

CHAPTER 23
WORKFORCE DEVELOPMENT
PARTNERSHIP PROGRAM

Authority

N.J.S.A. 34:15D-1 et seq.; and Section 2 of P.L. 2005, c. 66.

Source and Effective Date

R.2004 d.325, effective August 16, 2004.
See: 36 N.J.R. 2299(a), 36 N.J.R. 3883(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 23, Workforce Development Partnership Program, expires on February 12, 2010. See: 41 N.J.R. 3374(a).

Chapter Historical Note

Chapter 23, Workforce Development Partnership Program, became effective April 4, 1994 with Subchapters 3, 4 and 5. Subchapter 3, Individual Training Grants, was adopted as R.1994 d.166; Subchapter 4, Approved Training under the Workforce Development Partnership Act, was adopted as R.1994 d.167; and Subchapter 5, Additional Unemployment Benefits during Training, was adopted as R.1994 d.168. See: 25 N.J.R. 884(a), 26 N.J.R. 1512(a); 25 N.J.R. 886(a), 26 N.J.R. 1514(a); 25 N.J.R. 887(a), 26 N.J.R. 1515(a).

Subchapter 6, Employment and Training Grants for Services to Disadvantaged Workers, was adopted as R.1994 d.190, effective April 18, 1994. See: 25 N.J.R. 1054(a), 26 N.J.R. 1663(a).

Subchapter 1, Definitions, and Subchapter 2, Customized Training Services; Purpose, Eligibility and Scope, were adopted as R.1994 d.489, effective September 19, 1994. See: 26 N.J.R. 2770(a), 26 N.J.R. 3867(b). Subchapter 7, Occupational Safety and Health Training Services, was adopted as R.1994 d.490, effective September 19, 1994. See: 26 N.J.R. 2774(a), 26 N.J.R. 3870(a).

Subchapter 8, Reporting Requirements for Assessment of Employment and Training Programs, was adopted as R.1995 d.286, effective June 5, 1995. See: 27 N.J.R. 1131(a), 27 N.J.R. 2236(a).

Subchapter 9, Tuition Policies for Unemployed Persons: Job Training Program, was adopted as R.1998 d.368, effective July 20, 1998. See: 30 N.J.R. 1750(a), 30 N.J.R. 2631(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Workforce Development Partnership Program, was readopted as R.1999 d.138, effective April 1, 1999. See: 31 N.J.R. 588(b), 31 N.J.R. 1199(a).

Subchapter 8, Reporting Requirements for Assessment of Employment and Training Programs, was repealed and Subchapter 9, Tuition Policies for Unemployed Persons: Job Training Program was reclassified as Subchapter 8, Tuition Policies for Unemployed Persons: Job Training Program by R.2002 d.193, effective June 17, 2002. As a part of R.2002 d.193, Subchapter 9, Supplemental Workforce Fund for Basic Skills, and Subchapter 10, Records, Reports, and Performance, were adopted as new rules. See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Chapter 23, Workforce Development Partnership Program, expired on April 1, 2004.

Chapter 23, Workforce Development Partnership Program, was adopted as new rules by R.2004 d.325, effective August 16, 2004. See: Source and Effective Date.

Subchapter 8, Tuition Policies for Unemployed Persons: Job Training Program, was renamed Tuition Policies for Unemployed Persons; Job Training Program by R.2008 d.267, effective September 2, 2008. See: 40 N.J.R. 2406(a), 40 N.J.R. 5044(a).

Subchapter 13, One-Stop Career Centers; Victims of Domestic Violence, was adopted as new rules by R.2008 d.280, effective September 15, 2008. See: 40 N.J.R. 1750(a), 40 N.J.R. 5241(a).

Subchapter 12, State Rental Assistance Program; Satisfactory Progress, was adopted as new rules by R.2008 d.335, effective November 3, 2008. See: 40 N.J.R. 1755(a), 40 N.J.R. 6469(a).

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SUBCHAPTER 1. DEFINITIONS

12:23-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

“Act” means the 1992 New Jersey Employment and Workforce Development Act, P.L. 1992, c.43 (N.J.S.A. 34:15D-1 et seq.)

“Administrative cost” means any costs incurred by the Department to administer the program, including any cost required to collect information and conduct evaluations of service providers and surveys of occupations pursuant to N.J.S.A. 34:15D-1 et al. to the extent that funding is not available from Federal or other sources.

“Application fee” means the charge assessed by an institution of higher education to process a student application for admission to the institution.

“Apprenticeship Policy Committee” means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor, and the State Department of Education and consisting of a representative of the Departments of Education and Labor, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor, and a representative of the New Jersey State AFL-CIO.

“Approved training” means training that is occupational, remedial or a combination of the two that meets the requirements stated in N.J.A.C. 12:23-3.3.

“Basic skills training” means basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills, and shall be regarded as a form of remedial education. In addition to remedial education, basic skills can also include communication, interpersonal and decision-making skills.

“Certified Domestic Violence Specialist” means a person who has fulfilled the requirements of certification as a domestic violence specialist established by the New Jersey Association of Domestic Violence Professionals.

“Commissioner” means the Commissioner of Labor or the Commissioner’s designees.

“Customized training services” means services that are provided by the Office of Customized Training or through arrangements made or coordinated by the Office of Customized Training.

“Department” means the New Jersey Department of Labor.

“Domestic violence” means the occurrence of one or more of the following acts inflicted upon a person protected under the Prevention of Domestic Violence Act of 1991, N.J.S.A. 2C:25-17 et seq., by an adult or an emancipated minor:

1. Homicide (N.J.S.A. 2C:11-1 et seq.);
2. Assault (N.J.S.A. 2C:12-1);
3. Terroristic threats (N.J.S.A. 2C:12-3);
4. Kidnapping (N.J.S.A. 2C:13-1);
5. Criminal restraint (N.J.S.A. 2C:13-2);
6. False imprisonment (N.J.S.A. 2C:13-2);
7. Sexual assault (N.J.S.A. 2C:14-2);
8. Criminal sexual contact (N.J.S.A. 2C:14-3);
9. Lewdness (N.J.S.A. 2C:14-4);
10. Criminal mischief (N.J.S.A. 2C:17-3);
11. Burglary (N.J.S.A. 2C:18-2);
12. Criminal trespass (N.J.S.A. 2C:18-3);
13. Harassment (N.J.S.A. 2C:33-4); and/or
14. Stalking (N.J.S.A. 2C:12-10).

“Domestic Violence and Workforce Development Initiative Act training” means instruction with regard to the effective implementation of section 2, subsections (b), (c), (d) and (e) of the Domestic Violence and Workforce Development Initiative Act, P.L. 2005, c. 309 (N.J.S.A. 34:1A-1.7 et seq.).

“Domestic violence liaison” means a designated Department employee within each One-Stop Career Center, to whom a self-assessed victim of domestic violence shall be directed and whose functions shall include:

1. With regard to unemployment compensation claimants, to make referrals to services determined to be appropriate in the case of the individual, including, but not limited to, any appropriate referral to a designated domestic violence agency as defined at N.J.S.A. 43:21-5(j) or a community shelter for victims of domestic violence certified pursuant to standards and procedures established by N.J.S.A. 30:14-1 et seq., and to disclose the rights that the individual may have to unemployment compensation pursuant to N.J.S.A. 43:21-5(j); and
2. With regard to individuals utilizing counseling or employment services under N.J.S.A. 34:15B-38, 34:15D-7 or 43:21-59, to make referrals to services determined to be appropriate in the case of the individual, including, but not

limited to, any appropriate referral to a designated domestic violence agency as defined at N.J.S.A. 43:21-5(j) or a community shelter for victims of domestic violence certified pursuant to standards and procedures established by N.J.S.A. 30:14-1 et seq., to disclose the rights that the individual may have to unemployment compensation pursuant to N.J.S.A. 43:21-5(j), and to assume responsibility for counseling the individual in the design of his or her Employability Development Plan, which plan shall be developed to include appropriate accommodations for the individual’s needs as a victim of domestic violence.

“Eligible individual” means a qualified displaced worker or a qualified employed worker. For remedial education, eligible individuals also include qualified disadvantaged workers, qualified individuals with disabilities, individuals with learning disabilities, and individuals seeking to enter apprenticeship training.

“Eligible training provider list” means a list of all training providers who meet the requirements established by the State Employment and Training Commission.

“Emancipated minor” means a person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant or has been previously declared by a court or an administrative agency to be emancipated.

“Employability Development Plan” (EDP) means a written signed agreement between a qualified job counselor and a participant in which an occupational goal, course of training or educational and other related activities in the Workforce Development Partnership Program are specified based on an assessment of the individual. The EDP may include occupational training, remedial education, or a combination of both.

“Employer” or “business” means any employer subject to the provisions of N.J.S.A. 43:21-1 et seq.

“Employment and training services” means:

1. Counseling;
2. Occupational training;
3. Remedial education; or
4. Occupational safety and health training.

“English as a Second Language” means training designed for persons with limited English language skills to prepare them in the acquisition of understanding, speaking, reading and writing the English language and skills necessary to function effectively in an English speaking environment, in order to enter other basic skills and remediation programs, and to obtain or retain suitable employment. Persons with limited English language skills are those whose primary language is other than English and who have been assessed to be in need of instruction in English as a second language. An

adult's primary language is the language most relied upon by the adult for communication or the language most spoken by the adult in his or her home and work environment.

"Fund" means the Workforce Development Partnership Fund.

"General fee" means the charges assessed by an institution of higher education on all students to provide general support for teaching and learning, such as library fees or technology fees, and those fees assessed by an institution on all students to support purposes or functions not directly related to teaching and learning, such as recreation centers, student organizations, career placement services, and athletic activities.

"Identifiable job skills" means a specific ability which provides for a reasonable opportunity for employment in an occupation.

"Labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers as determined by the New Jersey Occupational Information Coordinating Committee (NJOICC) or as recommended by the local Workforce Investment Board (WIB) and approved by the Director of NJOICC based on documented local labor market data and projected labor market conditions.

"Local Workforce Investment Area" means the geographic area approved by the Governor with the assistance of the State Employment and Training Commission for all workforce activities.

"Local Workforce Investment Board" means the board approved and certified by the Governor with the assistance of the State Employment and Training Commission.

"New Jersey Occupational Information Coordinating Committee (NJOICC)" is the interagency consortium responsible for developing, managing, and overseeing a Statewide comprehensive occupational labor market supply and demand system to meet the common information needs for the planning for, and the operation of, all public training and job placement programs.

"Occupational license" means a license, registration or certificate which, when issued by an authorized entity of government, enables an individual to work within a recognized occupation in the State of New Jersey.

"Occupational safety and health training" means training or education that is designed to assist in the recognition and prevention of potential workplace health and safety hazards.

"Occupational training" means training or education that is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

"Office of Customized Training" means the Office established in the Department of Labor pursuant to N.J.S.A. 34:15D-5.

"One-Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility, as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

"One-Stop Career Center System" means that system within which all workforce investment and related programs function as if they were a single entity and as approved by the State Employment and Training Commission in the Local Strategic Five Year Unified Workforce Investment Plan.

"Program" means the Workforce Development Partnership Program.

"Qualifying agency" means any agency of State government, including, but not limited to, the Departments of Education, Human Services, Labor, and Law and Public Safety, and the Commission on Higher Education, that oversees the operation of, or collects and/or disseminates information from any qualifying school, or issues an occupational license.

"Qualified individual with a disability" means any individual assessed by the Division of Vocational Rehabilitation Services or the Commission for the Blind and Visually Impaired as disabled or an individual with learning disabilities.

"Qualified disadvantaged worker" means a worker who is not a qualified displaced worker or a qualified employed worker, but who otherwise meets the following criteria:

1. Is unemployed;
2. Is working part-time and actively seeking full-time work or is working full-time but is earning wages substantially below the median salary for others in the labor force with similar qualifications and experience; or
3. Is certified by the Department of Human Services as:
 - i. Currently receiving public assistance;
 - ii. Having been recently removed from the public assistance rolls because of gross income exceeding the grant standard for assistance; or
 - iii. Being eligible for public assistance but is not receiving assistance because of a failure to apply for it.

"Qualified displaced worker" means a worker who:

1. Is unemployed, and:
 - i. Is currently receiving unemployment benefits pursuant to N.J.S.A. 43:21-1 et seq. or any Federal or State unemployment benefit extension; or

ii. Has exhausted eligibility for benefits or extended benefits during the preceding 52 weeks; or

2. Meets the criteria set by the Workforce Investment Act of 1998, P. L. 105-220 (29 U.S.C. §§ 1651 et. seq.) to be regarded as a “dislocated worker” under that Act.

“Qualified employed worker” means a worker who is employed by an employer participating in a customized training program, or other employed worker who is in need of remedial education.

“Qualified job counselor” means an individual who is engaged in employment counseling and who meets the following standards established by the Commissioner:

1. A qualified job counselor must have a bachelor’s degree including or supplemented by:

i. Fifteen college semester hours in vocational guidance or other courses directly related to vocational counseling preparation;

ii. One year of related professional counseling experience; and

iii. Knowledge of State and Federal education laws, employment and training laws, wage and hour laws, and temporary disability and unemployment insurance laws.

2. Substitution of experience for education is allowed, provided the 15 college credits have been successfully completed. Master’s degrees in psychology, education, social work, vocational rehabilitation counseling, and personnel administration may be substituted for the one year of experience.

3. The job counselor must be an employee of the Department or an employee of an organization or agency designated by the Commissioner to deliver Workforce Development Partnership Program services.

“Registration fee” means the charge an institution of higher education assesses each term on all students when a student registers for approved courses.

“Remedial education” means any literacy or other basic skills training or education that may not be directly related to a particular occupation but is needed to facilitate success in occupational training or work performance, including training or education in basic mathematics, communication skills, decision-making skills, interpersonal skills, basic computer literacy, English proficiency, and work-readiness skills. This will enable the participant to acquire the necessary skills to attain a minimum level of proficiency needed to attain at least the level of self-sufficiency.

“Self-sufficiency” means the amount of income necessary for an individual to adequately meet his/her basic needs without public assistance. Self-sufficiency standards will be issued by the State Employment and Training Commission for each Workforce Investment Area.

“Service provider” means a provider of employment and training services including, but not limited to, a private or public school or institution of higher education, a business, a labor organization or a community-based organization. A service provider under this chapter must be located in New Jersey.

“State Employment and Training Commission” (SETC) means the agency of State government, which is in but not of the Department of Labor, designated to develop and assist in the implementation of a State employment and training policy.

“Student outcome information” means information pertaining to individual enrollment and participation in any remedial or occupationally specific education and/or training program designed to provide entry level occupational skills or provide supplemental education and/or training in a recognized occupation. This information shall include any relevant data items as specified by the SETC or the NJOICC, including, but not limited to, participant’s social security number, demographic characteristics, date of enrollment, date of completion, date of termination, date of application for a license, licensing examination result, and date of issuance of a license.

“Supplemental Workforce Fund for Basic Skills” means the fund established pursuant to section 1 of P.L. 2001 c.152, effective July 13, 2001.

“Total revenue dedicated to the program during any one fiscal year” means all monies received for the funding during any fiscal year including monies withdrawn from the State disability benefits fund pursuant to N.J.S.A. 34:15D-14, reduced by any repayment made during that fiscal year from the fund to the State disability benefits fund pursuant to that section, but does not include any monies allocated to the Supplemental Workforce Fund for Basic Skills pursuant to subsection b. of section 9 of P.L. 1992, c.43 (N.J.S.A. 34:15D-9).

“Training grant” means a grant provided to fund occupational training and any needed remedial education for an eligible individual.

“Training provider” means a provider of education or training services that is approved by a State or Federal agency authorized to approve such entities and meets the requirements of the State Employment and Training Commission and is listed on the Eligible Training Provider List. Such providers may include, but are not limited to, a private or public school or institution of higher education, a business, a labor organization, or a community-based organization. Training providers under this chapter must be located in New Jersey.

“Victim of domestic violence” means a person protected under the Prevention of Domestic Violence Act of 1991, N.J.S.A. 2C:25-17 et seq., and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse,

former spouse, or other person who is a present or former household member. "Victim of domestic violence" also includes any person, regardless of who has been subjected to domestic violence by a person with whom the victim anticipates having a child in common, if one of the parties is pregnant. "Victim of domestic violence" also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

"Vocational training" means training or instruction, which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

Amended by R.1997 d.465, effective November 3, 1997.
See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Amended "Administrative cost", "Employability development plan", "Labor demand occupation", "Office", "Qualified job counselor", "Total revenue dedicated to the program during any one fiscal year", and "Training grant".

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Rewrote the section.

Amended by R.2008 d.280, effective September 15, 2008.
See: 40 N.J.R. 1750(a), 40 N.J.R. 5241(a).

Added definitions "Certified Domestic Violence Specialist", "Domestic violence", "Domestic Violence and Workforce Development Initiative Act training", "Domestic violence liaison", "Emancipated minor" and "Victim of domestic violence"; and rewrote definition "One-Stop Career Center".

Amended by R.2008 d.335, effective November 3, 2008.
See: 40 N.J.R. 1755(a), 40 N.J.R. 6469(a).

Added definition "Vocational training".

SUBCHAPTER 2. CUSTOMIZED TRAINING SERVICES; PURPOSE, ELIGIBILITY AND SCOPE

12:23-2.1 Purpose

The purpose of this subchapter is to establish procedures concerning the application and approval process for customized training services under the Workforce Development Partnership (WDP) Program.

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Inserted "(WDP)" following "Partnership".

12:23-2.2 Eligibility and scope

(a) The following shall be eligible for customized training services:

1. An individual employer who seeks customized training services to create, upgrade, or retain jobs in a labor demand occupation;
2. An individual employer who seeks customized training services to upgrade or retain jobs in an occupation which is not a labor demand occupation, if the Commissioner determines that the services are necessary to prevent the likely loss of jobs with a negative impact on currently

employed workers, or that the services are being provided to employees at a facility which is being relocated into New Jersey;

3. An employer organization, labor organization, or community-based organization seeking customized training services to provide training in labor demand occupations in a particular industry; or

4. A consortium made up of one or more educational or training institutions and one or more eligible individual employers or labor, employer, or community-based organizations which seek customized training services to provide training in labor demand occupations in a particular industry.

(b) The following shall apply for remedial training under the customized training part of the Supplemental Workforce Fund for Basic Skills:

1. Individual employers, employer organizations, labor organizations, community-based organizations, educational institutions or consortia who seek "Supplemental Workforce Funds for Basic Skills" are eligible for customized training services for basic skills training for eligible individuals in need of remedial education as provided in N.J.A.C. 12:23-3.3(b).

(c) Basic skills training can also include communication skills, interpersonal skills, and decision-making skills in addition to remedial education.

(d) Basic skills training can be funded, through a Customized Training Application as described in N.J.A.C. 12:23-2.3.

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Added (b), (c), and (d).

12:23-2.3 Application for Customized Training Assistance

(a) It is the intent of the Workforce Development Partnership Program to link customized training services directly to the demands of the workplace by providing high quality training and education through active participation by New Jersey's business, labor communities and local Workforce Investment Boards (WIBs). The approval of applications and execution of contracts for the delivery of customized training services will be accomplished in accordance with this intent.

(b) Each applicant seeking customized training services shall submit an application for customized training to the Commissioner in a format approved by the Commissioner. The completed application shall include the applicant's (or if applicable, applicants') name, address, basic descriptive information concerning the applicant, and specific details concerning training needs and requirements. In addition, each employer will submit a business needs plan and a human resources plan. The business needs plan shall include:

1. Justification of the need for the training services and/or funding from the Office of Customized Training, including financial and other information sufficient to demonstrate to the satisfaction of the Commissioner that the applicant will be unable to provide the training service or will provide significantly less of the service if the requested funding is not provided by the Office of Customized Training;

2. A comprehensive long-term human resource development plan which:

i. Extends significantly beyond the period of time in which the services are funded by the Office of Customized Training; and

ii. Significantly enhances the productivity and competitiveness of the employer's operations located in the State and the employment security of workers employed by the employer in the State;

3. Evidence, if the training sought is for an occupation which is not a labor demand occupation, that the customized training services are needed to prevent job loss caused by obsolete skills, technological change, or national or global competition or that the services are being provided to employees at a facility which is being relocated into New Jersey;

4. Evidence that basic skills funding for the remedial training being sought is necessary to enable an individual to develop necessary skills to attain minimally the level of self-sufficiency, or the training is needed to enable the individual to succeed in occupational training, or the training is needed by the individual for career advancement;

5. Information demonstrating that most of the individuals receiving the services will be trained primarily for work in the direct production of goods or services. This does not preclude training in areas of need such as total quality management and remedial education to upgrade workplace literacy; and

6. Any additional information from a specific applicant which the Commissioner deems appropriate.

(c) Non-employer applicants will not be required to submit a business plan but will submit justification of the need for the training services and funding from the Office of Customized Training as noted in (b)1 above and the evidence and information specified in (b)4 through 6 above.

(d) For those applicants who are members of a consortium application, an overall justification for the need for training shall be provided by the lead member/organization identifying why the training is critical to this industry.

(e) Employers filing a single application shall submit complete financial statements including notes thereto along with their auditor's/accountant's report and any footnotes thereto for the three most recently completed fiscal years. If there is no report by the employer's accountant or auditor,

then the basis used to prepare the financial statements shall be disclosed. If an employer has been in business less than three years, financial statements for one or two completed years as appropriate shall be included. If an employer has been in business less than one year, business plan projections of revenues, expenses and cash flows and any notes thereto shall be submitted.

(f) Employers who are members of a consortium shall submit a "Summary Financial Information" statement for their most recently completed two years of financial activity, or if the employer has been in business less than two years, a statement based on one year's activity, or if the employer has been in business less than one year, a projection of financial summary information is required.

(g) The New Jersey Occupational Information Coordinating Committee (NJOICC) shall determine or clarify the labor demand status of an occupation which is contained in an application for customized training services upon request by the Office of Customized Training. The NJOICC shall collect, review and analyze worker supply and demand data and other relevant information; evaluate this information in the context of current and projected local, State, and/or regional labor market conditions; and provide a determination of the current and projected labor demand status of the occupation in question. In making this determination, the NJOICC may consider any relevant information provided by the Office of Customized Training and the applicant for customized training services. The determination made by NJOICC shall be utilized by the Department in its review and evaluation of applications for customized training services.

Amended by R.1997 d.465, effective November 3, 1997.
See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Inserted new (e) and (f); and recodified existing (e) as (g).

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (b), added a new 4 and recodified former 4 and 5 as 5 and 6; in (c), inserted "through 6" following "(b)4"; rewrote (e).

12:23-2.4 Conditions and standards of eligibility for customized training assistance

(a) All occupational training provided shall be training which is likely to enhance substantially the individual's marketable skills and earning power, and shall be training for a labor demand occupation, except for customized training provided to the present employees of a business which the Commissioner deems to be in need of the training to prevent job loss caused by obsolete skills, technological change, or national or global competition, or customized training provided to employees at a facility which is being relocated into New Jersey.

(b) Funds available under the program shall not be used for activities that induce, encourage, or assist any displacement of currently employed workers by trainees, including partial displacement by means such as reduced hours of currently employed workers, or replacement of laid off workers by trainees, or any relocation of operations outside of the State,

resulting in a loss of employment at previous workplaces located in the State.

(c) No activities funded by the program shall impair existing contracts for services or collective bargaining agreements,

except that activities which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

(d) Each employer that receives customized training services shall contribute a minimum of 40 percent of the total cost of the customized training services, except that the Commissioner shall set a higher or lower minimum contribution by an applicant, if warranted by the size and economic resources of the applicant or other factors deemed appropriate by the Commissioner. Examples of contributions to the costs of services include items such as a portion of trainee wages, training material, direct funds and training personnel. Non-employer applicants may be required to contribute to the cost of customized training services at an amount determined by the Commissioner and/or otherwise demonstrate a commitment to training programs through identification of prior programs, staffing or other measures as determined by the Commissioner. However, applications of non-employers would not be rejected on the basis of an inability to make contributions.

(e) Each employer receiving customized training services shall hire or retain in permanent employment for a period of not less than six months each worker who successfully completes the training and education provided through the customized training program. Failure to adhere to this requirement may result in the employer's having to refund grant dollars allocated to train these workers. The employer shall be entitled to select those workers who will participate in the customized training, except that if any collective bargaining unit represents an employed worker, the selection shall be conducted in a manner acceptable to both the employer and the collective bargaining unit. The Commissioner shall withhold a minimum of 10 percent of the Award as final payment for customized training services contingent upon the hiring and retention of the workers completing the training program. The final payment amount will be stipulated in the contract for customized training services executed between the approved applicant for customized training services and the Department.

(f) The Department requires that if the company receiving financial assistance for customized training services relocates out of State within three years following the ending date of the customized training contract, the company must return all monies provided to the company by the State for customized training services.

(g) Any employer seeking customized training services for workers represented by a collective bargaining unit shall notify the collective bargaining unit and permit it to participate in developing the plan. No customized training services shall be provided to a business employing workers represented by a collective bargaining unit without the written consent of both the business and the collective bargaining unit.

(h) Any employer receiving customized training services shall be responsible for providing workers' compensation coverage for any worker participating in the customized training.

Amended by R.1997 d.465, effective November 3, 1997.
See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

In (d), substituted "a portion of the trainee wages" for "training facilities"; and in (e), added requirement to retain trainees for not less than 6 months, inserted the second sentence, and set the minimum amount withheld by the Commissioner as 10 percent of the Award.
Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), substituted "occupational" for "vocational" following "All"; in (e) and (f), deleted "of Labor" wherever it appeared.

12:23-2.5 Review and evaluation of customized training applications

(a) In accordance with N.J.S.A. 34:15D-1 et seq., the factors that will be required in reviewing and evaluating and approving or disapproving applications for training services will at least include the following:

1. The number of jobs that the training will create, retain or upgrade;
2. How much the training will increase marketable skills and earning power of the participants;
3. How important the training is to the applicant's ability to either remain in business or to supply a trained workforce for occupations that are in demand;
4. What percentage of the individuals trained will receive training for work primarily in the direct production of goods and services;
5. How much the long-term Human Resources Development Plan will enhance the productivity and competitiveness of the employer's operations in the State and the employment security of workers employed by the employer in the State; and
6. The extent to which an applicant who is a previous recipient of a customized training contract has provided opportunity for occupational development, increased productivity and earning power.

(b) All applications will be reviewed and evaluated, with notice of approval or disapproval issued by the Department.

(c) No application will be funded unless approved by the Commissioner.

(d) All approved applicants will be required to submit information on training results as required by the Commissioner. These results may include, but are not limited to, the individual demographics of the participants, data on post training skills and wages, the impact of the training investment on company performance.

(e) The Commissioner retains the authority to modify application review factors based on the changing needs of the New Jersey economy and to establish appropriate application review and approval methods consistent with those conditions.

(f) Upon approval of the application, a contract for customized training services containing the terms and condi-

tions of the application will be executed between the applicant and the Department. A copy of the mandatory contract provisions is available from the Department upon request.

(g) The grantee/contractor agrees to make available to the Department all records and documents necessary to monitor and evaluate their performance under the terms and conditions of the Customized Training contract. The grantee/contractor shall also agree to adhere to reporting, accounting and auditing requirements of OMB Circular A-133, Audits of States, Local Governments and Non-profit Organizations, and NJ Treasury OMB Circular Letter 98-07 applicable to for-profit and not-for-profit organizations as stipulated in the customized training contract, which are adopted herein by reference.

(h) The grantee/contractor shall agree to list any new job openings with the local One-Stop Career Center.

(i) All costs related to the independent audit and written reports by the accountant/auditor are the responsibility of the grantee. These costs cannot be included as part of the grant award.

Amended by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Deleted (a)6; recodified (a)7 as (a)6; and added (g) through (m).

Amended by R.1998 d.403, effective August 3, 1998.

See: 30 N.J.R. 1749(a), 30 N.J.R. 2927(b).

In (g), added a second sentence; deleted former (h) through (l); and recodified former (m) as (h).

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (b), (c), (d), and (f), deleted "of Labor" wherever it appeared; rewrote (h); added (i).

12:23-2.6 Where to obtain and send an application

(a) Customized training applications may be obtained from the Department of Labor, Office of Customized Training.

(b) Assistance in completing an application is available from the Office of Customized Training.

(c) Completed applications should be forwarded to:

Division of Business Services, Office of Customized Training
New Jersey Department of Labor
PO Box 933
Trenton, New Jersey 08625-0933

Amended by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (c), inserted "Office of Customized Training" following "Services".

12:23-2.7 Disclosure of information

(a) Disclosure of information obtained from applicants in the course of administering customized training services under the Workforce Development Partnership (WDP) Program shall be authorized unless the information requested is non-public information as defined below:

1. Public information includes the name and location of applicants and approved applicants for customized training services as well as the number of trainees, type of training, grant amount and grant time period.

2. Non-public information includes all records concerning financial or proprietary information submitted by applicants or potential applicants for customized training services and by applicants approved for services.

(b) The Department may deny access to any correspondence, documents or other information where non-disclosure is necessary to protect the public interest.

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), inserted "(WDP)" following "Partnership"; in (b), deleted "of Labor" following "Department".

12:23-2.8 Refunds and fines

(a) The Department has the authority to recover all customized training grants improperly paid for any reason, in accordance with N.J.S.A. 34:15D-19.

(b) A \$500.00 fine shall be imposed for each incident where the grant recipient fails to comply with the provisions set forth in the customized training contract. This includes the failure to file reports as directed including, but not limited to, the closeout report, impact analysis report and auditing report. Penalties for the failure to comply with WDP contribution requirements are found at N.J.A.C. 12:16.

(c) A \$1,000 fine shall be imposed for each incident involving a false statement or misrepresentation made knowingly, failure to disclose a material fact or any attempt to otherwise defraud, or the willful violation of any section of the New Jersey Employment and Workforce Development Act and/or regulations governing this program.

New Rule, R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

SUBCHAPTER 3. INDIVIDUAL TRAINING GRANTS

12:23-3.1 Eligibility

(a) Individual training grants may be approved for qualified displaced workers, who receive employment counseling by approved job counselors resulting in an Employability Development Plan.

(c) No additional benefits shall be paid pursuant to the provisions of this subchapter for any week during which the individual receives training allowances or stipends pursuant to the provisions of any Federal law or any other state law. As used in this subchapter, "training allowances or stipends" means discretionary, cash-in-hand payments available to the individual to be used as the individual sees fit, but does not mean direct or indirect compensation for training costs, such as the costs of tuition, books and supplies.

(d) No additional benefits shall be paid to an individual during a break between training sessions of more than four weeks.

Amended by R.1997 d.465, effective November 3, 1997.
See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Deleted (a)4; recodified (a)5 and (a)6 as (a)4 and (a)5, and inserted new (a)6; inserted new (b); recodified existing (b) as (c); and added (d).

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), deleted 3, recodified former 4 as 3 and inserted "in this chapter" following "set forth" and amended N.J.A.C. reference, recodified former 5 as 4 and rewrote it, and recodified former 6 as 5.

12:23-5.2 Claims for additional unemployment benefits during training

(a) Initial claims for additional unemployment benefits during training may be dated no earlier than the Sunday of the calendar week in which the training commences.

(b) Weekly claims for additional benefits during training must be authorized by the Department based on a claimant reporting and claiming such benefits as directed by the Division of Unemployment Insurance Operations. Individuals who fail to comply with this section may be denied additional unemployment benefits.

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (b), rewrote the first sentence.

12:23-5.3 Work search waiver

An individual receiving additional unemployment benefits during training must meet the requirements of N.J.S.A. 43:21-4(c), with the exception that the individual does not have to actively seek work.

12:23-5.4 Refusal of suitable work

An individual who refuses an offer of work because of attendance at training while receiving additional unemployment benefits shall not be disqualified under N.J.S.A. 43:21-5(c).

12:23-5.5 Intent to enter training

(a) An individual filing a new initial unemployment claim must notify the Department of his or her intention to enter training not later than 60 days after the date of the individual's permanent separation from employment, not later than 30 days after the Department provides notice to the individ-

ual of the benefits and services available under the WDP Program, or not later than 30 days after the Employability Development Plan is developed, whichever is last.

(b) For purposes of this section, intention to enter training means that the individual agrees to enter counseling within the time limitations set forth in (a) above, whether or not the counseling occurs within these time limitations, and upon receiving counseling agrees to enter the training program identified in the Employability Development Plan. Individuals who agree to enter counseling within the stated time limits but choose not to pursue the identified training will not be granted an extension of those time limits.

Amended by R.1997 d.465, effective November 3, 1997.
See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Rewrote (a), and in (b), deleted " or ISSS" at the end of the first sentence.

12:23-5.6 Claim options

An individual in an approved training program who has reached the benefit year ending date and who has sufficient earnings and employment for a new claim for benefits will have an option to file a new claim for benefits or continue receiving additional unemployment benefits during training.

Recodified from N.J.A.C. 12:23-5.8 by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-5.6, Certification of attendance by training service providers, repealed.

12:23-5.7 Overpayments

Overpayment of additional unemployment benefits during training improperly paid for any reason shall be recovered by the Department in accordance with N.J.S.A. 43:21-16.

Amended by R.1994 d.409, effective August 1, 1994.

See: 26 N.J.R. 2198(a), 26 N.J.R. 3180(a).

Amended by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Recodified from N.J.A.C. 12:23-5.9 by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-5.7, Reserved, repealed.

12:23-5.8 Appeals

Denials of claims for additional unemployment benefits during training may be appealed to the Appeal Tribunal and the Board of Review in accordance with N.J.S.A. 43:21-6 and N.J.A.C. 1:12A and 12:20.

Amended by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Recodified from N.J.A.C. 12:23-5.10 by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Case Notes

Claimant was ineligible for additional unemployment benefits during weeks of full attendance in training for computer program. Matter of E.J.C., 95 N.J.A.R.2d (UCC) 11.

SUBCHAPTER 6. EMPLOYMENT AND TRAINING GRANTS FOR SERVICES TO DISADVANTAGED WORKERS

12:23-6.1 Purpose and scope

The purpose of this subchapter is to set forth the rules for the allotment of funds reserved under N.J.S.A. 34:15D-4 to provide employment and training services for qualified disadvantaged workers under the Workforce Development Partnership Program.

Amended by R.1997 d.465, effective November 3, 1997.
See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).
Amended N.J.S.A. references.

12:23-6.2 Employment and training grants to serve disadvantaged workers

(a) Funds reserved for employment and training services to qualified disadvantaged workers will be administered through the Department of Human Services with the authorization of the Commissioner of Labor for the administration of employment and training services. Services delivered under this subchapter shall be consistent with the Strategic Five-Year Unified State Plan for New Jersey's Workforce Investment System.

(b) Funds available for employment and training services to qualified disadvantaged workers under this subchapter shall not be used for activities which induce, encourage or assist any displacement of currently employed workers by trainees, including partial displacement by such means as reduced hours of currently employed workers; replacement of laid off workers by trainees; or relocation of operations resulting in a loss of employment at a previous workplace located in the State.

(c) Pursuant to N.J.S.A. 34:15D-4(e), not less than six percent of the total resources dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified disadvantaged workers. The Commissioner is authorized to provide training grants to the extent that funding for these services is not available from Federal or other sources.

Recodified from N.J.A.C. 12:23-6.3 and amended by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Rewrote (a); deleted (a)1 and (a)2; and added (c). Section was "Scope".

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), added a second sentence.

12:23-6.3 Innovative demonstration project funds

(a) A service provider of employment and training services may seek funds for innovative demonstration projects and services. An innovative demonstration project is an alternative plan to develop skills for disadvantaged individuals that will result in employability in a labor demand occupation by using techniques that may include other than the traditional classroom and on the job training methods.

1. Innovative demonstration projects can include remedial education for young adults between the ages of 16 and 21 and family literacy projects. Such education can include any basic skills training or education needed to facilitate success in occupational training or work performance.

(b) In reviewing applications, the Commissioner, in consultation with the Department of Human Services, will give priority to those innovative demonstration projects which are designed to serve the Welfare population, individuals with disabilities, and those who marginally exceed the eligibility for Federal programs such as Workforce Investment Act (WIA) and the Welfare Reform Program.

(c) The factors that will be considered in reviewing and evaluating applications for funds for innovative demonstration projects are:

1. The number of eligible individuals to be served;
2. The population to be served;
3. Whether the services are likely to substantially enhance participants' marketable skills;
4. The degree to which the services are related to training for a labor demand occupation;
5. The organizational capability of the applicant to provide the proposed services;
6. The previous effectiveness of the efforts of the applicant in providing similar services;
7. The costs of the proposed services; and
8. The potential for the proposed program activities to be replicated throughout the State or to have a positive impact beyond the program ending date.

(d) Applications will be reviewed and evaluated by a panel consisting of representatives from the Departments of Labor, Education and Human Services. The review panel will:

1. Serve as an objective, independent source of comments and recommendations concerning the merit of applications for consideration by the Department; and
2. Ensure that proposals will be as effective as possible through coordination and use of the resources of participating departments.

(e) The Commissioner retains the authority to modify application review factors based on the changing needs of the New Jersey economy. Such modification shall be through the rulemaking process.

(f) Funds awarded under this section will be limited to recipients as defined at N.J.S.A. 34:15D-3.

(g) No application for innovative demonstration projects will be funded unless approved by the Commissioner of Labor.

(h) Instructions for the competitive application process for funds available under this section shall be obtained by writing to:

Director, Division of Employment and Training
New Jersey Department of Labor
PO Box 055
Trenton, New Jersey 08625-0055

Recodified from N.J.A.C. 12:23-6.5 and amended by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Former N.J.A.C. 12:23-6.3, "Employment and training grants to serve disadvantaged workers", recodified to N.J.A.C. 12:23-6.2.

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Added (a)1; in (b), substituted "individuals with disabilities" for "the disabled" following "population," and substituted "Workforce Investment Act (WIA)" for "JTPA, Youth Corps" following "such as"; in (f) deleted "prospective" prior to "recipients"; and in (h) substituted "Employment and Training" for "Workforce New Jersey".

12:23-6.4 Eligibility for services

Individuals receiving training or services under this subchapter must be qualified disadvantaged workers as defined at N.J.S.A. 34:15D-1 to 11.

Recodified from N.J.A.C. 12:23-6.7 by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Former N.J.A.C. 12:23-6.4, "Service delivery area funds", repealed.

12:23-6.5 Eligibility of service providers

No employment and training services shall be obtained from a service provider unless that provider is located in New Jersey and the provider is approved pursuant to the procedures established by the State Employment and Training Commission and appears on the Eligible Training Provider List.

Recodified from N.J.A.C. 12:23-6.8 by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Former N.J.A.C. 12:23-6.5, "Innovative demonstration project funds", recodified to N.J.A.C. 12:23-6.3.

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Rewrote the section.

12:23-6.6 Limitation on administrative costs

Not more than 10 percent of the funds awarded under this subchapter may be used for reasonable administrative expenses.

Recodified from N.J.A.C. 12:23-6.9 by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Former N.J.A.C. 12:23-6.6, "Allocation of funds", repealed.

12:23-6.7 Monitoring and oversight

The Department of Labor or its designee will monitor the overall effectiveness of the employment and training services provided under this subchapter to assess the programmatic, management and financial performance of the grantee. The Department will consider the past performance of a grantee in evaluating application(s) for funding in subsequent years.

New Rule, R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Former N.J.A.C. 12:23-6.7, "Eligibility of services", recodified to N.J.A.C. 12:23-6.4.

12:23-6.8 Evaluation of employment and training services

(a) The results of employment and training services provided under this subchapter shall be evaluated based upon the following criteria:

1. The effectiveness of the training and services in terms of increasing employability, the effect on earnings after training and the career opportunities provided in relation to the individual served;
2. The achievement of a minimum job placement goal of 70 percent; and
3. The degree to which the training or services are related to a labor demand occupation as defined by NJOICC or as recommended by the local Workforce Investment Board (WIB) and approved by the Director of NJOICC based on local labor market conditions or project labor market conditions.

(b) The results of the innovative demonstration projects funded under this subchapter shall be evaluated based upon criteria negotiated at the time the funds were awarded.

New Rule, R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Former N.J.A.C. 12:23-6.8, "Eligibility of service providers", recodified to N.J.A.C. 12:23-6.5.

Amended by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), deleted "by Service Delivery Areas" following "services provided".

12:23-6.9 (Reserved)

Repealed by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Section was "Records and reports".

12:33-6.10 (Reserved)

Repealed by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Section was "Monitoring and oversight".

12:33-6.11 (Reserved)

Repealed by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Section was "Evaluation of employment and training services".

12:33-6.12 (Reserved)

Repealed by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Section was "Records and reports".

12:33-6.13 (Reserved)

Repealed by R.1997 d.465, effective November 3, 1997.

See: 29 N.J.R. 3233(a), 29 N.J.R. 4690(a).

Section was "Expiration date".

SUBCHAPTER 7. OCCUPATIONAL SAFETY AND HEALTH TRAINING SERVICES

12:23-7.1 Purpose

The purpose of this subchapter is to set forth the rules for the allotment of funds reserved under N.J.S.A. 34:15D-4(e) to provide occupational safety and health training services under the Workforce Development Partnership Program.

12:23-7.2 Scope

This subchapter establishes the allocation of funds reserved under the Workforce Development Partnership Program for occupational safety and health training services to qualified displaced, disadvantaged and employed workers as defined in this chapter and who are participating in training or education which is designed to assist in the recognition and prevention of potential workplace and associated health and safety hazards. It sets forth the application, review and administrative process for awarding grants and the administration of this program under this subchapter to prospective recipients, including organizations such as labor organizations, consortia, corporations, agencies, or other entities. This subchapter is not applicable to individual grants.

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Substituted "in this chapter" for "N.J.A.C. 12:23-1", inserted "workplace and associated" following "potential", and deleted "related to an occupation which is the subject of vocational training" prior to "safety hazards".

12:23-7.3 Occupational safety and health training grants to serve qualified displaced, disadvantaged and employed workers

A portion of funds reserved for occupational safety and health training services to qualified displaced, disadvantaged, and employed workers will be awarded through an application process for prospective recipients in accordance with this subchapter.

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Substituted "this subchapter" for "N.J.A.C. 12:23-7.4 and 7.5".

12:23-7.4 Application process

Each applicant seeking funding to provide occupational safety and health training services to eligible individuals shall submit an application to the Commissioner. The completed application shall include the applicant's name and address, basic descriptive information, specific details documenting the need for and exact nature of the proposed occupational safety and health training services to be delivered, its relationship to individuals involved in an occupational training experience if it exists, the anticipated number of individuals or target group to be served and cost of services, and any other information concerning a specific applicant which the Commissioner deems necessary to fully evaluate the application.

Amended by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).
Rewrote the section.

12:23-7.5 Review and evaluation of applications

(a) Occupational safety and health training under the Workforce Development Partnership Program means training or education which is designed to assist in the recognition and prevention of potential occupational health and safety hazards. The factors that will be considered in reviewing and evaluating applications for funds are:

1. The number of individuals who will benefit from the safety and health training services;
2. The target industry and/or occupation and subject matter for training services;
3. The degree of hazard faced within the target industry and/or occupation as demonstrated by accident and injury documentation, exposure information, and other data illustrating hazards;
4. The need for services as demonstrated by the seriousness of the problem and lack or scarcity of alternative resources;
5. The extent to which the services are likely to enhance participants' marketable skills;
6. The organizational capability of the prospective recipient to provide the proposed services;
7. The previous effectiveness of efforts of the prospective recipient in providing similar services;
8. The cost of the proposed services; and
9. The potential for the proposed services to be replicated throughout the State or to have a positive impact beyond the ending date of the proposed services.

(b) Applications will be reviewed and evaluated by the Department of Labor and in consultation with specialized services which may be provided by the Department on a cost basis.

(c) The Commissioner retains the authority to modify application review factors based on changing workplace occupational safety and health training needs and establish appropriate application review and approval methods consistent with those circumstances. Such modification shall be through the rulemaking process.

(d) No application will be funded unless approved by the Commissioner of Labor.

(e) Funds awarded under this section will be limited to prospective recipients and to approved service and/or training providers.

(f) Upon approval of an application, a contract for occupational safety and health training services will be executed between the approved applicant and the Department. A copy of mandatory contract provisions is available from the Department of Labor upon request.

(g) The Commissioner or his or her designee will identify target industries and/or occupations, provide information and assistance to prospective recipients and employment and training staff, review and evaluate applications, execute, monitor, and evaluate contracts for training services, and provide technical support for contracted activities.

(h) Instructions for the application process for funds available under this section shall be obtained by writing to:

Director, Division of Business Services
 New Jersey Department of Labor
 PO Box 933
 Trenton, New Jersey 08625-0933

Amended by R.2002 d.193, effective June 17, 2002.
 Sec: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), inserted "occupational" following "potential", and deleted "related to an occupation which is the subject of vocational training" in the introductory paragraph, deleted 5 and recodified former 6 through 10 as 5 through 9; in (e) deleted an N.J.A.C. reference; in (h) rewrote the address.

12:23-7.6 Assessment of need and delivery of services

(a) The Commissioner or his or her designee, within the Department of Labor, will review all customized training applications to determine if there is a need for occupational safety and health training services related to the industry and/or occupation which is the subject of occupational training.

(b) The Commissioner or his or her designee, within the Department of Labor, will review and approve the use of vendors selected by the customized training applicant to provide occupational safety and health training services, review course content and training material to determine its appropriateness, and ascertain the reasonableness of costs charged by vendors.

Amended by R.2002 d.193, effective June 17, 2002.
 Sec: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

In (a), substituted "occupational" for "vocational" prior to "training"; in (b), deleted "and relationship to the occupational training" following "appropriateness".

12:23-7.7 Allocation of funds

(a) Pursuant to section 4(e) of the Act, not less than three percent of the total revenues dedicated to the program during any one fiscal year shall be reserved for occupational safety and health training. The Commissioner is authorized to provide services to the extent that funding for these services is not available from federal or other sources.

(b) From the amounts reserved for occupational safety and health training for qualified displaced, disadvantaged and em-

ployed workers under N.J.S.A. 34:15D-4(e), monies may be allocated upon approval of the Commissioner to providers of employment and training services designed to assist in the recognition and prevention of potential occupational health and safety hazards.

(c) The Commissioner retains the authority to change the scope of this funding based on changing workplace occupational safety and health training needs.

Amended by R.2002 d.193, effective June 17, 2002.
 Sec: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).
 Rewrote (b).

12:23-7.8 Eligibility for services

Individuals receiving training or services under this subchapter must be qualified displaced, disadvantaged, or employed workers.

Amended by R.2002 d.193, effective June 17, 2002.
 Sec: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).
 Deleted N.J.A.C. reference.

12:23-7.9 Eligibility of service providers

Occupational safety and health training services must be obtained from a training provider located in the State of New Jersey and listed on the Eligible Training Provider List.

Amended by R.2002 d.193, effective June 17, 2002.
 Sec: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).
 Rewrote the section.

12:23-7.10 Limitation on administrative costs

Not more than 10 percent of the funds awarded under this subchapter may be used for reasonable administrative costs.

12:23-7.11 Monitoring and oversight

The Commissioner or his or her designee, within the Department of Labor, will monitor the overall effectiveness of the occupational safety and health training services provided under this subchapter to assess the programmatic, management, and financial performance of the grantee(s). The Department will consider the past performance of a grantee in evaluating application(s) for funding in subsequent years.

12:23-7.12 Evaluation of occupational safety and health training

The results of occupational safety and health training services provided under this subchapter shall be evaluated based upon criteria negotiated at the time the funds are awarded.

12:23-7.13 (Reserved)

Repealed by R.2002 d.193, effective June 17, 2002.
 Sec: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).
 Section was "Records and reports".

SUBCHAPTER 8. TUITION POLICIES FOR
UNEMPLOYED PERSONS; JOB TRAINING
PROGRAM

12:23-8.1 Purpose and scope

(a) The purpose of this subchapter is to establish rules and procedures to govern the tuition waiver program established by N.J.S.A. 18A:64-13.1 et seq. or 18A:64A-23.1.

(b) The rules apply to job training eligible individuals and to public higher education institutions in New Jersey.

Recodified from N.J.A.C. 12:23-9.1 by R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Amended by R.2008 d.267, effective September 2, 2008.

See: 40 N.J.R. 2406(a), 40 N.J.R. 5044(a).

Deleted former (b); and recodified (c) as (b).

12:23-8.2 Definitions

The following words and terms, when used in this subchapter, have the following meaning unless the context clearly indicates otherwise.

“Course of instruction, which will assist the individual in gaining reemployment” means a course of instruction, which will substantially enhance the individual’s marketable skills or earning power.

1. A course of instruction does not assist the individual in gaining reemployment if the individual already possesses identifiable job skills, unless those skills need to be upgraded in order for the individual to reach a level of self-sufficiency.

“Identifiable job skill” means an identifiable marketable skill in a labor demand occupation.

“Job order” means a notice of vacancy submitted by an employer to a One-Stop Career Center.

“Job training course” means any course of instruction, which will, as determined by a One-Stop Career Center, provide the individual with an identifiable job skill and assist the individual in gaining reemployment, any course of instruction, which is part of a training program approved by a One-Stop Career Center pursuant to the provisions of N.J.S.A. 43:21-4(c)(4), or any course of instruction, which is part of the education and training described in the Employability Development Plan developed for the individual by a One-Stop Career Center pursuant to N.J.S.A. 43:21-59.

“Labor demand occupation” means an occupation, which:

1. The Center for Occupational Employment Information has, pursuant to N.J.S.A. 34:1A-86, determined is or will be, on a regional basis, subject to a significant excess of demand over supply for trained workers, based on a comparison of the total need or anticipated need for trained workers with the total number being trained; or

2. The Center for Occupational Employment Information, in conjunction with a Workforce Investment Board, has, pursuant to N.J.A.C. 34:1A-86, determined is or will be, in the region for which the board is responsible, subject to a significant excess of demand over supply for adequately trained workers, based on a comparison of total need or anticipated need for trained workers with the total number being trained.

“Marketable skill” means a skill identified by a prospective employer in a job order.

“One-Stop Career Center” means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

“Public institution of higher education” or “institution” means the State colleges and the New Jersey Institute of Technology and all other institutions indicated by N.J.S.A. 18A:62-1.

“Unemployed” means that the individual is not performing services for which he or she is receiving remuneration.

New Rule, R.2008 d.267, effective September 2, 2008.

See: 40 N.J.R. 2406(a), 40 N.J.R. 5044(a).

Former N.J.A.C. 12:23-8.2, Proof of program eligibility, recodified to N.J.A.C. 12:23-8.3.

12:23-8.3 Proof of program eligibility

(a) In order to be eligible for enrollment in a course with a public institution of higher education under the tuition waiver program, an individual shall submit to the public institution of higher education documentation from a One-Stop Career Center verifying the following:

1. The individual’s past presence in the labor market for at least two years;
2. The individual’s unemployed status or his or her receipt of a layoff notice;
3. That the individual has received employment counseling at an One-Stop Career Center; and
4. That the One-Stop Career Center recommends enrollment in the particular job training course sought by the individual with the public institution of higher education under the tuition waiver program.

(b) Notwithstanding submission by the individual to the public institution of higher education of the documentation listed in (a) above, a public institution of higher education

basic skills to acquire the basic skills necessary to enhance their employability and competitiveness in the workplace, to enable individuals to prepare for further training, and to provide employers with workers who possess basic literacy and work-readiness skills necessary to effectively carry out employment requirements.

New Rule, R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.1, Purpose and scope, recodified to N.J.A.C. 12:23-8.1.

12:23-9.2 Basic skills programs to be included in State and Local Plans

Basic skills programs established under this subchapter shall be consistent with the Strategic Five-Year Unified State Plan for New Jersey’s Workforce Investment System. Grants to Workforce Investment Boards for basic skills training shall be consistent with, and included in, the Local Strategic Five-Year Workforce Investment Plan as required by the State Employment and Training Commission. The comprehensive local plan shall include all components included in this subchapter as well as other adult literacy funds. The Plan will be used as the basis for allocation of funds for local basic skills programs.

New Rule, R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.2, Definitions, repealed.

12:23-9.3 Funding

(a) All moneys received by the Supplemental Workforce Fund for Basic Skills pursuant to section 1 of P.L. 2001, c.152 shall be allocated by the Commissioner, and deposited in an account to be reserved for the following purposes:

1. To support basic skills training delivered at the basic skills resource centers located in the One-Stop Career Center System. The recipient of the funds provided under this subsection shall be the Department.
 - i. One-Stop Career Center staff funded under (a)1 above must be merit system employees;
2. To provide grants to eligible individuals in Local Workforce Investment Areas for basic skills training consistent with Employability Development Plans.
 - i. Funds shall be awarded through competitive grants to Workforce Investment Boards in accordance with planning guidelines established by the State Employment and Training Commission.
 - ii. The recipient of the funds is responsible for the funds received.
 - iii. The political jurisdiction(s) of the chief elected official(s) in the Local Workforce Investment Area is liable for any misuse of the funds provided to the Workforce Investment Board;

3. To provide grants to consortia including one or more of the following: eligible individual employers, employer organizations, labor organizations, community-based organizations or educational institutions to provide basic skills training to eligible individuals including those seeking to enter apprenticeship training; and

4. To be used, at the discretion of the Commissioner, for any purposes indicated in this subchapter and any administrative costs incurred by the Department of Labor in connection with the fund.

New Rule, R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.3, Proof of program eligibility, recodified to N.J.A.C. 12:23-8.2.

12:23-9.4 Counseling, assessment and employability development planning

(a) Basic skills training shall be provided consistent with the Employability Development Plans developed with the individual.

1. For customized training purposes, the assessment may be conducted by the employer or training provider.

(b) Basic skills training shall be provided to an eligible individual only if the qualified job counselor who evaluates the individual determines that the individual can reasonably be expected to successfully complete the training and education identified in such Employability Development Plan.

(c) An assessment shall be provided to applicants to identify barriers to functioning on the job in a satisfactory manner. Where barriers are identified, the qualified job counselor shall consult with other One-Stop partners to determine whether the individual would benefit from their services.

New Rule, R.2002 d.193, effective June 17, 2002.

See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.4, Eligibility for financial aid, recodified to N.J.A.C. 12:23-8.3.

12:23-9.5 Coordination and consultation requirements

(a) In carrying out programs under this subchapter, Workforce Investment Boards and recipients shall coordinate and consult with State and local agencies and organizations that provide services to eligible individuals who are deficient in basic skills for the following purposes:

1. The recruitment of individuals who need basic skills training to become employable;
2. Identifying those eligible individuals who need remedial education to enable those individuals to develop skills necessary to attain at least the level of self-sufficiency;
3. Sharing the costs of training and services to be provided; and

4. Developing a plan of service for the Supplemental Workforce Fund for Basic Skills which provides for the full utilization of available resources.

New Rule, R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.5, Eligible coursework, recodified to N.J.A.C. 12:23-8.4.

12:23-9.6 Basic skills funds are to supplement existing resources

Funds provided under this subchapter shall only be used for activities that are in addition to those activities that would otherwise be available in the absence of the funds provided under this subchapter.

New Rule, R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.6, Employment during semester, recodified to N.J.A.C. 12:23-8.5.

12:23-9.7 Monitoring and oversight

(a) The Department of Labor will monitor the overall effectiveness of the basic skills training provided under this subchapter to assess the programmatic, management and financial performance of recipients and grantees. The Department will consider the past performance of a recipient or grantee in evaluating application(s) for funding in subsequent years.

(b) The Workforce Investment Board will monitor the effectiveness of the basic skills training provided under N.J.A.C. 12:23-9.3(b) to assess programmatic, management and financial performance of grants awarded by the Commissioner. The Workforce Investment Board will consider the past performance of a recipient or grantee in evaluating application(s) for funding in subsequent years.

New Rule, R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.7, Application of general institution rules, recodified to N.J.A.C. 12:23-8.6.

12:23-9.8 Limitations on administrative costs for service providers

Not more than 10 percent of the monies received by any service provider pursuant to this subchapter shall be expended on the costs of administration. Such costs of administration do not include the costs of the direct provision of training.

New Rule, R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.8, Inclusion of program in college enrollment count, recodified to N.J.A.C. 12:23-8.7.

12:23-9.9 Prohibition on use of funds

Supplemental Workforce Funds for Basic Skills shall not be spent on construction or purchase of facilities.

New Rule, R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).

Former N.J.A.C. 12:23-9.9, Financial obligation of eligible individual, recodified to N.J.A.C. 12:23-8.8.

SUBCHAPTER 10. RECORDS, REPORTS, AND PERFORMANCE

12:23-10.1 Purpose

(a) The purpose of this subchapter is to set forth rules for collection of information on student enrollment, outcome, licensing, and credentialing that includes the use of the individual Social Security number. This information will be used for:

1. Developing the labor demand list for the Workforce Development Partnership Program and other employment and training programs;
2. Establishing standards for training and job placement;
3. Evaluating the effectiveness of programs and services under the State's workforce investment system; and
4. For other purposes as determined by the Commissioner.

12:23-10.2 Scope

This subchapter shall apply to approved training or service providers and qualified agencies which oversee education and training at an approved training provider or issue an occupational license or credential.

12:23-10.3 Reporting requirements

(a) Each provider shall maintain appropriate records and reports and make any records available upon request for monitoring or inspection by the Commissioner including:

1. A record for each student enrolled, including the student's name, Social Security number, address upon enrollment, and other information as required by the State Employment and Training Commission and/or the NJOICC;
2. A record of all direct, administrative and overhead expenses of the grantee related to the provision of employment and training services funded under this chapter, including matching costs;
3. Financial reports as may be required by the Commissioner;
4. Reports of the enrollments and outcomes in occupational training and basic skills programs that provide information pursuant to the performance requirements of this chapter; and
5. Any other information deemed appropriate by the Commissioner for a specific grantee or service provider.