

West Virginia State Workforce Development Board	
<b>Policy Area:</b> Workforce Innovation and Opportunity Act Youth Program and Services	
<b>Title of Policy:</b> Five Percent Income Exception for WIOA Youth Participants	<b>Number:</b> 500-01
<b>Effective Date:</b> March 1, 2025	<b>Review by Date:</b> March 1, 2029
<b>Approved Date:</b> March 5, 2025 <b>Revision Date:</b>	<b>Approved by:</b> WV State Workforce Board

**I. Purpose**

This issuance provides guidance to local workforce development areas, one-stop service partners, and local service providers on the use of the five percent income exception for youth participants in accordance with the Workforce Innovation and Opportunity Act (WIOA).

**II. Summary**

The Workforce Innovation and Opportunity Act (Pub. L. 113-128) authorizes a variety of services and supports to assist both in-school youth (ISY) and out-of-school youth (OSY) in achieving higher rates of education and employment. WIOA requires both ISY and OSY to have certain barriers, particularly ISY and certain OSY must be “low income” youth as defined by WIOA. However, WIOA also allows for five percent of youth served to not be low income so long as they meet the other eligibility criteria. The calculation of the five percent is based on the percentage of newly enrolled youth in a local workforce development area's WIOA youth program in a given program year who would ordinarily be required to meet the low-income criteria.

**III. References**

- Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- United States Department of Labor, Workforce Innovation and Opportunity Act; Final Rule, 20 CFR, Part 681 Subpart B, Eligibility for Youth Services
- Training and Guidance Letter No. 09-22, *Workforce Innovation and Opportunity Act Title I Youth Formula Program Guidance*
- West Virginia Code, §5B-2B. *West Virginia Workforce Investment Act*

**IV. Policy**

**Definitions:**

**Covered Individual**—WIOA defines all ISY and the following two categories of OSY as “covered individuals”:

- A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is basic skills deficient or an English language learner.

- A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment (WIOA sec. 129 (a) (3) (A) (i)).

**Low-Income Youth**—A low-income youth is someone who meets one or more of the following criteria:

- Receives, or in the past six months has received, or is a member of a family that is receiving or in the past six months has received, assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or state or local income-based public assistance
- Is in a family with total income that does not exceed the higher of:
  - The poverty line; or
  - 70 percent of the lower living standard income level
- Is a homeless individual
- Receives or is eligible to receive free or reduced-price lunch
- Is a foster child on behalf of whom state or local government payments are made
- Is a youth who lives in a "high poverty area" defined in WIOA sec. 3(36)

**Non-Low-Income Youth**—A non-low-income youth is an ISY or OSY who does not meet the WIOA title I eligibility criteria for low-income individual.

**Policy:**

Under WIOA Sec. 129 1(B)(iii)(III) and (VIII), up to 5% of the youth served can fall into one of the following categories, even if they do not meet the low-income requirements:

- **In-School Youth** who do not meet the low-income criteria but would otherwise qualify as in-school youth.
- **Out-of-School Youth** who have a high school diploma or equivalent and either:
  - Struggle with basic skills or are learning English, or
  - Require additional assistance to complete their education or to find and maintain employment.

Service providers must take appropriate action through the eligibility determination process to verify the individual may be served as non-low-income. A youth who lives in a high poverty area is automatically considered to be a low-income individual and is not considered part of the five percent exception.

The five percent low-income exception under WIOA is calculated based on youth enrolled in a given program year who would ordinarily be required to meet the low-income criteria. An example of how to do the calculation is below:

A local workforce development area enrolled 200 youth. 100 of those youth were OSY who were not required to meet the low-income criteria, 50 were OSY who were required to meet the low-income criteria, and 50 were ISY. In this example, the 50 OSY required to be low income and the 50 ISY are the only youth factored into the five percent low-income exception calculation. Therefore, in this example of the 100 youth who ordinarily would be required to be low-income, only five (5) participants (i.e., five percent) do not have to meet the low-income criteria based on the exception.

<b>Youth Enrolled in a LWDA</b>	<b>No.</b>
OSY not required to meet the low-income criteria	100
OSY who are required to meet the low-income criteria	50
ISY	50
<b>Total Youth Enrolled</b>	<b>200</b>

<b>5% Exception Determination</b>	<b>No.</b>
OSY who are required to meet the low-income criteria	50
ISY (all ISY have to meet the low-income criteria)	50
<b>Total</b>	<b>100</b>
<b>5% Exception Determination {5% of 100}</b>	<b>5</b>

***Result:** A maximum of 5 Youth who ordinarily would be required to be low-income do not have to meet the low-income criteria.*

**V. Procedures**

Each local workforce development area must develop a local policy and procedure for monitoring the five percent exception process. Evaluation of program performance should be conducted throughout the program year. Local workforce development areas that exceed the five percent income exception may be subject to disallowed costs. WorkForce West Virginia (WFWV) will monitor and review possible disallowed costs on a case-by-case basis.