it applies to the special participant population to be served, based on set criteria.

**Registered Apprenticeship (RA)**

WIOA emphasizes the importance of Registered Apprenticeship and pre-apprenticeship through many new statutory provisions (e.g. required representation on State and Local Boards, programs stay on the Eligible Training Provider List as long as they remain registered and pre-apprenticeship as a youth program service). WIOA also provides for enhanced access and flexibility for work-based training options and encourages the use of Registered Apprenticeships as a career pathway for job seekers and as a job-driven strategy for employers and industries.

Registered Apprenticeship is a structured occupational training program that combines on-the-job training and related instruction in which workers learn the practical and conceptual skills required for a skilled occupation, craft, or trade. The five core components of Registered Apprenticeship are employer involvement, structured on-the-job training with mentoring, involvement of Related Training and Instruction (RTI), rewards for skill gains, and national occupational credentials. Apprentices work as they complete their classes with their work schedule determined by their respective employers. When they graduate, apprentices receive a nationally recognized Certificate of Completion and will have earned the highly skilled “journeyworker” designation. The program can last one to five years, depending on the occupation. For employers, benefits include skilled workers trained to industry/employer specifications, reduced turnover, a pipeline for new skilled workers, and reduced worker compensation costs due to an emphasis on safety training. For apprentices and journey workers, benefits include jobs that usually pay higher wages, higher quality of life and skills versatility, portable credentials recognized nationally and often globally, and opportunities for college credit and future degrees.

The Department of Workforce Solutions is the State Apprenticeship Agency for New Mexico responsible for apprenticeship within the state. There are currently 38 registered apprenticeship programs in New Mexico with approximately 1,300 apprentices; the majority of registered apprenticeship programs are in the building and construction trades. A nine-member council, called the State Apprenticeship Council, provides advice and guidance to the State Apprenticeship Agency on the operation of the state’s apprenticeship system. The process of apprenticeship program registration with federal and state government agencies is standards-based, designed to ensure that working apprentices, program sponsors, and the general public can gain a clear understanding of the training content and the measures that are in place to ensure ongoing quality.

The Registered Apprenticeship program works to ensure quality training by combining on-the-job training with theoretical and practical classroom instruction to prepare exceptional workers for industry. Employers work with the New Mexico Department of Workforce Solutions to create program standards in written agreements that specify the length of a participant’s training, the related technical instruction, an outline of the skills that person will need to learn, and the wages the participant will earn. These agreements must be approved by NMDWS before apprentices can start their training.

In New Mexico, the WIOA Adult, Dislocated Worker, and Youth programs are partnering with the Registered Apprenticeship program to encourage and expand the use of apprenticeships in the state by training local board staff on the importance of apprenticeships as a work-based experience.
for jobseekers and gaining technical assistance from the federal level on how to develop new apprenticeship programs, as well as the appropriate ways to braid Registered Apprenticeship and WIOA funding to support them. The steps New Mexico is currently taking to expand apprenticeship opportunities include:

- pursuing technical assistance and best practices for how to expand RA in New Mexico;
- integrating Registered Apprenticeship into workforce planning and policy;
- promoting work-based learning and identifying ways to use WIOA resources to support Registered Apprenticeship;
- pursuing new opportunities for Registered Apprenticeships through focusing on services to employers; and
- supporting career pathways for youth through Registered Apprenticeship.

**Training Provider Eligibility Requirements**

Training providers must be active on an Eligible Training Provider List (ETPL), which is comprised of entities with a proven capability of securing quality employment outcomes for participants. Each local board, through one-stop centers, makes this list available as required by WIOA. The application process for training providers largely remains the same as that of WIA; however, WIOA established additional requirements, specifically to provide more information and criteria for initial and subsequent eligibility to receive funds. These requirements ensure both the quality of the training programs and the opportunity for customer-informed choice regarding the available programs. The local boards will continue to solicit training and education providers to submit applications for eligibility to receive WIOA funds for educational programs. Programs must support targeted occupations and lead to a postsecondary credential or an industry-recognized credential/certificate.

The following types of training providers are subject to the ETPL requirements in order to receive WIOA Title I funds to provide training services to eligible individuals through ITAs:

- institutions of higher education that provide a program of training that leads to a recognized postsecondary credential;
- apprenticeship programs registered by the USDOL Office of Registered Apprenticeship;
- public or private training providers, including joint labor-management organizations, pre-apprenticeship programs, and occupational/technical training; and
- Providers of adult education and literacy activities provided in combination with occupational skills training (i.e. I-BEST).

**Initial Eligibility and Application Process.** All applications for the ETPL will be completed using the New Mexico Workforce Connection On-Line System. Training providers may apply for initial eligibility at any time. The online application process for training providers starts with verifying the training provider is licensed, certified, or authorized by the New Mexico Department of Higher Education, or the relevant state agency with oversight, to operate training programs. If a provider is in compliance with the oversight agency, the provider can proceed to the next step in the application process. If a provider is not in compliance with the oversight agency, the provider will not be able to apply for inclusion on the ETPL until they meet the necessary requirements. Postsecondary institutions located outside New Mexico that offer distance education may be authorized to operate
programs in New Mexico if the institution is an approved Eligible Training Provider in their home state.

Training providers applying for initial eligibility must provide the following information through the online application:

- Describe program/training to be offered;
- Provide information on cost of attendance, including costs of tuition and fees;
- Identify type of industry-recognized certificate or credential, including recognized post-secondary credentials;
- Indicate if the provider has developed the training in partnership with a business;
- Indicate the in-demand industry sectors and occupations best fit with the training program;
- Outline the prerequisites or skills and knowledge required prior to the commencement of training; and
- Agree to provide performance information for all students regardless of funding source and/or support state action to acquire the information.

Once the online application is submitted, the LWDB will be notified to approve, deny, or request further information within 30 days of the receipt of a complete application. If the LWDB takes no action on an application, the application will be reviewed for approval at the state level.

Registered apprenticeship programs are not subject to the eligibility criteria or application requirements. While registered apprenticeship programs are automatically eligible, not all registered apprenticeship sponsors may wish to be included on the list. Registered apprenticeship programs will automatically be included on the State list until they lose their registration or they indicate they do not wish to be included.

*Continued Eligibility for Training Providers.* After the initial eligibility period of one year, training providers must be reviewed, updated and approved for continued eligibility every two years. Applications for continued eligibility must show the training provider is still authorized by the appropriate oversight agency. The continued eligibility application is required for any training provider that has previously been on the list. Dropping off the list for a period of time does not return a provider to an initial eligibility status.

*Continued Eligibility for Training Programs.* Training programs must be entered in the Workforce Connection On-Line System, updated and approved as necessary to ensure accurate and current information. In addition to updating training program information, the following information must be provided:

- Total number of participants enrolled in the program;
- Total number of participants completing the program;
- Total number of participants exiting the program;
- Information on recognized post-secondary credentials received by program participants;
- Information on the program completion rate for such participants;
- Description of how the provider will ensure access to training services throughout the State, including rural areas and through the use of technology;
• Description of how the providers provide training services to individuals who are employed and/or individuals with barriers to employment;

• Information reported to state agencies on federal and state training programs other than programs within WIOA; and

• Performance information for all students regardless of funding source and/or support state action to acquire the information.

Transition of Eligible Training Providers Under WIA. To ensure a smooth transition to WIOA, eligible training providers under WIA continue to be eligible until June 30, 2016 with the current ETPL valid and in place until that date. Local Workforce Development Boards will review all current Eligible Training Provider applications to determine compliance with WIOA requirements between September 1, 2015 and June 30, 2016. Applications reviewed and determined WIOA compliant will be approved in the Workforce Connection On-Line System by the Local Workforce Development Boards. During 2016, minimum performance targets will not be set as eligibility criteria for training providers/programs to remain on the ETPL. Until performance data is available, the State will provide alternate information related to performance using existing data. Once training providers have two years of data for the WIOA performance indicators, the State will collect the required information, determine performance outcomes and make the performance data available through the Workforce Connection On-Line System.

Roles and Responsibilities. New Mexico Department of Workforce Solutions as the State Administrative Entity is responsible for the following.

• establishing requirements for the ETPL system;

• establishing eligibility criteria, information requirements, and procedures for training providers;

• developing an approval process for local boards for training providers that have met minimum eligibility criteria;

• taking appropriate enforcement actions against providers that intentionally provide inaccurate information, or that substantially violate the requirements of WIOA;

• disseminating the State ETP list, accompanied by performance and cost information for each provider for use by the public and the local boards;

• hosting the ETPL through a web-based platform;

• establishing the web application and tracking system for use by training providers and local boards; and

• reviewing and monitoring training provider applications for minimum eligibility criteria and performance requirements.

Local Workforce Development Boards are responsible for the following:

• identification of in-demand sectors or occupations for the local area using relevant labor market information;

• priority consideration for programs that lead to recognized post-secondary credentials that are aligned with in-demand industry sectors or occupations in the local area;

• following procedures to review training provider applications within 30 days of the receipt of a complete application;
• working with the State to ensure there are sufficient numbers and types of providers of training services, including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities;

• ensuring the distribution and use of the ETPL throughout the local area and providing information to the customer to make an informed choice;

• removal of an eligible training provider from the ETPL with appropriate justification; and

• informing and supporting the appeal process for training providers rejected as an Eligible Training Provider or later removed for cause.

The State's ETPL policy contains further details, such as exceptions to the ITA and ETPL requirements.

Performance Requirements. Training providers and/or programs that have not been in existence for at least two years will be required to provide or support acceptable data sharing action to collect student data for the time period available. Performance information will be published online for each training provider on the ETPL. Programs with less than 10 students enrolled will not be included in performance data.

ETPL Removal Process. Local Workforce Development Boards shall inform the State in writing to inform of the removal of an eligible training provider/program and include the reason(s) for removal. The local boards must inform the training provider in writing; include the reason(s) for the removal; and provide information on the appeal process. The following conditions for removal include:

• knowingly supplying false performance information, misrepresenting costs or services, or that substantially violate requirements of WIOA law or regulations;

• failing to meet the established criteria. Situations that will result in removal include but are not limited to failure to meet established performance levels; failure to provide all required performance information for subsequent eligibility; failure to maintain accreditation required for professional licensure;

• temporary inability to meet the objectives of the approved program(s); and

• debarment by the Federal government.

Appeals Process. Training providers can appeal the rejection of their program for inclusion on the ETPL or the subsequent termination of eligibility. An appeal must be submitted in writing via email to the Department of Workforce Solutions, State Administrative Entity within 14 days after notification of the decision to remove. The appeal must include the justification for the appeal. The training provider also has the right to request a hearing to discuss their appeal. An ETP appeals board will be assembled by the State Administrative Entity. The appeals board will schedule a hearing and make a decision within 60 days of appeal. This will be a final decision.

Priority Populations
Section 134(c) (3) (E) of WIOA establishes a priority requirement with respect to funds allocated to a local area for adult employment and training activities. Under this section, one-stop center staff responsible for these funds must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient in the provision of individualized career
services. Under WIA, priority was required to be given to public assistance recipients and low-income individuals when states and local areas determined that allocated funds were limited. Under WIOA, priority will be provided regardless of the level of funds. The WIOA Eligibility State Technical Assistance Guide discusses Order of Priority, as follows:

Priority of Service must always be given to covered persons (i.e. veterans and eligible spouses, including widows and widowers) regardless of whether or not the priority of service is in place. Priority of service is required for the provision of career services and training services, including individual training accounts, veterans’ priority as well as priority to public assistance recipients and low-income individuals required in WIOA regulations will be established as follows:

- First priority will be provided to recipients of public assistance, low-income or individuals who are basic skills deficient who are also veterans or eligible spouses of veterans.
- Second priority will be provided to recipients of public assistance, low-income, or individuals who are basic skills deficient who are not veterans or spouses of veterans.
- Third priority will be provided to veterans or eligible spouses of veterans who are not recipients of public assistance, low-income or basic skills deficient.
- Last priority will be provided to Adults in need of service who are not recipients of public assistance, not low-income or basic skills deficient.

**Funds Transfers**

The State acknowledges and follows WIOA Section 133(b)(4) that allows a local board to transfer funds between adult employment and training activities, and dislocated worker employment and training activities. Although the State does not have a formal policy or state technical assistance guide related to the transfer of funds between the adult and dislocated worker programs, the State Administrative Entity communicated a procedure to local board administrators regarding such transfers, stating that local boards may transfer up to and including 100 percent of the funds allocated to the local area between adult employment and training activities; and dislocated worker employment and training activities. Local Boards must request the transfer with appropriate justification and the Governor must approve the transfer.

**Youth Program Requirements**

WIOA outlines a broader youth vision that supports an integrated service delivery system and provides a framework through which states and local areas can leverage other federal, state, local, and philanthropic resources to support in-school youth (ISY) and OSY. WIOA affirms the Department’s commitment to providing high-quality services for all youth and young adults, beginning with career exploration and guidance, continued support for educational attainment, opportunities for skills training in in-demand industries and occupations, such as pre-apprenticeships or internships, and culminating with a good job along a career pathway, enrollment in post-secondary education, or a Registered Apprenticeship.

The Youth Program delivers a comprehensive array of services that focus on assisting transitional youth ages 14-24, particularly youth who are disadvantaged and have one or more barriers to employment. The goal of the program is to prepare these youth for post-secondary education and employment opportunities, attain educational and/or training credentials, and secure employment that has a positive career outlook. Local board grant agreements require funds allocated to a local area for eligible youth under WIOA to be used to provide an objective assessment of academic and skill levels, and service needs of each participant, service strategies that are linked to participant performance, and identification of career pathways that include education and employment goals.
Youth service providers support the 75 percent out-of-school youth and 20 percent work experience expenditure rate as required by WIOA.

Youth Services
The state is committed to providing high-quality services for youth and young adults. The Governor’s vision for youth includes ensuring that everyone has the opportunity to develop and achieve career goals through education and workforce training. Youth services should be business driven consistent with all other services within a region and state with the goal of building the workforce of the future.

WIOA places a keen emphasis on the need to achieve improved outcomes for out-of-school youth and encourages the alignment of core and other partner programs to better serve this target population. As such, through grant agreements with its four local boards, the state has communicated the required minimum out-of-school youth expenditure rate of 75 percent for the Youth formula-funded program. As it relates to program design, these agreements spell out required components of youth programs, which must be incorporated into youth provider contracts and reflected in contract scope of work.

Specifically, funds allocated to a local area for eligible youth under WIOA section 128(b) must be used to carry out the following program elements.

- Youth programs must provide an objective assessment of the academic levels, skill levels, and service needs of each participant. Assessment must include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and any developmental needs, to identify appropriate services and career pathways for participants.

- Youth programs must develop service strategies for each participant that are directly linked to one or more of the indicators of performance, as described in WIOA section 116(b)(2)(A)(ii). Programs must use assessments to identify career pathways that include education and employment goals, appropriate achievement objectives, and appropriate services for the participant.

- Youth programs must provide activities that:
  - lead to the attainment of a secondary school diploma or its recognized equivalent, or a recognized postsecondary credential
  - prepare participants for postsecondary educational and training opportunities;
  - include strong linkages between academic instruction;
  - prepare participants for unsubsidized employment opportunities, as appropriate; and
  - provide effective connections to employers in in-demand industry sectors and occupations of the local and regional labor markets.

LWDBs will be required to identify and select a youth provider with staffing that specializes in positive youth development and engagement, dropout prevention and leadership and work skills readiness. Involving core and other program partners, as appropriate, in conversations with the youth providers will ensure alignment in program design and service delivery for the targeted OSY population. Local boards and partner programs must collectively explore ways to leverage funds
and resources to assist youth with barriers to employment, beginning with career exploration and
guidance, continued support for educational and credential attainment, opportunities for skills
training in in-demand industries and occupations, such as pre-apprenticeships or internships,
culminating with a good job along a career pathway, enrollment in post-secondary education, or a
Registered Apprenticeship.

Examples of services that can be coordinated across core and partner programs for OSY, where
appropriate, include the following.

- **Career awareness regarding targeted industry and demand occupations.** Specifically, this
  involves youth service provider support of youth work readiness and career path
development into occupations that are based on appropriate skills levels, with an ultimate
goal of ensuring youth have access to options based on their interests and skill levels.

- **Quality educational employment opportunities consistent with local and state goals and
  priorities.** Specific activities include partnership with local universities, community colleges
  and technical training providers to identify and develop opportunities for out-of-school
  youth. For instance, creating a linkage between youth service providers and providers of
  adult education to jointly serve youth who lack high school equivalency (HSE) by
  simultaneously enrolling them in both an HSE course, as well as a credit-bearing course
  through the WIOA Youth program, could ideally lead to a post-secondary credential or other
  certification, gainful employment, or even self-sufficiency (particularly if the TANF
  population is targeted). An emphasis on high school credit recovery, high school
  equivalency and high school diploma completion and other certification programs will
  broaden employment opportunities for out of school, at-risk youth and youth with
  disabilities.

- **Strategies that help prepare youth for success in a range of postsecondary education and
  career opportunities specifically those defined as high growth and high demand.** Specific
  activities includes working with local business and employers to understand needs,
development of partnerships with universities, community colleges and trade schools to
  create training opportunities based on those needs. Additionally, LWDBs should
  communicate and share with school districts’ Carl Perkins liaisons to guide classroom
  instructions and guidance counselor activities.

- **Other youth service strategies.** Specific activities can include tutoring, alternative secondary
  school offerings, summer employment opportunities linked to academic and occupational
  learning, paid and unpaid work experiences, occupational skill training, leadership
  development opportunities, supportive services, mentoring, follow-up services, and
  comprehensive guidance and counseling.

**Youth Program Service Elements**
WIOA outlines a broader youth vision that supports an integrated service delivery system and
provides a framework through which states and local areas can leverage other federal, state, local,
and philanthropic resources to support in-school youth (ISY) and OSY. The Youth Program focuses
on assisting transitional youth ages 14-24, particularly youth who are disadvantaged and have one
or more barriers to employment. The goal of the program is to prepare these youth for post-
secondary education and employment opportunities, attain educational and/or training credentials,
and secure employment that has a positive career outlook.

Local board grant agreements require funds allocated to a local area for eligible youth under WIOA
to be used to provide an objective assessment of academic and skill levels, and service needs of each
participant, service strategies that are linked to participant performance, and identification of
career pathways that include education and employment goals. Youth service providers support the
75 percent out-of-school youth and 20 percent work experience expenditure rate as required by
WIOA.

Grant agreements with LWDB also require the local youth providers and programs to implement
activities following the guidance from WIOA. All of the providers include “youth specialists”
available to conduct outreach, assessments, individual and group skills development, and some case
management. LWDB will be required to ensure the youth providers include delivery of the 14
elements of service in their overall scope. The following describe services currently in place as well
as areas LWDB will further develop:

1. **Tutoring, study skills training, instruction and evidenced-based dropout prevention
and recovery strategies that lead to completion of the requirements for a secondary
school diploma or its recognized equivalent or for a recognized postsecondary
credential** - Regional LWDB, in partnership with youth serving organizations such as Youth
Development, Inc., Help NM and Regional IX Educational Cooperative, focus on all these
components as an essential service for youth. All youth providers are implementing
tutoring and study skills via group and individual instruction. Evidenced-based dropout
prevention activities include case management, mentoring, follow up, incentive based
approaches for school attendance. All youth providing agencies support courses for GED
completion and all work closely with local school districts regarding access to alternative
school options for credit recovery and diploma completion. All youth providers closely
monitor youth involved in postsecondary educational opportunities to address challenges
and barriers; as well as opportunities to enhance overall performance and outcome.

2. **Alternative secondary school services, or dropout recovery services** - Regional LWDB
will engage in partnership development with local community colleges, alternative
educational programs for at-risk youth and young adults, such as YouthBuild, specialized
Charter Schools, homeless/runaway shelters and independent and transitional living
projects designed specifically for youth and young adults; additionally high school credit
recovery and/or GED preparation programs offered through via night schools; community
centers, faith based organizations and employers, such as the GED/Trade co-enrollment
underway in the Central Region. Strategies to be explored and expanded include
partnership with juvenile justice, including youth drug courts.

3. **Paid and unpaid work experiences that have as a component academic and
occupational educational** - Regional LWDB are currently engaged in implementing
summer employment opportunities in partnership with local school districts, and city and
county governments; On the job training programs currently exist in all four regions - OJT
opportunities currently focused on converting internships;

4. **Occupational skills training** - LWDB in Central (?) and Northern regions of the state
benefit from an agreement currently in place with local community colleges to training
entry level health care skills and early childhood certification courses; additionally the state
has a Job Corps program and YouthBuild. All four LWDB currently offer job readiness skill
development to assist youth with career awareness, communication, and social and soft
skill improvement. Strategies to be explored and expanded includes staff training and
awareness on youth engagement and expansion of internships and apprenticeships
programs statewide.
5. **Education offered concurrently with and in the same context as workforce preparation activities and training for specific occupational cluster** - As stated above, two community colleges are currently offering specific training in health care cluster (CNA) and early childhood certification. Additionally Job Corps, YouthBuild, and GED/Trade co-enrollment programs are available, however not statewide. Strategies to be explored and expanded includes creation of additional focused occupational clusters with local community colleges.

6. **Leadership development opportunities** - currently in New Mexico, youth serving agencies Youth Development, Inc. and HELP-NM include civic engagement, peer-to-peer mentorship; service learning and leadership skill development as part of their overall work. Additionally projects such as Mission Graduate, organized in the central region, focuses on awareness of the importance of youth engagement and leadership development as a core principle to increase graduation and employability of youth. Strategies to be explored include statewide technical assistance and training for LWDB on positive youth engagement approaches.

7. **Supportive services** - activities currently underway statewide include identifying items needed to enable youth to successfully enter and maintain employment. Case management is the primary vehicle used to identify these needs, as well as resource development to identify partners to support urgent and immediate needs such as transportation (i.e., bus passes), child care, work uniforms and supplies, etc.. Strategies to be explored includes a comprehensive review of support services currently being provided and available funds, as well as identification of community partners and funding available for youth specific needs.

8. **Adult mentoring** - Youth providers such as Youth Development, Inc, Help NM and Region IX Cooperative currently include adult mentoring in their services. Youth have access to youth specialists who provide support. Mission Graduate, current partner with the Central Region includes an adult mentoring component. Strategies to be explored includes exploration of statewide projects such as My Brother’s Keeper, Together for Brothers and the Making Connections Project, as well as projects funded through NM Children Youth and Families Department to learn how adult/mentorship components offered align with the goals of employment.

9. **Follow-up Services** - Youth providing agencies such as Youth Development, Inc, Help NM and Region IX currently conduct follow up with youth as needed. Follow up includes one-on-one review of employment/training status, advocacy with employers and training/educational institutions, as well as feedback/survey from youth about services and supports. Strategies to be explored includes increased partnership with youth to inform additional follow-up services needed to increase overall success, i.e., “Let’s ask youth what works best!”

10. **Comprehensive guidance and counseling** - Youth providing agencies such as Youth Development, Inc., Help NM and Region IX currently have youth specialists available to meet with youth one-on-one. This service includes assessment, career exploration and guidance, and one-on-one support.

11. **Financial literacy education** - Youth providing agencies Youth Development, Inc. and HELP-NM utilize the FDIC’s Money Smart Program© that includes curriculum modules on banking and financial goal setting.

12. **Entrepreneurial skills training** - Youth provider HELP-NM is expanding partnership with the Small Business Development Centers to provide low cost training and consultation.
Youth Development, Inc. provides referrals to agencies that can provide consultation and guidance. Strategies for improvement include expanding partnerships with mentioned agencies to identify activities geared specifically for youth, explore opportunities to create greater awareness of the needs of youth and how to build skills training that fits their needs.

13. Services that provide labor market and employment information about in demand industry sectors or occupations available in the local area; - This service is foundational for all the LWDB. Each board is required to review current labor and employer needs, and to understand what occupations are needed in the local area. All LWDB currently are engaged in development of summer and seasonal employment opportunities available for youth. Strategy to be explored includes developing information specific to youth employment; beginning to understand what occupations are available specifically for youth, specifically in relationship to internships and registers apprenticeships.

14. Activities that help youth prepare for and transition to postsecondary education and training - Youth providing agencies such as Youth Development, Inc., Help NM and Region IX currently have youth specialists available to meet with youth. Their services include assessment, career exploration and guidance, as well as group and one-on-one training on postsecondary education and training preparedness. Youth specialists are also linked to postsecondary institutions, receiving updates on registration/eligibility requirements. Strategies to be explored includes, review of postsecondary and training partnerships to understand challenges and barriers experienced by youth - use information to drive transition focus; "What helped prepare youth best? What failed and why?"

Other Youth Program Elements

Pay for Performance Contracts. At the discretion of the local board, boards may implement a pay-for-performance contract strategy for certain elements, for which the local board may reserve and use not more than 10 percent of the total funds allocated to the local area under WIOA section 128(b).

Out of School Youth (OSY) Expenditure Requirement. WIOA requires a minimum OSY expenditure rate of 75 percent for Youth formula-funded program. The 75 percent expenditure rate is a minimum requirement; therefore, local areas may spend up to 100 percent of their local area Youth funds on OSY as directed by local board policy. The OSY expenditure rate for local area funds is calculated after subtracting funds spent on administrative costs. Determination of whether a local area meets the 75 percent OSY expenditure requirement is made upon completion of expenditures of all funds in the specific program year’s allotment. Local areas must track funds spent on work experience beginning with plan year 2015 WIOA funds.

Expanded Work Experience Focus. Work experience is a critical WIOA youth program element. For plan year 2015 WIOA youth funds, local areas must implement the 20 percent minimum work experience expenditure rate. Paid and unpaid work experiences that have as a component academic and occupational education may include the following four categories: summer employment opportunities and other employment opportunities available throughout the school year; pre-apprenticeship programs; internships and job shadowing; and on-the-job training opportunities. Program expenditures on the work experience program element include wages as well as staffing costs for the development and management of work experiences. The 20 percent minimum is calculated based on non-administrative local area youth funds and is not applied separately for ISY and OSY. Staffing costs must be reasonable and not exceed 10 percent of the work experience expenditures. Local areas must track funds spent on the 20 percent work experience requirement beginning with plan year 2015 WIOA funds.
Definitions.

- “Requires additional assistance to complete and educational program, or to secure and hold employment” – Because the State has chosen not to define “additional assistance” as it relates to WIOA Youth program eligibility, each local board has the responsibility for determining its own definition of this eligibility category. If a local board wishes to use this eligibility category, a local policy must be developed that specifies what conditions must be met for a youth to require additional assistance and what documentation is needed to demonstrate this eligibility category. In each local area, not more than five percent of the in-school youth under WIOA Section 129(3) (B) may be eligible under “individual who requires additional assistance” to complete an educational program or to secure or hold employment.

- “Alternative education” – State law defines alternative education as a public funded secondary school that is non-traditional in educational ideas and concepts, teaching methodologies and/or curricular requirements.

- “Basic skills deficient” –
  - For Adult – An individual who 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.
  - For Youth – An individual who computes or solves problems, reads, writes, or speaks English at or below the eighth grade level on a generally accepted standardized test or comparable score on a criterion-referenced test.

- “Not attending school and attending school” – New Mexico State statute addresses the definition of “attending school” in terms of a “qualified student,” and New Mexico Administrative Code addresses “not attending school,” in terms of “disenrollment,” as follows.

2013 New Mexico Statutes, Chapter 22 - Public Schools, Article 8 - Public School Finance, Section 22-8-2 - Definitions. (2009)

As used in the Public School Finance Act:

... B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting as provided in Section 22-12-9 NMSA 1978.

... M. "qualified student" means a public school student who:

(1) has not graduated from high school;
(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

(3) in terms of age:

(a) is at least five years of age prior to 12:01 a.m. on September 1 of the school year;

(b) is at least three years of age at any time during the school year and is receiving special education services pursuant to rules of the department; or

(c) has not reached the student’s twenty-second birthday on the first day of the school year and is receiving special education services pursuant to rules of the department.

New Mexico Administrative Code, 6.10.4
Title 6, Primary and Secondary Education,
Chapter 10, Public School Administration - Procedural Requirements,
Part 4, Disenrollment When A Student Is Not Legally Enrolled In School.

6.10.4.1
ISSUING AGENCY:
Public Education Department

6.10.4.2
SCOPE:
This rule applies to local school boards and school districts.

6.10.4.3
STATUTORY AUTHORITY:
This rule is adopted pursuant to Sections 22-2-1 and 22-2-2, NMSA 1978.

6.10.4.6
OBJECTIVE:
The purpose of this rule is to establish procedures for the disenrollment of students who are not legally enrolled in school.

6.10.4.7
DEFINITIONS:
As used in this rule the following words, terms and phrases shall have the meaning set forth in this paragraph:

A. "Administrative authority" means the local school district superintendent, a principal or the designee of such person.

B. "Disenrollment" means discontinuance of the student’s attendance at school.

C. "Enrollment" means registration as a student on the rolls of the local school district.
D. "Invalid enrollment" refers to an enrolled student or a conditionally enrolled student who has not met the requirements of law for enrollment in school, either as to age, residence, immunization, or other reasons, or has not complied with conditional enrollment requirements.

F. "School" means public school.

G. "School day" means each day of the school year during which the membership of students is computed pursuant to the Public School Finance Act.

H. "Student" means a "qualified student" eligible to attend public school, as that term is defined in Section 22-8-2, NMSA 1978.

6.10.4.8

LIMITATION ON ENROLLMENT:

Where a student is found to have an invalid enrollment the student shall be disenrolled from school in accordance with the procedure set forth in Section 6.10.4.9 NMAC below.

6.10.4.9

PROCEDURE:

Where the administrative authority has reason to believe a student is enrolled under an invalid enrollment the administrative authority shall take the following action:

A. Preliminary notice of contemplated action of disenrollment. The administrative authority shall give a preliminary notice of contemplated action of disenrollment to the student, through his/her parent or guardian, of the contemplated disenrollment and the reasons therefore. The preliminary notice shall be in writing, and mailed to the student not later than ten (10) school days before the notice of disenrollment is to be mailed. The preliminary notice shall state that: (1) the student has a right to respond, either in writing or in person, to the administrative authority before the date of the contemplated action of disenrollment, and (2) the student may attempt to resolve the matter informally by presenting adequate evidence to the administrative authority to refute the alleged reasons for the contemplated action of disenrollment.

B. Stay of proceedings. Where the question of the student's enrollment is under review by an administrative agency in the state of New Mexico or any court of competent jurisdiction, and written documentation has been filed with the administrative authority establishing the pendency of the action, all proceedings under this rule shall be stayed pending final determination of the question by that agency or court.

C. Notice of disenrollment. Where the student has not presented satisfactory evidence to cure the invalid enrollment and has been afforded notice as required by Subsection A of Section 6.10.4.9 NMAC above, the administrative authority shall give written notice to the student, through his/her parent or guardian, that the student will be disenrolled. The notice of disenrollment shall be mailed ten (10) school days after the mailing of the preliminary notice of contemplated action of disenrollment. The notice of disenrollment must include a copy of this rule and must advise the student, through his/her parent or guardian, of the following.

(1) Subject to the procedure in Subsection C, Paragraph (2) of Section 6.10.4.9 below, if satisfactory evidence to refute the alleged reasons for the contemplated action of disenrollment is not submitted to the administrative authority within ten
(10) school days from the date of mailing of the notice of disenrollment, the student will be disenrolled.

(2) The student may, at any time within ten (10) school days after the date of mailing of the notice of disenrollment, present the administrative authority with an oral or written request for a hearing on the matter.

   (a) The hearing shall be held within five (5) school days after receipt of a request for hearing.

   (b) The student may appear at the hearing, with or without counsel, to refute the alleged reasons for the disenrollment.

   (c) The student may present witnesses or evidence at the hearing, as well as question any witnesses supporting disenrollment.

(3) Within five (5) school days after the hearing, the hearing officer shall issue and mail to the student, through his/her guardian, the decision setting forth his/her decision and the reasons therefore.

(4) If the hearing officer decides in favor of the student, the matter shall be closed. If the hearing officer decides against the student, the student shall be disenrolled from school five (5) school days from the date of mailing of the decision.

(5) If no request for a hearing is received within the time provided, the student shall be disenrolled from school and shall be permitted to re-enroll only when all legal requirements for enrollment are met.

D. Hearing officer. The administrative authority may designate one or more of its staff to act as hearing officer for disenrollment matters; who, upon referral of the case from the administrative authority, shall follow the procedures set forth herein to afford the student and his/her parent or guardian due process.

E. Hearing procedure. The hearing shall be set within five (5) school days after an oral or written request for hearing is received by the administrative authority.

   (1) The administrative authority/hearing officer shall conduct the hearing informally but with dignity, firmness and fairness appropriate to the importance of the proceedings.

   (2) Written minutes of the proceedings shall be kept. A verbatim transcript shall not be required.

   (3) The hearing shall be conducted to afford the student due process, and shall provide:

      (a) an opportunity for the student and his/her parent or guardian to respond at the hearing;

      (b) the right to present evidence;

      (c) the right to confront adverse witnesses;

      (d) the right of cross examination;

      (e) the right to be represented by counsel;

      (f) the right to have a decision based solely on the applicable legal rules and the evidence presented at the hearing.
(4) Within five (5) school days after the hearing, the hearing officer shall prepare and mail to the student, through his/her parent or guardian, a written decision and the reasons therefore.

<table>
<thead>
<tr>
<th>TITLE I-B ASSURANCES</th>
<th>The State Plan must include assurances that:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The State has implemented a policy to ensure Adult program funds provide a priority in the delivery of training services and individualized career services to individuals who are low income, public assistance recipients and basic skills deficient; <strong>Yes</strong></td>
</tr>
<tr>
<td>2.</td>
<td>The State has implemented a policy to ensure local areas have a process in place for referring veterans with significant barriers to employment to career services provided by the JVSG program's Disabled Veterans' Outreach Program (DVOP) specialist; <strong>Yes</strong></td>
</tr>
<tr>
<td>3.</td>
<td>The State has established a written policy and procedure that set forth criteria to be used by chief elected officials for the appointment of local workforce investment board members; <strong>Yes</strong></td>
</tr>
<tr>
<td>4.</td>
<td>The State established written policy and procedures to ensure local workforce investment boards are certified by the governor every two years in accordance with WIOA section 107(c)(2); <strong>Yes</strong></td>
</tr>
<tr>
<td>5.</td>
<td>Where an alternative entity takes the place of a State Board, the State has written policy and procedures to ensure the alternative entity meets the definition under WIOA section 101(e) and the legal requirements for membership; <strong>Yes, if applicable</strong></td>
</tr>
<tr>
<td>6.</td>
<td>The State established a written policy and procedure for how the individuals and entities represented on the State Workforce Development Board help to determine the methods and factors of distribution, and how the State consults with chief elected officials in local areas throughout the State in determining the distributions; <strong>Yes</strong></td>
</tr>
<tr>
<td>7.</td>
<td>The State will not use funds received under WIOA Title I to assist, promote, or deter union organizing in accordance with WIOA section 181(b)(7); <strong>Yes</strong></td>
</tr>
<tr>
<td>8.</td>
<td>The State distributes adult and youth funds received under WIOA equitably throughout the State, and no local area suffers significant shifts in funding from year-to-year during the period covered by this plan; <strong>Yes</strong></td>
</tr>
<tr>
<td>9.</td>
<td>If a State Workforce Development Board, department, or agency administers State laws for vocational rehabilitation of persons with disabilities, that board, department, or agency cooperates with the agency that administers Wagner-Peyser services, Adult and Dislocated Worker programs and Youth Programs under Title I; <strong>Yes</strong></td>
</tr>
<tr>
<td>10.</td>
<td>The State agrees to report on the impact and outcomes of its approved waivers in its WIOA Annual Report; <strong>Yes, however, no waivers were requested.</strong></td>
</tr>
<tr>
<td>11.</td>
<td>The State has taken appropriate action to secure compliance with the Uniform Guidance at 2 CFR 200 and 2 CFR 2900, including that the State will annually monitor local areas to ensure compliance and otherwise take appropriate action to secure compliance with the Uniform Guidance under section WIOA 184(a)(3). <strong>Yes</strong></td>
</tr>
</tbody>
</table>