

U.S. DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION

March 22, 2024

FAQ 24-01

Frequently Asked Questions

Implementation of *Retention with the Same Employer* as the Definition of Effectiveness in Serving  
Employers under the Workforce Innovation and Opportunity Act (WIOA)  
Performance Accountability System

**Background**

On February 23, 2024, the U.S. Departments of Education and Labor (the Departments) published a [final rule](#) in the *Federal Register* (89 FR 13814) that defines the sixth performance indicator—effectiveness in serving employers—as *Retention with the Same Employer* in the second and fourth quarters following a participant’s exit from a WIOA core program—and requires it be reported by one WIOA core program on behalf of all six such programs within each State. The final rule will take effect on March 25, 2024.

The purpose of these jointly-issued FAQs is to outline when States must begin collecting and reporting *Retention with the Same Employer* data and inform States of the information collection requests (ICRs) and joint policy guidance the Departments will revise in accordance with this new regulatory definition.

**Q1:** When must States collect and report performance data for *Retention with the Same Employer*?

Because the new definition for effectiveness in serving employers takes effect on March 25, 2024, WIOA core programs must begin collecting data for *Retention with the Same Employer* in Program Year (PY) 2024, which begins on July 1, 2024 (i.e., the first full PY following the regulation’s effective date). Given the data to be collected and the lag time in programs’ ability to obtain the requisite employment data for reporting purposes, these PY 2024 data will account for participants who exited core programs during calendar year 2023 (January 1, 2023 to December 31, 2023).

Each State must report an annual aggregated and unduplicated performance result, across the six WIOA core programs, on the PY 2024 WIOA Statewide Performance Report Template (ETA-9169); these reports are due no later than October 1, 2025.

The Departments will consider PY 2024 performance results on *Retention with the Same Employer* as baseline data for purposes of the statistical adjustment model.

**Q2:** Will the Departments update the WIOA ICRs to include *Retention with the Same Employer*?

Yes, the publication of the final rule defining effectiveness in serving employers serves as the notice of the start of the 30-day comment period to incorporate these changes into the following ICRs:

- *WIOA Common Performance Reporting* (OMB Control Number: 1205-0526):
  - Joint Participant Individual Record Layout (ETA-9170) (Unchanged);
  - Statewide Performance Report Template and Local Area Performance Report Template (ETA-9169) (Updated);
  - Eligible Training Provider Performance Report Specifications and Eligible Training Provider Performance Report Definitions (ETA-9171) (Unchanged); and
  - Annual Statewide Performance Report Narrative (Unchanged).
- *DOL-Only Performance Accountability* (OMB Control No. 1205-0521):
  - DOL Participant Individual Record Layout (ETA-9172) (Unchanged);
  - Performance Report (ETA-9173) (Unchanged); and
  - Pay-for-Performance Report (ETA-9174) (Unchanged)

**Q3:** Will the Departments update WIOA joint policy guidance to include *Retention with the Same Employer*?

Yes, during Fiscal Year 2024, the Departments will revise two joint policy guidance documents to include *Retention with the Same Employer*. First, the Departments will revise *Performance Accountability Guidance for WIOA Core Programs* (Employment and Training Administration (ETA) Training and Employment Guidance Letter (TEGL) 10-16, Office of Career, Technical, and Adult Education (OCTAE) Program Memorandum (PM) 17-2, and Rehabilitation Services Administration (RSA) Technical Assistance Circular (TAC) 17-01) to include *Retention with the Same Employer* and technical assistance related to data collection and reporting of that data. Second, the Departments will revise *Negotiations and Sanctions Guidance for WIOA Core Programs* (ETA TEGL 11-19, OCTAE PM 20-2, and RSA TAC 20-02) to explain how the Departments will incorporate *Retention with the Same Employer* in the negotiation and performance assessment processes.