

**Basic Education Skills and English Language Assessments | January 10, 2023**

**TO:** Division of Workforce Development and Adult Learning (DWDAL) Staff;  
Local Administrators of Workforce Innovation and Opportunity Act  
(WIOA) Title II Adult Education programs; Local Workforce  
Development Area (Local Area) Directors

**FROM:** Division of Workforce Development and Adult Learning  
Maryland Department of Labor (MD Labor)

**SUBJECT:** Basic Education Skills and English Language Assessments

**PURPOSE:** To provide policy guidance on basic education skills and English  
language assessments

**ACTION:** Local administrators of WIOA Title II Adult Education programs, Local  
Area Directors, American Job Center (AJC) Reemployment Program  
Directors, and central office managers will ensure all employees and  
existing WIOA Title I Youth Program service providers implement this  
policy. DWDAL policies are available on the [MD Labor website](#).

**EFFECTIVE:** July 1, 2022

**EXPIRATION:** June 30, 2023

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## CANCELLATIONS

The following are hereby **cancelled, replaced, and archived** by this policy issuance:

- Policy Issuance 2021-10, “Basic Education Skills and English Language Assessments,” dated July 1, 2021;

Archived policies are available at <http://www.labor.maryland.gov/employment/mpi/>.

## ACRONYMS AND ABBREVIATIONS

ABE	Adult Basic Education
AJCs	American Job Centers
BEST	Basic English Skills Test
CASAS	Comprehensive Adult Student Assessment System
CCR Standards	College and Career Readiness Standards for Adult Education
DWDAL	Division of Workforce Development and Adult Learning ( <i>Maryland Department of Labor</i> )
EFL	Educational Functioning Level
ELL	English Language Learner
ESL	English as a Second Language
ETA	Employment and Training Administration ( <i>United States Department of Labor</i> )
FERPA	Federal Education Rights and Privacy Act
GOALS Series	Greater Opportunities for Adult Learning Success Series
LACES	Literacy, Adult and Community Education System
LEP	Limited English Proficiency
MIS	Management Information Systems Specialist
MD Labor	Maryland Department of Labor
MSG	Measurable Skill Gains
MWE	Maryland Workforce Exchange
NEDP	National External Diploma Program
NRS	National Reporting System
OCTAE	Office of Career, Technical and Adult Education ( <i>United States Department of Education</i> )
OJT	On-the-Job Training
TABE	Test of Adult Basic Education
TEGL	Training and Employment Guidance Letter
Trade Program	Trade Adjustment Assistance for Workers Program
USDOL	United States Department of Labor
WIOA	Workforce Innovation and Opportunity Act

# GENERAL INFORMATION

## 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 which ensure optimum results and leveraging of resources. The law addresses the needs of job seekers through establishing a workforce system that helps them access employment, education, training and support services to succeed in the labor market. Through 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.

## OVERVIEW OF ADULT BASIC EDUCATION (ABE) AND ENGLISH AS A SECOND LANGUAGE (ESL) ASSESSMENTS

### Applications of ABE and ESL Assessments in the Workforce System

A variety of Maryland WIOA partner programs utilize Adult Basic Education (ABE) and English as a Second Language (ESL) assessments for a range of purposes. Program staff working with job seekers assess program participants to determine whether they possess minimum requirements for job opportunities or are prepared to succeed in occupational training. Within the context of ABE and ESL programs, service providers rely on assessments to place program participants in appropriate levels of coursework and evaluate learner progress. Assessments provide feedback on the effectiveness of instruction and produce valuable information that can be used to map out effective individualized service plans.

### Covered Programs

The following programs must follow the guidance on ABE and ESL assessments provided in this policy issuance:

- A. WIOA Title I Adult Program;
- B. WIOA Title I Dislocated Worker Program;
- C. WIOA Title I Youth Program;
- D. WIOA Title II Adult Education & Family Literacy Act Program; and,
- E. Trade Adjustment Assistance for Workers Program (Trade program).<sup>1</sup>

Certain differences in the administration and reporting requirements across the covered programs exist because two federal partners fund and oversee the programs involved. The United States Department of Labor (USDOL), Employment and Training Administration (ETA) funds and oversees the WIOA Title I and Trade programs, whereas the WIOA Title II program is funded and overseen by the United States Department of Education, Office of Career, Technical, and Adult Education (OCTAE).

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<sup>1</sup> Trade program staff must refer participants that require ABE or ESL assessments to WIOA Title I program staff. In turn, WIOA Title I program staff must share assessment results with the appropriate Trade program staff to determine appropriate next steps.

## **Measurable Skill Gains**

WIOA identifies six performance indicators<sup>2</sup> that states and Local Areas must use to assess their effectiveness in achieving positive outcomes for individuals served by the workforce system. One of the six performance indicators is the Measurable Skill Gain (MSG). According to federal guidance,<sup>3</sup> the MSG accounts for the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving academic, technical, occupational, or other forms of progress towards such a credential or employment. WIOA Title I program staff and Title II service providers can use the MSG indicator to document how well participants are progressing through pathways that offer different services based on program purposes and participant needs.

There are five methods for documenting MSG:

- A. Documented achievement of at least one educational functioning level (EFL) of a participant who is receiving instruction below the postsecondary education level;
- B. Documented attainment of a secondary school diploma or its recognized equivalent;
- C. Secondary or postsecondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the Maryland Higher Education Commission academic standards;
- D. Satisfactory or better progress report towards established milestones, such as completion of On-the-Job Training (OJT) or completion of one year of a Registered Apprenticeship program or similar milestones, from an employer or training provider who is providing training; or,
- E. Successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade-related benchmarks, such as knowledge-based exams.

## **Educational Functioning Levels (EFLs) and the National Reporting System**

To document MSG by measuring EFLs, programs must be able to document that a participant receiving instruction below the postsecondary education level completed or progressed at least one EFL. An EFL describes a *level of competency*. There are two categories of EFLs: 1) ABE and 2) ESL. Within each of the EFL categories, there are six EFL levels, organized on a continuum from basic to advanced levels of literacy.

The National Reporting System (NRS) defines the descriptor criteria for EFLs. The NRS is an accountability system established by OCTAE to ensure that all states systematically report learner outcomes. On an annual basis, the NRS approves a list of standardized ABE and ESL assessments. NRS-approved assessments must include score ranges aligned with EFLs. Completion of, or progress within, an EFL is determined by pre-testing and post-testing a participant with an NRS-approved assessment and comparing the results.

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<sup>2</sup> More information on the six WIOA performance indicators is available at [https://www.doleta.gov/performance/guidance/tools\\_commonmeasures.cfm](https://www.doleta.gov/performance/guidance/tools_commonmeasures.cfm).

<sup>3</sup> TEGL 10-16 Change 2, "[Performance Accountability Guidance for Workforce Innovation and Opportunity Act \(WIOA\) Core Programs](#)," dated September 15, 2022;

## **Maryland Basic Education Skills and English Language Assessments Manual**

OCTAE requires states to provide detailed information on the guidelines and procedural requirements for ABE and ESL assessments that extends beyond the scope of this policy issuance. To meet OCTAE requirements and support proper statewide implementation of assessments across all covered programs, the Office of Adult Education and Literacy Services within the Maryland Department of Labor (MD Labor), Division of Workforce Development and Adult Learning (DWDAL), maintains the *Maryland Basic Education Skills and English Language Assessments Manual*, available online at <http://labor.maryland.gov/adultliteracy/resources.shtml>. Throughout this policy issuance, readers will be referred to the manual to access more detailed guidance, when relevant.

### **MARYLAND’S APPROACH TO ABE AND ESL ASSESSMENTS**

MD Labor prescribes that both WIOA Title I program staff and WIOA Title II service providers assess customers with State-selected, NRS-approved ABE and ESL assessments. Requiring both programs to use the approved assessments facilitates service integration; supports continued customer engagement with the workforce system; and helps to ensure participants are connected to career and educational services aligned with their learning and employment goals.

To maximize the effectiveness of ABE and ESL assessments, MD Labor focuses on three key strategies:

- A. *Ensure Assessment Quality*. The partner programs covered by this policy issuance must use ABE and ESL assessments that meet NRS quality standards. Per NRS Assessment Policy Guidelines,<sup>4</sup> assessments and assessment administrators must:
1. Be appropriate for measuring the literacy and language development of adult students;
  2. Have standardized administration and scoring procedures;
  3. Have alternate equivalent forms for pre- and post-testing; and
  4. Have evidence linking them to NRS EFLs.
- B. *Properly and Consistently Administer Assessments*. Program staff must properly and consistently administer ABE and ESL assessments in order for the results to be valid, reliable, and accepted by multiple partner programs. To ensure proper and consistent administration of assessments, partner programs must adhere to three sources:
1. The guidance provided in this policy issuance;
  2. The procedures and specifications included in the *Maryland Basic Education Skills and English Language Assessments Manual*; and
  3. The test administration practices and directions described in each assessment publisher’s official examiner’s manual.

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<sup>4</sup> *NRS Assessment Policy Guidelines*, Revised August 7, 2020, available at <https://www.federalregister.gov/documents/2020/08/07/2020-17301/tests-determined-to-be-suitable-for-use-in-the-national-reporting-system-for-adult-education>.

C. *Effectively Share Assessment Results with Partners.* WIOA encourages States and Local Areas to utilize previous assessments, where appropriate, to reduce duplication of services and enhance system alignment.<sup>6</sup> Increased collaboration among WIOA partner programs will decrease the likelihood of customers having to complete multiple assessments, contributing to greater efficiency in the overall workforce system, and improving the customer experience.

MD Labor requires Local Areas to explain in their local workforce plans how WIOA Title I and Title II program staff will coordinate the use of assessments. At a minimum, Local Areas must address the following elements in their local plans:

- A. Outline the agreed upon steps WIOA Title I and II program partners will take to align ABE and ESL assessments within the Local Area, including, but not limited to, any Memoranda of Understanding entered into by the WIOA Title I and II partners;
- B. Identify how assessment scores will be shared among WIOA Title I program staff and Title II service providers (Consideration must be given to the *Federal Education Rights and Privacy Act* (FERPA) and the DWDAL policy on privacy and data security<sup>7</sup>);
- C. Identify who will conduct which of the approved assessments (including for Trade program participants) and when such assessments will be conducted, consistent with this policy;
- D. Specify how the Local Area will coordinate testing between WIOA Title I program staff and Title II service providers; and,
- E. Outline how the Local Area will ensure that test administrators are trained in accordance with this policy and applicable testing guidelines as set forth by the applicable test publisher.

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<sup>6</sup> USDOL TEGL 19-16, [Guidance on Services provided through the Adult and Dislocated Worker Programs under WIOA and the Wagner-Peyser Act Employment Service, as amended by title III of WIOA, and for Implementation of the WIOA Final Rules](#), dated March 1, 2017.

<sup>7</sup> DWDAL Policy Issuances are available at <http://www.labor.maryland.gov/employment/mpi/>.



# TARGET POPULATIONS

## WIOA TITLE I PROGRAM PARTICIPANTS AND TRADE PROGRAM PARTICIPANTS

WIOA Title I program staff must assess adults, dislocated workers, youth, and Trade program participants with a State-selected, NRS-approved assessment, as appropriate, to support their training and employment goals. WIOA focuses on serving individuals with barriers to employment, and seeks to ensure access to quality services for these populations. WIOA Section 134(c)(3)(E) states that priority for individualized career services and training services must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient.

Individuals who score below ABE EFL Level 5 meet the “Basic Skills Deficient” standard. Per WIOA Section 3(5), individuals are regarded as Basic Skills Deficient if they are: (1) youth with English language, reading, writing or computing skills at or below the 8<sup>th</sup> grade level on a generally accepted standardized test, or (2) youth or adults who are unable to compute or solve problems, or read, write or speak English, at a level necessary to function on the job, as a family member, or in society. The primary method for determining whether an individual is Basic Skills Deficient is through a State-selected, NRS-approved ABE assessment. WIOA Title I program staff may, when appropriate, alternatively determine that someone is Basic Skills Deficient through interactions that may include, but are not limited to interviews, intake, or other similar informal assessments.

Each of Maryland’s Local Areas must specify in their local workforce plans which subset of their overall workforce customers will be assessed. Staff must make every effort to avoid over-assessing customers.

## WIOA TITLE II PROGRAM PARTICIPANTS

WIOA Title II service providers must assess all participants in WIOA Title II-funded programs, including those enrolled in the National External Diploma Program (NEDP), with a State-selected, NRS-approved assessment.

## APPROVED ABE AND ESL ASSESSMENTS

Assessment choice must be based on the skill area or areas that are the focus of instruction for the participant, or for another reason specified in the Local Area’s workforce plan.

Note that the NRS may set expiration dates, sunset periods, or extensions on specific assessments while this policy is in effect that could impact what assessments are available. WIOA Title I and Title II program staff will follow state guidance regarding transitioning to newly approved tests, unless a new policy is issued.

### ABE ASSESSMENTS

MD Labor requires WIOA Title I program staff (where required) and WIOA Title II service providers to assess ABE learners with one or more of the following tests:

Assessment	Description
Comprehensive Adult Student Assessment System (CASAS): Reading GOALS (Greater Opportunities for Adult Learning Success) Series	Measures academic language and higher-order reading skills; Test content is aligned with College and Career Readiness (CCR) Standards for Adult Education. <sup>8</sup> Comprehension questions draw on higher order reading skills.
CASAS: Math GOALS Series	Measures academic and higher-order math skills; Math GOALS test items include situational scenarios with real-world applications, word problems, simple to advanced calculation, and traditional academic contexts. Formulae are provided within the item presentation so that focus is on math skills and concepts. Students may use a calculator throughout the entire test.
Test of Adult Basic Education (TABE) 11 & 12: Reading, Mathematics, Language	Reading - Measures word-meaning skills to critical-thinking skills; Content reflects mature, life- and work-related situations and highlights overlapping objectives.
	Mathematics - Measures math application skills, particularly routine tasks such as estimating quantities and making computations involving time, distance, weight, etc.
	Language - Measures communication skills necessary for functioning effectively on the job and in daily life.

<sup>8</sup> More information on CCR Standards for Adult Education is available at <https://lincs.ed.gov/publications/pdf/CCRStandardsAdultEd.pdf>.

## ESL ASSESSMENTS

WIOA Title I Local Areas (where required) and WIOA II Adult Education Service Providers are required to assess English Language Learners (ELLs)<sup>9</sup> with one or more of the following tests:

Assessment	Description
CASAS: Life and Work Reading	CASAS: Life and Work Reading measures basic and workplace skills in a functional life skills context. It is appropriate for ELLs, including those with limited literacy skills and English language civics.
CASAS: Life and Work Listening	CASAS Life and Work Listening measures the progress of ELLs and vocational ELLs in using listening skills to function in English in today's society.
TABE CLAS-E: Reading / Writing / Speaking / Listening	TABE CLAS-E assessment measures the language proficiency of adult English language learners in the areas of reading, listening, writing, and speaking. Scores are linked to TABE 11 & 12 to facilitate a smooth transition to adult basic education programming.
Basic English Skills Test (BEST) Literacy: Reading/Writing	The BEST Literacy assessment measures reading comprehension and writing skills of adult English language learners in authentic situations. The BEST Literacy assessment may be administered either individually or on a group basis. The assessment features contemporary information, graphics, and photographs that are culturally relevant in the United States of America.
BEST Plus 2.0: Speaking/Listening	The BEST Plus 2.0 is an individually administered, scripted, oral interview that measures the English language proficiency of ELLs. Three language domains are assessed - comprehension, language complexity, and communication.

## INFORMAL ASSESSMENTS

In addition to the required, standardized tests for accountability, MD Labor encourages WIOA Title I program staff and WIOA Title II service providers to use a variety of informal assessments to assist in guiding instruction and progress toward educational goals.

These may include:

- A. Performance samples – such as writing samples, journals, worksheets, audiotapes, projects, and demonstration of a task;
- B. Informal reading inventory;
- C. Learner self-evaluation;
- D. Learning plans & logs;
- E. GED Ready ®;
- F. Computer-generated assessments – such as by topic or subject area;
- G. Textbook tests;
- H. Teacher-designed tests; and
- I. Interviews and teacher observations – dated anecdotal record.<sup>10</sup>

<sup>9</sup> Refers to an eligible individual who has limited ability in reading, writing, speaking, or comprehending the English language, and: (A) whose native language is a language other than English; or (B) who lives in a family or community environment where a language other than English is the dominant language.

<sup>10</sup> Anecdotal records are written summaries describing a single developmental incident after the event has occurred. Written

## TYPES OF TESTS

This section of the policy issuance provides high-level guidance on the purpose and administration of State-selected, NRS-approved appraisals, pre-tests, and post-tests. In addition to following this guidance, assessment administrators must also follow procedural guidance provided in the *Maryland Basic Education Skills and English Language Assessments Manual* as well as all test publisher guidance.

### PLACEMENT TESTS

The purpose of placement tests, (also known as “appraisals” and “locators”) is to provide assessment administrators with preliminary information on a program participant’s skill levels. Placement tests indicate which pre-test to administer.

All programs are required to administer a placement test unless the participant:

- A. Has a current placement test (within 12 months);
- B. Has limited literacy skills or has limited ability to understand or speak English, determined at intake by staff observation, or self-reported with appropriate documentation; or
- C. Will be administered the BEST Literacy or BEST Plus 2.0.

WIOA Title I program staff and Title II service providers may not use placement tests in place of pre-test or post-test assessments.

### PRE-TESTS

The purpose of pre-testing is to determine a program participant’s entry EFL. Pre-test results provide accurate baseline information that can help to shape instructional objectives and assist service providers in monitoring participant progress. MD Labor requires that WIOA Title I program staff and Title II service providers administer pre-tests to participants as soon as possible in the intake process, prior to the commencement of instruction or training services, and/or when deemed appropriate by WIOA Title I program staff, as described in approved local workforce plans. Program participants do not need to be assessed in all of the skill areas an assessment series includes. The local program must decide the skill areas most relevant to each participant’s needs or the program’s curriculum and assess students in these areas. Initial placement may be set using assessment results from the pre-test for any skill area.

Post-test scores obtained at the end of a semester or other reporting period may serve as a pre-test for the next reporting period, provided that the interim does not exceed six months. Learners who have dropped out of an instructional program for more than four months must be administered a new pre-test upon return in order to assure proper placement in the program. That pre-test should be the same level but a different form from the previous pre-test.

Completed pre-tests or a printout of pre-test scores must be retained as documentation for monitoring purposes.

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from memory, anecdotal records document a student’s growth and trends.

## POST-TESTS

The purpose of post-testing is to measure whether the instruction a program participant received has improved their skills in a specific area, using the pre-test as a baseline. WIOA Title I Youth<sup>11</sup> and Title II service providers must administer post-tests to participants at least once during the fiscal year, provided participants have accumulated sufficient instructional hours. Generally, Maryland recommends 70 – 100 hours of instructional time between pre-tests and post-tests, to maximize student success. However, each publisher defines the minimum instructional hours required between pre-tests and post-tests for their assessment tool. Information on instructional hours requirements for specific assessments are included in the *Maryland Basic Education Skills and English Language Assessments Manual* as well as publisher guidance. If more than one skill area is assessed during pre-testing, the assessment administrator may measure MSG with a post-test in any subject area in which a participant was pre-tested. As previously noted in the section describing pre-tests, a participant's post-test assessment results may serve as the pre-test for the next reporting period.

NEDP and WIOA Title I adult and dislocated worker programs do not typically require post-testing, however, a post-test must be administered to participants to determine their progress in either adult education instruction and/or the WIOA Title I Youth program, if they are out-of-school youth. WIOA Title II service providers are required to post-test at least seventy percent of the program participants served by the program using a valid matched pair of pre-/post-tests for the fiscal year (see below for additional information on matched pairs).

MD Labor recommends that program participants receive 70 to 100 instructional hours prior to post-testing. Test publishers allow testing after a minimum of 40 hours of instruction. Shorter pre-test to post-test time periods do not allow for learner gain and can result in over-testing, affecting validity. Rare exceptions to the minimum instructional hours prior to post-testing are allowable on a per participant basis only. Such exceptions could include a teacher's observation that a participant has made measureable progress in fewer than the minimum instructional hours based upon a number of learner-demonstrated factors. A teacher may also determine it is appropriate to administer a post-test if a participant indicates that they must exit class prior to the minimum instructional hours and they have demonstrated measurable progress. WIOA Title I program staff and Title II service providers who allow post-tests in less than the recommended time must maintain complete documentation that supports the reason for any exception. MD Labor will monitor local programs on their use of exceptions and will take appropriate actions for excessive use or misapplication of exception provisions.

Completed post-tests or a printout of post-test scores must be retained as documentation for monitoring purposes.

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<sup>11</sup> All in-school youth are subject to the requirements of the Maryland State Department of Education's High School Assessment Program, which measures the youth's progress toward high school competency standards in English, Algebra/Data Analysis, Government, and Biology. Requiring additional testing for this population would increase burden on participants and would be duplicative of the services they are receiving in the secondary school system.

## **MATCHED PAIRS**

Matched pair assessments are pre-tests and post-tests in which the content is coordinated to ensure the results accurately compare performance on defined skills prior to and following instruction. For a matched pair in a test battery to be valid, the post-test must:

- A. Be in the same test series;
- B. Not be more than one test form level greater than the pre-test;<sup>12</sup> and
- C. Be a different form number or letter from the pre-test.

WIOA Title II service providers are required to post-test at least seventy percent of the participants served by the program using a valid matched pair of pre-/post- tests for the fiscal year.

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<sup>12</sup> This rule does not apply to the BEST assessment.

# TEST ADMINISTRATION

## GENERAL REQUIREMENTS

Assessment administrators must follow the guidance provided in this policy issuance, in conjunction with the *Maryland Basic Education Skills and English Language Assessments Manual* and the publisher's official examiner manuals to determine assessment practices. Providers shall follow all guidelines in the publisher's manuals and keep the most current copy of the manuals for each test used by the program.

Remote testing is available for online tests only. Paper tests must be administered in a physical environment in order to ensure test security. Test administrators and students must have the appropriate technology. Guidance on remote testing is available by publisher on their websites:

- A. Center for Applied Linguistics (Best Plus 2.0 and Best Literacy): <http://www.cal.org/aea>;
- B. CASAS (Reading GOALS, Math GOALS, and Life and Work Reading and Listening): <http://www.casas.org/>;  
and
- C. Data Recognition Corporation (TABE 11 & 12 and TABE CLAS-E): <http://www.tabetest.com/>.

## WHEN SHOULD PARTICIPANTS BE ASSESSED?

MD Labor generally recommends that participants receive 70 to 100 hours of instruction between pre- and post-testing. Test publishers allow testing after a minimum of 40 hours of instruction. Information on test publisher recommendations is included in the *Maryland Basic Education Skills and English Language Assessments Manual*.

## TEST INTEGRITY

All assessment administrators shall ensure that the following misuses of tests do not occur:

- A. Teaching to the actual test item;
- B. Copying and distributing a test item or test booklet to unauthorized personnel or learners prior to or after test administration as a study guide;
- C. Administering a lower level test to artificially increase the learning gain between pre-tests and post-tests;
- D. Administering pre-/post-tests in quick succession without sufficient time for instruction to allow for learning gains;
- E. Reducing the amount of time allowed on a pre-test (e.g., less than 20 minutes), while increasing the amount of time on a post-test (e.g., 40-60 minutes);
- F. Deleting test answers on the pre-test to lower the score;
- G. Deleting accurate tests to manipulate learning gains;
- H. Altering test items or score information;
- I. Providing the answers to test questions;
- J. Translating test items and answers into another language;
- K. Excluding certain individuals or groups from pre- and post-testing;
- L. Administering the test by an individual who is not qualified to do so; and/or
- M. Duplicating or copying the test of one learner and replacing the identification number or another number.

## **DATA SECURITY**

To ensure that all information related to participant assessments is protected, WIOA Title I program staff and Title II service providers must adhere to the policy and procedures described in MD Labor’s policy on privacy and data security.<sup>13</sup>

## **INTELLECTUAL PROPERTY REQUIREMENTS**

Assessment materials are copyrighted and shall not be duplicated. Materials must be purchased directly from the test publisher. The *Maryland Basic Education Skills and English Language Assessments Manual* includes contact information for all State-selected assessments.

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<sup>13</sup> All policy issuances are available on DWDAL’s Policy Issuance web page at <http://www.labor.maryland.gov/employment/mpi/>.



# TRAINING REQUIREMENTS FOR TEST ADMINISTRATORS

DWDAL requires all Title I and Title II assessment administrators to complete publisher-approved training prior to administering any of the State-selected, NRS-approved ABE and ESL assessments. Training must cover: NRS policy, accountability policies, and data collection; definition of performance measures; and guidelines for assessment administration.

The structure of training and the modalities through which training is accessed vary by publisher. For example, assessment administrators of TABE must complete a TABE 11 & 12 Certification Training. CASAS assessment administrators must complete CASAS Implementation Training. In both cases, these trainings are available via online, asynchronous courses.<sup>14</sup> Maryland requires all staff who administer TABE and CASAS assessments to complete the online training components offered by each publisher. Assessment administrators using BEST must complete in-person training delivered by publisher-certified trainers. Information on how to access online or in-person training is included in the *Maryland Basic Education Skills and English Language Assessments Manual*. State staff in DWDAL's Office of Adult Education and Literacy Services are available to provide additional technical assistance, as needed.

WIOA Title I and Title II assessment administrators must complete training on this policy issuance and on providing assessments upon hire and every two years thereafter.

Local WIOA Title I assessment administrators must submit documentation to their supervisors demonstrating completion of training. Supervisors must be prepared to share that documentation with MD Labor or USDOL upon request.

WIOA Title II Management Information Specialists (MIS) must enter training data in the Literacy, Adult and Community Education System (LACES).

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<sup>14</sup> Correctional Education (CE) staff do not have onsite internet access and therefore cannot complete assessment trainings using the online format. To ensure CE staff meet the training requirements set forth under this policy, the Director of CE within DWDAL will ensure staff are trained using alternative equivalent training options.

# ACCOMMODATIONS FOR PARTICIPANTS WITH DISABILITIES OR OTHER SPECIAL NEEDS

## ADMINISTERING ASSESSMENTS TO PROGRAM PARTICIPANTS IN NEED OF ACCOMMODATIONS

Under Section 188 of WIOA and related regulations, accommodations are available to individuals who choose to voluntarily disclose legally protected disabilities to mitigate the effects of the disability. An individual with a record for a substantially limiting impairment may be entitled to a reasonable accommodation or reasonable modification if needed and related to a disability.

Assessment accommodations will be based upon the nature of the disability or special need<sup>15</sup> and can include, but are not limited to:

- A. Braille Test Edition – for learners who are proficient in this mode of access to written material. Test administrator must transfer Braille answers to a scorable answer document.
- B. Large Print Edition – an enlarged copy of the regular print edition. Learners who use the large print edition should be allowed to mark their answers on a large print answer sheet.
- C. Repeated Directions – The test administrator may repeat the directions for learners who have difficulty following or attending to directions.
- D. Assistive Technology – Can include but is not limited to a computer, tape recorder, calculator, abacus, grip for a pencil, visual magnification device, communication device, mask or marker to maintain place, speech synthesizer, and/or electronic reader.
- E. Answers Recorded – If unable to write, provisions must be made for the test administrator to record the learner’s answers on the scorable answer document. Scribes and others supporting a learner’s test-taking must be neutral in responding to the learner during test administration. Assistance in test administration must not give away the answers. The learner’s responses must accurately represent their own choices.
- F. Extended Time/Adjusted Time – Time may be adjusted for certain learners, such as those who have short attention spans or who may be unable to concentrate for long periods of time on a given task. The test administration time may have to be altered considerably to allow for intermittent short breaks during the testing period, or it may be determined appropriate to administer the test in a number of short sessions. Testing may also be stopped and continued at a later time if a learner’s behavior interferes with testing. The elapsed time must be documented and the test administrator must closely monitor that test security is maintained. The time of day the test is administered may also be adjusted.
- G. Communication Assistance – A test administrator who is fluent in the cuing or signing modality routinely used by the learner should be available to repeat or clarify test directions.

Detailed information about accommodations and alternate test forms can be found on the CASAS and TABE websites <https://www.casas.org/> and <http://tabetest.com>. The design of BEST Literacy and BEST Plus 2.0 assessments allows for only limited accommodations. Additional information is available at [www.cal.org](http://www.cal.org).

Assessment scale scores for individuals who are provided accommodations should be referenced according to the same standards as participants who are tested without an accommodation; however, assessment administrators must

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<sup>15</sup> Accommodation requirements included in Individual Educational Plans or 504 Plans for in-school youth must be followed, and may be relevant documentation for determining reasonable accommodations for individuals other than in-school youth.

document participant use of accommodations (e.g. the examinee scored at the ABE Level 5 in the math assessment when permitted to use a calculator).

Unless making the modification would fundamentally alter<sup>16</sup> the nature of the assessment, the assessment administrators must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability. Assessment administrators must take into consideration both the principles of standardization (e.g. test administration procedures required by test publishers) and inclusion for all participants and must document accommodation requests and any meetings regarding the disposition of requests in accordance with Section 188 rules.

In those circumstances where a WIOA Title I or II provider believes that the proposed accommodation would cause undue hardship,<sup>17</sup> the provider has the burden of proving that the accommodation would result in such hardship. The decision must be accompanied by a written statement of the provider's reasons for reaching that conclusion. The provider must provide a copy of the statement of reasons to the individual or individuals who requested the accommodation. If a requested accommodation would result in undue hardship, the provider must, after consultation with an individual with a disability (or individuals with disabilities), take any other action that would not result in such hardship, but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the service provided.

## **REQUIRED DOCUMENTATION**

In order for a program participant to secure a requested accommodation, they must provide evidence to document their disability. The documentation must include a comprehensive evaluation, a specific diagnosis, and objective evidence of a substantial functional limitation. The diagnostic report must list specific recommendations for accommodation(s), as well as a detailed explanation of why each accommodation is recommended. The evaluator(s) must describe the impact the diagnosed disability has on a specific major life activity as well as the degree of recommendations with specific test results or clinical observations. A qualified professional whose credentials are appropriate to the disability must make the evaluation. The name, title, and professional credentials (e.g., degrees, areas of specification, license or certification, employment) should be clearly stated in the documentation.

If a program participant is eligible for accommodations, the program must cover costs associated with the recommended accommodations. For additional information on assessment administration and recommended accommodations for qualified individuals in need of accommodations, see the *Maryland Basic Education Skills and English Language Assessments Manual*.

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<sup>16</sup> Per 29 CFR 38.4, [Definitions](#), “fundamental alteration” means: (1) A change in the essential nature of a program or activity, including but not limited to an aid, service, benefit, or training; or (2) A cost that a provider can demonstrate would result in an undue burden.

<sup>17</sup> Per 29 CFR 38.14, [Reasonable accommodations and reasonable modifications for individuals with disabilities](#), “undue hardship” means significant difficulty or expense incurred by a WIOA Title I or II provider, when considered in light of a variety of specific factors listed in the law.

# REPORTING AND RECORD RETENTION

## REPORTING

Programs must consistently collect and enter assessment data into the appropriate MD Labor database in a timely manner.

WIOA Title I program staff serving adults, dislocated workers, and youth must enter assessment data in the Maryland Workforce Exchange (MWE) database within 14 business days of activity.

WIOA Title II MIS staff must enter assessment data in the LACES system according to the posted *Annual Data Entry Schedule*, which can be accessed at <http://labor.maryland.gov/lwis/litworks/LACESAnnualDataEntrySchedule.pdf>.

## RECORD RETENTION

MD Labor requires participating WIOA Title I and Title II programs to retain assessment records in the participant's file and maintain the file in hard copy or electronic form for at least three years following the date on which the final cost report charged to a program year's allotment is submitted, or until all audit and litigation issues are resolved, whichever is later. If any litigation, claim, or audit is initiated before the expiration of the three-year period, records then must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action has been taken.

To guard against identity theft, protect the personal information of program participants, and meet the legal requirements of FERPA, WIOA Title I program staff and Title II service providers must strictly adhere to the data security practices stated in this policy issuance. Intake and assessment forms, related paperwork, and other documents that may contain information such as learners' Social Security numbers must be secured in locked files, and should be shredded or otherwise appropriately destroyed after the three-year storage time limit.

## MONITORING

The State of Maryland acknowledges that the USDOL and the United States Department of Education have the authority to monitor and assess the use of ABE and ESL assessments to ensure that Federal awards are used for authorized purposes in compliance with Final Rules, federal regulations, and State policies, and that those laws and regulations are enforced properly.

To ensure that policies are being followed and expectations are being met, WIOA Title I program staff and Title II service providers should also expect DWDAL to conduct program monitoring according to DWDAL's Monitoring policy.<sup>18</sup> DWDAL's Office of Monitoring and Compliance evaluates whether WIOA Title I program staff and Title II service providers have followed program enrollment rules.

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<sup>18</sup> All policy issuances are available on DWDAL's Policy Issuance web page at <http://www.labor.maryland.gov/employment/mpi/>.

## **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 (including pregnancy, childbirth and related medical conditions, transgender status, gender identity, and sexual orientation), marital status, genetic information, age, national origin or ancestry (including Limited English Proficiency), disability, veteran status or political affiliation or belief. Participants in WIOA Title I and Title II programs with disabilities who may need accommodations should request assistance in advance of the scheduled services from the program staff or service provider with whom they will be working to secure the necessary support.

MD Labor is further committed to ensuring program participants with Limited English Proficient (LEP) have access to necessary language services. To learn more about the interpreter and translation services available to participants, refer to the Language Access Plan<sup>19</sup> jointly published by DWDAL and the MD Labor Division of Unemployment Insurance. The plan includes contact information for Language Access Coordinators who are responsible for arranging requested annual trainings, maintaining and posting a log of multilingual staff, and providing guidance on the use of assistive technologies.

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<sup>19</sup> Available at <http://www.labor.maryland.gov/employment/wioa-access.pdf>.

## REFERENCES

### LAW

- [Workforce Innovation and Opportunity Act \(WIOA\), 29 U.S.C. § 3101 et seq. \(2015\)](#); and
- [Family Educational Rights & Privacy Act \(FERPA\) of 1974, 20 U.S.C. § 1232g.](#)

### REGULATION

- 29 CFR Part 38, “[Implementation of the Nondiscrimination and Equal Opportunity Provision of the Workforce Innovation and Opportunity Act;](#)”
- 29 CFR 97.42, “[Retention and access requirements for records;](#)”
- 29 CFR 95.53, “[Retention and access requirements for records;](#)”
- 34 CFR 462, “[Measuring Educational Gain in the National Reporting System for Adult Education;](#)”
- 34 CFR Parts 362 and 463, —[Programs and Activities Authorized by the Adult Education and Family Literacy Act \(Title II of the Workforce Innovation and Opportunity Act\),](#)
- 34 CFR 80.40, “[Monitoring and reporting program performance;](#)”
- 34 CFR Part 99, “[Family Educational Rights and Privacy Act regulations;](#)”
- Federal Register – Volume 86, Number 201, page 58258 [Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education](#), dated October 21, 2021;
- Federal Register – Volume 85, Number 153, page 47952 [Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education](#), dated August 17, 2020;
- Federal Register – Volume 83, Number 45, page 8322 [Tests Determined to be Suitable for Use in the National Reporting System for Adult Education](#), dated March 7, 2019;
- Federal Register – Volume 83, Number 184, page 47910 [Tests Determined to be Suitable for Use in the National Reporting System for Adult Education](#), dated September 21, 2018;
- Federal Register – Volume 83, Number 24, page 5087 [Tests Determined to be Suitable for Use in the National Reporting System for Adult Education](#), dated February 5, 2018;
- Federal Register – [Volume 80, Number 73, page 20574](#), dated April 16, 2015 (Joint NPRM Proposed Rules); and
- [WIOA Final Regulations](#) (Federal Register Vol. 81, No. 161, August 19, 2016).

### FEDERAL GUIDANCE

- TEGL 10-16 Change 2, “[Performance Accountability Guidance for Workforce Innovation and Opportunity Act \(WIOA\) Core Programs,](#)” dated September 15, 2022;
- TEGL 21-16, Change 1, “[Third Workforce Innovation and Opportunity Act \(WIOA\) Title I Youth Formula Program Guidance,](#)” dated July 30, 2021;
- TEGL 4-15, [Vision for the One-Stop Delivery System under the Workforce Innovation and Opportunity Act \(WIOA\),](#) dated August 13, 2015; and
- TEGL 39-11, “[Guidance on Handling and Protection of Personally Identifiable Information \(PII\),](#)” dated June 28, 2012.

### OTHER REFERENCES

- Maryland Basic Education Skills and English Language Assessments Manual

- <http://www.labor.maryland.gov/gedmd/resources.shtml>);
- LACES Annual Data Entry Schedule (<http://labor.maryland.gov/lwis/litworks/LACESAnnualDataEntrySchedule.pdf>);
  - Literacy Works website (<https://labor.maryland.gov/lwis>);
  - NRS website (<http://www.nrsweb.org>);
  - CASAS website (<http://www.casas.org>);
  - TABE website (<http://tabetest.com>);
  - Center for Applied Linguistics website (*BEST Literacy & BEST Plus 2.0*) (<http://www.cal.org/>);
  - WIOA Technical Document 2016-01, [Definitions for WIOA Implementation](#); and
  - National Reporting System, [State Assessment Policy Guidance](#), dated August 9, 2018 <https://nrsweb.org/resources/state-assessment-policy-guidance-508-compliant-version>.