

COVID-19 Flexibility Guidelines for the Maryland Workforce System | June 25, 2020

- TO:** Maryland Department of Labor (MD Labor) Division of Workforce Development and Adult Learning (DWDAL) staff; Local Workforce Development Area Directors; Local Administrators of WIOA Title II Adult Education provider programs
- FROM:** DWDAL, MD Labor
- SUBJECT:** COVID-19 Flexibility Guidelines for the Maryland Workforce System
- PURPOSE:** To provide policy guidance on permitted flexibilities during Maryland’s State of Emergency due to COVID-19
- ACTION:** Local Workforce Development Area directors, American Job Center Labor Exchange Administrators, Local Administrators of WIOA Title II Adult Education provider programs, and central office managers will ensure all employees are aware of and receive copies of this policy. DWDAL policies are available [on the MD Labor website](#).
- EFFECTIVE:** March 5, 2020
- EXPIRATION:** 30 calendar days after the State of Emergency ends, unless otherwise required by Governor's Executive Order or by federal authorities.

QUESTIONS:

Lauren Gilwee, Director
Policy
DWDAL
410.767.2268
lauren.gilwee@maryland.gov

Lloyd Day, Director
Office of Workforce Development
DWDAL
410.767.2995
lloyd.day@maryland.gov

Terry Gilleland, Director
Adult Education and Literary Services
DWDAL
410-767-2924
terry.gilleland@maryland.gov

GENERAL INFORMATION

COVID-19 AND THE MARYLAND RESPONSE

Governor Larry Hogan acted early and aggressively to address the COVID-19 pandemic as it gained a footprint in Maryland, declaring a State of Emergency on March 5, 2020. As the crisis evolved, the Governor issued a series of Executive Orders aimed at encouraging social distancing to further slow the spread of disease. An Executive Order¹ issued March 23, 2020 closed all non-essential businesses in the State, and a “Stay-at-Home” directive followed on March 30, 2020. The pandemic has had a substantial impact upon Maryland’s economy, with 759,252 new Unemployment Insurance claimants between March 1 and June 6, 2020.²

WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA)

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014, and went into effect July 1, 2015. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. To help both businesses and job seekers meet their needs, the workforce system established under WIOA is integrated by design. WIOA envisions connecting businesses with job seekers through meaningful partnerships among workforce, education, human services, and economic development entities to ensure optimum results and leveraging of resources. The law addresses the needs of job seekers by establishing a workforce system that helps them access employment, education, training, and support services to succeed in the labor market. Through the American Job Centers (AJCs), WIOA works to address employer needs by matching them to the skilled workers they need to compete in the global economy.

WORKFORCE SYSTEM FLEXIBILITY DURING COVID-19

Recognizing the significant impacts of COVID-19 and associated disruptions to services, federal and state governments are allowing extensions, flexibilities, exemptions, etc. to certain requirements of workforce development and adult education programming. This policy serves to memorialize the temporary flexibilities for the State of Maryland during the pandemic period.

Both the U.S. Department of Labor (USDOL)’s Employment and Training Administration (ETA) and the U.S. Department of Education (DoED)’s Office of Career, Technical, and Adult Education (OCTAE) have released COVID-19 related guidance outlining new, temporary permissions to grantees. While this policy does not list *all* federally-granted exceptions, pertinent examples are noted in the subsequent section and comprehensive lists of current allowances are available at the links below:

(USDOL ETA) <https://www.dol.gov/agencies/eta/coronavirus>

(DoED OCTAE) <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

MD Labor encourages providers to regularly check these websites, as guidance during the pandemic period continues to evolve.

In addition to the abovementioned federal permissions, MD Labor recognizes the need for flexibility and will permit the changes to State policies and procedures noted in this issuance. Allowances are organized into three

¹ Executive Orders related to Maryland’s COVID-19 response are available at: <https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>

² A week-by-week account of Unemployment Insurance claims in Maryland is available at: <http://labor.maryland.gov/employment/uicounty.shtml>

categories: General Operations, Programming, and Reporting. Where relevant, the related MD Labor policy is noted.

GENERAL OPERATIONS FLEXIBILITIES

1. USDOL allows grantees to use funds to purchase cleaning supplies, as long as they are being used for the benefit of the grant program (e.g., in grantee spaces or a proportionate share of shared spaces).
2. USDOL allows programs to charge a grant for employees working on COVID-19 related functions (i.e. sanitizing the building, etc.) rather than grant-related functions, as long as that work is for cleaning and sanitizing of dedicated common space that is used to house program staff and participants.
3. USDOL allows grantees (including Local Areas) to increase their allocations for administrative costs from 10 percent to 20 percent.³
4. MD Labor extends the expiration date of the current Resource Sharing Agreements to June 30, 2021 (Associated MD Labor policy: [*PI 2016-09 WIOA Memoranda of Understanding & Resource Sharing Agreements*](#)).
5. MD Labor approves the use of electronic signatures.⁴ Local Areas must reflect electronic signature procedures in local policies.
6. MD Labor waives the requirement that training providers applying to the Eligible Training Provider List submit letters from employers or customers with their application (Associated MD Labor policy: [*PI 2017-09 WIOA Title I Training & Maryland's Eligible Training Provider List*](#)).

PROGRAMMING FLEXIBILITIES

1. MD Labor approves the use of virtual enrollment for programs and encourages Local Areas and adult education providers to write their own virtual enrollment procedures. Processes must adhere to [*PI 2019-04 Privacy and Data Security*](#).
2. MD Labor approves the use of remote testing to assess participants in cases where assessments were administered online prior to the transition to distance learning. Assessments must be conducted in accordance with the provisions outlined by OCTAE⁵ and adhere to requirements established by the test publisher (Associated MD Labor policy: [*PI 2019-09 Basic Education Skills and English Language Assessments*](#)).
3. MD Labor permits FY21 Consolidated Adult Education and Family Literacy Services grantees to enroll students into programming without administering a National Reporting System (NRS)-approved pre-test. Due to the challenges presented by distance learning, Adult Education WIOA Title II providers⁶ may utilize alternative

³ Definition of administrative costs can be found at: [20 CFR 683.215](#)

⁴ Uniform guidance allowing the use of digital or electronic means to collect, transmit and store information can be found at: [2 CFR 200.335](#).

⁵ Related OCATE Program Memoranda 20-3 and 20-4 are available here: <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

⁶ WIOA Title I providers who opt to utilize formal assessments must continue to use the NRS-approved tests listed in the State's policy on assessments. DWDAL policy issuances are available here: <http://www.labor.maryland.gov/employment/mpi/>.

assessments, as outlined by OCTAE⁷ (Associated MD Labor policy: [PI 2019-09 Basic Education Skills and English Language Assessments](#)).

4. During the State of Emergency, Unemployment Insurance (UI) claimants are exempt from the requirement to actively seek work while receiving benefits, including those identified for the Reemployment Services and Eligibility Assessment (RESEA) program. Per an Executive Order from MD Labor Secretary Tiffany Robinson dated May 12, 2020, this permission will expire 30 calendar days after the end of the State of Emergency (Associated MD Labor policy: [PI 2019-14 Reemployment Services and Eligibility Assessment Program](#)).

5. During the State of Emergency, selected UI claimants are still required to attend RESEA workshops remotely, however claimants may miss **one** workshop without penalty. Upon missing two RESEA workshops, RESEA facilitators must refer the claimant to the Division of Unemployment Insurance (DUI), at which time benefits may be suspended, DUI adjudication may occur, and benefits may ultimately be denied (Associated MD Labor policy: [PI 2019-14 Reemployment Services and Eligibility Assessment Program](#)).

REPORTING FLEXIBILITIES

1. During the State of Emergency, MD Labor permits programs to use code “001 – Hold, waiting for activities” in the Maryland Workforce Exchange (MWE) when reporting on customers who are in trainings that are unable to operate due to COVID-19. In these cases, the State recommends adding the following case note to the physical and MWE file: “Customer placed on hold status due to Governor Hogan’s Executive Orders related to COVID-19 precautions.” Once programs are reconvened, participants must be placed back in training mode, if warranted. If the training status changes due to COVID-19, this alteration must be noted in the case notes and updated in the MWE. If a provider does not reopen and the training is discontinued, staff must end the training service in MWE with the actual end date indicated.

2. During the State of Emergency, MD Labor permits programs to use the code “001 – Hold, health/medical” in the MWE when reporting on customers who have contracted COVID-19 or are caring for a family member with the virus and are therefore unable to participate in services for a period of time.

MONITORING

MD Labor will continue programmatic and fiscal monitoring during the State of Emergency, including both remote desk and on-site activities (when safety and local health regulations permit). Monitoring conducted during, or monitoring based on, the period outlined in this policy issuance shall be conducted in adherence to all flexibilities noted herein.

FAIR PRACTICES AND ACCESSIBILITY

It is the policy of MD Labor that all persons have equal opportunity and access to services and facilities without regard to race, religion, color, sex, age, national origin or ancestry, marital status, parental status, sexual orientation, disability or veteran status. Local Areas or adult education providers working with participants in need of

⁷ Related OCATE Program Memorandum 20-5 is available here: <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

accommodations are responsible for securing the necessary support. Providers may refer to MD Labor's Nondiscrimination Plan⁸ and Language Access Plan⁹ for more information on accommodations and services.

REFERENCES

LAW

- [Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19](#), dated March 5, 2020;
- [Executive Orders and Interpretive Guidance related to COVID-19](#), Governor Larry Hogan, State of Maryland;
- [Workforce Innovation and Opportunity Act \(WIOA\)](#), 29 U.S.C. § 3101 et. seq (2015); and
- [WIOA Final Regulations](#) (Federal Register Vol. 81, No. 161, August 19, 2016).

REGULATIONS

- [2 CFR 200.335](#), Uniform guidance allowing the use of digital or electronic means to collect, transmit and store information; and
- [20 CFR 683.215](#), Definition of administrative costs.

FEDERAL GUIDANCE

- [OCTAE COVID-19 Flexibilities and Interpretive Guidance](#); and
- [USDOL COVID-19 Flexibilities and Interpretive Guidance](#).

OTHER RESOURCES

- [DWDAL Policy Issuances](#).

⁸ MD Labor's Nondiscrimination Plan is available at the following link: <http://www.labor.maryland.gov/employment/ndp/>.

⁹ The DWDAL and Division of Unemployment Insurance Language Access Plan is available at the following link: <http://www.labor.maryland.gov/employment/wioa-access.pdf>.