

Ohio Department of Education
Adult Basic and Literacy Education (ABLE)
Student Eligibility Policy
September 2006

Replaces the following policies:
Ohio Compulsory School Age and Participation in ABLE Programs, 1998
Referral of School-Aged Youth to Adult Basic and Literacy Education (ABLE) Programs, 2001
Eligibility Policy for Serving Limited English Proficient in ESOL FY 2002

Introduction

As defined by the Workforce Investment Act (WIA), Title II, Adult Education and Family Literacy Act, “adult education” includes services or instruction below the postsecondary level for students who (A) have attained sixteen years of age; (B) are not enrolled or required to be enrolled in secondary school under state law; and (C)(i) lack sufficient mastery of basic educational skills to enable them to function effectively in society; (ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or (iii) are unable to speak, read, or write the English language. 20 U.S.C. § 9202(1).

The WIA mandates that each eligible agency (i.e., a state agency responsible for administering or supervising policy for adult education and literacy; 20 U.S.C. § 9202(4)), in awarding a grant or contract to eligible providers within the state, cannot use any funds made available for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who do not meet the requirements of 20 U.S.C. § 9202(1). 20 U.S.C. § 9241(d). The Ohio Revised Code requires that state funds distributed by the Ohio Department of Education to qualifying organizations be used to provide adult education services. O.R.C. § 3301.40(B).

In Ohio, the goals of local Adult Basic and Literacy Education (ABLE) programs are to:

1. assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;
2. assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children, and;
3. assist adults in the completion of a secondary school education.

Need for the Student Eligibility Policy

The Ohio Department of Education is responsible for insuring that federal and state ABLE funds are distributed in accordance with state and federal law. Inquiries from local ABLE program providers regarding eligibility of sixteen and seventeen year old individuals, those who are home-schooled or court-ordered, as well as those with other special circumstances, have supported the need for a legal review and updating of the 2001 eligibility policy in relation to current state and federal law. The September 2006 eligibility policy will provide clarification of these issues.

The following information and guidelines are offered in order to assist local program staff and others to determine the eligibility or ineligibility of individuals in Ohio Department of Education funded ABE programs supported by the Adult Education and Family Literacy Act, Title II of the Workforce Investment Act.

General Requirements

As defined by the WIA, “adult education” includes services or instruction below the postsecondary level for individuals who:

- (A) have attained sixteen years of age;
- (B) are not enrolled or required to be enrolled in secondary school under state law; and
- (C) (i) lack sufficient mastery of basic educational skills to enable the individual to function effectively in society; (ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or (iii) are unable to speak, read, or write the English language.

Sixteen and Seventeen Year Old Student Requirements

Services and instruction may be provided to individuals sixteen and seventeen years who meet the General Requirements above. Additionally, in order to satisfy General Requirement (B), the student must:

- (A) provide written evidence of an age and schooling certificate and official withdrawal from school or
- (B) provide written evidence of a high school diploma.

The only statutory exceptions to compulsory school attendance which would allow the enrollment of sixteen and seventeen year olds in ABE programs are the conditions cited above. Documentation of the age and schooling certificate and withdrawal from school or a copy of the diploma must be verified prior to enrollment and must be kept on file with other required student records (i.e., standardized assessment and other test records).

Limited English Proficient Students - English for Speakers of Other Languages (ESOL) Services Requirements

Services and instruction may be provided to Limited English Proficient students who:

- (A) if eighteen or older, meet the General Requirements above, or
- (B) if sixteen or seventeen, meet the Sixteen and Seventeen Year Old Student Requirements above. Required documentation for sixteen and seventeen year olds must be provided prior to enrollment and must be kept on file with other required student records (i.e., standardized assessment and other test records). A copy of a high school diploma from the individual’s home country is sufficient evidence to meet General Requirement (B).

Services and instruction **may not be provided** to Limited English Proficient students who:

- (A) are in the United States with F-1 visas. These individuals may not enroll in publicly funded adult education programs. 8 U.S.C. § 1184(m); 8 U.S.C. § 1101(a)(15)(F). Thus, during orientation and intake, individuals who disclose that they have this type of visa should be informed that they are ineligible for ABLE services.

The WIA does not require that individuals demonstrate that they are legal residents of the United States as a condition of enrollment in ABLE programs. Thus, it is not necessary or appropriate for individuals to present passports, visas, work permits or social security cards to prove legal status in order to enroll. Individuals from other countries need only to satisfy the same requirements as others with the exception listed in this section.

Eligibility of Adults with Disabilities

The Ohio Adult Basic and Literacy Education (ABLE) Program requires that all persons shall have equal access to its programs, facilities and services without regard to race, color, creed, religion, national origin, sex, age, marital status, disability or sexual orientation. It does not discriminate in admission to its programs, services or activities; in access to them; in treatment of individuals with disabilities; or in any aspect of operations. Definitions and policies are contained in *A Planning Guide for Serving ABLE Students with Learning Disabilities and Other Special Needs*.

Services and instruction will be provided to individuals who:

- (A) can communicate a goal for participation;
- (B) make progress toward an academic goal as evidenced by progress on standardized test scores; and
- (C) can maintain behavior that is not disruptive to the class environment.

Additional Clarification

Home-Schooled Students

Are home-schooled students eligible for ABLE?

Students who are educated at home pursuant to O.R.C. § 3321.04 and O.A.C. § 3301-34 **are ineligible** for ABLE programs. Under Ohio law, home-schooled students are merely excused from school attendance, for the remainder of the school year at most, and the excuse becomes void and subject to revocation if proper home instruction ceases to occur. O.R.C. § 3321.04(A)(2); O.A.C. § 3301-34. Further, the WIA states that it should not be construed to affect home schools, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education. 20 U.S.C. § 9203.

School districts should not withdraw students as “home schooled” so that they can enroll in ABLE programs. Home-schooled students are only those who are truly instructed at home pursuant to O.R.C. § 3321.04 and O.A.C. § 3301-34.

Court-Ordered Sixteen or Seventeen Year Olds

Are court-ordered sixteen or seventeen year olds eligible for ABLÉ services?

Individuals should only be ordered by a court to attend ABLÉ programs if they meet the eligibility requirements. The WIA mandates that each eligible agency, in awarding a grant or contract to eligible providers within the state, cannot use any funds made available for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who do not meet the requirements of 20 U.S.C. § 9202(1). 20 U.S.C. § 9241(d). The Ohio Revised Code requires that state funds distributed by the Ohio Department of Education to qualifying organizations be used to provide adult education services. O.R.C. § 3301.40(B). Thus, ABLÉ programs may violate these provisions if they enroll court-ordered individuals who do not meet the eligibility requirements.

What if I am challenged by the court system to comply with the court order to serve an ineligible youth after I have presented the eligibility policy?

A person guilty of disobedience of, or resistance to, a lawful writ, process, order, rule, judgment, or command of a court or officer may be punished for contempt of court. O.R.C. § 2705.02(A). In cases where the court is not receptive to our communication regarding eligibility, you should enroll the student in the ABLÉ program in accordance with the order. The court order should be kept on file with the student records for audit purposes.

Sixteen or Seventeen Year Olds with Non-Secondary School Diplomas

Are sixteen or seventeen year olds with a non-secondary school diploma eligible for ABLÉ services?

Sixteen or seventeen year old individuals with a diploma from a non-secondary school must meet the eligibility requirements cited in the Sixteen and Seventeen Year Old Student Requirements section of the ABLÉ Student Eligibility Policy. For example, a diploma indicating completion of grade 8 would not qualify.

GED Test Eligibility

Are individuals intending to take the GED test eligible to attend ABLÉ?

Individuals who intend to take the tests of General Educational Development (GED) must meet the same eligibility requirements as stated in the ABLÉ Student Eligibility Policy. There are separate eligibility requirements that individuals must meet before they may take the GED test. Program staff must be knowledgeable about these differences.

To be eligible to take the GED test, an applicant must be officially withdrawn from school and be nineteen years of age or older. O.A.C. § 3301-41-01(B). There are

four exceptions to the age requirement. An applicant is eligible to take the GED test when an applicant:

- (A) is eighteen years of age if the class of which he or she was last a member has graduated. O.A.C. § 3301-41-01(B)(1);
- (B) has been sworn into active military service in one of the armed forces if a statement, indicating the date of the swearing-in ceremony, is submitted with the application. O.A.C. § 3301-41-01(B)(2);
- (C) is at least sixteen years of age, but is less than eighteen years of age, with written approval from a parent, guardian, or court official and the school superintendent or his or her designee, from where the applicant last attended school or presently resides. O.A.C. § 3301-41-01(B)(3);
- (D) has reached the age of majority (i.e., eighteen years old) with written approval from the superintendent or his or her designee, from where the applicant last attended school; in this case, the applicant may sign the approval form instead of the parent, guardian or court official. O.A.C. § 3301-41-01(B)(4).

Community Schools (Charter Schools)

Do community schools (charter schools) have the same status as other local educational agencies (i.e., school districts, educational service centers, career centers and joint vocational schools)?

Yes. References to “school” or “school district” in the policy apply to community schools (charter schools).

Age and Schooling Certificate Status

Are sixteen and seventeen year olds with any type of age and schooling certificate eligible for ABLE services?

Sixteen or seventeen year old individuals with any type of age and schooling certificate are eligible for ABLE services, if they also present written evidence of official withdrawal from school.