

TRAINING AND EMPLOYMENT NOTICE	NO. 24-23
	DATE March 22, 2024

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE WORKFORCE ADMINISTRATORS
STATE LABOR MARKET INFORMATION DIRECTORS

FROM: LENITA JACOBS-SIMMONS /s/
Deputy Assistant Secretary

SUBJECT: Effectiveness in Serving Employers Final Rule Publication Notice

1. **Purpose.** The purpose of this notice is to alert grantees to the implementation timelines of the recently finalized rule defining the Effectiveness in Serving Employers Primary Indicator of Performance.
2. **Action Requested.** Grantees should review the details of this notice and make any necessary adjustments to their data collections to enable the collection of data in accordance with the timeline described below.
3. **Summary and Background.**
 - a. Summary – This notice answers key questions about the timeline for implementing the updated requirements for reporting on the Workforce Innovation and Opportunity Act (WIOA) Effectiveness in Serving Employers Primary Indicator of Performance.
 - b. Background – On February 23, 2024, the Departments of Education and Labor (the Departments) published the [Workforce Innovation and Opportunity Act Effectiveness in Serving Employers Performance Indicator](#) final rule under Federal Register Number 89 FR 13814. This rule officially defines the sixth performance indicator—*Effectiveness in Serving Employers*—as Retention with the Same Employer in the second and fourth quarters following a participant’s exit from a WIOA core program and requires state grantees to report the indicator as a shared indicator across the six core programs as required under WIOA section 116(b)(2). The final rule will take effect on March 25, 2024.

The Department of Labor simultaneously published the [Workforce Innovation and Opportunity Act Title I Non-Core Programs Effectiveness in Serving Employers Performance Indicator](#) final rule under Federal Register Number 89 FR 13595 and incorporates the same definition of the ESE performance indicator into regulations for the following WIOA title I non-core programs: the Indian and Native American (INA), the Job Corps, and the YouthBuild programs.

4. **Key Implementation Questions and Answers.** The purpose of this joint FAQ/TEN is to outline when states will begin collecting and reporting *Effectiveness in Serving Employers* data and inform states of the information collection requests (ICRs) and joint policy guidance the Departments will revise in accordance with this new regulatory definition.

Question 1: When must states collect and report data for *Effectiveness in Serving Employers*?

Response 1: Because the new definition for *Effectiveness in Serving Employers* takes effect on March 25, 2024, WIOA core programs must begin collecting data for *Effectiveness in Serving Employers* in Program Year (PY) 2024, which begins on July 1, 2024 (i.e., the first full PY following the regulation's effective date). Given the data to be collected and the lag time in programs' ability to obtain the requisite employment data for reporting purposes, these PY 2024 data will account for participants who exited core programs during calendar year 2023 (January 1, 2023 to December 31, 2023).

Each state must report an annual aggregated and unduplicated performance result, across the six WIOA core programs, on the PY 2024 WIOA Statewide Performance Report Template (ETA-9169); these reports are due no later than October 1, 2025.

The Departments will consider PY 2024 performance results on *Effectiveness in Serving Employers* as baseline data for purposes of the statistical adjustment model.

Question 2: Will the Departments update the WIOA ICRs to include *Effectiveness in Serving Employers*?

Response 2: Yes. The publication of the final rule defining *Effectiveness in Serving Employers* serves as the notice of the start of the 30-day comment period to incorporate these changes into the following ICRs:

WIOA Common Performance Reporting (OMB Control Number: 1205-0526):

- Joint Participant Individual Record Layout (ETA-9170) (Unchanged);
- Statewide Performance Report Template and Local Area Performance Report Template (ETA-9169) (Updated);
- Eligible Training Provider Performance Report Specifications and Eligible Training Provider Performance Report Definitions (ETA-9171) (Unchanged); and
- Annual Statewide Performance Report Narrative (Unchanged).

DOL-Only Performance Accountability (OMB Control No. 1205-0521):

- DOL Participant Individual Record Layout (ETA-9172) (Unchanged);
- [Program] Performance Report (ETA-9173) (Unchanged); and
- Pay-for-Performance Report (ETA-9174) (Unchanged).

Question 3: Will the Departments update WIOA joint policy guidance to include *Effectiveness in Serving Employers*?

Response 3: Yes, during fiscal year 2024, the Departments will revise two joint policy guidance documents to include Retention with the Same Employer. First, the Departments will revise *Performance Accountability Guidance for WIOA Core Programs* (Employment and Training Administration (ETA) Training and Employment Guidance Letter (TEGL) No. 10-16, Office of Career, Technical, and Adult Education (OCTAE) Program Memorandum (PM)-17-2, and Rehabilitation Services Administration (RSA) Technical Assistance Circular (TAC)-17-01) to include *Effectiveness in Serving Employers* and technical assistance related to data collection and reporting of that data. Second, the Departments will revise *Negotiations and Sanctions Guidance for WIOA Core Programs* (ETA TEGL No. 11-19, OCTAE PM-20-2, and RSA TAC-20-02) to explain how the Departments will incorporate *Effectiveness in Serving Employers* in the negotiation and performance assessment processes.

Question 4: How will this rule impact a non-core WIOA program?

Response 4: The *Effectiveness in Serving Employers* indicator, as further defined as Retention with the Same Employer in the second quarter after exit and fourth quarter after exit, will remain the same as it has since the start of reporting on Effectiveness in Serving Employers for applicable non-core WIOA Programs. Grantees should continue to report data on this indicator as they have in the past. The final rule formalizes the definition of the indicator as the required data to be submitted. The Department of Labor will make updates to related guidance as needed to align the guidance to the updates in this final rule.

5. **Inquiries.** Please direct inquiries to the appropriate Regional Office.

6. **References.**

- Workforce Innovation and Opportunity Act, Pub. L. 113-128;
- Workforce Innovation and Opportunity Act Effectiveness in Serving Employers Performance Indicator, 89 FR 13814 (Feb. 23, 2024): [Effectiveness in Serving Employers Federal Register Notice \(Joint\)](#);
- Workforce Innovation and Opportunity Act Title I Non-Core Programs Effectiveness in Serving Employers Performance Indicator, 89 FR 13595 (Feb. 23, 2024): [Effectiveness in Serving Employers Federal Register Notice \(DOL-only programs\)](#);
- OMB Control Number 1205-0526, WIOA Common Performance Reporting;
- OMB Control Number 1205-0521, DOL-Only Performance Accountability: <https://www.dol.gov/agencies/eta/performance/reporting>;
- Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Core Programs, joint guidance issued on September 15, 2022 via the Office of Career, Technical, and Adult Education (OCTAE) Program Memorandum 17-2, DOL Employment and Training Administration Training and Employment Guidance Letter (TEGL) 10-16, and Rehabilitation Services Administration (RSA) Technical Assistance Circular (TAC) 17-01; and

- Negotiations and Sanctions Guidance for the Workforce Innovation and Opportunity Act (WIOA) Core Programs, joint guidance issued on February 6, 2020, via the Office of Career, Technical, and Adult Education (OCTAE) Program Memorandum 20-2, DOL Employment and Training Administration Training and Employment Guidance Letter (TEGL) 11-19, and Rehabilitation Services Administration (RSA) Technical Assistance Circular (TAC) 20-02.

7. **Attachment(s)**. Not applicable.