



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF CAREER, TECHNICAL, AND ADULT EDUCATION

PROGRAM MEMORANDUM OCTAE 20-3

DATE: March 27, 2020

TO: State Directors of Adult Education

FROM: Scott Stump /s/
Assistant Secretary

RE: Adult Education and Family Literacy Act and COVID-19 – Frequently Asked Questions

Purpose

The purpose of this memorandum is to provide clarification, flexibilities, and supports to State Adult Education Offices as States seek to provide continuity of operations for adult learners in the current COVID-19 environment.

Performance/Negotiations

Q1. What steps will the Office of Career, Technical, and Adult Education (OCTAE) take to account for a decrease in State performance in Program Year (PY) 2019 because of extended program closures during the pandemic? Will States be penalized for performance issues?

The U.S. Departments of Education and Labor (Departments) will not make any determinations of performance success or failure based on PY 2019 performance data, submitted by October 1, 2020. OCTAE did not have sufficient data available to develop and apply the statistical model required by the Workforce Innovation and Opportunity Act¹ (WIOA) at the time PY 2019 performance targets were established for each State. Therefore, without this data, we will not have the requisite data to determine whether a State has met its performance levels.

The Departments will take the effect of the COVID-19 outbreak into consideration in reviewing PY 2019 data. OCTAE encourages State adult education agencies to monitor the effect of the

¹ Workforce Innovation and Opportunity Act (Pub. L. 113-128) available at:
<https://www.govinfo.gov/content/pkg/PLAW-113publ128/pdf/PLAW-113publ128.pdf>.

outbreak on its performance and address the impacts in its annual narrative report submitted in December 2020.

[OCTAE Program Memorandum 20-2²](#) states that the first year for which performance success or failure can be determined for some indicators applies to PY 2020; this data is reported by October 1, 2021. The Departments will continue to closely monitor the effect of the COVID-19 outbreak and its impact on services and performance outcomes.

Q2. Will OCTAE consider delaying performance negotiations, as State offices may be closed for an unspecified period of time?

At this time, the Department of Education anticipates that the negotiations process will proceed, and we will conduct negotiations with States. The Department anticipates negotiated levels of performance will be included in the approved Unified or Combined State Plans for the four-year period covering PYs 2020 through 2023. The Department is aware that some State offices are closed, and some States have implemented remote work. The Department is also aware that State agency leadership and management staff may be involved with COVID-19 response efforts. As a result, the Department will be as flexible as possible in conducting negotiations, including scheduling meetings at times that meet States' needs.

Scheduled Grant Competitions

Q3. For States with requests for proposals currently out for July 1 award, what options will be available to States to prevent a gap in service delivery? (i.e., can states extend current contracts for a short period of time to prevent a gap in service delivery? Can states extend the closing date of the grant competition? With the current disruptions, it would be difficult to have applications reviewed and approved by July 1).

Yes, because of the potential for broad impact of COVID-19 on both State administration of Adult Education and Family Literacy Act (AEFLA) programs and service delivery by eligible providers, an AEFLA State eligible agency may modify its plans for competitions involving Fiscal Year (FY) 2020 AEFLA funds. While the "direct and equitable access" requirement in section 231(c) of WIOA would generally preclude extensions of AEFLA grants and contracts, under these difficult and unique circumstances related to COVID-19, States may (1) suspend FY 2020 competitions and extend current eligible providers' grants and contracts for a one-year period, or (2) adjust competition timelines, delaying the award of grants or contracts to successful AEFLA applicants until a later date than planned and extending current grants and contracts accordingly.

State eligible agencies should follow State procedures in notifying current grantees, current applicants, and potential applicants of such changes, ensuring that all current and potential applicants receive information about these changes in the same way the notice of availability of funds was made public.

² OCTAE Program Memorandum 20-2: *Negotiations and Sanctions Guidance for the Workforce Innovation and Opportunity Act (WIOA) Core Programs* is available at: <https://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/octae-program-memo-20-2.pdf>.

Given that the very purpose of either postponing competitions for a year or adjusting current competition deadlines would be to help prevent disruptions in service delivery, States should work to ensure that any changes in FY 2020 competition plans do not result in a gap in service delivery.

Q4. Is a State required to request approval from OCTAE to extend current grants/contracts if a competition is suspended or delayed?

No, States are not required to request approval from OCTAE if a competition is modified or postponed. In accordance with 2 CFR 200.407, OCTAE is providing States with prior approval to make changes to their scheduled AEFLA competitions because of disruptions and other effects of COVID-19. While States need not seek this approval from OCTAE, States must notify their Area Coordinators of any changes in competition plans, including plans to extend current eligible providers' grants or contracts.

Distance Learning

Q5. Will OCTAE provide flexibility regarding the reporting of hours for distance learning? What types of instruction can States allow programs to report as instructional hours or seat time, and how do we track these virtual learning hours on these various platforms?

States may, but are not required to, report in the National Reporting System (NRS) the time that participants spent on distance learning activities. Recording hours is useful for determining when a post-test should be administered. The [NRS Technical Assistance \(TA\) Guide](#)³ helps States that record distance learning hours by providing options for reporting “proxy hours” rather than classroom instructional hours. States that wish to record proxy contact hours may do so using one of the following models:

- **Clock Time Model**, which assigns contact hours based on the elapsed time that a participant is connected to, or engaged in, an online or stand-alone software program that tracks time;
- **Teacher Verification Model**, which assigns a fixed number of hours of credit for each assignment based on teacher determination of the extent to which a participant engaged in, or completed, the assignment; or
- **Learner Mastery Model**, which assigns a fixed number of hours of credit based on the participant passing a test on the content of each lesson. Participants work with the curriculum and materials and, when they feel they have mastered the material, take a test. A high percentage of correct answers (typically 70%–80%) earns the credit hours attached to the material.

The NRS TA Guide further advises that the State should use the proxy contact hour model appropriate for the distance education curricula being used.

³ The National Reporting System Technical Assistance Guide is available at <https://nrsweb.org/policy-data/nrs-ta-guide>.

Q6. Is it possible to waive the requirement of 12 hours of “actual contact” for distance education for reporting purposes for the remainder of the 2019-2020 program year?

All eligible individuals receiving services under AEFLA must complete at least 12 hours of instruction to be considered a “participant” under 34 CFR 463.150. Program closures due to COVID-19 have resulted in placing students in distance learning settings, and those students may be in various stages of completing the initial 12 contact hours needed for them to be considered a participant.

One category of students who have been transferred from classroom-based instruction to distance learning services have already completed the initial 12 contact hours needed to be considered a participant. These individuals do not need to complete another 12 contact hours, as they have already met the 12-hour threshold.

Another category of students who have been transferred from classroom-based instruction to distance learning services have not yet completed the initial 12 contact hours needed to be considered a participant. These individuals may continue to accrue the required 12 contact hours through telephone, video, teleconference, or online communication, where participant and program staff can interact and through which participant identity is verifiable.

Students newly enrolled in distance learning programs and who were not receiving classroom instruction before COVID-19-related program closures must meet the 12-hour requirement before being considered an AEFLA participant. The 12-hour enrollment requirement for distance learners can be met by accruing contact hours through telephone, video, teleconference, or online communication, where participant and program staff can interact and through which participant identity is verifiable.

Q7. What flexibilities will OCTAE allow in terms of assessment, as it relates to education practices? Will States be given the option to conduct virtual pre/post-assessment testing?

OCTAE recognizes that local programs may not be able to conduct in-person testing of students enrolled in distance learning programs during program closures due to the COVID-19 outbreak. If local programs are unable to conduct in-person testing, States may be able to report measurable skill gains (MSG) using other measures available to AEFLA programs under the MSG indicator, such as credit completion or high school completion. The inability to test distance learning students may adversely impact the number of MSGs a State would report in the NRS. States that are experiencing declines in testing rates should put procedures in place to identify students who were not tested due to an inability to conduct in-person testing, so that the impact of the COVID-19 outbreak can be appropriately tracked.

Additionally, States may choose to develop procedures to implement virtual test proctoring. States that choose to use this flexibility must have procedures to ensure that (1) the student who is testing can be properly identified, (2) any approved test (i.e., any test determined suitable for use in the NRS) that is used is properly secured, and (3) the virtual proctor can properly administer the test. Test security measures would require that only secure electronic versions of a test are administered by a virtual proctor and are deemed secure by the test publisher.

Q8. For States that did not have online learning options in place in their WIOA contracts with local programs, can the State give permission to local programs to provide online learning to students in lieu of classroom instruction on a short-term emergency basis? What flexibilities do States have to change their existing distance learning policies?

Yes, consistent with a State's grant administration policies, a State may allow currently funded AEFLA grantees to administer distance learning programs, even if the State does not have an established State distance learning policy in place. However, OCTAE urges States to put a policy in place (or change current policy) as soon as feasible. Statewide distance learning policies help address how the State intends to collect instructional hours (if it chooses to do so), as well as convey its policies on student assessment. State policies may also convey important information about distance learning curricula that local programs can use to provide distance education.

Q9. Can the State pay teachers for this online instruction?

Yes, States can use AEFLA funds to pay teachers delivering distance learning programs if such programs deliver adult education and literacy activities allowable under AEFLA.