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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT**

41 N.J.R. 3374(a)

Proposed Readoption with Amendments: *N.J.A.C. 12:23*

[Click here to view Interested Persons Statement](#)

Workforce Development Partnership Program Rules

Authorized By: David J. Socolow, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:15D-1* et seq.; and Section 2 of P.L. 2005, c. 66.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-288.

A public hearing on the proposed readoption with amendments will be held on the following date at the following location:

Tuesday, October 13, 2009
2:00 P.M. to 4:00 P.M.
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
2nd Floor, Large Conference Room
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by November 20, 2009 to:

David Fish, Regulatory Officer
Office of Legal and Regulatory Services
NJ Department of Labor and Workforce Development
P.O. Box 110 - 13th Floor
Trenton, New Jersey 08625-0110

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, *N.J.A.C. 12:23*, the chapter which addresses the Workforce Development Partnership Program, is scheduled to expire on February 12, 2010. The subject rules set forth the application and approval process for the acquisition of customized training services and individual training grants; delineate the general criteria for the approval of training under the Workforce Development Partnership Program (WDPP); explain when an individual is eligible for additional unemployment benefits during approved training; set forth the eligibility criteria and procedures for the allotment of funds reserved under *N.J.S.A. 34:15D-4* to provide employment and training services for qualified disadvantaged workers and to provide occupational safety and health training services to qualified displaced, disadvantaged and employed workers who are participating in training or education; set forth procedures for the collection of student outcome and licensing information for use in developing the labor demand list for the WDPP and other employment training programs, establishing standards for training and job placement, and evaluating the effectiveness of programs and services under the State's workforce readiness system; and establish procedures to govern the tuition waiver program created by *N.J.S.A. 18A:64-13.1* et seq., or 23.1 et seq.

The rules proposed for reoption also establish a standard with regard to what constitutes "satisfactory progress," as that term is used within P.L. 2005, c. 66, regarding the State Rental Assistance Program, establish a system for monitoring "satisfactory progress" for the purposes of certifying to the Department of Community Affairs whether recipients of rental assistance grants are showing satisfactory progress in carrying out the training and educational activities set forth in their employability development plans and address the use by victims of domestic violence of the One-Stop Career Centers. The Department has reviewed *N.J.A.C. 12:23* and, with the exception of technical amendments throughout the chapter, which reflect the change in the name of the Department from the Department of Labor to the Department of Labor and Workforce Development and the elimination of the Division of Business Services, within the Department of Labor and Workforce Development, the Department has determined the chapter to be necessary, reasonable and proper for the purposes for which it was originally promulgated. Accordingly, the Department proposes that *N.J.A.C. 12:23* be reoptioned, with amendments.

A summary of the subchapters of the rules follows:

N.J.A.C. 12:23-1 sets forth applicable definitions.

N.J.A.C. 12:23-2 sets forth the purpose, scope and eligibility of customized training services.

N.J.A.C. 12:23-3 specifies the individual training grants process.

N.J.A.C. 12:23-4 provides the requirements for approved training under the Workforce Development Partnership Program.

N.J.A.C. 12:23-5 sets forth criteria for additional unemployment benefits during training.

N.J.A.C. 12:23-6 sets forth guidelines to obtain grants to provide employment and training services for qualified disadvantaged workers.

N.J.A.C. 12:23-7 delineates the procedures for occupational safety and health training services.

N.J.A.C. 12:23-8 sets forth the tuition policies for unemployed persons within the job training program.

N.J.A.C. 12:23-9 sets forth the criteria governing the Supplemental Workforce Fund for Basic Skills.

N.J.A.C. 12:23-10 pertains to records, reports and performance requirements under the WDPP.

N.J.A.C. 12:23-11 is reserved.

N.J.A.C. 12:23-12 establishes a standard with regard to what constitutes "satisfactory progress," as that term is used within P.L. 2005, c. 66, regarding the State Rental Assistance Program, and to establish a system for monitoring "satisfactory progress" for the purposes of certifying to the Department of Community Affairs whether recipients of rental

assistance grants are showing satisfactory progress in carrying out the training and educational activities set forth in their employability development plans.

N.J.A.C. 12:23-13 contains rules regarding victims of domestic violence and the State's One-Stop Career Centers.

[page=3375] As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The continued availability, under the WDPP, of employment and training services for eligible unemployed, employed and displaced workers will positively impact upon both New Jersey's employers and workers. Specifically, employers will continue to be eligible for financial assistance in order to enhance their efforts toward arranging comprehensive packages of services to meet their employment and training needs, thereby enabling those employers to better compete in the marketplace with the increased productivity gained from a better trained workforce. Similarly, workers will derive a significant benefit in the way of increased work skills and earning power by virtue of the availability of training offered both on-the-job and in the cooperation with educational and/or training institutions. The State's economy will benefit from the readoption of the WDPP rules as they will continue to facilitate the enhancement of workers' employment opportunities through vocational and remedial training, thereby generating tax revenue and resulting in contributions to, rather than deductions from, the Unemployment Insurance Trust Fund. Moreover, the economy will continue to be strengthened through stimulation from the earnings of employed workers.

Economic Impact

The creation and retention of jobs in New Jersey are critical to improving the State's economy. The wide range of employment and training services and financial assistance available through the WDPP, including customized training services, individual training grants and tuition waivers, will continue to result in an increase in jobs created and businesses retained within the State, and in providing a skilled workforce to fill these jobs, thereby contributing to the stimulation of New Jersey's economy. Customized training activities will also contribute to an environment favorable to start-up growth and prosperity for all types of businesses, thereby expanding the employment base within the State. Customized training services will also continue to be particularly beneficial to small businesses, which are the principal source of job creation in New Jersey, but which often lack the financial resources necessary to expand their operations.

Federal Standards Statement

On August 7, 1998, Congress enacted the Workforce Investment Act (WIA) of 1998 (P.L. 105-220). One of the WIA's goals is to shift the focus in the design of Federal workforce investment systems from one of separate programs to an integrated one-stop system. The WIA replaced the Federal Job Training Partnership Act (JTPA), 29 *U.S.C. §§1501 et seq.* (repealed). The WDPP rules proposed do not exceed standards imposed by Federal law, including WIA. The WDPP is a separate State-funded program that is not mandated under Federal law.

Jobs Impact

The readoption of the WDPP rules with amendments will have a positive impact upon jobs. Specifically, the Department expects that jobs will continue to be created and retained as a result of the adoption of WDPP rules, which are designed to provide employment and training services for New Jersey's eligible unemployed, employed and displaced workers. Paramount to the attraction of business is a highly skilled workforce.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments will impose minimal reporting, recordkeeping and compliance requirements upon businesses, including small businesses as defined by the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16 et seq.* Through the WDPP's application and review process, eligible individuals and businesses, will have access to financial assistance for their training needs. Businesses that provide training may be required to assist individuals in the completion of individual training grant applications and may be required to provide periodic progress and attendance

reports, as well as maintain related records. Those businesses seeking customized training grants will also have to bear the costs of application, including the formulation of a business plan. In addition, they will have to incur costs associated with providing written reports and audits so as to enable the Department to monitor and evaluate their performance under the grant agreement and compliance with its terms and conditions. Further, the Department will continue to require businesses to contribute a minimum of 40 percent of the costs of customized training services and will also continue to require the refund of all grant monies obtained by an employer who receives customized training services and leaves the State within three years of the ending date of the customized training contract.

The rules proposed for readoption with amendments require the reporting of student outcome and licensing information by qualified agencies, which oversee occupational and directly related education and training at qualified schools or which issue occupational licenses. Student outcome information includes any relevant data items as specified by the State Employment and Training Commission or the New Jersey Occupational Information Coordinating Committee (Center for Occupational Employment Information), including a participant's Social Security number, demographic characteristics, date of enrollment, date of completion, date of termination, date of application for a license, licensing examination result and date of issue of a license. As this sort of information is ordinarily collected and maintained by training providers as a matter of business practice, the requirement that it be provided to the Department will necessitate the retention of no additional professional services by small businesses. Whatever minimal costs will be incurred by training providers and government agencies in complying with these rules continue to be outweighed by the need for an effective and efficient workforce readiness system.

Smart Growth Impact

The rules proposed for readoption with amendments would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments would not evoke a change in the average costs associated with housing. The basis for this finding is that the rules proposed for readoption with amendments pertain to the WDPP, not housing.

Smart Growth Development Impact

The rules proposed for readoption with amendments would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption with amendments pertain to the WDPP and have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 12:23*.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. DEFINITIONS

12:23-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

...

"Commissioner" means the Commissioner of Labor **and Workforce Development** or the Commissioner's designees.

...

"Department" means the New Jersey Department of Labor **and Workforce Development**.

...

"Office of Customized Training" means the Office established in the Department of Labor **and Workforce Development** pursuant to *N.J.S.A. 34:15D-5*.

...

[page=3376]"State Employment and Training Commission" (SETC) means the agency of State government, which is in but not of the Department of Labor **and Workforce Development**, designated to develop and assist the implementation of a State employment and training policy.

SUBCHAPTER 2. CUSTOMIZED TRAINING SERVICES; PURPOSE, ELIGIBILITY AND SCOPE

12:23-2.6 Where to obtain and send an application

(a) Customized training applications may be obtained from the Department of Labor **and Workforce Development**, Office of Customized Training.

(b) (No change.)

(c) Completed applications should be forwarded to:
 [Division of Business Services,] Office of Customized Training
 New Jersey Department of Labor **and Workforce Development**
 PO Box 933
 Trenton, New Jersey 08625-0933

12:23-6.2 Employment and training grants to serve disadvantaged workers

(a) Funds reserved for employment and training services to qualified disadvantaged workers will be administered through the Department of Human Services with the authorization of the Commissioner of Labor **and Workforce Development** for the administration of employment and training services. Services delivered under this subchapter shall be consistent with the Strategic Five-Year Unified State Plan for New Jersey's Workforce Investment System.

(b)-(c) (No change.)

12:23-6.3 Innovative demonstration project funds

(a)-(g) (No change.)

(h) Instructions for the competitive application process for funds available under this section shall be obtained by writing to:

[Director, Division of Employment and Training]
Assistant Commissioner, Workforce Development
 New Jersey Department of Labor **and Workforce Development**
 PO Box 055
 Trenton, New Jersey 08625-0055

12:23-6.7 Monitoring and oversight

The Department of Labor **and Workforce Development** or its designee will monitor the overall effectiveness of the employment and training services provided under this subchapter to assess the programmatic, management and financial performance of the grantee. The Department will consider the past performance of a grantee in evaluating application(s) for funding in subsequent years.

SUBCHAPTER 7. OCCUPATIONAL SAFETY AND HEALTH TRAINING SERVICES

12:23-7.5 Review and evaluation of applications

(a) (No change.)

(b) Applications will be reviewed and evaluated by the Department of Labor **and Workforce Development** and in consultation with specialized services, which may be provided by the Department on a cost basis.

(c) (No change.)

(d) No application will be funded unless approved by the Commissioner of **the Department of Labor and Workforce Development**.

(e)-(g) (No change.)

(h) Instructions for the application process for funds available under this section shall be obtained by writing to:

[Director, Division of Business Services]

Office of Customized Training

New Jersey Department of Labor **and Workforce Development**

PO Box 933

Trenton, New Jersey 08625-0933

12:23-7.6 Assessment of need and delivery of services

(a) The Commissioner or his or her designee, within the Department of Labor **and Workforce Development**, will review all customized training applications to determine if there is a need for occupational safety and health training services related to the industry and/or occupation, which is the subject of occupational training.

(b) The Commissioner or his or her designee, within the Department of Labor **and Workforce Development**, will review and approve the use of vendors selected by the customized training applicant to provide occupational safety and health training services, review course content and training material to determine its appropriateness[,] and ascertain the reasonableness of costs charged by vendors.

12:23-7.11 Monitoring and oversight

The Commissioner or his or her designee, within the Department of Labor **and Workforce Development**, will monitor the overall effectiveness of the occupational safety and health training services provided under this subchapter to assess the programmatic, management[,] and financial performance of the grantee(s). The Department will consider the past performance of a grantee in evaluating application(s) for funding in subsequent years.

SUBCHAPTER 9. SUPPLEMENTAL WORKFORCE FUND FOR BASIC SKILLS

12:23-9.3 Funding

(a) All moneys received by the Supplemental Workforce Fund for Basic Skills pursuant to section 1 of P.L. 2001, [c.152] **c. 152** shall be allocated by the Commissioner, and deposited in an account to be reserved for the following purposes:

1.-3. (No change.)

4. To be used, at the discretion of the Commissioner, for any purposes indicated in this subchapter and any administrative costs incurred by the Department of Labor **and Workforce Development** in connection with the fund.

12:23-9.7 Monitoring and oversight

(a) The Department of Labor **and Workforce Development** will monitor the overall effectiveness of the basic skills training provided under this subchapter to assess the programmatic, management and financial performance of recipients and grantees. The Department will consider the past performance of a recipient or grantee in evaluating application(s) for funding in subsequent years.

(b) (No change.)