



GUIDING MARION COUNTY'S WORKFORCE

### POLICY OF EMPLOYINDY

<b>Policy Name</b>	WIOA Participant Eligibility
<b>Policy Number</b>	2015-004
<b>Program Funding Stream</b>	WIOA Adult, Dislocated Worker & Youth

REV	Description of Change	Author	Effective Date	Review Date
	Initial Release	W. Miller	07/01/2015	06/30/2016
1	Removal general eligibility for referral to occupational training services	S. Johnson	Upon Approval	6/30/2018
2	Adds factors that satisfy the "needs additional assistance" barrier for youth eligibility.	J. Schlake	2/5/2018	3/1/2019
3	Miscellaneous clarifications.	J. Schlake	4/18/2018	4/1/2019
4	Updated references	K. Duffy	8/2/2018	8/2/2019

#### 1. Purpose

To provide guidance on participant eligibility for enrollment into basic, individual, training, and youth services under the Workforce Innovation and Opportunities Act (WIOA).

#### 2. Scope

The policy covers WIOA participants under the funding streams of Adult, Dislocated Workers, and Youth.

#### 3. Summary of the Law, Rules, and Governing Policies

WIOA Youth eligibility requirements are covered in [WIOA Section 129](#).<sup>1</sup> Adult and Dislocated Worker eligibility requirements are covered under the definitions in [WIOA Sections 3\(2\) and 3\(15\)](#).<sup>2</sup> Selective Service requirements are covered in [WIOA Section 189\(h\)](#).<sup>3</sup> Priority of Service for Adults is covered in [WIOA Section 134\(c\)\(3\)\(H\)](#).<sup>4</sup>

<sup>1</sup> <https://www.law.cornell.edu/uscode/text/29/3164>

<sup>2</sup> <https://www.law.cornell.edu/uscode/text/29/3102>

<sup>3</sup> <https://www.law.cornell.edu/uscode/text/29/3249>

<sup>4</sup> <https://www.law.cornell.edu/uscode/text/29/3174>

## 4. Responsibilities

Service providers are responsible for understanding the eligibility criteria for WIOA-funded programs and for following the eligibility guidance contained in this policy, the WIOA legislation, the WIOA regulations, Department of Workforce Development policy, and any other guidance provided by or through EmployIndy.

EmployIndy Quality, Youth, and Career Services Departments are responsible for oversight, implementation, and revision of this policy.

## 5. Policy Statement

All eligibility for the Adult, Dislocated Worker, and Youth programs shall be determined at the point of enrollment and shall not change during that period of participation. Eligibility criteria are outlined below.

### Adult Eligibility

The eligibility criteria for enrollment into the Adult WIOA program includes:

- Age – The participants must be 18 years or older.<sup>5</sup>
- Selective Service – Male participants 18 years or older must be registered with the Selective Service. See EmployIndy's *Selective Service* Policy for additional details.

### Dislocated Worker Eligibility

The eligibility criteria for Dislocated Workers WIOA program includes:

- Age – There are no age requirements for dislocated worker eligibility.
- Selective Service – Male participants 18 years or older must be registered with the Selective Service. See EmployIndy's *Selective Service* Policy for additional details.
- Categories – There are five independent eligibility categories for dislocated workers. Any individual who meets one or more of these categories is eligible for dislocated worker services under WIOA.<sup>6</sup>
  - Category 1, Permanent Layoff
    - An individual who was 1) terminated or laid off, 2) eligible for unemployment compensation and 3) unlikely to return to that industry or occupation;
    - An individual who 1) has received written notice of termination or layoff, 2) would be eligible for unemployment compensation and 3) is unlikely to return to that industry or occupation; or
    - An individual who has been 1) employed sufficient time to demonstrate attachment to the labor force, 2) is not eligible for unemployment compensation, and 3) is unlikely to return to such industry or occupation.
  - Category 2, Plant Closure
    - An individual who has been terminated or laid off or received a notice of such as a result of a permanent, substantial closure of a plant, facility or enterprise; or

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<sup>5</sup> 29 U.S.C. § 3102(2)

<sup>6</sup> 29 U.S.C. § 3102(15)

- An individual who is employed with a plant, facility, or enterprise at which the employer has made a general announcement of closure.
- Category 3, Self-Employment
  - An individual who was self-employed and is unemployed as a result of general economic conditions in the community in which the individual resides; or
  - An individual who was self-employed and is unemployed as a result of a natural disaster that has been officially declared.
- Category 4, Displaced Homemaker
  - An individual who (1) has provided unpaid services to family member(s) and (2) is no longer supported by that income; or
  - An individual who (1) is the dependent spouse of a member of the Armed Forces on active duty and (2) whose family income is significantly reduced because of deployment, a call to order or other official call to active duty.
- Case 5, Military Spouse
  - An individual who is (1) a spouse of a member of the United States Armed Forces on active duty, (2) unemployed or underemployed and (3) having difficulty in obtaining or upgrading their employment (if underemployed).

### **Youth Eligibility**

Youth eligibility will be addressed in two parts: in-school and out-of-school. See Attachment B for a chart to help determine eligibility for in-school and out-of-school youth.

**Out-of-school youth** has four eligibility criteria.<sup>7</sup>

- Out-of-School: The youth must be out-of-school. They must not be attending a school as defined in State law. See Definition section.
- Age: Youth cannot be younger than 16 and must be under 25 years of age at the time of enrollment.
- Selective Service: Male participants 18 years or older must be registered with the Selective Service. See EmployIndy's *Selective Service* Policy for additional details.
- Barriers – Youth must also have at least one of the following barriers:
  - Be a high school dropout;
  - Be of compulsory age for attending school, but have not attended school for at least the most recent complete school calendar quarter (see Definition section);
  - Be an individual who is or has been involved with the juvenile or adult justice systems;
  - Be homeless;
  - Be a runaway
  - Be in foster care or aged out of the foster care system
  - Be pregnant or parenting;
  - Have a disability;
  - Have a secondary high school diploma, be low-income (See “Determining Low-Income for Youth” in this document for further discussion), and either basic skills deficient or an English language learner; or
  - Be low-income (See “Determining Low-Income for Youth” in this document for further discussion) and need additional assistance to complete an educational

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<sup>7</sup> 29 U.S.C. 3164(a)(1)(B)

program or to secure and hold employment. EmployIndy defines the following factors to satisfy this criterion:

- Youth who have educational attainment that is one or more grade levels below the grade level appropriate to the age of the individual;
- Youth who have not passed all parts of their High School Equivalence (HSE) or End-of-Course assessment and who have taken the exam at least once;
- Youth who have a parent or guardian who does not have a high school diploma;
- Youth who would be the first in their family to earn an associate or higher degree from a postsecondary educational institution;
- Youth who have a parent or guardian who has been chronically unemployed during the past year;
- Youth whose parent or guardian's primary language is not English;
- Youth who have a parent or guardian who is or has been incarcerated during the past two years; or
- Youth who have been referred by a secondary school because they need assistance to graduate;
- Migrant youth;
- Youth who have had behavioral problems at school;
- Youth with family literacy problems;
- Youth who have been the victim or whose family members have been the victims of domestic violence;
- Youth who struggle with substance abuse;
- Youth with chronic health conditions;
- Youth who are refugees;
- Legally emancipated minors; or
- Youth who have been suspended or expelled within the last year.

**In-school youth** has five eligibility criteria.<sup>8</sup>

- **In-School** - The youth must be in-school. They must be attending a school as defined in State law. See the "Definition" section in this document for further discussion.
- **Age** - Youth cannot be younger than 16 and must be under 21 years of age at the time of enrollment except that the Director of In-School Youth may approve an individual a youth ages 14 or 15.
- **Selective Service** – Male participants 18 years or older must be registered with the Selective Service. See EmployIndy's *Selective Service* Policy for additional details.
- **Low-Income** – The youth must be low-income. See "Determining Low-Income for Youth" in this document for further discussion.
- **Barrier** – The youth must have at least one of the following barriers:
  - Be basic skills deficient;
  - Be an English language learner;
  - Be an offender or ex-offender;
  - Be homeless;
  - Be in foster care or has aged out of foster care;
  - Be pregnant or parenting;
  - Have a disability; or

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<sup>8</sup> 29 U.S.C. 3164(a)(1)(C)

- Need additional assistance to enter or complete an educational program or to secure and hold employment. EmployIndy defines the following factors to satisfy this criterion:
  - Youth who have educational attainment that is one or more grade levels below the grade level appropriate to the age of the individual;
  - Youth who attend schools that are currently rated as an “F” school by the Indiana State Board of Education or are currently designated as turnaround academies by the State Board of Education;
  - Youth who have not passed all parts of their High School Equivalence (HSE) or End-of-Course assessment and who have taken the exam at least once;
  - Youth who have a parent or guardian who does not have a high school diploma;
  - Youth who would be the first in their family to earn an associate or higher degree from a postsecondary educational institution;
  - Youth who have a parent or guardian who has been chronically unemployed during the past year;
  - Youth whose parent or guardian’s primary language is not English;
  - Youth who have a parent or guardian who is or has been incarcerated during the past two years; or
  - Youth who have been referred by a secondary school because they need assistance to graduate;
  - Migrant youth;
  - Youth who have had behavioral problems at school;
  - Youth with family literacy problems;
  - Youth who have been the victim or whose family members have been the victims of domestic violence;
  - Youth who struggle with substance abuse;
  - Youth with chronic health conditions;
  - Youth who are refugees;
  - Legally emancipated minors; or
  - Youth who have been suspended or expelled within the last year.

### **Determining Low-Income for Youth**

Under WIOA there are multiple ways to determine low-income for youth including:

- The youth lives in an area that is identified as a high poverty area.<sup>9</sup> An area of high poverty is a county, Census tract, or set of contiguous Census tracts that has a poverty rate of 25% or higher;<sup>10</sup>
- At the time of enrollment in the program or in the previous six months the family received or was eligible to receive Food Stamps, TANF, SSI assistance, or any state or local income based assistance;<sup>11</sup>
- The total family income is below the higher of the poverty level or 70% of the lower living standards during the six-month period prior to enrollment in the program (See Attachment A);
- The youth is homeless as defined by the Violence Against Women Act of 1994 or the McKinney-Vento Homeless Assistance Act;

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<sup>9</sup> 29 U.S.C. § 3164(a)(2)

<sup>10</sup> 20 C.F.R. § 681.260. See *Hoosiers by the Numbers Poverty Rate Lookup*  
<http://www.hoosierdata.in.gov/pov/radius.asp>.

<sup>11</sup> 29 U.S.C. § 3102(36)

- The youth or a family member is eligible for free or reduced lunches at school. This primarily applies to in-school youth;
- The youth is a foster care youth or has aged out of foster care; or
- The youth is disabled and their personal income (not family income) is below the higher of the poverty level or 70% of the lower living standards during the six-month period prior to enrollment in the program.

### **Residency at Time of Enrollment**

Participants must demonstrate residency as identified by DWD at time of enrollment. If they are unable to demonstrate residency with the identified methods, the participant may utilize the conditions identified in EmployIndy's [Proof of Residency](#) Policy.

All participants, regardless of county of residence, shall receive the following:

- Information on career services provided in his/her county of residence; and
- Basic, individualized, youth, and follow-up services as identified in the case management process.

### **Eligibility for Training Services**

As defined in WIOA, training services may be offered in the following ways:

- Occupational training services;
- On-the-job training;
- Work experiences;
- Incumbent worker training;
- Transitional jobs; and
- Customized training

To be eligible for training services, an individual must be eligible as an Adult, Dislocated Worker, Out-of-School Youth, or In-School Youth and then satisfy the eligibility requirements for the type of training. See the following EmployIndy policies for additional eligibility for each type of training:

- [EmployIndy On-The-Job Training Policy](#)
- [EmployIndy Customized Training Policy](#)
- [EmployIndy Work-Based Learning for Youth and Young Adults Policy](#)
- [EmployIndy Individual Training Accounts Policy](#)

### **Priority of Service**

Priority of service is provided to Veterans and special populations of adult participants for both individualized career services and training services.<sup>12</sup> Refer to the *EmployIndy Veteran Priority of Service* Policy and the *EmployIndy Adult Priority of Service* Policy for additional detail.

## **6. Exceptions**

A low-income requirement for youth may be waived for up to 5% of the participants. This must be requested from and granted in writing by the EmployIndy Director of In-School Youth or the

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<sup>12</sup> 20 C.F.R. § 680.600.

Senior Director of Opportunity Youth Services. A copy of the approval must be maintained in the case files.

No more than five percent (5%) of in-school youth participants may be those who are eligible because they require additional assistance to complete an educational program or to secure or hold employment.<sup>13</sup>

EmployIndy leadership may limit the provision of specific services to target populations based off the initiatives, funding availability, and direction from the EmployIndy Board. This will be communicated to leadership of each service provider impacted.

## 7. Definitions

**Attending School:** To be “attending school” a youth must be enrolled in a secondary school or postsecondary school.

**“Have not attended school for at least the most recent complete school calendar quarter”:** Most schools do not operate on a calendar quarter basis. Therefore, this clause is defined to mean the most recent 45 school/instructional days or the most recent traditional 9-week school period. If a student meets either of these conditions, they will be considered to have not attended school for the most recent complete school calendar quarter.

**Dependent children:** Either

- (A) Any child under the age of 18; or
- (B) Any child over the age of 17 who did not provide more than 50% of his/her own support for the 6 months prior to application.

**Family:** Two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- (A) Spouses and their dependent children;
- (B) A parent or guardian and dependent children;
- (C) Spouses.<sup>14</sup>

## 8. Related Policies and Documents

### **Policies:**

EmployIndy [Selective Service Requirement Policy](#)<sup>15</sup>

EmployIndy [Veteran's Priority of Service Policy](#)<sup>16</sup>

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<sup>13</sup> 29 U.S.C. § 3164(a)(3)(B); See also DWD Youth Eligibility Policy, Page 16 (<https://www.in.gov/dwd/files/Youth%20Eligibility%20Final.pdf>).

<sup>14</sup> See U.S. Department of Labor, TEGL 26-13 “Impact of the U.S. Supreme Court’s Decision in *United States v. Windsor* on Eligibility and Services Provider Under Workforce Grants Administered by the Employment and Training Administration” [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_26-13.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_26-13.pdf); and Indiana Department of Workforce Development, “MEMORANDUM: Interim Guidance on Eligibility and Data Validation, Except Youth, and Adult Education – Version 3” [http://www.in.gov/dwd/files/WIOA\\_eligibility\\_and\\_data\\_validation\\_interim\\_guidance\\_final\\_v3.pdf](http://www.in.gov/dwd/files/WIOA_eligibility_and_data_validation_interim_guidance_final_v3.pdf).

<sup>15</sup> <https://employindy.org/wp-content/uploads/2017/08/1-1-4-Selective-Service-Requirement.pdf>

<sup>16</sup> <https://employindy.org/wp-content/uploads/2017/08/1-1-2-Veteran-Priority-of-Service.pdf>

EmployIndy [Adult Priority of Service Policy](#)<sup>17</sup>

EmployIndy [WIOA Individual Training Accounts Policy](#)<sup>18</sup>

EmployIndy [On-the-Job-Training Policy](#)<sup>19</sup>

EmployIndy [Customized Training Policy](#)<sup>20</sup>

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<sup>17</sup> <https://employindy.org/wp-content/uploads/2017/08/1-1-3-WIOA-Adult-Priority-of-Service.pdf>

<sup>18</sup> <https://employindy.org/wp-content/uploads/2017/08/1-3-2-Individual-Training-Accounts.pdf>

<sup>19</sup> <https://employindy.org/wp-content/uploads/2017/08/4-3-On-The-Job-Training.pdf>

<sup>20</sup> <https://employindy.org/wp-content/uploads/2017/08/4-1-Customized-Training.pdf>



## Poverty Level

Family Size	Income Level
1	\$12,140
2	\$16,460
3	\$20,780
4	\$25,100
5	\$29,420
6	\$33,740
7	\$38,060
8	\$42,380
Add for Each Additional Family Member	\$4,320

## 70% of the Lower Living Standard Income Level<sup>21</sup>

Family Size	Income Level
1	\$9,658
2	\$15,831
3	\$21,728
4	\$26,824
5	\$31,653
6	\$37,025
Add for Each Additional Family Member	\$5,372

<sup>21</sup>[https://www.in.gov/dwd/files/Publication%20of%202018%20Economically%20Disadvantaged%20Criteria\\_fi nal.pdf](https://www.in.gov/dwd/files/Publication%20of%202018%20Economically%20Disadvantaged%20Criteria_fi nal.pdf)