

Updated COVID-19 Flexibility Guidelines for the Maryland Workforce System | June 22, 2021

- TO:** Maryland Department of Labor (MD Labor) Division of Workforce Development and Adult Learning (DWDAL) staff; Local Workforce Development Area (Local Area) Directors; Local Administrators of WIOA Title II Adult Education programs
- FROM:** MD Labor DWDAL
- SUBJECT:** COVID-19 Flexibility Guidelines for the Maryland Workforce System
- PURPOSE:** To provide policy guidance on permitted flexibilities during Maryland’s State of Emergency due to COVID-19
- ACTION:** Local Area directors, American Job Center Labor Exchange Administrators, Local Administrators of WIOA Title II Adult Education programs, and central office managers will ensure all employees are aware of and receive copies of this policy. DWDAL policies are available [on the MD Labor website](#).
- EFFECTIVE:** June 22, 2021
- EXPIRATION:** August 1, 2021, except as specifically noted in this policy or unless otherwise required by Governor's Executive Order or by federal authorities.

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GENERAL INFORMATION

COVID-19 AND MARYLAND'S RESPONSE

Governor Larry Hogan acted early and aggressively to address the COVID-19 pandemic as it gained a footprint in Maryland, declaring a State of Emergency on March 5, 2020. As the crisis evolved, the Governor issued a series of Executive Orders aimed at encouraging social distancing to further slow the spread of disease. An Executive Order¹ issued March 23, 2020 closed all non-essential businesses in the State, and a “Stay-at-Home” directive followed on March 30, 2020. The pandemic has had a substantial impact upon Maryland’s economy, with over \$12.3 billion in unemployment benefits paid to over 730,759 recipients since March 2020.²

While COVID-19’s impact on Maryland’s economy has been substantial, the state has begun to recover. Businesses have been able to re-open and capacity limits have been increased, many to 100 percent.³ April 2021 marked the twelfth consecutive month of job growth in the state.⁴ Additionally, as of June 2, 2021, 6,144,175 doses of the COVID-19 vaccine have been administered, meaning a total of 70 percent of the eligible population has received at least one dose of the vaccine.⁵ Given the increase in vaccination rates and the decrease in COVID-19 positivity rate,⁶ on June 15, 2021 Governor Hogan announced the end of the State of Emergency, effective July 1, 2021.⁷

WORKFORCE INNOVATION & OPPORTUNITY ACT (WIOA)

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014, and went into effect July 1, 2015. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. To help both businesses and job seekers meet their needs, the workforce system established under WIOA is integrated by design. WIOA envisions connecting businesses with job seekers through meaningful partnerships among workforce, education, human services, and economic development entities to ensure optimum results and leveraging of resources. The law addresses the needs of job seekers by establishing a workforce system that helps them access employment, education, training, and support services to succeed in the labor market. Through the American Job Centers (AJCs), WIOA works to address employer needs by matching them to the skilled workers they need to compete in the global economy.

¹ Executive Orders related to Maryland’s COVID-19 response are available at: <https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>.

² Full details from Governor Hogan’s press conference are available at: <https://governor.maryland.gov/2021/06/01/as-economic-recovery-continues-maryland-to-discontinue-enhanced-pandemic-unemployment-benefits/>.

³ All of Governor Hogan’s COVID-19 responses, including press conferences, is available at: <https://governor.maryland.gov/coronavirus/>

⁴ Full details from Governor Hogan’s press conference are available at: <http://www.labor.maryland.gov/whatsnews/mlr.shtml>.

⁵ Up-to-date information on Maryland’s efforts to combat COVID-19 is available at: <https://coronavirus.maryland.gov/#Vaccine>.

⁶ Up-to-date information on Maryland’s efforts to combat COVID-19 is available at: <https://coronavirus.maryland.gov/#Vaccine>.

⁷ Executive Order ending the COVID-19 State of Emergency can be found here: <https://governor.maryland.gov/wp-content/uploads/2021/06/Termination-Roadmap-6.15.21.pdf>

WORKFORCE SYSTEM FLEXIBILITY DURING COVID-19

Recognizing the significant impacts of COVID-19 and associated disruptions to services, federal and state governments are allowing extensions, flexibilities, exemptions, etc., to certain requirements of workforce development and adult education programming. This policy serves to memorialize the temporary flexibilities for the State of Maryland during the pandemic-induced State of Emergency.

Both the U.S. Department of Labor (USDOL)'s Employment and Training Administration (ETA) and the U.S. Department of Education (DoED)'s Office of Career, Technical, and Adult Education (OCTAE) have released COVID-19 related guidance outlining new, temporary permissions to grantees. While this policy does not list *all* federally-granted exceptions, pertinent examples are noted in the subsequent sections and comprehensive lists of current allowances are available at the links below:

(USDOL ETA) <https://www.dol.gov/agencies/eta/coronavirus>

(DoED OCTAE) <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

The Maryland Department of Labor (MD Labor) encourages providers to regularly check these websites, as guidance during the pandemic period continues to evolve.

In addition to the abovementioned federal permissions, MD Labor recognizes the need for flexibility and will permit the changes to State policies and procedures noted in this issuance. Allowances are organized into two categories: General Operations and Programming. Where relevant, the related MD Labor policy is noted.

GENERAL OPERATIONS FLEXIBILITIES

1. USDOL allows grantees to use funds to purchase cleaning supplies, as long as they are being used for the benefit of the grant program (e.g., in grantee spaces or a proportionate share of shared spaces).
2. USDOL allows programs to charge a grant for employees working on COVID-19 related functions (i.e. sanitizing the building, etc.) rather than grant-related functions, as long as that work is for cleaning and sanitizing dedicated common spaces used to house program staff and participants.
3. USDOL allows grantees (including Local Workforce Development Areas (Local Areas)) to increase their allocations for administrative costs from 10 percent to 20 percent.⁸ This flexibility is only applicable until the completion of Program Year 2020, which ends June 30, 2021.
4. MD Labor approves the use of electronic signatures.⁹ This flexibility will continue upon the expiration of this policy; however, Local Areas must reflect electronic signature procedures in local policies.

PROGRAMMING FLEXIBILITIES

1. MD Labor approves the use of virtual enrollment for programs. This flexibility will continue upon the expiration of this policy; however, Local Areas and adult education providers must write their own virtual enrollment procedures in local policies. Processes must adhere to [PI 2019-04 Privacy and Data Security](#).

⁸ Definition of administrative costs can be found at: [20 CFR 683.215](#).

⁹ Uniform guidance allowing the use of digital or electronic means to collect, transmit and store information can be found at: [2 CFR 200.335](#).

2. MD Labor approves the use of remote testing to assess participants in cases where assessments were administered online prior to the transition to distance learning. Assessments must be conducted in accordance with the provisions outlined by OCTAE¹⁰ and adhere to requirements established by the test publisher (Associated MD Labor policy: [*PI 2020-05 Basic Education Skills and English Language Assessments*](#)). This flexibility will continue upon the expiration of this policy.

3. MD Labor permits Fiscal Year 2021 Consolidated Adult Education and Family Literacy Services grantees to enroll students into programming without administering a National Reporting System (NRS)-approved pre-test. Due to the challenges presented by distance learning, adult education WIOA Title II providers¹¹ may utilize alternative assessments, as outlined by OCTAE¹² (Associated MD Labor policy: [*PI 2020-05 Basic Education Skills and English Language Assessments*](#)). This flexibility will expire upon September 1st, 2021.

4. During the State of Emergency, Unemployment Insurance (UI) claimants have been exempt from the requirement to actively seek work while receiving benefits, including those identified for the Reemployment Services and Eligibility Assessment (RESEA) program. Beginning the week of July 4, 2021, this flexibility will be rescinded and MD Labor will reinstate the standard requirement for all regular state unemployment insurance claimants to actively search for work by engaging in three reemployment activities each week. If claimants do not complete three reemployment activities each week, they may be determined ineligible to receive regular state unemployment insurance benefits.

5. During the State of Emergency, selected UI claimants are still required to attend RESEA workshops remotely; however claimants may miss **one** workshop without penalty. Upon missing two RESEA workshops, RESEA facilitators must refer the claimant to the Division of Unemployment Insurance (DUI), at which time benefits may be suspended, DUI adjudication may occur, and benefits may ultimately be denied (Associated MD Labor policy: [*PI 2019-14 Reemployment Services and Eligibility Assessment Program*](#)).

¹⁰ Related OCTAE Program Memoranda 20-3 and 20-4 are available here: <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

¹¹ WIOA Title I providers who opt to utilize formal assessments must continue to use the NRS-approved tests listed in the State's policy on assessments. DWDAL policy issuances are available here: <http://www.labor.maryland.gov/employment/mpi/>.

¹² Related OCTAE Program Memorandum 20-5 is available here: <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>

MONITORING

MD Labor will continue programmatic and fiscal monitoring during the State of Emergency, including both remote desk and on-site activities (where safety and local health regulations permit). Monitoring conducted during, or monitoring based on, the period outlined in this policy issuance shall be conducted in adherence to all flexibilities noted herein.

FAIR PRACTICES AND ACCESSIBILITY

It is the policy of MD Labor that all persons have equal opportunity and access to services and facilities without regard to race, religion, color, sex, age, national origin or ancestry, marital status, parental status, sexual orientation, disability or veteran status. Local Areas or adult education providers working with participants in need of accommodations are responsible for securing the necessary support. Providers may refer to MD Labor's Nondiscrimination Plan¹³ and Language Access Plan¹⁴ for more information on accommodations and services.

¹³ MD Labor's Nondiscrimination Plan is available at the following link: <http://www.labor.maryland.gov/employment/ndp/>.

¹⁴ The DWDAL and Division of Unemployment Insurance Language Access Plan is available at the following link: <http://www.labor.maryland.gov/employment/wioa-access.pdf>.

REFERENCES

LAW

- [Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19](#), dated March 5, 2020;
- [Executive Orders and Interpretive Guidance related to COVID-19](#), Governor Larry Hogan, State of Maryland;
- [Workforce Innovation and Opportunity Act \(WIOA\)](#), 29 U.S.C. § 3101 et. seq (2015); and
- [WIOA Final Regulations](#) (Federal Register Vol. 81, No. 161, August 19, 2016).

REGULATIONS

- [2 CFR 200.335](#), Uniform guidance allowing the use of digital or electronic means to collect, transmit and store information; and
- [20 CFR 683.215](#), Definition of administrative costs.

FEDERAL GUIDANCE

- [OCTAE COVID-19 Flexibilities and Interpretive Guidance](#); and
- [USDOL COVID-19 Flexibilities and Interpretive Guidance](#).

OTHER RESOURCES

- [DWDAL Policy Issuances](#).