

## Attachment C: August 2022 and 2020 Public Comments and Responses

The Pennsylvania Department of Labor & Industry (L&I, or department) received the following public comments during the 2022 published comment period. Responses to those comments are included with each.

**Comment:**

Pertaining to the “Negotiation Process,” section “A.” verbiage. We recommend adding language that the narrative justification is only needed if the LWDB is requesting a lower than the level of performance currently being achieved (per CWIA).

**Response:**

The department appreciates the commenter’s suggestion. Clarification as to when evaluation of adjustment performance will occur has been inserted in Step 3 of the “Determining Successful Local Area Performance” section of the policy.

**Comment:**

The commenter asks, “At what point are the adjusted levels of performance provided to a LWDB so that we can see the changes made once the statistical model is applied in alignment with economic conditions and characteristics of participants served?”

**Response:**

The department thanks you for your comment. Such clarification is best accomplished through program operational guidance and development of technical assistance as needed. No change to policy to incorporate this guidance was made.

**Comment:**

A commenter suggested, that, beginning on Page 3 at “Negotiation Process,” the department “...create and incorporate an engagement process with local workforce development boards and provider organizations prior to *Step. A Local Area Request* and on an on-going basis.

“The rearview-looking mirror of setting performance standards does not often meet the ebbs and flows of the economy – today’s tight labor market may not be reflected in a performance metric determination that relies on an ineffective statistical model and/or unemployment levels that were more robust.

“Viewing performance management as an on-going function rather than a single point in time, the Department can work with local boards and organizations to examine common measures more closely (projections, more timely access to performance status), direct resources and supports to proactive performance improvement, support sub-population performance activities to inform equitable program design and service delivery, local and regional technical assistance needs, and more.

“The Department, including the Center for Workforce Information and Analysis, and/or State Workforce Board would take on functions that could include the development and sharing of public data through reports that go beyond the federal mandates and moves to inform policy-making, program design, integrated services, and resource allocation.

“We also ask the Department to address its ability to provide staff training and capacity building that help local workforce boards and provider organizations to best understand performance data and how to strategically use the data.”

**Response:**

The department thanks you for your comments and suggestions; however, as this policy is limited in scope to explaining WIOA-mandated metrics and procedures, no changes were made to the policy in response to these suggestions. Such clarification is best accomplished through program operational guidance and development of technical assistance as needed. The suggestion, from a programmatic or process standpoint, will be fully considered.

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### **Comment:**

We ask the Department to clearly identify intention and plans related to Title I performance assessment activities as it relates to the responsibilities of the State Workforce Development Board and its charge around aligning workforce development programs in the State, development and continuous improvement of the system, and the dissemination of best practices. Additionally, we ask the Department to support and foster shared accountability with cross-agency partners that sit on the State Board whose employment and training programs may often serve similar customers as WIOA Title I through co- or dual-enrollment, shared services, and shared staffing.

### **Response:**

The department thanks you for your comments and suggestions; however, as this policy is limited in scope to explaining WIOA-mandated metrics and procedures, no changes were made to the policy in response to these suggestions. Such clarification is best accomplished through program operational guidance and development of technical assistance as needed. The suggestion, from a programmatic or process standpoint, will be fully considered.

### **Comment:**

We ask the Department to carefully and clearly articulate performance data in appropriate context that allows public viewers of a dashboard to make informed interpretations using descriptions, common definitions, etc.

### **Response:**

The department thanks you for your comments and suggestions; however, as this policy is limited in scope to explaining WIOA-mandated metrics and procedures, no changes were made to the policy in response to these suggestions. Such clarification is best accomplished through program operational guidance and development of technical assistance as needed. The suggestion, from a programmatic or process standpoint, will be fully considered.

### **2020 Public Comment**

The department received the following public comments during the 2020 published comment period. Responses to those comments are included below.

**Comment:** Some consideration should be made for those whose second or fourth quarter falls during the winter months when seasonal employees in construction are typically laid off. They may be employees of a construction or otherwise seasonal industry but just not working during those down months.

**Response:** The department has considered commenters' concerns regarding the potential impact of seasonal employment, but Sec. 116(b)(2)(A)(i)(I) and (II) of WIOA specifically require that employment be measured at the 6- and 12-month mark (second and fourth quarters respectively). Given the specificity of the quarters to be measured for purposes of the performance accountability system, the department does not have the authority to make the requested modification. No change to the regulatory text is being made in response to this comment.

**Comment:** The state may want to consider submitting a waiver of the quarterly wage for youth and evaluating a dollar per hour goal. Many youth are hired by temp agencies and others are not given 40 hour work weeks. A much fairer and more realistic goal for youth programs would be to place them in employment with a certain per hour wage goal.

**Response:** The department acknowledges the concern raised by the commenter. However, employers submit wage data per employee as a quarterly aggregate but do not provide the number of hours worked. Therefore, an hourly wage goal is unmeasurable based on available administrative data. In addition, the department recognizes median earnings levels will vary across programs due to the differences in

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individuals being served, which is considered during negotiations, as well as accounted for in the statistical adjustment model used to evaluate performance.

**Comment:** Credit should be given to any student who achieves a GED or High School Diploma regardless of whether or not they are subsequently employed after exit. To be fair, high school students and college graduates do not lose credit for their diplomas or degrees if they do not secure a job after graduation. Why would you want to penalize youth programs who have successfully gotten students to pass a GED test by taking away credit for the accomplishment if the student does not get a job or enroll in training during the following year?

**Response:** The department acknowledges the concern raised, but the method by which a Youth is determined to have met the credential attainment measure is statutorily defined in WIOA Sec. 116 b.3.A.i.IV and WIOA Sec. 116.3.A.iii. The department does not have the authority to modify statutory requirements.

**Comment:** ServSafe should absolutely be a credit as an industry recognized credential. Just go into any food establishment in the country and you will see numerous ServSafe certificate [sic] on the walls of these businesses. If ever there was a true definition of what an EMPLOYER RECOGNIZED CERTIFICATE is, that would be ServSafe.

**Response:** The department acknowledges the concern raised, but the Training and Employment Guidance Letter (TEGL) 10-16, Change 1, issued by the U.S. Department of Labor's Employment and Training Administration, defines a recognized postsecondary credential as a credential awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills necessary to obtain employment or advance within an industry/occupation. The TEGL further clarifies that credentials attesting to general skills such as work readiness, hygiene or safety do not meet the definition even though they are broadly required to qualify for entry-level employment or advancement in employment. Therefore, the requested modification cannot be incorporated.

**Comment:** Since the intention of this measurement is for what active students are accomplishing, a program should not lose the MSG credit at the end of the program year. For example, John Doe is an active student in PY 2019. He achieves an MSG as a ServSafe certificate. He is still active in July 2020, the program loses the credit for John but in reality John is still an active student and he still has the ServSafe credential which is good for three years. He is an ACTIVE STUDENT WITH AN MSG. It is patently unfair for the program to lose credit just because John's enrollment overlaps program years.

**Response:** The method by which a participant is determined to have achieved a measurable skill gain is statutorily defined in WIOA Sec. 116 b.3.A.i.V and further clarified in Training and Employment Guidance Letter (TEGL) 10-16 Change 1. As such, the specifications by which an individual is determined to have achieved a measurable skill gain cannot be modified.