

CHAPTER 23

WORKFORCE DEVELOPMENT PARTNERSHIP PROGRAM

Authority

N.J.S.A. 34:15D-1 et seq.

Source and Effective Date

R.1994 d.166, d.167, d.168, effective April 4, 1994. See: 25 N.J.R. 884(a), 886(a), 887(a); 26 N.J.R. 1512(a), 1514(a), 1515(a). R.1994 d.190, effective April 18, 1994. See: 25 N.J.R. 1054(a), 26 N.J.R. 1664(a).

Executive Order No. 66(1978) Expiration Date

Chapter 23, Workforce Development Partnership Program, expires on April 4, 1999.

Chapter Historical Note

Subchapter 8, Reporting Requirements for Assessment of Employment and Training Programs became effective June 5, 1995. See: 27 N.J.R. 1131(a), 27 N.J.R. 2237(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

12:23-1.1 Definitions

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

- 12:23-2.1 Purpose
12:23-2.2 Eligibility and scope
12:23-2.3 Application for customized training assistance
12:23-2.4 Conditions and standards of eligibility for customized training assistance
12:23-2.5 Review and evaluation of customized training applications
12:23-2.6 Where to obtain and send an application
12:23-2.7 Disclosure of information

SUBCHAPTER 3. INDIVIDUAL TRAINING GRANTS

- 12:23-3.1 Eligibility
12:23-3.2 Grant payments
12:23-3.3 Approval of training grants
12:23-3.4 Amount of individual training grants
12:23-3.5 Other funding sources
12:23-3.6 Coordination with the Job Training Partnership Act
12:23-3.7 Request for reconsideration of grant denials
12:23-3.8 Refunds

SUBCHAPTER 4. APPROVED TRAINING UNDER THE WORKFORCE DEVELOPMENT PARTNERSHIP ACT

- 12:23-4.1 Approved training
12:23-4.2 Full-time training
12:23-4.3 Active search for work
12:23-4.4 Acceptance of temporary work
12:23-4.5 Courses of study at institution of higher education
12:23-4.6 Remedial and basic skills courses

SUBCHAPTER 5. ADDITIONAL UNEMPLOYMENT BENEFITS DURING TRAINING

- 12:23-5.1 Eligibility requirements
12:23-5.2 Claims for additional unemployment benefits during training
12:23-5.3 Work search waiver
12:23-5.4 Refusal of suitable work
12:23-5.5 Intent to enter training
12:23-5.6 Certification of attendance by training service providers
12:23-5.7 Out-of-State training
12:23-5.8 Claim options
12:23-5.9 Overpayments
12:23-5.10 Appeals

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

- 12:23-6.1 Purpose
12:23-6.2 Scope
12:23-6.3 Employment and training grants to serve disadvantaged workers
12:23-6.4 Service delivery area funds
12:23-6.5 Innovative demonstration project funds
12:23-6.6 Allocation of funds
12:23-6.7 Eligibility for services
12:23-6.8 Eligibility of service providers
12:23-6.9 Limitation on administrative costs
12:23-6.10 Monitoring and oversight
12:23-6.11 Evaluation of employment and training services
12:23-6.12 Records and reports
12:23-6.13 Expiration date

SUBCHAPTER 7. OCCUPATIONAL SAFETY AND HEALTH TRAINING SERVICES

- 12:23-7.1 Purpose
12:23-7.2 Scope
12:23-7.3 Occupational safety and health training grants to serve qualified displaced, disadvantaged and employed workers
12:23-7.4 Application process
12:23-7.5 Review and evaluation of applications
12:23-7.6 Assessment of need and delivery of services
12:23-7.7 Allocation of funds
12:23-7.8 Eligibility for services
12:23-7.9 Eligibility of service providers
12:23-7.10 Limitation on administrative costs
12:23-7.11 Monitoring and oversight
12:23-7.12 Evaluation of occupational safety and health training
12:23-7.13 Records and reports

SUBCHAPTER 8. REPORTING REQUIREMENTS FOR ASSESSMENT OF EMPLOYMENT AND TRAINING PROGRAM

- 12:23-8.1 Purpose
12:23-8.2 Scope
12:23-8.3 Definitions
12:23-8.4 Reporting requirements
12:23-8.5 Disclosure of information

SUBCHAPTER 1. DEFINITIONS

Source and Effective Date

R.1994 d.489, effective September 19, 1994. See: 26 N.J.R. 2770(a), 26 N.J.R. 3867(b).

**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 pursuant to section 8 of P.L. 1992, c.43 and surveys of occupations pursuant to section 12 of P.L. 1992, c.43 to the extent that funding is not available from Federal or other sources.

“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.

“Employability development plan” means a written signed agreement between a qualified job counselor and a claimant in which an occupational goal, course of training or educational and other related activities in the Workforce Development Partnership Program are specified.

“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. Vocational training;
3. Remedial education; or
4. Occupational safety and health training.

“Fund” means the Workforce Development Partnership Fund.

“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 or approved by a qualified job counselor based on documented local labor market data and projected labor market conditions.

“New Jersey Occupational Information Coordinating Committee (NJOICC)” is the interagency consortium responsible for developing, managing, and overseeing a State-wide 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 safety and health training” means training or education that is designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation that is the subject of vocational training.

“Office” means the Office of Customized Training established pursuant to section 5 of P.L. 1992, c.43 (N.J.S.A. 34:15D-5).

“Program” means the Workforce Development Partnership Program.

“Prospective recipient” means an organization, community-based organization, labor organization, employer, consortium, agency, unit of government or other entities which may submit proposals for discretionary funds under the Workforce Development Partnership Program.

“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 Title III of the “Job Training Partnership Act,” P.L. 97-300 (29 U.S.C. 1651 et seq.) to be regarded as an “eligible dislocated worker” pursuant to that Act.

“Qualified employed worker” means a worker who is employed by an employer participating in a customized training program.

“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 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.
4. An individual who is employed as a counselor and who does not meet the qualifications specified in 1 through 3 above, may continue in this function provided that such individual meets the requirements by January 1, 1996 or such further extension as approved on a case-by-case basis by the Commissioner.

“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 vocational training or work performance.

“Service provider” or “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 must be located in New Jersey.

“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 section 3 of P.L. 1992, c.44 (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.

“Training grant” means a grant provided to fund vocational training and any needed remedial education for a qualified displaced or disadvantaged worker pursuant to section 6 of P.L. 1992, c.43 (N.J.S.A. 34:15D-6).

“Vocational 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.

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

**Source and Effective Date**

R.1994 d.489, effective September 19, 1994.  
See: 26 N.J.R. 2770(a), 26 N.J.R. 3867(b).

**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 Program.

**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.

**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 and labor communities. 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. 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

5. 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 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) 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.

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

(a) All vocational 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 training facilities, 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 each worker who successfully completes the training and education provided through the customized training program. 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 of Labor shall withhold such funds as he or she deems necessary 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 of Labor.

(f) The Department of Labor 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.

#### 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 or retain;
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;
6. Whether the training involves occupational safety and health education which is designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation which is the subject of vocational training; and
7. 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 of Labor.

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

(d) All approved applicants will be required to submit information on training results as required by the Commissioner of Labor. 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 conditions of the application will be executed between the applicant and the Department. A copy of the mandatory

contract provisions is available from the Department of Labor upon request.

#### 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:

Office of Customized Training  
New Jersey Department of Labor  
CN 058  
Trenton, New Jersey 08625-0058

#### 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 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 of Labor may deny access to any correspondence, documents or other information where non-disclosure is necessary to protect the public interest.

### SUBCHAPTER 3. INDIVIDUAL TRAINING GRANTS

#### 12:23-3.1 Eligibility

(a) Individual training grants may be approved for qualified displaced workers as defined at N.J.S.A. 34:15D-3, who receive employment counseling by approved job counselors resulting in an Employability Development Plan.

(b) In order to be eligible for an individual training grant under the Workforce Development Partnership Program, an individual must be permanently separated from his or her employment, or laid off and unlikely to return to the previous employment due to a substantial reduction in work opportunities in the individual's job classification at his or her former worksite.

(c) An individual seeking training or other services under the Workforce Development Partnership Program must make an application for such services at an office of the Employment Service in the New Jersey Department of Labor or other agency designated by the Department.

#### 12:23-3.2 Grant payments

Payment of individual training grants will be issued on behalf of the individual directly to the training service provider. In no case will direct payments be made to the individual awarded the training grant.

#### 12:23-3.3 Approval of training grants

(a) Training grants will be approved only if:

1. It is for a labor demand occupation, either listed by the New Jersey Occupational Information Coordinating Committee (NJOICC) or approved by a qualified job counselor, acting on behalf of the NJOICC based on documented local labor market data and conditions, and projected labor market conditions.

i. For purposes of this section, "qualified job counselor" means an individual who is engaged in employment counseling and who meets the requirements specified by the Commissioner of Labor.

ii. A qualified job counselor must have a Bachelor's degree including or supplemented by:

(1) Fifteen college semester hours in vocational guidance or other courses directly related to vocational counseling preparation;

(2) One year of related professional counseling experience; and

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

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

iv. 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.

v. An individual who is employed as a counselor and who does not meet the qualifications specified above, may continue in this function provided that such individual meets the requirements by January 1, 1996;

2. It is for training in a labor demand occupation which will enhance the worker's marketable skills and/or earning power;

3. The training services are provided in New Jersey by a training entity approved by the Commissioner pursuant to P.L. 1992, c.43, secs. 8 and 13 and N.J.A.C. 12:23-4;
4. It is determined by the individual assessment, evaluation and counseling that the individual is expected to successfully complete the training as indicated in the employability development plan;
5. The training is vocational, remedial, or a combination thereof; and
6. Sufficient funding exists in accordance with the Act.

**12:23-3.4 Amount of individual training grants**

(a) The maximum training grant is \$4,000 per worker. This single \$4,000 grant may be allocated over more than one fiscal year to support long-term training as identified in the employability development plan. As part of the employability development plan, the counselor will also determine the need for, source and amount of an additional grant for remedial education. Such grant for remedial education will not exceed \$1,000.

(b) The Commissioner has the right to annually adjust the amounts available for both vocational and remedial training based on the cost of the services and the availability of other sources of funding to provide these services.

**12:23-3.5 Other funding sources**

(a) The program shall provide individual training grants only if funding from Federal or other sources is not available. Displaced workers potentially eligible for individual training grants shall be required to apply for all Federal, State and other sources of financial aid or assistance. The amount of training grants payable under this program will be limited to the amounts contained in N.J.A.C. 12:23-3.4. JTPA Title III monies may be used to supplement the individual grant funds available in this program, to the extent that individuals are eligible for both JTPA and WDPP funds when necessary to facilitate long term training.

(b) Service providers shall apply all financial aid awards for tuition, fees and supplies first against those costs before using WDP funds. The service provider shall notify the Department of any and all such awards immediately after having received notice of such award from the awarding agency.

1. All eligible participants are to be made aware of their right and obligation to apply for financial aid.
2. PELL grants, other tuition assistance or other student aid must be used first for the cost of tuition and fees. WDP funds may be used to supplement these awards.
3. An individual who is potentially eligible for a PELL and/or any other grant but whose grant award cannot be estimated will be eligible for the full amount of the individual training grant allowed under this subchapter

provided the Department is reimbursed by the service provider when the other such grant is received.

4. If an individual's eligibility for a PELL or other grant has not been determined at the time of enrollment, but the individual becomes eligible after a Workforce Development Partnership Program (WDP) grant payment has been made, the amount of the WDP grant must be recalculated. The amount of the PELL or other grant(s) and the WDP grant will be combined. If the total of the combined grants exceeds the total cost of the training, the difference between the total of the combined grants and the training cost must be reimbursed by the training provider to the Department.

**12:23-3.6 Coordination with the Job Training Partnership Act**

(a) With regard to the Job Training Partnership Act (JTPA), Federal funding shall be considered unavailable when training cannot begin within 60 days of the execution of the Employability Development Plan and/or when JTPA funds are obligated at the end of the fiscal year.

(b) To insure coordination of services and optimum resource utilization, the Service Delivery Area, as defined in Section 101, Title I of the Job Training Partnership Act (JTPA), will be required to describe the relationship of the JTPA with the WDP in the two-year job training plan as defined in Section 104, Title I of the JTPA.

(c) No individual training grant will be issued to an individual within one year of the completion date of a previous state or Federal job training program.

**12:23-3.7 Request for reconsideration of grant denials**

(a) If an individual is denied a training grant under the Workforce Development Partnership Program, he or she may file a request for reconsideration of the denial. A review of all appropriate facts regarding the denial of the training grant will be conducted within the Department of Labor in the following sequence:

1. Local Office Manager;
2. Regional Manager; and
3. Director of Division of Programs.

(b) A request to the next level of authority for reconsideration must be made within 14 calendar days of the date the denial is issued. The Director's decision will be final.

**12:23-3.8 Refunds**

The Department has the authority to recover all training grants improperly paid as a result of false or fraudulent representations.

**SUBCHAPTER 4. APPROVED TRAINING UNDER  
THE WORKFORCE DEVELOPMENT  
PARTNERSHIP ACT**

**12:23-4.1 Approved training**

(a) Training will be approved only if:

1. It is for a labor demand occupation as defined at N.J.S.A. 34:15D-3;
2. The training is provided by an entity located in New Jersey and approved by the Commissioner pursuant to P.L. 1992, c.43, sec. 8;
3. The individual may reasonably be expected to complete the training;
4. It does not include on the job training or training for which an individual receives wages except as permitted under N.J.A.C. 12:23-6.4; and
5. It is vocational, remedial, or a combination of both, in nature.

(b) If the conditions in (a) are met, approval will not be denied for the following reasons:

1. The training includes remedial education needed by the individual to succeed in the vocational component of the training;
2. The training is part of a college degree program which will enhance the individual's marketable skills and/or earning power;
3. The length of the training program; or
4. The lack of a prior guarantee of employment upon completion of the program.

**12:23-4.2 Full-time training**

(a) Training will be considered full-time only if:

1. It consists of not less than 20 hours per week of classroom work and structured assignments for individuals in training provided by a service provider other than an institution of higher education;
2. It consists of not less than 12 credit hours by individuals pursuing a degree at an institution of higher education; or
3. It consists of a minimum of nine credit hours for individuals pursuing a post-graduate degree at an institution of higher education.

**12:23-4.3 Active search for work**

(a) An individual in approved training must meet the requirements of N.J.S.A. 43:21-4(c), except that he or she will not be required to actively seek work if the service provider certifies to the Department that the individual is attending an approved training program. If there is an interruption in the training of more than four calendar weeks, the work search waiver does not apply.

(b) A work search waiver may be granted to an individual who is enrolled in an approved training program which will commence within four weeks.

(c) Work search waivers will be granted only to individuals in full-time training.

**12:23-4.4 Acceptance of temporary work**

(a) An individual who is working in temporary employment shall not be subject to disqualification for voluntarily leaving work under N.J.S.A. 43:21-5(a) if such individual leaves work to begin approved training.

(b) An individual who is in an approved training program and accepts employment during a scheduled break in the training shall not be subject to disqualification for voluntarily leaving work under N.J.S.A. 43:21-5(a) or failing to apply for or accept suitable work under N.J.S.A. 43:21-5(c) if such individual leaves work to return to the approved training program.

**12:23-4.5 Courses of study at institution of higher education**

Courses of study at institutions of higher education will be approved only if the majority of the credit hours during a semester are in a field of study which will lead to a degree that is specific to a labor demand occupation.

**12:23-4.6 Remedial and basic skills courses**

Courses of a remedial nature, for purposes of this subchapter, will be considered fields of study in reading, writing or mathematics which will enable the participant to acquire the necessary skills to attain a minimum level of proficiency needed in a designated occupation as indicated in the Dictionary of Occupational Titles.

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**SUBCHAPTER 5. ADDITIONAL  
UNEMPLOYMENT BENEFITS DURING  
TRAINING**

**12:23-5.1 Eligibility requirements**

(a) An individual will be eligible for additional unemployment benefits during training only if the individual:

1. Has exhausted all entitlement to unemployment insurance compensation and any State or Federally funded extension;
2. Is permanently separated from employment and is unlikely to return to such employment due to a substantial reduction in work opportunities in the individual's job classification at his or her former worksite;

3. Was entitled to not less than 26 times the weekly benefit amount on the most recent new claim for unemployment compensation filed in accordance with N.J.S.A. 43:21-1 et seq.;

4. Was eligible or potentially eligible for unemployment insurance benefits on or after July 7, 1992. No new claims for additional benefits shall be filed pursuant to this subchapter after December 31, 1997;

5. Meets the criteria listed in N.J.S.A. 43:21-4(c)(4)(A) and (B), as amended by P.L. 1992 c.46, and complies with the requirements set forth at N.J.A.C. 12:23-4 for approved training; and

6. Is in a full-time training program which has been approved by the Department of Labor through an employability development plan.

(b) 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.

**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 signed certification submitted to the Department by the training provider of the individual's active participation in the approved training program. Individuals who fail to comply with this section may be denied additional unemployment benefits.

**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 the Workforce Development Partnership Program not later

than 60 days after the date of the individual's permanent separation from employment or not later than 30 days after the Department provides notice to the individual of the benefits and services available under the WDP Program, whichever is later.

(b) For purposes of this section, intention to enter the Workforce Development Partnership Program (WDP) means that the individual agrees to enter WDP 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.

**12:23-5.6 Certification of attendance by training service providers**

A claimant will not be eligible for additional unemployment benefits unless the training service provider certifies to the Department that the claimant's attendance and progress has been satisfactory.

**12:23-5.7 Out-of-State training**

An individual who is attending a vocational training program provided by a facility located outside the State of New Jersey is not eligible for additional benefits during training.

**12:23-5.8 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.

**12:23-5.9 Overpayments**

Overpayments 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).

**12:23-5.10 Appeals**

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

**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**

The purpose of this subchapter is to set forth the rules for the allotment of funds reserved under P.L. 1992, c.43,

Section 4e to provide employment and training services for qualified disadvantaged workers under the Workforce Development Partnership Program.

#### 12:23-6.2 Scope

This subchapter establishes the allocation of funds reserved under the Workforce Development Partnership Program for employment and training services to qualified disadvantaged workers as defined at N.J.S.A. 34:15D-3 and sets forth the application and review process for awarding grants under this subchapter to prospective recipients, such as community based organizations, corporations, consortia, agencies, Service Delivery Areas and units of government.

#### 12:23-6.3 Employment and training grants to serve disadvantaged workers

(a) Funds reserved for employment and training services to qualified disadvantaged workers will be through:

1. Service Delivery Area funds awarded pursuant to the formula set forth under section 302(d) of the Job Training Partnership Act and in accordance with N.J.A.C. 12:23-6.4; and
2. Innovative demonstration projects funds awarded through a competitive application process in accordance with N.J.A.C. 12:23-6.5.

(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.

#### 12:23-6.4 Service delivery area funds

Funds allocated to Service Delivery Areas pursuant to N.J.A.C. 12:23-6.6 must be used to provide training grants for vocational training, on-the-job training, basic skills training and remedial education including English as a Second Language. Funds may also be used to provide counseling and employability development plan services as required by Section 7 of the Act to meet the needs of qualified disadvantaged workers. Services provided must lead to enhanced marketable skills and earning power, and relate to training for a labor demand occupation as defined by NJOICC or a qualified job counselor, acting on behalf of NJOICC, based on documented local labor market conditions or projected labor market conditions.

#### 12:23-6.5 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.

(b) In reviewing applications, the Commissioner will give priority to those innovative demonstration projects which are designed to serve the General Assistance/AFDC Welfare population, the disabled, and those who marginally exceed the eligibility for Federal programs such as JTPA, Youth Corps 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 Department of Labor and the Departments of Higher Education, 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 prospective 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 Programs  
 New Jersey Department of Labor  
 CN 058  
 Trenton, New Jersey 08625-0058

grantee in evaluating application(s) for funding in subsequent years.

**12:23-6.6 Allocation of funds**

(a) Pursuant to section 4(e) of the Act, eight 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.

(b) Allocation of reserved funds shall be as follows:

1. From the amounts reserved for employment and training services for qualified disadvantaged workers under Section 4(e) of the Act, up to 50 percent shall be reserved for allocation to the Service Delivery Areas designated by the Governor under Section 101 of the Job Training Partnership Act, P.L. 97-300, as amended.

2. After allocating the Service Delivery Area funds, the balance of these funds shall be allocated for innovative demonstration projects pursuant to N.J.A.C. 12:23-6.5. Said funds shall be made available through a competitive application process.

(c) The Commissioner retains the authority to change the scope of this allotment based on the changing needs of the New Jersey economy.

**12:23-6.7 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.

**12:23-6.8 Eligibility of service providers**

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

**12:23-6.9 Limitation on administrative costs**

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

**12:23-6.10 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

**12:23-6.11 Evaluation of employment and training services**

(a) The results of employment and training services provided by Service Delivery Areas 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 affect on earnings after training and the career opportunities provided in relation to the individuals 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 a qualified job counselor, based on local labor market conditions or projected 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 are awarded.

**12:23-6.12 Records and reports**

(a) Each grantee 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 and address upon enrollment;
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 subchapter; and
3. Any other information deemed appropriate by the Commissioner for a specific grantee or service provider.

**12:23-6.13 Expiration date**

Upon adoption, this subchapter will remain in effect until December 31, 1997.

**SUBCHAPTER 7. OCCUPATIONAL SAFETY AND HEALTH TRAINING SERVICES**

**Source and Effective Date**

R.1994 d.490, effective September 19, 1994.  
 See: 26 N.J.R. 2774(a), 26 N.J.R. 3870(a).

**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 at N.J.A.C. 12:23-1 and who are participating in training or education which is designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation which is the subject of vocational training. 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.

**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 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 qualified displaced, disadvantaged and employed workers shall submit an application to the Commissioner. The completed application shall include the applicant's name and address, basic descriptive information concerning the prospective recipient, 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 a vocational training experience, 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.

**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 health and safety hazards related to an occupation which is the subject of vocational training. 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 related to training for a labor demand occupation;
6. The extent to which the services are likely to enhance participants' marketable skills;
7. The organizational capability of the prospective recipient to provide the proposed services;
8. The previous effectiveness of efforts of the prospective recipient in providing similar services;
9. The cost of the proposed services; and
10. 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 approve service and/or training providers as defined at N.J.A.C. 12:23-1.1.

(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:

Assistant Commissioner for Employment Security  
and Job Training  
New Jersey Department of Labor  
CN 058  
Trenton, New Jersey 08625

**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 vocational 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 relationship to the occupational training, and ascertain the reasonableness of costs charged by vendors.

**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 employed workers under N.J.S.A. 34:15D-4(e), monies may be allocated upon approval of the Commissioner of Labor to providers of employment and training services designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation which is the subject of vocational training.

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

**12:23-7.8 Eligibility for services**

Individuals receiving training or services under this subchapter must be qualified displaced, disadvantaged, or employed workers as defined at N.J.A.C. 12:23-1.1.

**12:23-7.9 Eligibility of service providers**

Occupational safety and health training services must be obtained from an approved service provider located in the State of New Jersey.

**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 Records and reports**

(a) Each grantee shall maintain appropriate records 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, and address upon enrollment;
2. A record of all direct administrative and overhead expenses of the grantee related to the provision of occupational safety and health training services funded under this subchapter; and
3. Any other information deemed appropriate by the Commissioner for a specific grantee or service provider.

**SUBCHAPTER 8. REPORTING REQUIREMENTS FOR ASSESSMENT OF EMPLOYMENT AND TRAINING PROGRAMS**

**Source and Effective Date**

R.1995 d.286, effective June 5, 1995.  
See: 27 N.J.R. 1131(a), 27 N.J.R. 2236(a).

**12:23-8.1 Purpose**

(a) The purpose of this subchapter is to collect student outcome and licensing information including individual social security number for use in:

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; and
3. Evaluating the effectiveness of programs and services under the State's workforce readiness system.

### 12:23-8.2 Scope

This subchapter shall apply to qualified agencies which oversee occupational and directly related education and training at a qualified school or issue an occupational license.

### 12:23-8.3 Definitions

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

"New Jersey Occupational Information Coordinating Committee or NJOICC" means the agency of State government responsible for developing, managing and overseeing the Statewide comprehensive occupational information system including analysis of labor market supply and demand.

"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.

"Qualifying agency" means any executive 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.

"Qualifying school" means a government unit, person, firm, corporation, private organization, or business entity doing business and maintaining facilities within the State which:

1. Operates for profit or not for profit;
2. Offers or maintains a course of instruction or instructional program to prepare individuals for entry level employment or provides supplemental instruction in a recognized occupational area;
3. Offers occupational instruction through classroom, shop or laboratory experience, or correspondence or both;
4. Offers occupational instruction to the general public or in conjunction with "Job Training Partnership Act" (JTPA) providers; or
5. Charges tuition or other fees or costs for the delivery of any of the above.

"State Employment and Training Commission" or "SETC" means the agency of State government designated to assist and develop the State employment and training policy and to oversee the operation of the entire New Jersey workforce readiness system.

"Student outcome information" means information pertaining to individual enrollment and participation in any 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 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 issue of a license.

### 12:23-8.4 Reporting requirements

(a) A qualifying agency shall report student outcome and licensing information, including social security numbers, to the State Employment and Training Commission through the New Jersey Occupational Information Coordinating Committee.

(b) Any entity which reports student outcome or licensing information to a qualifying agency shall request that its students or licensees voluntarily provide their social security numbers. Such request shall state that:

1. The disclosure of the social security number is voluntary;
2. The social security numbers will be used by the NJOICC and SETC to prepare a labor demand list, to establish standards for training and job placement and, to evaluate the effectiveness of programs and services under the State's workforce readiness system; and
3. The NJOICC and SETC are authorized to access the files and records of other State agencies which administer or fund employment and training programs by N.J.S.A. 34:15C-6(h) and may request the voluntary disclosure of social security numbers through the Commissioner of Labor's authority under N.J.S.A. 34:15B-40 and 34:15D-8, provided such request is made in accordance with the Privacy Act, 5 U.S.C. Section 552(a)(note)(b).

(c) Any executive agency of State government which is precluded from reporting information on specific individuals by Federal statute may report student outcome and licensing information through statistical summary only.

(d) The information required by (a) and (c) above shall be provided annually to the NJOICC at the following address by August 31st for the preceding State fiscal year ending June 30th:

NJOICC  
CN 056  
Trenton, New Jersey 08625-0056

purposes. The NJOICC will only use aggregate statistical summaries of individual data in assessing or evaluating any program at a qualifying school.

(e) The SETC and NJOICC shall maintain individual student records for no more than three years.

(b) The SETC and NJOICC will not publish or otherwise release information which could identify any person.

**12:23-8.5 Disclosure of information**

(a) Information collected by the NJOICC from qualifying agencies will only be utilized for authorized governmental

(c) The SETC and NJOICC will deny access to any correspondence, documents or data information where non-disclosure is necessary to protect the public interest.