



CENTRAL OKLAHOMA WORKFORCE INNOVATION BOARD

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Individual Eligibility for WIOA Youth Program Services – Out-of-School Youth

Pursuant to WIOA §3(27) and §129(a)

Approved and Published: April 17, 2019, Updated: October 2022

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PURPOSE: To establish local guidelines for validating an individual's status as an eligible out-of-school youth, (OSY) consistent with federal guidance and state policy

The Central Oklahoma Workforce Innovation Board (COWIB) is the policy and guidance board for the Workforce Oklahoma system in Central Oklahoma. We are business leaders with a goal to establish a highly skilled, productive workforce in our 9-county area.

The Central Oklahoma Workforce Innovation Board (COWIB) complies with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, the basis of citizenship status or participation in a WIOA Title-1 financially assisted program or activity.

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Pursuant to Section 3(27) and Section 129(a) of WIOA

Approved and Published: October 2022

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COWIB Policy on Individual Eligibility for Out-Of-School Youth Services

Purpose

To establish a local policy interpreting the definition of “out-of-school youth”, and to establish local guidelines for validating an individual’s status as an eligible out-of-school youth, consistent with federal guidance and state policy.

Authority

The authority for this policy is derived from the following:

- WIOA §3(27)
- WIOA §129(a)
- TEGL 21-16
- TEGL 23-14
- OWDI 04-2015
- OWDI 02-2016, Change 2
- TEGL 21-16, Change 1
- OWDI 02-2019 Change 2

Background

Pursuant to Section 128(b) of the Workforce Innovation and Opportunity Act (WIOA), the Central Oklahoma Workforce Innovation Board will receive an annual allocation of funds for WIOA Youth program activities. The activities that may be supported with these funds include any of the services described in Section 129(c) of the Act, “Local Elements and Requirements.”

The subject of individual eligibility for WIOA Youth program services is addressed in Section 129(a) of the Act:

(a) YOUTH PARTICIPANT ELIGIBILITY. —

(1) ELIGIBILITY. —

(A) IN GENERAL. —To be eligible to participate in activities carried out under this chapter during any program year an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

In the WIOA Youth program, there are only two categories of eligible youth-

- Out-of-School Youth
- In-School Youth

This policy statement is designed to assist in the determination of individual eligibility for out-of-school youth. A separate policy statement for in-school youth has been published.

State and Federal Requirements

The federal definition of “out-of-school youth” is given in Section 129(a) of the Workforce Innovation and Opportunity Act:

- (B) OUT-OF-SCHOOL YOUTH. —In this title, the term “out-of-school youth” means an individual who is—
- (iii) Not attending any school (as defined by State law);
 - (iv) not younger than age 16 or older than age 24; and
 - (v) one or more of the following:
 - (I) A school dropout.
 - (II) A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.
 - (III) A recipient of a secondary school diploma or its recognized equivalent who is a low income individual and is –
 - (aa) basic skills deficient; or
 - (bb) an English language learner.
 - (IV) An individual who is subject to the juvenile or adult justice system.
 - (V) A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6))), a homeless child or youth (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.
 - (VI) An individual who is pregnant or parenting.
 - (VII) A youth who is an individual with a disability.
 - (VIII) A low-income individual who requires additional assistance to complete an educational program or to secure or hold employment.

Additionally, the WIOA law provides definitions for the terms “individual with a disability,” “low-income individual,” “basic skills deficient,” “English language learner,” and “offender.”

Local Policy

General Eligibility Requirements

Age Eligibility

Ages 16-24 for OSY; and ages 14-21 for ISY. Under WIOA, the OSY age of eligibility increased up to 24 with a focus on reaching more disconnected youth.

Compliance with Selective Service

Section 189(h) of WIOA provides that any individual participating in the WIOA Youth program should not be in violation of the Military Selective Service Act:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT. – *The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.*

OWDI 02-2019 Change 2 Attachments for Data Validation provides the data validation requirements for this eligibility item as follows:

Data Element	Definitions and Requirements	Acceptable Source Document
Selective Service Registration	<p>All males who are at least 18 years of age and born after December 31, 1959, and who are not in the armed service on active duty, must be register with the Selective Service (SS).</p> <p>Males who cannot provide proof of SS Registration must be referred to the SS for registration.</p> <p>*Youth: if a youth is under 18 years of age at the time of enrollment into the WIOA Youth Program but turns 18 while still receiving WIOA funding service, the Case Manager must verify the youth has registered with Selective Service and document the registration per validation method and OKJobMatch requirements outlined in this policy.</p>	<p>MATCH</p> <ul style="list-style-type: none"> • Selective Service Registration Card • Selective Service Status Information Letter • Selective Service Registration (Form 3A) • Selective Service Verification Form • Stamped Post Office Receipt of Registration • US Selective Service Verification (Internet) www.sss.gov <p>The following documents may be used only if the participate is past the age</p>

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		<p>of 26 and has not registered with the Selective Service.</p> <ul style="list-style-type: none"> • DD-214 • Current Military ID • LWDB Documentation Requirement – Must be defined in local policy
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Any WIOA Youth program applicant who has not yet registered with the Selective Service System as required may do so by visiting the Selective Service website: www.sss.gov

Eligible to Work in the United States

OWDI 02-2019 Change 2 Attachments for Data Validation provides the data validation requirements for this eligibility item as follows:

Data Element	Definitions and Requirements	Acceptable Source Document
Eligible to Work in the United States	<p>The participant must be eligible to work in the United States at the time of program enrollment.</p> <p>Youth ages 16 and older must be eligible to work in the United States at the time of participation</p>	<ul style="list-style-type: none"> • Verification Documents from List A of Attachment J • Verification Documents from List B & C of Attachment J

With regard to providing services to applicants who are eligible to work in the United States, it should be remembered that Section 188 of the Workforce Innovation and Opportunity Act prohibits discrimination on the basis of citizenship status or national origin. The Central Oklahoma Workforce Innovation Board supports strict enforcement of the nondiscrimination protections of the Workforce Innovation and Opportunity Act.

Resident of the Central Oklahoma Workforce Area

Section 129(c)(3)(B) of the Workforce Innovation and Opportunity Act suggests that there is a special category of individuals with respect to the WIOA Youth program. It is the category of an “eligible applicant who does not meet the enrollment requirements of the particular program....”¹

¹ Section 129(c)(3)(B) states: *Applicants not meeting enrollment requirements. – Each eligible provider of a program of youth activities shall ensure that an eligible applicant who does not meet the enrollment requirements*

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The Central Oklahoma Workforce Investment Board interprets this phrase to mean that local workforce boards may establish special enrollment requirements for the WIOA Youth program – requirements that are beyond the program eligibility criteria given elsewhere in the federal law.

In Central Oklahoma, we make limited use of this authority. In particular, we have established that an eligible applicant must be a resident of the 9-county Central Oklahoma workforce development area in order to receive services in our WIOA Youth program.

In our use of the term “resident,” we include any eligible youth who: (a) Enjoys a permanent residence in the 9-county² area; (b) Resides in a bordering county³ and attends a secondary school in the Central Oklahoma area; (c) Is a student at a post-secondary school (community college, university, etc.) in the Central Oklahoma area who is not required to pay *out-of-state* tuition rates; or (d) Is a homeless individual.

Program Specific Eligibility Requirements for Out-of-School Youth

As described in the WIOA law at Section 129(a)(1)(B), there are 3 program-specific conditions that must be met before a WIOA Youth program applicant may be determined to be eligible for program participation:

- Not attending any school (as defined under State law);
- Be age 16 to 24; **and**
- Have one or more of the following barriers:
 - A school dropout
 - A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.
 - A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual AND is—
 - Basic skills deficient; or
 - An English language learner
 - An individual who is subject to the juvenile or adult justice system;
 - A homeless individual aged 16 to 24 who meets the criteria defined in sec. 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6)), a homeless child or youth aged 16 to 24 who meets the criteria defined in sec. 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C.11434a(2)) or a runaway;
 - An individual in foster care or who has aged out of the foster care system or who has

of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

²Canadian, Cleveland, Hughes, Lincoln, Logan Okfuskee, Oklahoma, Pottawatomie, Seminole.

³Blaine, Caddo, Coal, Creek, Garfield, Grady, Kingfisher, McClain, McIntosh, Noble, Okmulgee, Payne, Pittsburg, Pontotoc

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attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under sec. 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;

- An individual who is pregnant or parenting;
- An individual with a disability; or
- A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment as follows:
 - A youth with a parent or legal guardian that is currently or previously incarcerated for a felony conviction;
 - A youth with a parent or legal guardian who lacks a high school diploma or GED;
 - A youth who attends or has attended chronically under performing schools listed as a priority or targeted intervention school on the Oklahoma State Department of Education website: <https://sde.ok.gov/comprehensive-support-and-improvement>
 - A youth between 18-24 years of age with a pattern of Poor Work History. Poor work history includes non-reoccurring employment income and sporadic employment.

The low-income requirement applies only to the following categories of out-of-school youth:

- A recipient of a secondary school diploma or its recognized equivalent who is either basic skills deficient or an English language learner; and
- An individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

Because not all OSY are required to be low-income, the five percent low-income exception under WIOA is calculated based on the five percent (5%) of youth enrolled in a given program year who would ordinarily be required to meet the low-income criteria.

With regard to an applicant's low-income status, the law provides a special rule. It allows a youth to be counted as a "low-income" individual if they live in a high-poverty area. This special rule is described in greater detail later in this policy. (See Page 22).

The law also provides a "Five Percent Exception" -- allowing a small number of youth to be served in the WIOA Youth program even if they do not meet the definition of "low-income." The exception is also described in this section. (See Page 23). (See Also: Section 129(a)(3)(A) of the WIOA law)

Not Attending Any School

Per 20 C.F.R. §681.230 and OWDI 02-2016, Change 2, the Department of Labor does not consider the following to be schools:

- Adult Education Under Title II of WIOA;
- YouthBuild
- Job Corps

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- *Dropout Re-Engagement Programs; and
- *High School Equivalency Programs

***Exception:** Youth attending high school equivalency (HSE) programs, including those considered to be dropout re-engagement programs, funded by the public K-12 school system that are classified by the school system as still enrolled in school are considered ISY.

In Oklahoma, the state law on schools and school attendance is given in Title 70 of the Oklahoma Statutes. OWDI 02-2016, Change 2, suggests that it is proper to refer to Title 70-1-106 in order to correctly interpret the phrase “attending school.”

§70-1-106. Public schools - Definition - What included.

The public schools of Oklahoma shall consist of all free schools supported by public taxation and shall include nurseries, kindergartens, elementary, which may include either K-6 or K-8, secondary schools and technology center schools, not to exceed two (2) years of junior college work, night schools, adult and other special classes, vocational and technical instruction and such other school classes and instruction as may be supported by public taxation or otherwise authorized by laws which are now in effect or which may hereafter be enacted.

Added by Laws 1971, c. 281, § 1-106, eff. July 2, 1971. Amended by Laws 2001, c. 33, § 64, eff. July 1, 2001.

This definition is quite expansive. It encompasses students who are attending any K-12 school (including middle school, high school, etc.) as well as students attending a post-secondary school such as a university or community college or Career Tech school.

Title 70-1-106 uses the phrase “supported by public taxation or otherwise authorized...” in order to define the term, “Public School.” COWIB interprets this phrase to mean that Public Schools may include charter schools, parochial schools, home schools, proprietary schools, virtual high schools, and other “school classes and instruction” that are authorized by state law – in addition to state and local tax-supported schools and colleges, etc.

State law provides that a young person under the age of 18 must generally be attending a school – whether it is a public school, a private school, or a home school of some kind.

OWDI 02-2019 Change 2 Attachments for Data Validation provides the data validation requirements for this eligibility item as follows:

Data Element	Definitions and Requirements	Acceptable Source Document
School Status at Program Entry	School Status at Program Entry is: <ul style="list-style-type: none"> • In-School, Secondary School or Less: an individual who has not received a secondary school diploma or its recognized equivalent and is attending any 	<input type="checkbox"/> Cross-Match with Postsecondary Education Database <input type="checkbox"/> Copy of Education of

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	primary or secondary school (including elementary, intermediate, junior high school, whether full or part time), or is between school terms and intends to return to school.	<p>Institution Enrollment Record</p> <ul style="list-style-type: none"> <input type="checkbox"/> Applicable Records from Education Institution (GED certificate, diploma, attendance record, transcript, report card, or school documentation) <input type="checkbox"/> Signed Intake, Application or Enrollment Form <input type="checkbox"/> Electronic Records <input type="checkbox"/> Self-Attestation
Youth	<ul style="list-style-type: none"> • In-School, Alternative School: an individual who has not received a secondary school diploma or its recognized equivalent and is attending an alternative high school or an alternative course of study approved by the local educational agency whether full or part-time, or is between school terms and is enrolled to return to school. 	<ul style="list-style-type: none"> <input type="checkbox"/> Parent, Guardian, or other responsible adult attestation (*required for individuals under 18) <input type="checkbox"/> Attendance Record <input type="checkbox"/> Transcripts <input type="checkbox"/> School Documentation
	<ul style="list-style-type: none"> • In-School, Postsecondary School: an individual who has received a secondary school diploma or its recognized equivalent and is attending a postsecondary school or program (whether full or part time), or is between school terms and is enrolled to return to school. 	<ul style="list-style-type: none"> <input type="checkbox"/> Parent, Guardian, or other responsible adult attestation (*required for individuals under 18) <input type="checkbox"/> Attendance Record <input type="checkbox"/> Transcripts <input type="checkbox"/> School Documentation
	<ul style="list-style-type: none"> • Not Attending School or Secondary School Dropout: an individual who is not within the age of compulsory school attendance; and is no longer attending any school and has not received a secondary school diploma or its recognized equivalent. 	<ul style="list-style-type: none"> <input type="checkbox"/> Parent, Guardian, or other responsible adult attestation (*required for individuals under 18) <input type="checkbox"/> Attendance Record <input type="checkbox"/> Transcripts <input type="checkbox"/> Dropout Letter <input type="checkbox"/> School Documentation <input type="checkbox"/> Youth Dropout Status Form – Attachment H
	<ul style="list-style-type: none"> • Not Attending School: Secondary School Graduate or has a Recognized Equivalent: an individual who is 	<ul style="list-style-type: none"> <input type="checkbox"/> Parent, Guardian, or other responsible adult

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	<p>not attending any school and has either graduated from secondary school or has attained a secondary school equivalency.</p>	<p>attestation (*required for individuals under 18)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Secondary School Diploma/Recognized equivalent <input type="checkbox"/> Attendance Record <input type="checkbox"/> Transcripts <input type="checkbox"/> School Documentation <input type="checkbox"/> Self-Attestation
	<ul style="list-style-type: none"> • Not Attending School: Within Age of Compulsory School Attendance: an individual who is within the age of compulsory school attendance, but is not attending school and has not received a secondary school diploma or its recognized equivalent. 	<ul style="list-style-type: none"> <input type="checkbox"/> Parent, Guardian, or other responsible adult attestation (*required for individuals under 18) <input type="checkbox"/> Attendance Record <input type="checkbox"/> Transcripts <input type="checkbox"/> School Documentation

If the applicant is properly considered to be in Status 4, 5, or 6, then s/he may be counted as “Out-of-School.”

A note about OSY classification for individuals considering enrollment, or enrolled in postsecondary school: In response to a question from the Oklahoma Office of Workforce Development, the National Office, on 8/19/2016 stated the following:

"We recognize that the final rule does not definitively address enrolled versus attending school for purposes of determining school status. We plan to issue further guidance to address this question.

The Department interprets attending school to be the same as enrolled in school. Therefore, a youth who is enrolled in postsecondary school or postsecondary classes (including if one is between semesters or school years or during the summer prior to starting postsecondary education) is considered to be attending school for purposes of school status determination. If a youth is not yet “enrolled” in education but “intends” to enroll he or she would be an OSY. The important part is whether they are enrolled in it, not when it actually starts."

A copy of the guidance can be found on the OOWD website, here:

<http://oklahomaworks.gov/wp-content/uploads/2016/09/National-Office-Clarification-on-Enrolled-vs-Attending-School.pdf>

Barriers to Employment

School Dropout

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As defined in WIOA 3(54), the term “school dropout” means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent. If the individual is within the age of compulsory school attendance, they must not have attended school for at least the most recent complete school year calendar quarter.

School year calendar quarter is based on how a local school district defines its school year quarters. In cases where schools do not use quarters, local programs must use calendar quarters. Per TEGL 08-15, the term “school dropout” does not include individuals who have dropped out of postsecondary education.

Offender

The following definition appears in Section 3 of WIOA:

(38)OFFENDER. —The term “offender” means an adult or juvenile—

(A) who is or has been subject to any stage of the criminal justice process, and for whom services under this Act may be beneficial; or

(B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

OWDI 02-2019 Change 2 Attachments for Data Validation provides guidance on validating an applicant’s offender status:

Definitions and Requirements	Acceptable Source Document
<p>An individual at program entry who either:</p> <ul style="list-style-type: none"> • Has been subject to any stage of the criminal justice process for committing a status offense or delinquent act, or • Requires assistance in overcoming barriers to employment resulting from a record of arrest or conviction. <p>*A status offense is the illegal behavior of a child (under the age of 18 years old), that if committed by an adult would not be considered a criminal activity, such as truancy, possession and/or consumption of alcohol, curfew violations, and purchase of cigarettes.</p>	<ul style="list-style-type: none"> • Court Documents • Letter of Parole • Letter from Probation Officer • Police Records • Detailed Program Note: Career navigator verification with court or probation representative. AND • Youth Eligibility Form, Attachment F • Eligibility Form, Attachment O: Barrier must be addressed in Individual Employment Plan (IEP)

It is important to note that the term “offender” may be applied to anyone who has been arrested – even if they were not convicted of a crime – if they need WIOA services to overcome a barrier to employment.

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As COWIB interprets this guidance, an acceptable documentation source could be an official letter from the Office of Juvenile Affairs, the Oklahoma Department of Juvenile Affairs, the Oklahoma Department of Corrections, a community-based organization serving offenders, or any other person or organization who can reasonably be regarded as an official source of information regarding the applicant's offender status.

It is presumed that a record of arrest or conviction creates an artificial barrier to employment – since many employers inquire about records of arrest / conviction as part of their hiring process.

Homeless Individual

If the applicant is a homeless individual, it is not necessary to document the applicant's family income. Rather, it is permissible to document the applicant's homeless status. There are two definitions that WIOA uses to determine homelessness. The first comes from the Violence Against Women Act (VAWA) and is applicable to any individual, including youth:

- (6) the terms 'homeless', 'homeless individual', and 'homeless person'—*
 - (A) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and*
 - (B) includes—*
 - (i) an individual who—*
 - (I) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;*
 - (II) is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;*
 - (III) is living in an emergency or transitional shelter;*
 - (IV) is abandoned in a hospital; or*
 - (V) is awaiting foster care placement;*
 - (ii) an individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or*
 - (iii) migratory children (as defined in section 1309 of the Elementary and Secondary Education Act of 1965; 20 U.S.C. 6399) who qualify as homeless under this section because the children are living in circumstances described in this paragraph.*

A second definition of “homeless” appears in the McKinney-Vento Homeless Assistance Act. It is very similar to the VAWA definition, but it also applies only to children and youth:

- (2) The term 'homeless children and youths' —***
 - (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and*
 - (B) includes —*
 - (i) children and youths who are sharing the housing of other persons due to loss*

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of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

OWDI 02-2019 Change 2 Attachments for Data Validation provides the data validation requirements for this eligibility item as follows:

- Written statement from an individual providing temporary residence
- Written statement from shelter
- Written statement from Social Service Agency
- WIOA Youth Eligibility Form, Attachment 7 AND WIOA Youth Support Form, Attachment 4.
- Applicant Statement, Attachment K. Only allowable if no other forms of documentation are available.

When evaluating an applicant's particular situation, consider the following definitions:

- Fixed: A fixed residence is one that is stationary, permanent and not subject to change.
- Regular: A regular residence is one which is used on a regular basis.
- Adequate: An adequate residence is one that is sufficient for meeting both the physical and psychological needs typically met in home environments. This includes any individual who has a primary night time residence that is a publicly or privately operated shelter for temporary accommodation; an institution providing temporary residence for individuals intended to be institutionalized; or a public or private place not designed for or ordinarily used as a regular sleeping accommodation.

Both the VAWA definition and the McKinney-Vento definition refer to a provision for "migratory children." A migratory child, according to Section 1309 of the Elementary and Secondary Education Act of 1965, is the son or daughter of a migratory agricultural worker. In particular, it is a child who has moved in the past 36 months "...in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work."

Foster Child

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An applicant may be a low-income individual if he or she:

"...is a foster child on behalf of whom State or local government payments are made."

In accordance with OWDI 02-2019 Change 2 Attachments for Data Validation:

Definitions and Requirements	Acceptable Source Document
<p>An individual, age 24 or younger:</p> <ul style="list-style-type: none"> • In foster care; or • Has aged out of the foster care system; or • Has attained 16 years of age and left foster care for kinship guardianship or adoption; or • Is eligible for assistance under sec. 477 of the Social Security Act (42 U.S.C. 677); or • In an out-of-home placement 	<p>An individual, 24 or younger:</p> <ul style="list-style-type: none"> • Social Service Verification • Court Documentation • Verification of Payments made on behalf of the Child • Written Statement from State or Local Agency <p>AND</p> <ul style="list-style-type: none"> • WIOA Youth Eligibility Form, Attachment F

Pregnant or Parenting

The term "pregnant or parenting" is not defined in WIOA. However, there is relevant guidance available in OWDI 02-2019 Change 2 Attachments for Data Validation, on documenting an applicant's status as a pregnant or parenting individual.

OWDI 02-2019 Change 2 Attachments for Data Validation, provides the following definition of Pregnant or Parenting Youth:

" A Youth who is pregnant, or an individual (male or female) who is providingcustodial care for one or more dependents under the age of 18."

The definition adds: "Males do not qualify as a parenting youth until the child is born."

A long list of Acceptable Source Documents is given in OWDI 02-2019 Change 2 Attachments for Data Validation, including:

- Baptismal Record
- Child's Birth Certificate
- Doctor's Statement: confirming pregnancy
- Public assistance records: verifying child on case
- Self-Attestation
- Case Notes
- WIC Eligibility Verification
- TANF Single Parent Eligibility Verification
- Signed Intake Application or Enrollment Form

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- Signed ISS
AND
- WIOA Youth Eligibility Form, Attachment F

The phrase “parent in behavioral terms” means the applicant is providing custodial care for one or more dependents who are under 18 years of age. For example, the applicant may be providing custodial care for a younger sibling.

The term “Custodial Care” requires the applicant to be residing with and participating in the day-to-day care of a child; or if not in the same household being responsible for a child, including but not limited to: food, shelter, clothing, medical care, daycare expense, and/or other means of financial support.

Individual with a Disability

OWDI 02-2019 Change 2 Attachments for Data Validation:

Definitions and Requirements	Acceptable Source Document
<p>An individual may indicate that he/she has a disability as defined in Section 3(2)(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102). Under that definition, a “disability” is a physical or mental impairment that substantially limits one or more of the person’s major life activities.</p> <p>Applicable categories are:</p> <ul style="list-style-type: none"> • Physical/Chronic Health Conditions • Physical/Mobility Impairments • Mental or Psychiatric Disability • Vision-related Disability • Hearing related Disability • Learning Disability • Cognitive/Intellectual Disability <p>**Participant may choose not to disclose type of disability</p>	<p>Self-Attestation</p>

It is important for a Youth Service Provider to take special care in determining the eligibility of an applicant who has a disability. This is because the COWIB and its service providers have an obligation to comply with the Equal Opportunity provisions of the WIOA law, including the prohibition on discrimination on the basis of disability.

The collection of documents related to disabilities is a sensitive topic. COWIB cautions our WIOA Youth

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Provider against collecting more information than necessary to establish that an applicant properly meets the definition of an *individual with a disability*. In its **State of Oklahoma Nondiscrimination Plan 2017-2019**, Pg. 33, paragraphs 3 and 4, the Oklahoma Office of Workforce Development provides the following:

Recipients treat records, particularly those containing medical information, in a manner that ensures their confidentiality. (29 CFR 32.15; and 29 CFR 38.41)

The State provides, as required in 29 CFR 38.41, for the confidentiality of information collected and maintained regarding the disabilities of individuals. This requirement applies regardless of the status of the individual whether he or she is an applicant, participant or candidate for employment, etc.

When an applicant/participant for any federally funded services provides medical or psychological information to substantiate an eligibility determination or for reasonable accommodations for program participation, the information is kept in a confidential file separate from the participants' record file and in a locked cabinet.

OWDI 8-2017, Change 2, Pg. 2 states: "Confidential information regarding medical conditions or disabilities must be handled, stored, used, and disclosed in compliance with 29 CFR 38.41(b)(3). No notation other than the self-disclosure of disability information within the demographic section of OKJobMatch and the notation of an accommodation in a case note, without attachment to the disability, may be made within the participant's file."

The COWIB wants to discourage the notion that the eligibility determination process requires our WIOA program staff to evaluate the extent or condition or severity of an applicant's disability. Judging the condition of a person with a disability is *not* part of our eligibility determination process. It is sufficient to know that the applicant possesses a disability or otherwise fits the definition of an "individual with a disability" (as given in the ADA), and that references to specific mental or medical conditions should be avoided. Furthermore, because the state does not require medical documents as verification in OWDI 02-2016, Change 2, there is no reason to accept them from the applicant and store them separately in a locked file cabinet.

To properly validate an applicant's disability status, it is not necessary to know the individual's exact medical condition, diagnosis, physical or mental limits, or impairment. It is only necessary to know that the individual has an impairment (such as described in the definition) *or* has a history or record of an impairment, *or* is perceived by others as having an impairment.

Questions regarding this guidance may be addressed to the COWIB's Equal Opportunity Officer.

Recipient of High School Diploma / Equivalent who is Low Income AND:

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Basic Skills Deficient

A definition of “Basic Skills Deficient” is given in Section 3 of the WIOA law:

(5) BASIC SKILLS DEFICIENT. —The term “basic skills deficient” means, with respect to an individual—

(A) who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or

(B) who is a youth or adult, that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.

To effectively gauge applicant skills, the state has provided the following guidance in OWDI 02-2016, Change 2:

Local youth programs must “provide for an objective assessment of each youth participant that meets the requirements of WIOA sec. 129(c)(1)(A), which includes a review of the academic and occupational skill levels, as well as the service needs and strengths, of each youth for the purpose of identifying appropriate services and career pathways for participants.

Objective Assessments Includes a review of:

- Basic Skills;
- Occupational Skills;
- Prior Work Experience;
- Employability;
- Interests;
- Aptitudes;
- Supportive Service Needs; and
- Developmental Needs.

Assessments must also consider a youth’s strengths rather than just focusing on areas that need improvement.

Local programs must use valid and reliable assessment instruments and provide reasonable accommodations to youth with disabilities in the assessment process in making this determination.

Local programs may use previous basic skills assessment results if such previous assessments have been conducted within the past six months.”

OWDI 02-2019 Change 2 Attachments for Data Validation provides the data validation requirements for this eligibility item as follows:

Definitions and Requirements	Acceptable Source Document
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<p>An individual who is:</p> <ul style="list-style-type: none"> • A Youth that has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or • A Youth or Adult, that 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 <p>*Grade level scores below 9.0 (i.e.: 8.9) should be considered a “at or below the 8th grade level.”</p> <p>Assessment test results must be entered in the Testing section of the applicable enrollment details in OKJobMatch.</p>	<p><input type="checkbox"/> BSD Eligibility Assessment Documentation</p> <p>*Previous basic skills assessments may be utilized if they have been conducted within the past six (6) months.</p>
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English Language Learner

The term “English Language Learner” is defined in Section 203 of the WIOA:

(7) ENGLISH LANGUAGE LEARNER. — The term “English language learner” when used with respect to an eligible individual, means an eligible individual who has limited ability in reading, writing, speaking, or comprehending the English language, and—

(A) whose native language is a language other than English; or

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

OWDI 02-2019 Change 2 Attachments for Data Validation provides the following guidance for youth eligibility verification:

- Eligibility Form: Attachment F or O, The Primary Language of individual must be indicated on eligibility form.
- School Documentation

COWIB interprets this guidance to mean that either documentation option may be used.

*If the participant is an English Language Learner and answered **YES**: the Primary Language of the individual must be identified.

Low-Income Individuals

The low-income requirement applies only to the following categories of out-of-school youth:

- A recipient of a secondary school diploma or its recognized equivalent who is either basic skills deficient or an English language learner; and
- An individual who requires additional assistance to enter or complete an educational

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program or to secure or hold employment.

Because not all OSY are required to be low-income, the five percent low-income exception under WIOA is calculated based on the five percent (5%) of youth enrolled in a given program year who would ordinarily be required to meet the low-income criteria.

The definition of “low-income individual” is provided in Section 3 of WIOA:

(36) LOW-INCOME INDIVIDUAL. —

(C) IN GENERAL. — The term “low-income individual” means an individual who—

- (i) receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;
- (ii) is in a family with total family income that does not exceed the higher of—
 - (I) the poverty line; or
 - (II) 70 percent of the lower living standard income level;
- (iii) is a homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6))), or a homeless child or youth (as defined under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
- (iv) receives or is eligible to receive a free or reduced-price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
- (v) is a foster child on behalf of whom State or local government payments are made; or
- (vi) is an individual with a disability whose own income meets the income requirement of clause (ii), but who is a member of a family whose income does not meet this requirement.

Receiving SNAP, TANF, or Other Assistance

- **SNAP** – is the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 – once known as the Food Stamp program. An applicant’s receipt of SNAP benefits may be documented by a Public Assistance record (through the Oklahoma Department of Human Services), or by use of a Telephone Verification Form. (Attachment 3)
- **TANF** – is the program that provides Temporary Assistance for Needy Families under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.). An applicant’s receipt of TANF assistance may be documented by a Public Assistance record (through the Department of Human Services)

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or by use of a Telephone Verification form.

- **SSI** – is the supplemental security income program established under title XVI of the Social Security Act. It is a program that provides stipends to low-income people who are either aged (65 or older), blind, or disabled. An applicant’s receipt of SSI assistance may be documented by Public Assistance record (such as a letter, etc., issued by the Social Security Administration) or by use of a Telephone Verification form.
- **Federal, State or Local Public Assistance** – WIOA provides the following definition for the type of public assistance that would qualify an individual as “low-income”

(50) PUBLIC ASSISTANCE. — *The term “public assistance” means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.*

“Public assistance” excludes subsidy programs that aren’t given in the form of direct cash assistance to individuals or families. For example, LIHEAP assistance – which is given as a credit on an individual’s utility bill – would not seem to meet the Act’s precise definition of “public assistance.” To document that an applicant is receiving (or has received) Federal, State, or Local public assistance, a public assistance record may be used. A list of “Required Source Documents” is shown below/ Any of the given options may be used to verify that the applicant is receiving Federal, State, or Local Public Assistance – either as an individual or as a member of a family that receives that assistance.

Required Source Documents
SUPPORT
<ul style="list-style-type: none"> • WIOA Youth Support Form, Attachment 4 <p>AND</p> <ul style="list-style-type: none"> • WIOA Income Eligibility Form: Attachment 5, with supporting document(s) from list below to document the family’s INCLUDABLE income: • SNAP Verification • TANF Verification • SSI Verification • SSDI Verification • Public Assistance Verification • Housing Authority Verification • Alimony Agreement • Bank Statements • Compensation Award Letter • Employer Statement • Family or Business Financial Records • Pay Stub • Pension Statement

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- Quarterly Estimated Tax for Self-Employed Person
- Current Unemployment Insurance Verification
- Verification of Free or Reduced Price Lunch
- Verification of High-poverty Area
 - Utility Bill
 - Lease/Rental Contract
 - Mortgage Contract/Statement
 - School Records
 - Driver's License
 - State Issued ID
 - Pay Stub
- **AND**
 - Census Tract Verification
- Applicant Statement, Attachment 6

A Note about "Family": The WIOA definition of low-income individual refers to an individual who receives public assistance or to *"a member of a family that is receiving or in the past 6 months has received..."* public assistance.

COWIB recognizes that each of the public assistance programs described above – TANF, SNAP, SSI, etc. – has its own distinct definition of what it means to be a family member or a member of a household, etc. For the purpose of determining whether an applicant is a "member of a family" that is receiving (or has received) public assistance, we will rely on the definition used in the relevant public assistance program. We have no desire to impose our own WIOA definition of "family" onto the rules / definitions / guidelines of different public assistance programs.

On the other hand, if the applicant is not receiving public assistance as described above, then it may be necessary to examine the applicant's family size and family income. (See **Low Family Income** below). In that case, we provide a WIOA definition of "family" and "family member."

If the applicant or his/her family is not receiving public assistance, then s/he may still meet the definition of a low-income individual if it can be shown that they are in one of the other sub-categories of the low-income definition.

Low Family Income

An applicant may be a low-income individual if s/he:

- (i) *"is in a family with total family income that does not exceed the higher of—*
 - (I) *the poverty line; or*
 - (II) *70 percent of the lower living standard income level;*

Completion of the WIOA Youth Support Form.

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Low-Income Individual Status Automatically Obtained By Residing in High Poverty Area

In addition, 20 C.F.R. §681.260 states that, “a youth who lives in a high poverty area is automatically considered to be a low-income individual. A high poverty area is a Census tract, a set of contiguous Census tracts, an American Indian Reservation, Oklahoma Tribal Statistical Area (as defined by the U.S. Census Bureau) ... or other tribal land as defined by the Secretary in guidance or county that has a poverty rate of at least 25 percent as set every 5 years using American Community Survey 5-Year data.”

To determine whether a youth resides in a high poverty census tract, click on the following link <https://geocoding.geo.census.gov/geocoder/geographies/address?form>.

For further instruction, please refer to this link and download the PDF document to:

- Determine if an individual youth lives in a high-poverty area based on their street address.
- Identify if an overall county has a poverty rate of 25 percent or above.
- Determine the poverty rate of American Indian Reservations, Oklahoma Tribal Statistical Areas, and Alaska Native Village Statistical Areas.
- Identify high-poverty areas in your city or county for targeting your services on high-poverty neighborhoods.

https://youth.workforcegps.org/resources/2017/03/22/09/55/~/link.aspx?_id=8548E345651B4ED19113526286036489&_z=z

PLEASE NOTE: Not every Oklahoma Tribal Statistical Area, American Indian Reservation, County, or Census Tract will qualify. Each area’s poverty rate must be determined on a case-by-case basis, and the area must have a poverty rate of at least twenty-five 25 percent

Exception at Section 129(a)(3)

In Section 129(a)(3) of WIOA, there is a provision that describes an “Exception for Persons who are Not Low-Income Individuals.” The exception is given as follows:

(3) EXCEPTION AND LIMITATION. —

(A) EXCEPTION FOR PERSONS WHO ARE NOT LOW-INCOME INDIVIDUALS. —

(i) DEFINITION. — In this subparagraph, the term “covered individual” means an in-school youth, or an out-of-school youth who is described in subclause

(ii) or (VIII) of paragraph (1)(B)(iii).

(iii) EXCEPTION. — In each local area, not more than 5 percent of the individuals assisted under this section may be persons who would be covered individuals, except that the persons are not low-income individuals.

(B) LIMITATION. — In each local area, not more than 5 percent of the in-school youth assisted under this section may be eligible under paragraph (1) because the youth are in-school youth described in paragraph (1)(C)(iv)(VII).

COWIB will allow up to 5 percent of in-school youth participants to be individuals who are not low-

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income individuals. However, in order to take advantage of this exception – commonly referred to as a “5% Window” – there must be special approval from the COWIB’s CEO or Youth Program Manager. Our intention is to permit the use of the 5% Window only for special projects and special purposes.

In addition to meeting the WIOA requirements for Attending School, Age 14 to 21, and Low-Income status, an eligible applicant for the WIOA In-School Youth program must have a Barrier to Employment.

A Low-Income Individual Who Requires Additional Assistance

Low-income has been discussed at length on pages 19-23.

Requires Additional Assistance is given in Section 129(a)(1)(C)(iv)(VII) of WIOA:

(VII) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

The Oklahoma Office of Workforce Development has proposed a definition of the phrase “Requires Additional Assistance.” The definition is given in OWDI 02-2016, Change 2, as follows:

*An individual who requires additional assistance to complete an educational program or to secure and hold employment. Defined by the State as a **low-income** youth meeting one of the following criteria:*

- With a parent or legal guardian that is currently or previously incarcerated for a felony conviction;
- With a parent or legal guardian who lacks a high school diploma or GED; or
- Who attends or has attended chronically under performing schools listed as a Priority School / Targeted Intervention School on the State Department of Education website; or
- Attended a school listed as a Focus Designation School on the State Department of Education website.
- *With poor work history including non-reoccurring employment income or sporadic employment.

*COWIB interprets this term to mean a worker who, in the 12 months prior to program registration, has lacked steady, full-time, permanent employment. This shall include:

- Work that is seasonal;
- Work that is temporary;
- Work that is part-time (less than 32 hours / week; or
- Other periods of employment of less than 10 consecutive weeks.

The required source documents to validate this item are listed in OWDI 02-2019 Change 2 Attachments for Data Validation:

- Court Documentation for Parent information

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- AND
- Youth Eligibility Form, Attachment F

As described in the definition, a student who attends or has attended a chronically underperforming/low performing school listed on the State Department of Education website.

A “Focus” school is one that has been identified by the State Department of Education as having *specific ESEA subgroups with low achievement and/or graduation rates*.⁴ (As defined in the No Child Left Behind Act, ESEA subgroups may include “economically disadvantaged students; students from major racial and ethnic groups; students with disabilities; and students with limited English proficiency”).

A list of Focus schools may be found on the State Department of Education website, here: <http://sde.ok.gov/sde/focus-schools>

The WIOA Youth Program Application

The Federal Regulations at 29 CFR 38.4 provide several helpful definitions:

Applicant means an individual who is interested in being considered for WIOA Title I—financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request by the recipient....

Application for benefits means the process by which information, including but not limited to a completed application form, is provided by applicants or eligible applicants before and as a condition of receiving WIOA Title I—financially assisted aid, benefits, services, or training from a recipient.

Eligible applicant / registrant means an individual who has been determined eligible to participate in one or more WIOA Title I—financially assisted programs or activities.

Participation is considered to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized aid, benefits, services, or training provided under Title I of WIOA.

Recipient means any entity to which financial assistance under WIOA Title I is extended, either directly from the Department or through the Governor or another recipient... “*Recipient*” includes, but is not limited to:

- 1) *State-level agencies...*;
- 2) *State Employment Security Agencies;*
- 3) *State and local Workforce Investment Boards;*

⁴ See the *Focus Schools Guide* published by the Oklahoma State Department of Education, http://sde.ok.gov/sde/sites/ok.gov.sde/files/documents/files/Focus%20School%20Guide_2_1.pdf

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- 4) LWIOA grant recipients;
- 5) One-Stop operators;
- 6) Service providers, including eligible training providers....

In the Central Oklahoma area, the application process includes completion of a WIOA Program Orientation as well as completion of the registration process in OKJobMatch (OJM) system.

Determination of Eligibility

After the youth completes the user information in OKJobMatch and participates in the informal interview, the COWIB Youth Provider should have enough information to make an accurate determination of the applicant's eligibility for the WIOA Youth program.

If the Youth Provider determines that the applicant meets the WIOA Youth program guidelines, then the applicant should be informed that they are eligible to proceed to the next steps in the enrollment process.

The sequence of the next steps shall be defined by the Youth Provider, and they may vary depending on the need for program flexibility.

At a minimum, the next steps shall include:

- Ensuring that the applicant has properly registered in the OKJobMatch system;
- Determining whether the WIOA program has the capacity to enroll the applicant; and
- Delivering the services and elements described in Section 129(c)(1) and 129(c)(2) of WIOA.

As part of the intake process, the Youth Provider has a duty to provide information about other appropriate services that may be available to the applicant through the local workforce development system.

This responsibility is described in Section 129(c)(3)(A) of WIOA:

(3) ADDITIONAL REQUIREMENTS. —

(A) INFORMATION AND REFERRALS. — Each local board shall ensure that each participant shall be provided—

(i) information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or one-stop partners, including those providers or partners receiving funds under this subtitle; and

(ii) referral to appropriate training and educational programs that have the capacity to serve the participant either on a sequential or concurrent basis.

AND

(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS. —

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Each eligible provider of a program of youth workforce investment activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

If the Program Application indicates that the applicant is not a low-income individual, (or if the applicant fails to meet other WIOA Youth program guidelines -- age, residency, barrier, etc.), then the Youth Provider should advise the applicant that s/he does not meet the criteria for enrollment.

Then, beyond simply advising the applicant of this judgment, the Youth Provider has a duty to take two additional steps.

1. **Explanation.** Beyond simply advising the applicant of their eligibility status, the Youth Provider should explain why the applicant is not eligible for enrollment
Where appropriate, an applicant may be invited to re-apply for program services. Additionally, a referral to another One-Stop Partner program or community service may be made.
If the applicant was found to be ineligible because s/he did not meet the COWIB's residency requirement, then the Youth Provider must refer the applicant to the WIOA Youth Program in the area where s/he lives.
2. **Notice of Grievance Procedures.** The second additional step is a requirement that is expressed in the COWIB Grievance Policy:
"The COWIB and LEO will provide information about the content of the grievance procedure to participants and other interested parties affected by the local Workforce Investment System...."

Information about the grievance procedure may be offered in a number of different ways. The best option is to provide the information in writing (through email or postal mail, for example).

Offering information about available grievance procedures is a requirement of Section 181 of the Workforce Innovation and Opportunity Act. It is also regarded as a best practice to promote quality assurance and program accountability.

NOTE: If the applicant disagrees with the determination, the COWIB's Grievance Procedure is available, and a grievance may be filed within 20 days of the date that the applicant is made aware of the determination.

Record Retention Requirements

The regulations of the U.S. Department of Labor at 29 CFR Part 38⁵ describe specific requirements for

⁵ 29 CFR Part 38 – "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act; Final Rule."

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the retention of records:

§ 38.39 How long must grant applicants and recipients maintain the records required under this part?

(a) Each recipient must maintain the following records for a period of not less than three years from the close of the applicable program year:

(1) The records of applicants, registrants, eligible applicants / registrants, participants, terminees, employees, and applicants for employment; and

(2) Such other records as are required under this part or by the Director.

(b) Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.

Equal Opportunity and Nondiscrimination Statement

All Recipients, and Sub-recipients / Sub-grantees must comply with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.

Addenda / Revisions

The COWIB Chief Executive Officer is authorized to issue additional instructions, guidance, forms, etc., to further implement these procedures.

Questions about these procedures may be directed to the COWIB's Policy and Compliance Manager at (405) 622-2026.

Reference: <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=f93578defc0df53d553a30c5b65b1edd&mc=true&r=PART&n=pt29.1.38>