



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF CAREER, TECHNICAL, AND ADULT EDUCATION

**PROGRAM MEMORANDUM OCTAE 16-2**

**DATE:** April 6, 2016

**TO:** State Directors of Adult Education

**FROM:** Johan E. Uvin /s/  
Deputy Assistant Secretary,  
Delegated the Duties of the Assistant Secretary

**RE:** Establishing Expected Levels of Performance and Negotiating Adjusted Levels of Performance for Program Years (PY) 2016-17 and 2017-18

This memorandum describes the criteria and procedures the U.S. Department of Education (ED), Office of Career, Technical, and Adult Education (OCTAE) will use when considering a State's expected levels of performance and negotiating adjusted levels of performance for Program Year (PY) 2016-17 and PY 2017-18 for the Adult Education and Family Literacy Act (AEFLA) program. These levels are required under section 116(b)(3)(A)(iii) and (iv)(I) of the Workforce Innovation and Opportunity Act (WIOA).

**Background**

ED and the U.S. Department of Labor (DOL) (Departments) collaborated on the implementation of the performance accountability requirements in section 116 of WIOA. This important effort focused primarily on: (1) developing the definitions and data elements for each of the six primary indicators of performance in section 116(b)(2)(A) and their applicability to the six core programs, which includes the AEFLA program; (2) developing the statistical adjustment model required by section 116(b)(3)(A)(viii); (3) decisions concerning the model's application in setting adjusted levels of performance; and (4) decisions concerning the approach to negotiations for establishing adjusted levels of performance.

The primary indicators of performance are:

- (I) the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;
- (II) the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;

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(III) the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;

(IV) the percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent (subject to clause (iii)), during participation in or within 1 year after exit from the program;

(V) the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment; and

(VI) the indicators of effectiveness in serving employers.

The Departments are using transition authority under section 503(a) of WIOA to establish a phased-in approach of negotiating and setting levels of performance for the first two program years of the initial four-year Unified or Combined State Plan. This phased-in approach is necessary because each core program is at a different stage with respect to availability of requisite data for establishing expected levels of performance and negotiating adjusted levels of performance. Specifically, some programs have historical data on similar past performance indicators that could serve as proxy data for establishing expected levels of performance and forming the basis for the negotiations to establish adjusted levels of performance. However, others have little to no proxy data to use for this purpose. For PYs 2016-17 and 2017-18, OCTAE will negotiate adjusted levels of performance with States for one indicator for the AEFLA program – the measurable skill gain indicator. OCTAE will collect baseline data for the other five primary performance indicators during this period. DOL will negotiate levels of performance with States for four of the indicators to produce initial performance levels for core programs under titles I and III for PYs 2016-17 and 2017-18 because those programs have significant history of collecting relevant data under the Workforce Investment Act of 1998 (WIA). It will collect baseline data for the two remaining indicators. For PYs 2016-17 and 2017-18, ED's Rehabilitation Services Administration (RSA) will not negotiate levels of performance for any of the indicators for the Vocational Rehabilitation program under title IV because it lacks sufficient proxy data to form the basis for establishing expected levels or adjusted levels of performance. Instead, RSA will continue to work with States on baseline data collection for all of the indicators and the approach to establishing appropriate levels of performance in future years.

This Program Memorandum pertains solely to the AEFLA program. In the next several months, the Departments will jointly issue comprehensive guidance on the overall negotiation process, including the use of the statistical adjustment model to set and revise levels of performance. The additional guidance will form the basis for setting expected levels of performance and negotiating adjusted levels of performance for all six core programs on all six primary performance indicators for the third and fourth years of the initial Unified or Combined State Plan, beginning PY 2018-19.

## **Primary Indicators of Performance – PYs 2016-17 and 2017-18**

Under WIOA, each State submitting a Unified or Combined State Plan is required to identify expected levels of performance for each of the primary indicators of performance for the first two years covered by the plan. The State is required to reach agreement with the Secretary of Labor, in conjunction with the Secretary of Education, on State adjusted levels of performance for the indicators for each of the first two years of the plan.

To effect an orderly transition to the performance accountability system in section 116 of WIOA, for PYs 2016-17 and 2017-18, the Departments will use the transition authority under section 503(a) of WIOA to designate certain primary indicators of performance as “baseline” indicators in the first plan submission. A “baseline” indicator is one for which States will not propose an expected level of performance in the plan submission and will not need to come to agreement with the Departments on adjusted levels of performance. “Baseline” indicators will not be used in the end of the year performance calculations and will not be used to determine failure to achieve adjusted levels of performance for purposes of sanctions; however, States will collect and report on all primary indicators of performance, including those that have been designated as “baseline.” States must begin collecting data for performance reporting beginning on July 1, 2016. The actual performance data reported by States for indicators designated as “baseline” in the first two years of the Unified or Combined State Plan will serve as baseline data in future years.

The Departments have designated as baseline indicators those primary indicators for which it is unlikely that there are adequate data on which to base a reasonable determination of an expected level of performance. Such a designation will vary across core programs.

## **AEFLA Performance Negotiations – PYs 2016-17 and 2017-18**

**For the AEFLA program, States are required to propose in their first plan submission expected levels of performance for only the measurable skill gain indicator established by section 116(b)(2)(A)(i)(V).** This means that States must come to agreement with ED on an adjusted level of performance for only this indicator. The remaining five performance indicators are considered “baseline” for PYs 2016-17 and 2017-18. For the purpose of performance negotiations that occur in the spring of 2016, a State should propose an expected level of performance for the measurable skill gain indicator informed, as appropriate, by its historical data on educational functioning level (EFL) completion collected under WIA.

Under section 116(b)(3)(A)(v) of WIOA, there are four statutory factors that ED must consider in the negotiation process for establishing an adjusted level of performance which will be included in the approved Unified or Combined State Plan. The Secretary is required to:

(I) take into account how the levels involved compare with the State adjusted levels of performance established for other States;

(II) ensure that the levels involved are adjusted, using the objective statistical model established by the Secretaries pursuant to clause (viii), based on— (aa) the differences among States in actual economic conditions (including differences in unemployment rates and job losses or gains in particular industries); and (bb) the characteristics of

participants when the participants entered the program involved, including indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency;

(III) take into account the extent to which the levels involved promote continuous improvement in performance accountability on the performance accountability measures by such State and ensure optimal return on the investment of Federal funds; and

(IV) take into account the extent to which the levels involved will assist the State in meeting the [long-term performance goals established by the Secretaries of Labor and Education, as described in WIOA section 116(b)(3)(A)(vi)].<sup>1</sup>

In the negotiation process this spring, for purposes of the AEFLA program, ED will consider the above factors, except for the application of the statistical adjustment model, which cannot be used until there are sufficient data to populate the model.

No sanctions are associated with the PY 2016-17 and PY 2017-18 adjusted levels of performance.

### **Guidelines for Setting Expected Levels of Performance**

Attached to this memo is an Excel workbook that contains a tool to assist you in developing State expected levels of performance. The first worksheet (tab Worksheet) allows you to select your State and, once selected, your State's PY 2014-15 data will populate the sheet. You can then enter expected levels of performance for each EFL for PY 2016-17 and PY 2017-18, and the worksheet will calculate your State's measurable skill gains. Tabs two and three provide Quartile information. Tab four contains Outcomes by EFLs. Tab four is a sortable worksheet containing data on each EFL by State. The remaining tabs contain State data.

The median EFL is indicated at the bottom of each column on tab two, and there is a 10 percent performance band drawn around the median. For purposes of proposing expected levels of performance to ED, please consider the following:

- States that are ranked in the bottom half of Quartile 1 are encouraged to propose expected levels of performance that will move them into Quartile 2.

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<sup>1</sup> WIOA section 116(b)(3)(A)(vi) requires the Secretary of Labor, in conjunction with the Secretary of Education, to establish national performance goals for the core programs, in accordance with the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285) and the amendments made by that Act, and in consultation with States and other appropriate parties. These national goals must be long-term goals for the adjusted levels of performance that are to be achieved by each of the other core programs for the primary indicators of performance.

- States that are ranked in the top half of Quartile 1 are encouraged to propose expected levels of performance that will move them into the bottom of the banded section.
- States that are in Quartile 2 and below the bottom band are encouraged to propose expected levels of performance that will move them into the banded area.
- States that are in the banded area and below the median are encouraged to propose expected levels of performance to reach or exceed the median.
- States that are in Quartiles 3 and 4 are encouraged to propose expected levels of performance that show continuous improvement.

The State Plan is due no later than April 1, 2016. States will submit expected levels of performance for PY 2016-17 and PY 2017-18 for consideration into the WIOA State Plan portal. Your Area Coordinator will follow up if any information or clarification is needed. The negotiation process culminates with the review and approval by the Assistant Secretary for Career, Technical, and Adult Education. The State Plan must be updated in the portal to incorporate the approved adjusted levels of performance after the conclusion of the negotiation process.