

MISSISSIPPI
Draft
State Policy Number 10, Revision 1
WAIVERS AND WORK-FLEX
Workforce Investment Act
Mississippi Department of Employment Security

I. SCOPE AND PURPOSE

On September 30, 2005, the United States Department of Labor (DOL) granted Mississippi's request to waive many Workforce Investment Act (WIA) rules and requirements. A copy of the DOL approval is attached to this policy. Mississippi also became the first state to be granted work-flex authority, permitting the State to waive additional rules at the request of local workforce areas. The purpose of this policy is two-fold: 1) to provide notice of the waivers already granted and 2) to establish the process for the granting of additional waivers using work-flex authority. This policy overrides a host of WIA rules and requirements, including provisions and requirements in other State policies.

II. REQUIREMENTS

A. WAIVERS GRANTED

The following waivers have been granted by DOL.

1. Common Performance Measures
Effective Statewide on July 1, 2005

Mississippi has replaced the old 17 WIA performance standards with nine new Common Measures, three each for the WIA adult, dislocated worker and youth programs. Exits as far back as October 1, 2004 will factor into Common Measure retention, earnings gains and degree attainment scores.

No incentives or sanctions will result from the coming year's performance scores. Scores achieved during the second year, July 1, 2006 through June 30, 2007, will trigger incentives and sanctions. Exits after October 1, 2005 will affect PY 2006 scores. Reporting instructions, training and technical assistance on the Common Measures will be provided and updated throughout the next two years.

2. Hurricane Katrina Performance Exception

Individuals who relocated due to Hurricane Katrina or who are unable to participate in planned training or employment activities due to Hurricane Katrina must remain included in all performance reports, but may be excluded from performance calculations. The mechanics for implementing this exclusion will be developed and communicated to the local workforce areas.

3. 100% OJT Reimbursement Due to Adverse Hurricane Katrina Impact

Effective October 1, 2005 through March 31, 2006.

Local areas are encouraged to immediately to establish or revise policies and procedures to allow for reimbursing businesses up to 100% of trainee wages if the business or the trainee has been adversely impacted by Katrina. Each local area should adopt a brief policy or procedure implementing this waiver which provides equitable treatment for similarly situated businesses and trainees, specifying the criteria for determining reimbursement rates. Such criteria should include but not be limited to the measurable extent to which the business and/or were adversely affected by Hurricane Katrina and demonstrated need. All criteria considered in applying the sliding scale for reimbursement of more than 50% should be documented.

Local areas shall also take immediate steps to aggressively market on-the-job-training (OJT) to employers and potential trainees, to simplify forms and paperwork, to reduce process time and to provide technical assistance to service providers, WIN Job Center staff and partners.

4. Reduced Employer Match for Customized Training

Effective October 1, 2005 through June 30, 2007

Local areas are encouraged to immediately adopt procedures with a sliding scale, varying from 0% to 50%, for employer match for customized training. The match rate may be zero percent for businesses or trainees adversely impacted by Katrina. The local area should also consider other criteria in setting the sliding scale including but not limited to whether the employer is in a high growth sector targeted by the State's or the local area's strategic two-year WIA plan. All criteria considered in applying the sliding scale should be documented.

Again, local areas shall take immediate steps to aggressively market customized training to employers and potential trainees, to streamline forms and paperwork, to reduce process time and to provide technical assistance to service providers, WIN Job Center staff and partners.

5. Small Business Capitalization

Effective October 1, 2005 through June 30, 2007

Local areas may use WIA funds to capitalizing small businesses destroyed by Hurricane Katrina and to help individuals create new self-employment opportunities. Capitalization of up to \$5000 may be provided using WIA funds with the following stipulation:

- a. The business must employ twenty for fewer individuals and have participated in concurrent micro-enterprise or entrepreneurial training,
- b. The items purchased must reasonably relate to the conduct of the business, and
- c. The business shall not use the funds for the purchase of alcohol, entertainment expenditures, foreign travel or for the payment of fines.

Businesses, individuals, counties and communities directly and adversely impacted by Hurricane Katrina should be targeted, but other criteria for business capitalization may also be approved by the local WIB.

Marketing, streamlining and technical assistance strategies, similar to those for OJT and customized training, should begin as soon as possible.

6. Increased Training Flexibility

Effective October 1, 2005 through June 30, 2007

The period of initial eligibility for all training programs on the State's eligible training provider list is extended through June 30, 2007.

Programs will not be removed from the statewide list for failure to report or for low performance during the next two years. A local area may, however, elect to discontinue funding Individual Training Accounts (ITA's) if a given training program performs poorly.

Older and out-of-school youth, in addition to adults and dislocated workers, may continue to access ITA's at the discretion of the local area, as justified by an Individual Service Strategy (ISS).

Trainees whose programs were disrupted by Hurricane Katrina may access training necessary to complete their program, whether or not the successor training program is on the Eligible Training Provider List. Cost reasonableness should be considered, along with individual participant and community circumstances.

7. More Flexible Youth Programs

Effective October 1, 2005 through June 30, 2007

Youth who are members of families who moved from their homes due to Katrina may be considered homeless pursuant to WIA section 101(25) and, therefore, are considered low income and having barriers for eligibility purposes. A credible applicant statement constitutes sufficient verification of homelessness.

Local areas may elect not to require that all ten youth program elements be offered in areas, counties or communities adversely impacted by

Hurricane Katrina. Follow-up services are not required if a given youth moves out of the local area due to Hurricane Katrina.

Youth providers need not be competitively selected if the number or capacity of local providers has been significantly diminished due to Hurricane Katrina. Non-competitive youth provider selection shall be justified by a brief sole source rationale and a cost reasonableness determination. Cost reasonableness is based upon a careful review of the provider's line item budget, statement of work and performance expectations.

8. Unlimited Fund Transfer Between the Adult and Dislocated Worker Programs

Effective October 1, 2005 through June 30, 2007

Local areas may submit fund transfer requests to MDES at any time through June 30, 2007. Fund transfer between the adult and dislocated worker programs is unlimited and notices of fund availability will be adjusted as transfers occur. Funds may not be transferred into or out of the youth program. All the rules, performance and reporting requirements of the program into which funds are transferred will apply.

9. Local Areas May Serve Incumbent Workers, Assist with Rapid Response and Conduct Other WIA Section 134, Statewide Activities, Using Formula Adult, Dislocated Worker and Youth Funds

Effective October 1, 2005 through June 30, 2007

The Southcentral Mississippi Works and Twin Districts local workforce areas may elect to utilize all or a portion of their formula funds to conduct any of the WIA section 134 statewide activities, including incumbent worker and rapid response services. The other two local areas may utilize up to 25% of their formula funds for statewide activities. For the purposes of this waiver, "incumbent worker" means any individual who is employed at the time their eligibility is determined or at the time services are initiated. All incumbent workers must be legally able to work and must have dealt with selective service requirements. Incumbent workers need not meet other adult, dislocated worker or youth requirements. The primary purpose of this waiver is to allow local areas greater flexibility in meeting the training and employment needs of expanding Mississippi businesses and to facilitate post-Katrina growth and recovery. Use of local area formula funds for statewide activities will not remove performance and reporting requirements.

10. Relief From the 10% Administrative Cost Limit

Effective October 1, 2005 through March 31, 2006

Local areas may request permission from MDES to exceed the normal 10% administrative cost limit due to extra Hurricane Katrina related administrative expenditures. Applications must be received prior to March 31, 2006, must state the rationale for the administrative cost increase, must propose movement of a specified sum into the local administrative cost pool and will not take effect until approved in writing by MDES.

11. Flexible Fund Recapture and Reallocation

Effective January 1, 2006 through June 30, 2007

MDES may elect to recapture and reallocate local area formula or Hurricane Katrina National Emergency Grant (NEG) funds which are significantly under spent. Formula funds are considered to be significantly under spent when mid-year accrued expenditures are below 35% in any program or when year end accrued expenditures are below 80%. NEG expenditure levels will be evaluated monthly and are subject to recapture on a case-by-case basis when expenditures lag behind planned levels.

Recaptured funds will go first to local areas whose accrued expenditures exceed planned levels and second to fund statewide activities.

B. WORK-FLEX REQUESTS

Each local area may submit work-flex requests to MDES at any time through June 30, 2007. Work-flex requests are in addition to the waivers already granted and described in section II.A. of this policy.

Local areas should regularly review <http://waivers.doleta.gov/lettersState.cfm>, which lists all waivers granted to states. Any of these waivers can be implemented by your area, if approved by MDES, pursuant to work-flex authority. Other waivers should also be considered, but may require DOL permission prior to implementation.

Examples of local area waivers which could be granted include 1) cash incentives for adults or dislocated workers who achieve training, employment or post-placement goals, 2) elimination of barriers restricting customer movement between core, intensive and training services, and 3) expanded business services. Participant eligibility rules may not be waived.

Each work-flex waiver request should:

- List the WIA law, rule or State requirement to be waived;

- Include a brief rationale for the waiver, including the expected benefit for customers and increased program effectiveness; and
- State the waiver's effective and end date.

Work-flex waivers will take effect when approved by MESD unless a later date is proposed by the local area.

III. EFFECTIVE DATE

This policy shall be effective October 1, 2005 and shall remain in effect until it is rescinded or modified.

IV. APPROVAL

James R. Lott
Deputy Executive Director
Mississippi Department of Employment Security

Attachment – Department of Labor Letter Dated September 30, 2005