

CHAPTER 23

**WORKFORCE DEVELOPMENT
PARTNERSHIP PROGRAM**

Authority

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

Source and Effective Date

R.1999 d.138, effective April 1, 1999.
See: 31 N.J.R. 588(b), 31 N.J.R. 1199(a).

Executive Order No. 66(1978) Expiration Date

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

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: Source and Effective Date. See, also, section annotations.

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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.

“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 participant in which an occupational goal, course of training or educational and other related activities in the Workforce Development Partnership Program are specified. The employability development plan is also referred to as the Individual Service Strategy Summary (ISSS) plan.

“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 (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.

“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 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 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 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 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.

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”.

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 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, 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. 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) Employers filing a single application shall submit financial records including income statements, balance sheets and cash flows for the three most recently completed years. 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 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).

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 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 of Labor 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 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.

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.

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 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.

(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 Workforce New Jersey Division of Employment and Training which is the labor exchange provider of the One-Stop Career Centers.

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).

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
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).

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.

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).

(f) A WDP training grant shall not be awarded to individuals who self-enroll in training or an educational program prior to the development and approval of an Individual Service Strategy Summary plan by a qualified job counselor except if the individual was previously enrolled in such training or educational program prior to layoff or termination and upon becoming unemployed obtains counseling from a qualified job counselor.

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

In (a), added reference to ISSS plans; and added (d) through (f).

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, which is also referred to as an Individual Service Strategy Summary (ISSS) 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 similar employment due to a substantial reduction in work opportunities in the individual's job classification.

(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.

(d) An individual who has already received a WDP individual training grant for job training identified in a comprehensive employability development plan or Individual Service Strategy Summary plan (ISSS) shall not receive another WDP individual training grant within four years of the previous ISSS plan in which a WDP grant was awarded.

(e) An individual who has qualified for a training grant shall enter the training program identified in the Individual Service Strategy Summary plan as soon as possible.

1. The employability development plan and grant award shall become null and void if the individual, without good cause, delays or postpones enrollment in the available training program as outlined in the Individual Service Strategy Summary (ISSS) plan.

2. A training grant award shall not be awarded to an individual who, after giving notice of an interest in training, fails to comply with the Department representative's directions to participate in reemployment services, counseling or other prescribed activities which aid the representative in evaluating the individual's need for training.

3. "Good cause" means any situation over which the individual did not have control and/or which was so compelling as to prevent the individual from participating.

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. The training is for a labor demand occupation, either listed 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 conditions, and projected labor market conditions.

2. The training is in a labor demand occupation which will substantially enhance the worker's marketable skills and/or earning power; training grants shall not be approved for individuals already possessing identifiable marketable skills in a labor demand occupation;

3. The training services are provided in New Jersey by a training entity approved by the Commissioner pursuant to N.J.S.A. 34:15D-1 et al. 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.

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

Substantially amended (a)1 and (a)2; deleted (a)1i through (a)1v; and in (a)3, amended N.J.S.A. references.

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 maximum grant amount per individual for a WDP individual training grant or a combination Self-Employment Assistance and Entrepreneurial (SEA) grant and WDP individual training grant shall not exceed the limits imposed during the fiscal year in which the individual applied for the grant. If the grant limit is raised in subsequent years, it is not retroactive.

(c) 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.

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

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

Added (b); and recodified existing (b) as (c).

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.

(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 rights 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.

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

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

In (a), deleted the fourth sentence regarding JTPA Title III monies.

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 WDP individual training grant will be issued to an individual within one year of the completion of a previous State or Federal job training program.

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

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

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. Division of Employment and Training local administrative director;

2. Division of Employment and Training Regional Manager; and

3. Director of Division of Employment and Training Workforce New Jersey.

(b) A request to the next level of authority for reconsideration must be made within 10 calendar days of the date the denial is issued. The Director's decision will be final.

(c) Appeals of denial of grants which have the potential to impact eligibility for additional benefits during training (ABT) will 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).

In (b), substituted "10 calendar days" for "14 calendar days"; and added (c).

Amended by R.1999 d.138, effective May 3, 1999.

See: 31 N.J.R. 588(b), 31 N.J.R. 1199(a).

In (a), substituted "administrative director" for "Office Manager" at the end of 1, and deleted "—Careers" at the end of 3.

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.

12:23-3.9 Approved training costs

(a) In addition to tuition costs identified in N.J.A.C. 12:23-3.5(b), training grant monies shall be applied only to training-related costs.

(b) WDP grant monies shall be expended only on books, supplies and/or equipment which have been specifically identified by the institution as a requirement for successfully completing a course or training program.

(c) Application fees and other fees, such as library fees, which are assessed on all tuition-paying students may be paid under the WDP grant program. Other acceptable fees related to a training program include lab fees, computer lab fees and test fees.

(d) Those charges, such as room and board and parking fees, which are not assessed on all students are not eligible training-related fees and shall not be paid under the WDP grant program. Fees which are dedicated to self-sustaining funds separate from the fund for academic programs shall not be paid under the grant program and are the responsibility of the trainee (student).

(e) The individual shall be responsible for paying the difference in training costs when the individual selects a training program with a training vendor that is more expensive than a comparable (that is, of the same content and quality) training program offered by another training vendor or local community college.

1. The trainee shall be responsible for the difference in training costs if the trainee elects to attend as a non-county resident without good cause when the local county college offers a training program equal in quality and content. As used in this subsection, "good cause" includes those factors, such as travel distance, which the job counselor determines shall help the individual satisfactorily complete the approved employability plan.

2. A WDP grant shall cover the full tuition costs for out-of-county residents, up to the maximum limits, if the qualified job counselor determines that the training program is substantially better in quality and content.

3. Training may be approved for an out-of-county college when there is a delay in course start dates of more than four weeks.

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

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 and likely to enhance the individual's marketable skills and earning power;

2. The training is provided by an entity located in New Jersey and approved by the Commissioner pursuant to N.J.S.A. 34:15D-1 et al.;

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) above 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.

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)1; and in (a)2, amended N.J.S.A. references.

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.

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. Meets the criteria listed in N.J.S.A. 43:21-4(c)(4)(A) and (B) and complies with the requirements set forth at N.J.A.C. 12:23-4 for approved training;

5. Is in a full-time training program which has been approved by the Department of Labor through an employability development plan or ISSS; and

6. Enrolls in the approved training program within one year of the date of his or her most recent unemployment claim.

(b) No additional benefits shall be payable to an individual who self-enrolls in a training program without the prior approval of a qualified counselor unless the individual was previously enrolled in such training prior to lay-off and, upon becoming unemployed, obtains counseling from a qualified job counselor.

(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).

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 training 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 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, or ISSS. 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).

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 (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 "Out-of-State 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

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).

12:23-5.10 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).

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.

(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".

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.

(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, 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 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 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 Workforce New Jersey
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.

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 the provider is located in New Jersey and is approved pursuant to the procedures established by the State Employment and Training Commission.

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.

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 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 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.

12:23-6.9 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 students 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.

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. 12:23-6.9, "Limitation on administrative costs", recodified to N.J.A.C. 12:23-6.6.

12:23-6.10 (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".

12:23-6.11 (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".

12:23-6.12 (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".

12:23-6.13 (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 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
PO Box 058
Trenton, New Jersey 08625-0058

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**
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.

“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.

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

Deleted “New Jersey Occupational Information Coordinating Committee or NJOICC”.

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
PO Box 056
Trenton, New Jersey 08625-0056

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

12:23-8.5 Disclosure of information

(a) Information collected by the NJOICC from qualifying agencies will only be utilized for authorized governmental purposes. The NJOICC will only use aggregate statistical summaries of individual data in assessing or evaluating any program at a qualifying school.

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

(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.

SUBCHAPTER 9. TUITION POLICIES FOR UNEMPLOYED PERSONS: JOB TRAINING PROGRAM

12:23-9.1 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 purpose of the tuition waiver program is to enable certain unemployed individuals to enroll, without payment of tuition, in any job training course which shall provide them with an identifiable job skill and shall assist them in gaining reemployment or any course of instruction which is part of a training program approved pursuant to 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 such individuals pursuant to N.J.S.A. 34:15D-1 et seq.

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

12:23-9.2 Definitions

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

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

“General fees” 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 offerings.

“Registration fee” means the charge an institution of higher education may assess each term when a student registers for approved courses.

12:23-9.3 Proof of program eligibility

(a) Eligible individuals seeking to enroll under the job training program shall submit to the public institution of higher education documentation from the Department of Labor, Division of Workforce New Jersey, verifying their past presence in the labor market for at least two years and their unemployed status or receipt of a layoff notice as proof of eligibility or an employability development plan from the Division of Employment Services. The employability development plan may include course work under the tuition waiver process and/or under the grant provisions of the Workforce Development Partnership program. Said proof of eligibility shall be dated no earlier than 30 days prior to the college’s course registration day for eligible individuals for the semester in which the job training course is taken.

(b) If deemed necessary, an institution may allow an individual to register for courses pending receipt of Department of Labor verification.

(c) Eligible individuals may seek to enroll in any New Jersey public institution of higher education regardless of their county of residence. However, charge-backs shall not apply for unemployed persons. Eligible individuals who wish to attend a county college must first apply to the county college within their county of residence.

12:23-9.4 Eligibility for financial aid

(a) Each eligible individual seeking to enroll in credit courses under this program is responsible for filing a financial aid application and providing the institution with all information necessary to determine possible financial aid eligibility.

(b) In determining eligibility for financial aid, the institution shall consider both State and Federal sources of aid including grants, scholarships and any other sources of financial aid available to the institution’s general student population.

(c) Each institution shall apply consistent standards, including participants in this program, in determining eligibility for financial aid.

(d) Any eligible individual receiving financial aid which is not sufficient to pay the full amount of tuition at the institution shall be entitled to have the remaining amount of tuition not covered by financial aid waived by the institution.

12:23-9.5 Eligible coursework

(a) Each institution shall ordinarily make all of its course offerings eligible under this program. However, a given course or program shall focus on an identifiable job skill or prerequisite skills for the specific job skill or shall be indicated in the individual’s employability development plan approved by the Division.

(b) An individual’s eligibility for a given course or program shall be dependent on possession of appropriate prerequisite skills as determined by each institution. The institution may designate basic skills and other prerequisite courses as eligible offerings under this program.

(c) Customized courses that are underwritten by specific employers for the benefit of their respective employees may be exempted from eligibility under this program. Such courses are designed to meet the needs of the employees of a specific employer, the employer is responsible for partially subsidizing the cost of the training, and the training is directly related to the employer’s operation.

(d) Only those courses in which enrollment space is available and tuition paying students constitute the minimum number required for the course shall be open to eligible individuals under this program.

(e) Institutions may designate separate registration periods for eligible individuals seeking to enroll in the program,

ordinarily after the registration period for tuition paying students is completed.

12:23-9.6 Employment during semester

Any individual participating in the program who obtains employment subsequent to the commencement of the semester shall be permitted to complete the semester in progress as a participant in the program.

12:23-9.7 Application of general institution rules

When not inconsistent with applicable statutes or this subchapter, students participating under this program shall be governed by those procedures and rules applicable to each institution's regularly enrolled student population, including rules regarding academic progress and standards for the admission of students into specific degree programs at the undergraduate or graduate level.

12:23-9.8 Inclusion of program in college enrollment count

All enrollments in credit bearing courses through this program may be included in the college's official enrollment count.

12:23-9.9 Financial obligation of eligible individual

(a) Institutions may charge individuals seeking to enroll in the program a registration fee not to exceed \$20.00 per academic term.

(b) Individuals seeking to enroll in the program shall be responsible for the cost of equipment, materials, textbooks and laboratory or equipment usage fees required for a specific course or program, as well as fees which are dedicated to self-sustaining funds, such as parking charges, room and board, and other optional user fees.

(c) Institutions shall not charge individuals seeking to enroll in the program general fees as defined in N.J.A.C. 12:23-9.2.

(d) Institutions shall not charge individuals seeking to enroll in a county college outside their county of residence a nonresident differential credit fee provided the individual complies with the requirements of N.J.A.C. 12:23-9.3(c).

(e) The institution shall apply training grant funds pursuant to N.J.S.A. 34:15D-1 et seq., the 1992 New Jersey Employment and Workforce Development Act (P.L. 1992, c.43), or financial aid, other than loans, to the total tuition and fees for the applicable academic term. The institution shall waive any remaining balance, less the charges allowable under (a) and (b) above.