



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF CAREER, TECHNICAL, AND ADULT EDUCATION

PROGRAM MEMORANDUM OCTAE 18-2

DATE: February 23, 2018

TO: State Directors of Adult Education

FROM: Michael E. Wooten /s/
Acting Assistant Secretary for
Career, Technical, and Adult Education

RE: Establishing Expected Levels of Performance and Negotiated Levels of
Performance for Program Years (PY) 2018–19 and 2019–20

Purpose

This memorandum describes the criteria and procedures the U.S. Department of Education (ED), Office of Career, Technical, and Adult Education (OCTAE) will use when considering a State's expected levels of performance and negotiated levels of performance for Program Year (PY) 2018–19 and PY 2019–20 for the Adult Education and Family Literacy Act (AEFLA) program. These levels are required under sections 116(b)(3)(A)(iii) and (b)(3)(A)(iv)(II) of the Workforce Innovation and Opportunity Act (WIOA).

Background

ED and the U.S. Department of Labor (DOL) (Departments) collaborated on the implementation of the performance accountability requirements in section 116 of WIOA. This important effort focused primarily on: (1) developing the definitions and data elements for each of the six primary indicators of performance in section 116(b)(2)(A) and their applicability to the six core programs, which include the AEFLA program; (2) developing the statistical adjustment model required by section 116(b)(3)(A)(viii); (3) decisions concerning the model's application in setting negotiated and adjusted levels of performance; and (4) decisions concerning the approach to negotiations for establishing negotiated levels of performance.¹

The primary indicators of performance are:

- (I) the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;

¹ See 34 CFR §§ 463.150-463.240.

- (II) the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;
- (III) the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;
- (IV) the percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent, during participation in or within one year after exit from the program (if such participants, in addition to obtaining such diploma or its recognized equivalent, have obtained or retained employment or are in an education or training program leading to a recognized postsecondary credential within one year after exit from the program);
- (V) the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment; and
- (VI) the indicators of effectiveness in serving employers.

The Departments used transition authority under section 503(a) of WIOA to establish a phased-in approach of negotiating and setting levels of performance for the first two program years of the initial four-year Unified or Combined State Plan. This phased-in approach was necessary because each core program was at a different stage with respect to availability of requisite data for establishing expected levels of performance and reaching agreement on the negotiated levels of performance. Specifically, some programs have historical data on similar past performance indicators that could serve as proxy data for establishing expected levels of performance and forming the basis for the negotiations to establish negotiated levels of performance. However, others have little to no proxy data to use for this purpose. The Departments have determined that it is necessary to continue the phased-in approach based on the availability of requisite data on performance indicators for PYs 2018–19 and 2019–20. Therefore, the same indicators of performance that States negotiated for PYs 2016–17 and 2017–18 will be negotiated for PYs 2018–19 and 2019–20.

For PYs 2018–19 and 2019–20, OCTAE will negotiate levels of performance with States for one indicator for the AEFLA program – the measurable skill gain (MSG) indicator. OCTAE will continue to collect baseline data for the other five primary performance indicators during this period. DOL will negotiate levels of performance with States for four of the indicators to produce initial performance levels for core programs under titles I and III for PYs 2018–19 and 2019–20 because those programs have significant history of collecting relevant data under the Workforce Investment Act of 1998 (WIA). DOL will collect baseline data for the two remaining indicators. For PYs 2018–19 and 2019–20, ED’s Rehabilitation Services Administration (RSA) will not negotiate levels of performance for any of the indicators for the Vocational Rehabilitation program under title IV because it lacks sufficient proxy data to form the basis for establishing expected levels or adjusted levels of performance. Instead, RSA will continue to work with States on baseline data collection for all of the indicators and the approach to establishing appropriate levels of performance in future years.

This Program Memorandum pertains solely to the AEFLA program. DOL will issue its own guidance for negotiating performance goals for the WIOA titles I and III programs for PY 2018–19 and PY 2019–20. The Departments will jointly issue comprehensive guidance on the overall negotiation process, including the use of the statistical adjustment model to set and revise levels of performance, in PY 2020–21. The additional guidance will form the basis for setting expected levels of performance and establishing negotiated levels of performance for all six core programs on all six primary performance indicators for the next four-year Unified or Combined State Plan, beginning in PY 2020–21.

Primary Indicators of Performance – PYs 2018–19 and 2019–20

Under WIOA, each State submitting a Unified or Combined State Plan modification is required to submit expected levels of performance for each of the primary indicators of performance for the third and fourth years covered by the plan. Similar to the requirement for the first two years of the plan, the State is required to reach agreement with the Secretary of Labor, in conjunction with the Secretary of Education, on State negotiated levels of performance for the indicators for the two years covered by the State Plan modification (the third and fourth years of the State Plan).²

To ensure the continued transition to the performance accountability system in section 116 of WIOA, for PYs 2018–19 and 2019–20, the Departments will continue to use the transition authority under section 503(a) of WIOA to designate certain primary indicators of performance as “baseline” indicators in the two-year State plan modification. A “baseline” indicator is one for which States will not propose an expected level of performance in the plan modification and will not need to come to agreement with the Departments on negotiated levels of performance. “Baseline” indicators will not be used in the end of the year performance calculations and will not be used to determine failure to achieve adjusted levels of performance for purposes of sanctions; however, States will collect and report on all primary indicators of performance, including those that have been designated as “baseline.” States began collecting data for performance reporting in PY 2016–17 and will continue to collect this data for PYs 2018–19 and 2019–20. The actual performance data reported by States for indicators designated as “baseline” in the first four years of the Unified or Combined State Plan will serve as baseline data in future years.

The Departments have designated as baseline indicators those primary indicators for which it is unlikely that there are adequate data on which to base a reasonable determination of an expected level of performance. Such a designation will vary across core programs.³

AEFLA Performance Negotiations – PYs 2018–19 and 2019–20

For the AEFLA program, States are required to propose in their two-year modification plan submission expected levels of performance for only MSG indicator established by section

² See 34 CFR § 463.170(a)(2).

³ See [OCTAE Program Memorandum 18-1: Two-Year Modification Requirements for WIOA Unified and Combined State Plans](#), Attachment I (January 19, 2018).

116(b)(2)(A)(i)(V). This means that States must come to agreement with ED on a negotiated level of performance for only this indicator. The remaining five performance indicators will continue to be considered “baseline” for PYs 2018–19 and 2019–20. For the purpose of performance negotiations that occur in the spring of 2018, a State must propose an expected level of performance for the MSG indicator informed by its PY 2016–17 MSG data collected in the first year of data collection under WIOA and the factors outlined below.

Under 34 CFR § 463.170(b), there are four factors that ED must consider in the process of reaching agreement with a State on a negotiated level of performance to be included in the approved Unified or Combined State Plan modification:

- (I) how the negotiated levels of performance compare with State levels of performance established for other States;
- (II) the application of an objective statistical model established by the Secretaries of Labor and Education that will be based on— (1) differences among States in actual economic conditions, including but not limited to unemployment rates and job losses or gains in particular industries; and (2) the characteristics of participants, including but not limited to: indicators of poor work history; lack of work experience; lack of educational or occupational skills attainment; dislocation from high-wage and high-benefit employment; low levels of literacy; low levels of English proficiency; disability status; homelessness; ex-offender status; and welfare dependency;
- (III) how the negotiated levels promote continuous improvement in performance based on the primary indicators and ensure optimal return on the investment of Federal funds; and
- (IV) the extent to which the levels negotiated assist the State in meeting the performance goals established by the Secretaries of Labor and Education for the core programs in accordance with the Government Performance and Results Act of 1993, as amended.⁴

In the negotiation process in spring of 2018, for purposes of the AEFLA program, ED will consider the above factors, except for the application of the statistical adjustment model, which cannot be used until there are sufficient data to populate the model.⁵ No sanctions are associated with the PY 2018–19 and PY 2019–20 adjusted levels of performance.

⁴ WIOA section 116(b)(3)(A)(vi) requires the Secretary of Labor, in conjunction with the Secretary of Education, to establish national performance goals for the core programs, in accordance with the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and the amendments made by that Act, and in consultation with States and other appropriate parties. These national goals must be long-term goals for the adjusted levels of performance that are to be achieved by each of the other core programs for the primary indicators of performance.

⁵ The objective statistical adjustment model will be: (1) applied to the core programs’ primary indicators upon availability of data which are necessary to populate the model; (2) used before the beginning of a program year in order to reach agreement on State negotiated levels for the upcoming program year; and (3) used to revise negotiated levels at the end of a program year based on actual economic conditions and characteristics of participants served, consistent with section 116(b)(3)(A)(vii) of WIOA. (See 34 CFR § 463.170(d)).

Instructions for Setting Expected Levels of Performance

Attached to this memo is an Excel workbook that contains a tool to assist you in developing a State expected level of performance for the MSG indicator. The MSG calculations within the worksheet represent both Educational Functioning Level (EFL) gain and secondary school diploma (or recognized equivalent) completion. The first worksheet (tab Worksheet) allows you to select your State and, once selected, your State's PY 2016–17 data will populate the sheet. You can then enter expected levels of performance for each EFL for PY 2018–19 and PY 2019–20, and the worksheet will calculate a weighted estimate for your State's "Expected Level of Performance" for MSG, based on the participant counts for each entering EFL level. The other tabs contain fields for Quartile information, state target information, and MSG outcomes disaggregated by entering EFL. The "Combined MSG Quartile" tab is a sortable worksheet containing MSG data sorted by each EFL, by State. The remaining tabs contain State data.

The median MSG is indicated at the bottom of each column on the "MSG by EFL", "MSG Combined Quartiles", and "Combined Quartile Ranks" tabs, and there is a 10 percent performance band drawn around the median. For purposes of proposing expected levels of performance to ED, please consider the following:

- States that are ranked in the bottom half of Quartile 1 are encouraged to propose expected levels of performance that will move them into Quartile 2.
- States that are ranked in the top half of Quartile 1 are encouraged to propose expected levels of performance that will move them into the bottom of the banded section.
- States that are in Quartile 2 and below the bottom band are encouraged to propose expected levels of performance that will move them into the banded area.
- States that are in the banded area and below the median are encouraged to propose expected levels of performance to reach or exceed the median.
- States that are in Quartiles 3 and 4 are encouraged to propose expected levels of performance that show continuous improvement.

The State Plan two-year modification is due no later than March 15, 2018. States will submit expected levels of performance for PY 2018–19 and PY 2019–20 for consideration into the WIOA State Plan portal. Your Area Coordinator will follow up if any information or clarification is needed. The negotiation process culminates with the review and approval by the Acting Assistant Secretary for Career, Technical, and Adult Education. The State Plan must be updated in the portal to incorporate the approved negotiated levels of performance after the conclusion of the negotiation process.