

Issue: Definition of the phrase “Attending Any School”

Discussion. Local areas must spend at least 30 percent of local formula funds to help eligible out-of-school youth (OSY). Under the WIA, an OSY is defined as an eligible youth who is a school dropout or an eligible youth who has received a secondary school diploma or its equivalent, but is basic skills deficient, unemployed or underemployed (WIA sec. 101(33)). The WIA spending requirement is different than under the Job Training Partnership Act (JTPA), where not less than 50 percent of Title II-C (year-round) participants were required to be out-of-school. There was no proportion requirement on participants in the Title II-B (summer youth) program. In both programs, those youth attending an alternative school could be included within the definition of out-of-school.

Under the WIA, a school dropout means an individual who is no longer “attending any school” and who has not received a secondary school diploma or its recognized equivalent (WIA sec. 101(39)). A youth attending an alternative school at the time of registration is not a dropout. An individual who is out of school at the time of registration and subsequently placed in a school setting may be considered OSY for the purposes of the 30 percent expenditure requirement (20 CFR 664.310).

Question: Do states and local areas have flexibility to develop policies regarding what types of programs of study (i.e., GED, skills training, or other remedial education programs offered by a community-based organization) could be excluded from the definition of “attending any school?”

Answer: There is no statutory definition of “attending any school.” State and local areas have some flexibility in defining what programs of study might be excluded from “attending any school,” such as the ones cited in the question. States and local areas are encouraged to develop their own policies and guidelines on implementing the definition of an out-of-school youth. Consistent with 20 CFR 661.120, the policies, guidelines, and definitions should not be inconsistent with the Act, the regulations, and other federal statutes and regulations governing One-Stop partner programs. Local areas should also ensure consistency with state policy. In addition, we recommend that such policies, guidelines, and definitions be consistent with established state or local education policies and rules. We caution against states and local areas developing any special rules or conditions that are solely for the purposes of meeting the 30 percent expenditure requirement under the WIA, and which are counter to existing state or local education policies.

States which have experienced difficulty in meeting the 30 percent expenditure requirement could consider requesting a waiver to modify the definition of OSY. General waivers could be requested for the entire state or for one or more local areas. The process and criteria for waivers are found in 20 CFR 661.400 et seq.