

-Preface-

Arizona Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule’s effectiveness, clarity, conciseness and understandability. The reports also describe the agency’s proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor’s Regulatory Review Council (GRRC). A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on the agency's website.

Department of Economic Security
Title 6, Chapter 11 - Job Training Partnership Act
Five-Year Review Report

1. Authorization of the rule by existing statutes:

General Statutory Authority: A.R.S. §§ 41-1954(A)(3) and 46-134(10)

Specific Statutory Authority: A.R.S. § 41-1954 (A)(1)(a)

2. Analysis of rules:

<u>Rule</u>	<u>Analysis</u>	
R6-11-101	<u>Title:</u>	Administrative agency
	<u>Objective:</u>	The objective of this rule is to identify the Department as the state agency responsible for the administration of the Job Training Partnership Act (JTPA) program.
	● Is this rule effective in meeting the objective?	Yes <input type="checkbox"/> No X
	● Is this rule consistent with other rules and statutes?	Yes <input type="checkbox"/> No X
	● Is this rule enforced as written?	Yes <input type="checkbox"/> No X
	● Is this rule clear, concise, and understandable?	Yes X No <input type="checkbox"/>

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule does not align with WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to identify the Department as the state agency responsible for the administration of the WIOA Title I-B Adult, Dislocated Worker, and Youth Programs and remove all references to the JTPA.

<u>Rule</u>	<u>Analysis</u>	
R6-11-102	<u>Title:</u>	Definitions
	<u>Objective:</u>	The objective of this rule is to define the terms in this Chapter and promote a uniform understanding of terms used by the JTPA programs.
	● Is this rule effective in meeting the objective?	Yes <input type="checkbox"/> No X
	● Is this rule consistent with other rules and statutes?	Yes <input type="checkbox"/> No X
	● Is this rule enforced as written?	Yes <input type="checkbox"/> No X

- Is this rule clear, concise, and understandable? **Yes X** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule does not align with WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to identify the Department as the state agency responsible for the administration of the WIOA Title I-B Adult, Dislocated Worker, and Youth Programs and remove all references to the JTPA.

Rule **Analysis**

R6-11-103 Title: Eligibility criteria

Objective: The objective of this rule is to set forth the general and specific eligibility criteria for enrollment in JTPA programs.

- Is this rule effective in meeting the objective? **Yes** **No X**
- Is this rule consistent with other rules and statutes? **Yes** **No X**
- Is this rule enforced as written? **Yes** **No X**
- Is this rule clear, concise, and understandable? **Yes X** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule does not align with WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to identify the Department as the state agency responsible for the administration of the WIOA Title I-B Adult, Dislocated Worker, and Youth Programs and remove all references to the JTPA.

Rule **Analysis**

R6-11-104 Title: Selection-enrollment responsibility

Objective: The objective of this rule is to describe a subrecipient's responsibility to establish criteria regarding how an applicant is selected to participate in a JTPA program.

- Is this rule effective in meeting the objective? **Yes** **No X**
- Is this rule consistent with other rules and statutes? **Yes** **No X**
- Is this rule enforced as written? **Yes** **No X**
- Is this rule clear, concise, and understandable? **Yes X** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not enforced as written because the rule does not align with WIOA, the

current federal legislation that supersedes JTPA. The Department proposes to revise the current rule to describe priority of service in the WIOA Title I-B Adult Program and the exception of up to five percent of participants in the WIOA Title I-B Youth Program who do not have to be low-income individuals to align with WIOA.

<u>Rule</u>	<u>Analysis</u>	
R6-11-107	<u>Title:</u>	Confidentiality
	<u>Objective:</u>	The objective of this rule is to require subrecipients of JTPA funds to comply with applicable federal and state statutes, regulations, and policies regarding the confidentiality of information.
	<ul style="list-style-type: none"> ● Is this rule effective in meeting the objective? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ● Is this rule consistent with other rules and statutes? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ● Is this rule enforced as written? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ● Is this rule clear, concise, and understandable? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 	

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because it does not align with the WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to align requirements for the confidentiality of information with WIOA and remove all references to JTPA.

<u>Rule</u>	<u>Analysis</u>	
R6-11-111	<u>Title:</u>	Complaint resolution procedures
	<u>Objective:</u>	The objective of this rule is to describe the complaint resolution procedures that a subrecipient of JTPA funds shall have in place to address complaints from a participant or other interested party.
	<ul style="list-style-type: none"> ● Is this rule effective in meeting the objective? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ● Is this rule consistent with other rules and statutes? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ● Is this rule enforced as written? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> ● Is this rule clear, concise, and understandable? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 	

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule does not align with the WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to align requirements for a subrecipient's complaint resolution

procedures with WIOA and remove all references to JTPA.

Rule

Analysis

R6-11-201

Title: Right to appeal

Objective: The objective of this rule is to describe an interested party's right to appeal a determination, decision, order, or other action or inaction by the Department or subrecipient.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule does not align with the WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to clarify an interested party's right to appeal a Department's or subrecipient's determination, decision, order, or other action or inaction with WIOA and remove all references to JTPA.

Rule

Analysis

R6-11-202

Title: Hearing request

Objective: The objective of this rule is to describe the process an interested party or their legal counsel shall use to request a hearing to appeal an adverse action by the Department or a subrecipient.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is inconsistent with federal regulations and is not enforced as written because the rule does not align with the WIOA, the current federal legislation that supersedes JTPA funds. The Department proposes to revise the current rules to clarify the procedures an interested party shall use to request a hearing to appeal an adverse action by the Department or subrecipient with WIOA and remove all references to JTPA.

Rule **Analysis**

R6-11-203 Title: Notice of hearing

Objective: The objectives of this rule are to describe how an interested party is provided a notice of hearing and the contents of the notice.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule does not align with the WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to clarify how a party is provided a notice of hearing and the contents of the notice with WIOA and remove all references to JTPA.

Rule **Analysis**

R6-11-204 Title: Hearing procedures

Objective: The objectives of this rule are to explain the hearing procedures and responsibilities of individuals involved in the hearing proceedings.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule refers to hearing procedures for JTPA and does not align with WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to clarify hearing procedures and the responsibilities of individuals involved in the hearing proceedings with WIOA and remove all references to JTPA.

Rule **Analysis**

R6-11-205 Title: Hearing decisions

Objective: The objectives of this rule are to describe the process

through which hearing decisions are made and establish procedures for requesting a rehearing or a Director's reconsideration.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule refers to the process through which hearing decisions are made and establish procedures for filing for a redetermination of a hearing decision for JTPA. It does not align with WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to align the process through which hearing decisions are made and establish procedures for requesting a reconsideration of a hearing decision with WIOA and remove all references to JTPA.

Rule **Analysis**

R6-11-206 Title: Failure of a party to appear

Objective: The objective of this rule is to define the consequences when a party to a hearing fails to appear at a scheduled hearing.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the rule refers to consequences when a party fails to appear at a scheduled hearing for JTPA and does not align with WIOA, the current federal legislation that supersedes JTPA. The Department proposes to revise the current rules to clarify the consequences when a party fails to appear at a properly noticed hearing with WIOA and remove all references to JTPA.

Rule **Analysis**

R6-11-207 Title: Hearing officer

Objective: The objective of this rule is to describe the process and circumstances under which a hearing officer may be

disqualified or when an interested party may request a change of hearing officer.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the instances and procedures in which a hearing officer may be disqualified or in which an interested party may request a change of hearing officer pertain to JTPA and must be revised to align with the WIOA, the current federal legislation that supersedes JTPA. The Department plans to revise the current rules to define when a hearing officer may be disqualified or when an interested party may request a change of hearing officer to align with WIOA and remove all references to JTPA.

Rule **Analysis**

R6-11-208 Title: Postponement of hearing

Objective: The objectives of this rule are to describe the process for and circumstances under which a scheduled hearing may be postponed.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with federal regulations, and is not fully enforced as written because the process and circumstances under which a scheduled hearing may be postponed pertain to JTPA and must be revised to align with the WIOA, the current federal legislation that supersedes JTPA. The Department plans to revise the current rules to align the process and circumstances under which a scheduled hearing may be postponed with WIOA and remove all references to JTPA.

3. Has the Department received written criticisms of the rules within the last five years?

Yes **No**

4. Economic, small business, and consumer impact comparison:

There is no previous Economic, Small Business, and Consumer Impact Statement available from the last promulgation of the rules to provide an economic impact comparison. The

Department is providing an assessment of the actual economic, small business, and consumer impact of the rules pursuant to R1-6-301.

The State of Arizona, via the Department of Economic Security, receives federal funds from the United State Department of Labor as authorized under WIOA Title I. The amount of the WIOA Title I grant allocations are provided in three funding streams: Adult, Dislocated Worker, and Youth. In Program Year (PY) 2022 (July 1, 2022 - June 30, 2023), Arizona received \$86,990,453.00 and of that amount, \$26,301,024.00 was under the Adult allocation, \$32,882,281.00 was under the Dislocated Worker allocation, and \$27,807,148.00 was under the Youth allocation. In Arizona, the Department of Economic Security contracts with 12 Local Workforce Development Areas (LWDAs), one of which consists of 13 Tribal Area entities. The LWDAs receive 85 percent of the grant money and the Department retains five percent of the total allocation for the statewide administration of the WIOA Title I-B programs. The remaining 10 percent of the grant funds are used for statewide projects, which are administered through the Governor's Office.

Participants of WIOA Title I-B programs benefit from services, such as on-the-job training and other work-based learning activities, which assist participants with gaining skills that help with retaining or gaining employment that pays higher wages. These services are provided at no cost to participants in WIOA Title I-B programs. In Program Year 2022, a total of 14,143 program customers (9,195 WIOA Adult Program participants; 1,071 Dislocated Worker Program participants; and 3,877 Youth Program participants) benefited from the WIOA Title I funded services provided through LWDAs in Arizona, including staff-assisted career, training, and program services.

Reports in the Arizona Job Connection (AJC), Arizona's web-based job-matching and labor market information system, indicate that 72.1 percent of the WIOA Title I Adult Program exiters, 75.9 percent of the WIOA Title I Dislocated Worker exiters, and 76 percent of the WIOA Title I Youth Program exiters were employed or in education in the second quarter after exit in Program Year 2022.

Businesses may benefit from the expanded pool of trained workers resulting from services provided by LWDAs through the WIOA Title I funds. Small businesses include service providers who provide services and activities to participants in WIOA Title I-B programs. There are potential positive economic impacts to small businesses, which may access WIOA Title I-B funds. Additionally, service providers that offer on-the-job training and other work-based learning activities to participants benefit from a positive economic impact by saving on the cost of training a new employee.

5. Has the agency received any business competitiveness analyses of the rules?

Yes No

6. Has the agency completed the course of action indicated in the agency’s previous five-year-review report?

Yes No

In the previous Five-Year-Review report, approved by the Council in June 2018, the Department anticipated submitting two rulemaking packages to update the rules in Chapter 11. The Department received approval on July 20, 2017, from the Governor’s Office to proceed with the rulemaking for Chapter 11. The Department anticipated filing a Notice of Final Rulemaking with the Council by March 2019. However, the Department decided to submit the amendments to these rules as one package instead of two and the draft rules have undergone several iterations. In early 2020, as the Department was reaching the final stages of drafting the proposed rules, the COVID-19 Pandemic required the Department to quickly divert all resources to providing pandemic response services. The Department was responsible for providing essential services to families, which caused a significant delay in the progress of rulemaking. As the pandemic has receded and staff availability has stabilized, the Department has renewed its commitment to rulemaking and has made significant progress on these rules. The Department has also overhauled its internal drafting and review process, resulting in secondary reviews, by both the general public and internal and external stakeholders in order to mitigate the number of comments received during the formal comment period, thus causing some additional delays in submitting the Notice of Final Rulemaking to the Council. Governor's Office approval to proceed with this rulemaking was received from the Hobbs administration on June 27, 2023.

7. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:

With the amendments proposed in this report, the Department believes that the rules would impose the least burden and costs to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objectives. These rules do not impose any cost to consumers or small businesses and are being sought to align with current federal law and regulations. Updates to the rules identified in this report outweigh any potential costs incurred from the proposed revisions. Additionally, program subject matter experts indicate that amendments to the rules, as proposed in this report, are the most cost-effective way to bring the Department into compliance with federal requirements because there is no less intrusive or less costly method of achieving the objectives of this rulemaking.

8. Are the rules more stringent than corresponding federal laws?

Yes No

The Department has determined that the rules are not more stringent than corresponding federal law.

9. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

The Department has determined that A.R.S. § 41-1037 does not apply to these rules because all the rules were last adopted on April 5, 1984. Furthermore, these rules do not require the issuance of a permit, license, or agency authorization.

10. Proposed course of action:

The Department proposes to update the rules in Chapter 11 to address issues identified in Item 2 of this report. The Department anticipates filing a Notice of Proposed Rulemaking (NPR) in November 2023 and submitting a Notice of Final Rulemaking (NFR) to the Council by March 2024.