

CHAPTER 23
WORKFORCE DEVELOPMENT
PARTNERSHIP PROGRAM

Authority

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

Source and Effective Date

R.2010 d.030, effective January 4, 2010.
See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 23, Workforce Development Partnership Program, expires on July 3, 2017. See: 49 N.J.R. 244(a).

Chapter Historical Note

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

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

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

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

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

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

Subchapter 8, Reporting Requirements for Assessment of Employment and Training Programs, was repealed and Subchapter 9, Tuition Policies for Unemployed Persons: Job Training Program was recodified as Subchapter 8, Tuition Policies for Unemployed Persons: Job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

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

Chapter 23, Workforce Development Partnership Program, was adopted as new rules by R.2004 d.325, effective August 16, 2004. See: 36 N.J.R. 2299(a), 36 N.J.R. 3883(b).

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

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

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

Chapter 23, Workforce Development Partnership Program, was re-adopted as R.2010 d.030, effective January 4, 2010. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 23, Workforce Development Partnership Program, was scheduled to expire on January 4, 2017. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. DEFINITIONS

12:23-1.1 Definitions

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

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

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

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

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

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

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

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

“Commissioner” means the Commissioner of Labor and Workforce Development 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 and Workforce Development.

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

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

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

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

1. With regard to unemployment compensation claimants, to make referrals to services determined to be appropriate in the case of the individual, including, but not limited to, any appropriate referral to a designated domestic violence agency as defined at N.J.S.A. 43:21-5(j) or a community shelter for victims of domestic violence

certified pursuant to standards and procedures established by N.J.S.A. 30:14-1 et seq., and to disclose the rights that the individual may have to unemployment compensation pursuant to N.J.S.A. 43:21-5(j); and

2. With regard to individuals utilizing counseling or employment services under N.J.S.A. 34:15B-38, 34:15D-7 or 43:21-59, to make referrals to services determined to be appropriate in the case of the individual, including, but not limited to, any appropriate referral to a designated domestic violence agency as defined at N.J.S.A. 43:21-5(j) or a community shelter for victims of domestic violence certified pursuant to standards and procedures established by N.J.S.A. 30:14-1 et seq., to disclose the rights that the individual may have to unemployment compensation pursuant to N.J.S.A. 43:21-5(j), and to assume responsibility for counseling the individual in the design of his or her Employability Development Plan, which plan shall be developed to include appropriate accommodations for the individual’s needs as a victim of domestic violence.

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

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

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

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

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

“Employment and training services” means:

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

“English as a Second Language” means training designed for persons with limited English language skills to prepare

them in the acquisition of understanding, speaking, reading and writing the English language and skills necessary to function effectively in an English speaking environment, in order to enter other basic skills and remediation programs, and to obtain or retain suitable employment. Persons with limited English language skills are those whose primary language is other than English and who have been assessed to be in need of instruction in English as a second language. An adult's primary language is the language most relied upon by the adult for communication or the language most spoken by the adult in his or her home and work environment.

"Fund" means the Workforce Development Partnership Fund.

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

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

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

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

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

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

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

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

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

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

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

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

"Program" means the Workforce Development Partnership Program.

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

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

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

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

“Qualified displaced worker” means a worker who:

1. Is unemployed, and:
 - i. Is currently receiving unemployment benefits pursuant to N.J.S.A. 43:21-1 et seq. or any Federal or State unemployment benefit extension; or
 - ii. Has exhausted eligibility for benefits or extended benefits during the preceding 52 weeks; or
2. Meets the criteria set by the Workforce Investment Act of 1998, P. L. 105-220 (29 U.S.C. §§ 1651 et. seq.) to be regarded as a “dislocated worker” under that Act.

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

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

1. A qualified job counselor must have a bachelor’s degree including or supplemented by:
 - i. Fifteen college semester hours in vocational guidance or other courses directly related to vocational counseling preparation;
 - ii. One year of related professional counseling experience; and
 - iii. Knowledge of State and Federal education laws, employment and training laws, wage and hour laws, and temporary disability and unemployment insurance laws.
2. Substitution of experience for education is allowed, provided the 15 college credits have been successfully completed. Master’s degrees in psychology, education, social work, vocational rehabilitation counseling, and personnel administration may be substituted for the one year of experience.
3. The job counselor must be an employee of the Department or an employee of an organization or agency designated by the Commissioner to deliver Workforce Development Partnership Program services.

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

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

attain a minimum level of proficiency needed to attain at least the level of self-sufficiency.

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

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

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

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

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

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

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

“Training provider” means a provider of education or training services that is approved by a State or Federal agency authorized to approve such entities and meets the requirements of the State Employment and Training Commission and is listed on the Eligible Training Provider List. Such providers may include, but are not limited to, a private or public school or institution of higher education, a business, a

labor organization, or a community-based organization. Training providers under this chapter must be located in New Jersey.

“Victim of domestic violence” means a person protected under the Prevention of Domestic Violence Act of 1991, N.J.S.A. 2C:25-17 et seq., and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or other person who is a present or former household member. “Victim of domestic violence” also includes any person, regardless of who has been subjected to domestic violence by a person with whom the victim anticipates having a child in common, if one of the parties is pregnant. “Victim of domestic violence” also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

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

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

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

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

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

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

Rewrote the section.

Amended by R.2008 d.280, effective September 15, 2008.

See: 40 N.J.R. 1750(a), 40 N.J.R. 5241(a).

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

Amended by R.2008 d.335, effective November 3, 2008.

See: 40 N.J.R. 1755(a), 40 N.J.R. 6469(a).

Added definition “Vocational training”.

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In definitions “Commissioner”, “Department”, “Office of Customized Training” and “State Employment and Training Commission”, inserted “and Workforce Development”.

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

12:23-2.1 Purpose

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

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

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

Inserted “(WDP)” following “Partnership”.

12:23-2.2 Eligibility and scope

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

1. An individual employer who seeks customized training services to create, upgrade, or retain jobs in a labor demand occupation;

2. An individual employer who seeks customized training services to upgrade or retain jobs in an occupation which is not a labor demand occupation, if the Commissioner determines that the services are necessary to prevent the likely loss of jobs with a negative impact on currently employed workers, or that the services are being provided to employees at a facility which is being relocated into New Jersey;

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

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

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

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

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

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

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

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

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

12:23-2.3 Application for Customized Training Assistance

(a) It is the intent of the Workforce Development Partnership Program to link customized training services directly to the demands of the workplace by providing high quality training and education through active participation by New Jersey’s business, labor communities and local Workforce Investment Boards (WIBs). The approval of applications and

execution of contracts for the delivery of customized training services will be accomplished in accordance with this intent.

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

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

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

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

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

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

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

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

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

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

tomized Training as noted in (b)1 above and the evidence and information specified in (b)4 through 6 above.

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

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

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

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

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

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

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

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

Amended by R.2012 d.024, effective February 6, 2012.

See: 43 N.J.R. 2424(a), 44 N.J.R. 285(a).

In the introductory paragraph of (b), deleted a comma following "the applicant"; in (b)5, deleted "total" preceding "quality"; deleted former (e) and (f); and recodified former (g) as (e).

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

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

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

(c) No activities funded by the program shall impair existing contracts for services or collective bargaining agreements, except that activities which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. The extent to which an applicant who is a previous recipient of a customized training contract has provided opportunity for occupational development, increased productivity and earning power.

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

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

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

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

(f) Upon approval of the application, a contract for customized training services containing the terms and 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 upon request.

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

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

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

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

Deleted (a)6; recodified (a)7 as (a)6; and added (g) through (m).
Amended by R.1998 d.403, effective August 3, 1998.
See: 30 N.J.R. 1749(a), 30 N.J.R. 2927(b).

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

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

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

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

(a) Customized training applications may be obtained from the Department of Labor and Workforce Development, 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 and Workforce
Development
PO Box 933
Trenton, New Jersey 08625-0933

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

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

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

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

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

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In (a) and in the address in (c), inserted "and Workforce Development"; and in the address in (c), deleted "Division of Business Services," preceding "Office of Customized Training".

12:23-2.7 Disclosure of information

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

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

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

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

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

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

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

12:23-2.8 Refunds and fines

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

(b) A \$500.00 fine shall be imposed for each incident where the grant recipient fails to comply with the provisions set forth in the customized training contract. This includes the

failure to file reports as directed including, but not limited to, the closeout report, impact analysis report and auditing report. Penalties for the failure to comply with WDP contribution requirements are found at N.J.A.C. 12:16.

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

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

SUBCHAPTER 3. INDIVIDUAL TRAINING GRANTS

12:23-3.1 Eligibility

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

(b) In order to be eligible for an individual training grant as a displaced worker 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 a One-Stop Career Center System office designated by the Department.

(d) An individual who has qualified for a training grant shall enter the training program identified in the Employability Development 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 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.

(e) 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 a 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.

(f) A WDP training grant may be awarded for eligible individuals under the Supplemental Workforce Fund for Basic Skills providing the requirements set forth in N.J.A.C. 12:23-9.4 are met and an Employability Development Plan is developed.

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

Rewrote (a); in (b), inserted "as a displaced worker" following "grant"; rewrote (c); deleted (d); recodified former (e) as (d) and rewrote it; recodified former (f) as (e) and substituted "a" for "an Individual Service Strategy Summary" prior to "plan"; added a new (f).

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 for occupational training 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 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, unless those skills need to be upgraded in order for the individual to reach a level of self-sufficiency;

3. The training services are provided in New Jersey by an eligible training provider;

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 occupational, remedial, or a combination thereof; and

6. Sufficient funding exists in accordance with the Act.

(b) Training grants for remedial education will be approved only if:

1. The education is needed to enable the individual to develop the skills necessary to attain at least the level of self-sufficiency;

2. The education is needed to enable the individual to succeed in occupational training; or

3. The education is needed by the individual to advance in the individual's career.

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.

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

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

In (a), inserted "for occupational training" following "grants" in the introductory paragraph, deleted "is in a labor demand occupation which" in 2, substituted "an eligible" for "a" following "by" and deleted the N.J.S.A. and N.J.A.C. references in 3, and substituted "occupational" for "vocational" following "training is" in 5; and added (b).

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 year from the start of training to support long-term training as identified in the Employability Development Plan.

(b) The amount for remedial education training grants shall not exceed \$2,000, except with the permission of the Director of the Division of Employment and Training. The counselor will determine the need for, source, and amount of a grant for such remedial education.

(c) The maximum grant amount per individual for a WDP individual training grant or a combination Self-Employment Assistance and Entrepreneurial (SEA) grant as defined in N.J.A.C. 12:17-18.41 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.

(d) The Commissioner has the right to annually adjust the amounts available for both occupational 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).

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

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

In (a), deleted "fiscal" prior to "year", inserted "from the start of training" following "year" and deleted the third sentence; added a new (b); recodified former (b) as (c) and added an N.J.A.C. reference; recodified former (c) as (d) and substituted "occupational" for "vocational" following "both".

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.

(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 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.

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

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

In (a) deleted the third sentence; in (b)4 deleted "(WDP)" following "Partnership" in the first sentence.

12:23-3.6 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 in the following sequence:

1. Workforce New Jersey Manager in the local One-Stop Career Center System;

2. Chief, Division of Employment and Training, Workforce New Jersey; 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 grant denials 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 New Jersey Unemployment Insurance Law and Rules at 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.

Recodified from N.J.A.C. 12:23-3.7 and amended by R.2002 d. 193, effective June 17, 2002.

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

Former N.J.A.C. 12:23-3.6, Coordination with the Job Training Partnership Act, repealed. Rewrote (a)1 and 2; in (c), substituted "grant denials" for "denial of grants" following "Appeals of", and inserted "New Jersey Unemployment Insurance Law and Rules at" following "in accordance with".

12:23-3.7 Refunds

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

Recodified from N.J.A.C. 12:23-3.8 and amended by R.2002 d.193, effective June 17, 2002.

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

Former N.J.A.C. 12:23-3.7, Request for consideration of grant denials, recodified to 12:23-3.6.

12:23-3.8 Approved training costs

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

(d) Charges (such as room and board and parking fees) that are not assessed on all students are not eligible training-related fees and shall not be paid under the WDP grant program. Fees that 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).

Recodified from N.J.A.C. 12:23-3.9 and amended by R.2002 d.193, effective June 17, 2002.

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

Former N.J.A.C. 12:23-3.8, Refunds, recodified to 12:23-3.7. Rewrote (a); in (c) deleted "such as library fees," following "fees," in the first sentence, substituted "These" for "Other" prior to "acceptable," and inserted "library fees," prior to "lab fees" in the second sentence; in (d) substituted "Charges" for "Those charges," at the beginning of the paragraph, and substituted "that" for "which" throughout.

SUBCHAPTER 4. APPROVED TRAINING UNDER THE WORKFORCE DEVELOPMENT PARTNERSHIP ACT

12:23-4.1 Approved training

(a) Approved training under the Act can include occupational training or remedial training, or it can include a combination of the two. In all cases, the training must be with an approved training provider located in the State.

1. Occupational training will be approved only if:

- i. 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;

- ii. The training is provided by an approved training provider;

- iii. The individual may reasonably be expected to complete the training;

- iv. It does not include on the job training or training for which an individual receives wages except as permitted in this chapter; and

- v. It is occupational, remedial, or a combination of both, in nature.

2. Remedial training will be approved only if:

- i. The training is solely for remedial education, which includes basic skills; or

- ii. The eligible individual under the law has identifiable occupational skills but the training services are needed to enable the individual to develop skills necessary to attain at least the level of self-sufficiency.

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

1. The training is for remedial education;

2. The training includes remedial education needed by the individual to succeed in the occupational component of the training;

3. The training is part of a college degree program which will enhance the individual's marketable skills and/or earning power;

4. The length of the training program; or

5. 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.

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

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

Rewrote the section.

12:23-4.2 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;

3. It consists of a minimum of nine credit hours for individuals pursuing a post-graduate degree at an institution of higher education; or

4. It consists of 15 hours of classroom instruction plus five hours of homework for remedial training.

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

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

Added (a)4.

12:23-4.3 Active search for work

(a) The following apply to individuals receiving unemployment insurance benefits:

1. 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 there is an interruption in the training of more than four calendar weeks, the work search waiver does not apply.

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

3. Work search waivers will be granted only to individuals in full-time training.

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

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

Inserted a new (a); recodified former (a) as 1 and rewrote the first sentence; recodified former (b) and (c) as 2 and 3.

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 (Reserved)

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

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

Section was "Remedial and basic skills courses".

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. Meets the criteria listed in N.J.S.A. 43:21-4(c)(4)(A) and (B) and complies with the requirements set forth in this chapter at N.J.A.C. 12:23-5.5 for approved training;

4. Is in a full-time training program which has been approved through an Employability Development Plan; and

5. 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).

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

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

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

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

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

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

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

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

In (b), rewrote the first sentence.

12:23-5.3 Work search waiver

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

12:23-5.4 Refusal of suitable work

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

12:23-5.5 Intent to enter training

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

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

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

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

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

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

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

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

12:23-5.6 Claim options

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

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

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

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

12:23-5.7 Overpayments

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

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

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

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

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

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

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

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

12:23-5.8 Appeals

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

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

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

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

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

Case Notes

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

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

12:23-6.1 Purpose and scope

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

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

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

Amended N.J.S.A. references.

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

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

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

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

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

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

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

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

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

In (a), added a second sentence.

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In (a), inserted "and Workforce Development".

12:23-6.3 Innovative demonstration project funds

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

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

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

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

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

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

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

(e) The Commissioner retains the authority to modify application review factors based on the changing needs of the

New Jersey economy. Such modification shall be through the rulemaking process.

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

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

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

Assistant Commissioner, Workforce Development
New Jersey Department of Labor and Workforce
Development
PO Box 055
Trenton, New Jersey 08625-0055

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

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

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

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

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

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

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In the address in (h), substituted "Assistant Commissioner, Workforce Development" for "Director, Division of Employment and Training", and inserted "and Workforce Development".

12:23-6.4 Eligibility for services

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

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

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

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

12:23-6.5 Eligibility of service providers

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

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

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

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

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

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

Rewrote the section.

12:23-6.6 Limitation on administrative costs

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

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

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

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

12:23-6.7 Monitoring and oversight

The Department of Labor and Workforce Development 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.

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

Inserted "and Workforce Development".

12:23-6.8 Evaluation of employment and training services

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

1. The effectiveness of the training and services in terms of increasing employability, the effect on earnings after training and the career opportunities provided in relation to the individual served;

2. The achievement of a minimum job placement goal of 70 percent; and

3. The degree to which the training or services are related to a labor demand occupation as defined by NJOICC or as recommended by the local Workforce Investment Board (WIB) and approved by the Director of NJOICC based on local labor market conditions or project labor market conditions.

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

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

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

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

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

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

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

12:23-6.9 (Reserved)

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

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

Section was "Records and reports".

12:23-6.10 (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 in this chapter and who are participating in training or education which is designed to assist in the recognition and prevention of potential workplace and associated health and safety hazards. It sets forth the application, review and administrative process for awarding grants and the administration of this program under this subchapter to prospective recipients, including organizations such as labor organizations, consortia, corporations, agencies, or other entities. This subchapter is not applicable to individual grants.

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

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

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

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

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

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

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

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

12:23-7.4 Application process

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

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

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

Rewrote the section.

12:23-7.5 Review and evaluation of applications

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

1. The number of individuals who will benefit from the safety and health training services;
2. The target industry and/or occupation and subject matter for training services;
3. The degree of hazard faced within the target industry and/or occupation as demonstrated by accident and injury documentation, exposure information, and other data illustrating hazards;
4. The need for services as demonstrated by the seriousness of the problem and lack or scarcity of alternative resources;
5. The extent to which the services are likely to enhance participants' marketable skills;

6. The organizational capability of the prospective recipient to provide the proposed services;

7. The previous effectiveness of efforts of the prospective recipient in providing similar services;

8. The cost of the proposed services; and

9. The potential for the proposed services to be replicated throughout the State or to have a positive impact beyond the ending date of the proposed services.

(b) Applications will be reviewed and evaluated by the Department of Labor and Workforce Development 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 the Department of Labor and Workforce Development.

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

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

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

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

Office of Customized Training
New Jersey Department of Labor and Workforce
Development
PO Box 933
Trenton, New Jersey 08625-0933

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

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

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

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In (b), (d) and in the address in (h), inserted "and Workforce Development"; in (b), inserted a comma following "services"; in (d), inserted "the Department of"; and in the address in (h), substituted "Office of Customized Training" for "Director, Division of Business Services".

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

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

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

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

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

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

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In (a) and (b), inserted "and Workforce Development"; in (a), inserted a comma following "occupation"; and in (b), deleted a comma following "appropriateness".

12:23-7.7 Allocation of funds

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

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

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

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

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

Rewrote (b).

12:23-7.8 Eligibility for services

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

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

12:23-7.9 Eligibility of service providers

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

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

12:23-7.10 Limitation on administrative costs

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

12:23-7.11 Monitoring and oversight

The Commissioner or his or her designee, within the Department of Labor and Workforce Development, 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.

Amended by R.2010 d.030, effective February 1, 2010.
See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).
Inserted "and Workforce Development" and deleted a comma following "management".

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

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

12:23-7.13 (Reserved)

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

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

12:23-8.1 Purpose and scope

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

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

Recodified from N.J.A.C. 12:23-9.1 by R.2002 d.193, effective June 17, 2002.
See: 34 N.J.R. 448(a), 34 N.J.R. 2036(a).
Amended by R.2008 d.267, effective September 2, 2008.
See: 40 N.J.R. 2406(a), 40 N.J.R. 5044(a).
Deleted former (b); and recodified (c) as (b).

12:23-8.2 Definitions

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

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

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

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

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

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

"Labor demand occupation" means an occupation, which:

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

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

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

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

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

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

New Rule, R.2008 d.267, effective September 2, 2008.
See: 40 N.J.R. 2406(a), 40 N.J.R. 5044(a).

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

12:23-8.3 Proof of program eligibility

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

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

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

may refuse the individual's application for enrollment in a course under the tuition waiver program where:

1. The individual is eligible for any available State or Federal student financial aid, which would fully cover the individual's enrollment in the course;
2. Available classroom space does not permit the individual's enrollment in the course;
3. Tuition paying students do not constitute the minimum number required for the course; or
4. The individual has already paid tuition for the course.

(c) Where an individual has defaulted on a student financial aid loan and where that default is the sole reason that the individual is ineligible for State or Federal student financial aid, the public institution of higher education may refuse the individual's application for enrollment in a course under the tuition waiver program.

(d) An individual's eligibility for enrollment in a course with a public institution of higher education under the tuition waiver program shall depend upon the individual possessing the appropriate prerequisite skills for that course as determined by the public institution of higher education.

(e) If deemed necessary, an institution may allow an individual to register for courses pending receipt of One-Stop Career Center verification.

(f) 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.

Recodified from N.J.A.C. 12:23-9.3 and amended by R.2002 d.193, effective June 17, 2002.

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

Rewrote (a); and in (b) substituted "One-Stop Career System" for "Department of Labor" prior to "verification."

Recodified from N.J.A.C. 12:23-8.2 and amended by R.2008 d.267, effective September 2, 2008.

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

Deleted former (a); inserted new (a) through (d); recodified former (b) and (c) as (e) and (f); and in (e), substituted "Center" for "System". Former N.J.A.C. 12:23-8.3, Eligibility for financial aid, recodified to N.J.A.C. 12:23-8.4.

12:23-8.4 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 finan-

cial 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.

Recodified from N.J.A.C. 12:23-9.4 by R.2002 d.193, effective June 17, 2002.

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

Recodified from N.J.A.C. 12:23-8.3 by R.2008 d.267, effective September 2, 2008.

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

Former N.J.A.C. 12:23-8.4, Eligible coursework, recodified to N.J.A.C. 12:23-8.5.

12:23-8.5 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 as indicated in the individual's Employability Development Plan approved by the One-Stop Career Center.

(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.

Recodified from N.J.A.C. 12:23-9.5 and amended by R.2002 d.193, effective June 17, 2002.

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

In (a), substituted "One-Stop Career System staff" for "Division" at the end.

Recodified from N.J.A.C. 12:23-8.4 and amended by R.2008 d.267, effective September 2, 2008.

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

In (a), substituted "as" for "or shall be" and "Center" for "System staff". Former N.J.A.C. 12:23-8.5, Employment during semester, recodified to N.J.A.C. 12:23-8.6.

12:23-8.6 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.

Recodified from N.J.A.C. 12:23-9.6 by R.2002 d.193, effective June 17, 2002.

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

Recodified from N.J.A.C. 12:23-8.5 by R.2008 d.267, effective September 2, 2008.

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

Former N.J.A.C. 12:23-8.6, Application of general institution rules, recodified to N.J.A.C. 12:23-8.7.

12:23-8.7 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.

Recodified from N.J.A.C. 12:23-9.7 by R.2002 d.193, effective June 17, 2002.

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

Recodified from N.J.A.C. 12:23-8.6 by R.2008 d.267, effective September 2, 2008.

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

Former N.J.A.C. 12:23-8.7, Inclusion of program in college enrollment count, recodified to N.J.A.C. 12:23-8.8.

12:23-8.8 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.

Recodified from N.J.A.C. 12:23-9.8 by R.2002 d.193, effective June 17, 2002.

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

Recodified from N.J.A.C. 12:23-8.7 by R.2008 d.267, effective September 2, 2008.

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

Former N.J.A.C. 12:23-8.8, Financial obligation of eligible individual, recodified to N.J.A.C. 12:23-8.9.

12:23-8.9 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 this subchapter.

(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 this subchapter.

(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.

Recodified from N.J.A.C. 12:23-9.9 and amended by R.2002 d.193, effective June 17, 2002.

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

In (c) and (d) deleted N.J.A.C. references.

Recodified from N.J.A.C. 12:23-8.8 by R.2008 d.267, effective September 2, 2008.

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

12:23-8.10 Appeal of finding regarding tuition waiver program eligibility

(a) Appeals by individuals of tuition waiver program eligibility determinations under N.J.A.C. 12:23-8.3 shall follow the following procedures:

1. The appeal shall be filed within 10 days of notice of the action, decision or situation being appealed.
2. An appeal must be filed with the Deputy Assistant Commissioner, Division of One Stop Programs and Services, within the Department of Labor and Workforce Development.

(b) Appeals by individuals or by public institutions of higher education of determinations made by the Deputy Assistant Commissioner, Division of One-Stop Programs and Services under (a) above, shall be filed with the Commissioner within 10 days of receipt of the determination.

(c) The Commissioner shall decide any appeal under (b) above on the written record or such other proceeding as the Commissioner deems appropriate.

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

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

SUBCHAPTER 9. SUPPLEMENTAL WORKFORCE FUND FOR BASIC SKILLS**12:23-9.1 Purpose**

The purpose of this subchapter is to set forth the rules for the allotment of funds reserved pursuant to section 1 of P.L. 2001, c.152 to enable eligible individuals who are lacking in

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

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

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

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

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

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

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

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

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

12:23-9.3 Funding

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

1. To support basic skills training delivered at the basic skills resource centers located in the One-Stop Career Center System. The recipient of the funds provided under this subsection shall be the Department.

- i. One-Stop Career Center staff funded under (a)1 above must be merit system employees;

2. To provide grants to eligible individuals in Local Workforce Investment Areas for basic skills training consistent with Employability Development Plans.

- i. Funds shall be awarded through competitive grants to Workforce Investment Boards in accordance with planning guidelines established by the State Employment and Training Commission.

- ii. The recipient of the funds is responsible for the funds received.

- iii. The political jurisdiction(s) of the chief elected official(s) in the Local Workforce Investment Area is liable for any misuse of the funds provided to the Workforce Investment Board;

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

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

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

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

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

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In the introductory paragraph of (a), substituted "c. 152" for "c.152"; and in (a)4, inserted "and Workforce Development".

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

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

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

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

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

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

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

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

12:23-9.5 Coordination and consultation requirements

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

1. The recruitment of individuals who need basic skills training to become employable;

2. Identifying those eligible individuals who need remedial education to enable those individuals to develop skills necessary to attain at least the level of self-sufficiency;

3. Sharing the costs of training and services to be provided; and

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

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

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

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

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

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

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

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

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

12:23-9.7 Monitoring and oversight

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

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

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

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

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

Amended by R.2010 d.030, effective February 1, 2010.

See: 41 N.J.R. 3374(a), 42 N.J.R. 549(a).

In (a), inserted "and Workforce Development".

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

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

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

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

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

12:23-9.9 Prohibition on use of funds

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

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

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

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

SUBCHAPTER 10. RECORDS, REPORTS, AND PERFORMANCE

12:23-10.1 Purpose

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

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

12:23-10.2 Scope

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

12:23-10.3 Reporting requirements

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

1. A record for each student enrolled, including the student's name, Social Security number, address upon enrollment, and other information as required by the State Employment and Training Commission and/or the NJOICC;
2. A record of all direct, administrative and overhead expenses of the grantee related to the provision of employment and training services funded under this chapter, including matching costs;
3. Financial reports as may be required by the Commissioner;

4. Reports of the enrollments and outcomes in occupational training and basic skills programs that provide information pursuant to the performance requirements of this chapter; and

5. Any other information deemed appropriate by the Commissioner for a specific grantee or service provider.

(b) Individual student outcome information is required for all eligible individuals covered by this Act.

1. A qualifying agency or an approved training or service provider 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.

2. Any entity that reports student outcome or licensing information to a qualifying agency or an approved training or service provider shall request that its students or licensees voluntarily provide their Social Security numbers. Such request shall state that:

i. The disclosure of the Social Security number is voluntary;

ii. 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 investment system, and for other purposes as determined by the Commissioner; and

iii. 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. § 552(a)(note)(b).

3. The information required by this subsection shall be provided on a schedule to be determined and published by the NJOICC and the SETC.

12:23-10.4 Disclosure of information

(a) Information collected by the NJOICC from qualifying agencies or from approved training or service providers 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.

(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.

12:23-10.5 Performance standards and evaluation

(a) Performance standards shall be established for all training programs including basic skills training programs. Performance standards shall be established in accordance with the Strategic Five-Year Unified State Plan for New Jersey's Workforce Investment System.

(b) The State Employment and Training Commission shall review and evaluate the operations of programs supported by the New Jersey Employment and Workforce Development Act, with special consideration to how these programs assist in the implementation of the goals of the Strategic Five-Year Unified State Plan for New Jersey's Workforce Investment System, and shall consult with the Commissioner of Labor regarding its findings.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. STATE RENTAL ASSISTANCE PROGRAM; SATISFACTORY PROGRESS

12:23-12.1 Purpose

To establish a standard with regard to what constitutes "satisfactory progress," as that term is used within P.L. 2005, c. 66, and to establish a system for monitoring "satisfactory progress," for the purpose of certifying to the Department of Community Affairs whether recipients of rental assistance grants under N.J.S.A. 52:27D-287.1 are showing satisfactory progress in carrying out the training and educational activities set forth in their Employability Development Plans, where such Employability Development Plans have been designed for the recipients of rental assistance grants by qualified counselors at One-Stop Career Centers and, therefore, whether, pursuant to P.L. 2005, c. 66, the rental assistance grant recipients will maintain eligibility for their rental assistance grants.

12:23-12.2 Applicability

This subchapter shall apply to each individual who is under the age of 65, who is not disabled, who is receiving a rental assistance grant under N.J.S.A. 52:27D-287.1, who has applied with the Department through a One-Stop Career Center for employment and training services and who has sought the counseling required to obtain employment and training services.

12:23-12.3 Qualified job counselor responsibilities

(a) Once the rental assistance grant recipient has applied with the Department through a One-Stop Career Center for employment and training services and has sought the counseling required to obtain employment and training services, the qualified job counselor at a One-Stop Career Center shall determine whether the rental assistance grant recipient meets the requirements set forth in (b) below.

(b) Development by a qualified job counselor of an Employability Development Plan is not required for continued eligibility for a rental assistance grant, where the qualified job counselor determines that any one of the following require-

ments have not been met by the rental assistance grant recipient:

1. The individual is eligible for employment and training services under N.J.S.A. 34:15B-35 et seq., 34:15D-1 et seq. or 43:21-57 et seq.;
2. The individual lacks the basic skills or occupational skills needed to obtain employment, which provides self-sufficiency; or
3. Funds are available to the individual for any remedial education and vocational training needed to permit the individual to obtain employment providing self-sufficiency and that the education and training are available and accessible to the individual in a time and manner, which does not result in a reduction of the individual's family income or substantial additional expenses.

(c) Where the qualified job counselor determines that the rental assistance grant recipient has failed to meet any of the requirements set forth at (b) above the qualified job counselor shall provide to both the Department of Community Affairs and the rental assistance grant recipient written certification that an Employability Development Plan is not required in order to maintain eligibility for the rental assistance grant.

(d) Where the qualified job counselor determines that the rental assistance grant recipient meets all of the requirements set forth at (b) above and where the qualified job counselor designs an Employability Development Plan for the rental assistance grant recipient, the qualified job counselor shall, in the manner prescribed under N.J.A.C. 12:23-12.6, monitor the satisfactory progress of the rental assistance grant recipient, and shall, in the manner prescribed under N.J.A.C. 12:23-12.7, report on the satisfactory progress of the rental assistance grant recipient to the Department of Community Affairs.

12:23-12.4 Satisfactory progress

(a) When used in this subchapter, the term "satisfactory progress" shall mean:

1. Regular attendance at scheduled appointments with a qualified job counselor and at activities required under the Employability Development Plan.
 - i. A pattern of missed appointments or activities or two consecutive missed appointments or activities shall constitute a failure to meet the regular attendance requirement in this paragraph; and
2. Satisfactory performance in activities required under the Employability Development Plan, such as workshops conducted by the One-Stop Career Center or remedial education or vocational training conducted by a provider to which the individual has been referred by the One-Stop Career Center.

i. Where the qualified job counselor is determining whether the individual has shown satisfactory performance in a workshop conducted by the One-Stop Career Center, he or she shall use whatever performance criteria have been developed by the One-Stop Career Center.

ii. Where the qualified job counselor is determining whether the individual has shown satisfactory performance in a training conducted by a provider, he or she shall use the guidelines developed by the provider.

12:23-12.5 Good cause for reasonable adjustments to satisfactory progress requirement

(a) Good cause may exist for the qualified job counselor to forgive a rental assistance grant recipient's failure to satisfy one or more of the requirements set forth in N.J.A.C. 12:23-12.4, Satisfactory progress, or for the qualified job counselor to redesign the Employability Development Plan of a rental assistance grant recipient, under any one or a combination of the following circumstances:

1. The rental assistance grant recipient presents medical documentation that he or she is physically or mentally unable to attend a scheduled appointment or engage in an activity;
2. Child care is needed and is not available;
3. The rental assistance grant recipient is unable to attend a scheduled appointment or engage in an activity due to family violence;
4. The activity for which the rental assistance grant recipient is scheduled under his or her Employability Development Plan is not available;
5. The rental assistance grant recipient presents medical documentation of the illness of his or her child or any other member of his or her household or immediate family who is dependent upon the rental assistance grant recipient;
6. The death of a spouse, parent, child, sibling or grandparent has occurred within the preceding 10 working days;
7. Attendance at a scheduled meeting or engaging in an activity would jeopardize the rental assistance grant recipient's current employment, including part-time employment; and/or
8. Other circumstances requiring the rental assistance grant recipient's immediate and personal attention, including, but not limited to, the following: jury duty, a court appearance, school conferences concerning a child of the rental assistance grant recipient, medical diagnosis or testing of the child of a rental assistance grant recipient, and other similarly important personal matters.

12:23-12.6 Monitoring of satisfactory progress

(a) A qualified job counselor shall regularly engage in the following activities relative to the monitoring of a rental assistance grant recipient's satisfactory progress:

1. Keep an accurate record of the rental assistance grant recipient's attendance at scheduled appointments with a qualified job counselor and at activities required under the Employability Development Plan;
2. Review educational and training progress reports at the end of a marking period or semester and consult with educational and training service providers after benchmark goals are achieved; and
3. Communicate with educational and training service providers on a regular basis to ensure that rental assistance grant recipients are attending the required activities and progressing toward self-sufficiency.

12:23-12.7 Reporting to the Department of Community Affairs

With regard to each rental assistance grant recipient who has applied to the Department through a One-Stop Career Center for employment and training services, who is seeking the counseling required to obtain the employment and training services, who has been assigned to a qualified job counselor and for whom the qualified job counselor has designed an Employability Development Plan, the qualified job counselor shall report on the satisfactory progress of the rental assistance grant recipient to the Department of Community Affairs on a quarterly basis, as follows: January 15, April 15, July 15 and October 15.

12:23-12.8 Appeals

Where a report to the Department of Community Affairs by the qualified job counselor under N.J.A.C. 12:23-12.7 results in a determination by the Department of Community Affairs under N.J.A.C. 5:42 to deny admission to the State rental assistance program or to terminate State rental assistance, an appeal may be pursued through the termination/hearing process set forth at N.J.A.C. 5:42-4.

SUBCHAPTER 13. ONE-STOP CAREER CENTERS; VICTIMS OF DOMESTIC VIOLENCE

12:23-13.1 Training of qualified job counselors

(a) Each qualified job counselor who is hired to work in a One-Stop Career Center shall receive Domestic Violence and Workforce Development Initiative Act training.

(b) Training provided under (a) above shall be conducted by a Certified Domestic Violence Specialist or, if a Certified Domestic Violence Specialist is not available to conduct the training, by another person approved by the Commissioner, in

consultation with the Commissioner of the Department of Community Affairs, who possesses the following qualifications and expertise in the area of domestic violence:

1. 180 hours of domestic violence specific education; and
2. 1,000 hours of direct service experience with domestic violence clients.

(c) With regard to the qualifications listed in (b)1 and 2 above, at the discretion of the Commissioner, in consultation with the Commissioner of the Department of Community Affairs, direct service experience with domestic violence clients may be substituted for up to 140 hours of domestic violence education at a rate of 28 hours of direct service experience with domestic violence clients for every one hour of domestic violence education required.

12:23-13.2 Qualified job counselor responsibilities – self-screening

(a) Each qualified job counselor who has direct, in-person, contact with an individual who is either utilizing counseling or employment services under N.J.S.A. 34:15B-38 in connection with the receipt of employment and training services paid for with Federal job training funds, utilizing counseling or employment services under N.J.S.A. 34:15D-7 in connection with an application to participate in the Workforce Development Partnership program, or utilizing counseling or employment services under N.J.S.A. 43:21-59 in connection with the receipt of remedial education or vocational training provided pursuant to the Unemployment Compensation law, shall present to the individual, as part of the reemployment orientation package, a document that contains the following information:

1. A self-screening questionnaire, which asks a series of yes/no questions of the individual designed to ascertain whether the individual is a victim of domestic violence;
2. An instruction that if the individual has answered yes to any of the questions listed in the self-screening questionnaire, he or she may contact the office's designated domestic violence liaison;
3. A statement that any of the information that the individual shares with the domestic violence liaison about his or her fears, dangers or abuse will be kept confidential within the Department of Labor and Workforce Development and at any support service programs to which the individual is referred, with the exception that if the claimant informs the Department employee that any child or children are being abused, the Department of Labor and Workforce Development must, pursuant to N.J.S.A. 9:6-8.10, report that information to the Division of Youth and Family Services; and
4. A listing of New Jersey Statewide domestic violence hotlines.

12:23-13.3 Qualified job counselor responsibilities – individual has identified himself or herself as a victim of domestic violence

(a) Where, as a result of the self-screening described under N.J.A.C. 12:23-13.2, an individual discloses to a Department employee other than the office's designated domestic violence liaison that he or she is a victim of domestic violence, the Department employee shall direct the individual to the office's domestic violence liaison.

(b) It shall be the responsibility of the domestic violence liaison with regard to each individual who, as a result of the self-screening described under N.J.A.C. 12:23-13.2, discloses that he or she is a victim of domestic violence, to provide the following information to the individual:

1. Referrals to services determined by the domestic violence liaison to be appropriate in the case of the individual claimant, which services shall include, but not be limited to, any appropriate referral to a designated domestic violence agency as defined at N.J.S.A. 43:21-5(j) or a community shelter for victims of domestic violence

certified pursuant to standards and procedures established by N.J.S.A. 30:14-1 et seq.; and

2. The rights that the individual claimant may have to unemployment compensation pursuant to N.J.S.A. 43:21-5.

(c) With regard to each individual who, as a result of the self-screening described under N.J.A.C. 12:23-13.2, discloses that he or she is a victim of domestic violence, the domestic violence liaison shall assume responsibility for counseling the individual in the design of his or her Employability Development Plan, which plan shall be developed to include appropriate accommodations for the individual's needs as a victim of domestic violence.

(d) It shall be the responsibility of the domestic violence liaison with regard to each individual who, as a result of the self-screening described under N.J.A.C. 12:23-13.2, discloses that he or she is a victim of domestic violence, to ensure compliance by the Department with all requirements regarding confidentiality of the individual claimant, including, as applicable, the requirements of N.J.S.A. 34:15B-38, 34:15D-7 and 43:21-59 and the "Address Confidentiality Program Act," N.J.S.A. 47:4-1 et seq.