

OVERPAYMENT OF TRAINING AND SUPPORT SERVICES

Overpayment of training and Support Services pertains to the WIOA Title I Adult, Dislocated Worker, and Youth programs, Quality Jobs Equity Strategy and Training Grant (QUEST), Senior Community Service Employment Program (SCSEP), and the Trade Adjustment Assistance (TAA) program. A participant of these programs may be liable to reimburse DLR the amount paid on the participant's behalf to a third party, or to the participant directly, if the participant did not complete the services intended for the payment. Overpayments for Trade Readjustment Allowance (TRA) and Reemployment Trade Adjustment Assistance (RTAA) are not part of this policy and will be resolved through the DLR Reemployment Assistance (RA) Division. See the Trade Readjustment Allowance section of TAA [Policy 5.40](#).

An overpayment may include non-tangible items such as a refund, rebate, tuition assistance, etc. and the purchase of tangible goods such as tools, equipment, clothing, bus pass or tokens, etc. DLR will not accept the tangible good as reimbursement.

Reasons for Overpayment

Unless a justification is provided, an overpayment can be sought in the following situations:

- Failing Grades
- Dropped out of training/expulsion from training
- False representation of grades, progress reports, or information regarding training or services received
- Failing to communicate with Employment Specialist
- Any type of fraud
- Other

If fraud has been determined as the reason for overpayment, the participant will NOT be eligible for financial services through the WIOA Title I or TAA programs. If reason for overpayment was for another reason, participants may be considered for financial services through the WIOA Title I or TAA program with verification of a payment plan that is in good standing through the DLR Administrative Services Division. All participants can continue to receive case management services from a DLR Employment Specialist.

INITIAL NOTICE OF OVERPAYMENT

If a reason for overpayment is brought to the attention of a DLR team member, the appropriate Labor Program Specialist will be contacted to determine the justification and amount of overpayment. The participant will be issued the following via email and mail from the Administrative Services Division:

1. An **Initial Notification of Overpayment** letter including instructions to seek a waiver.
2. Overpayment of Training and Support Services Policy 5.95; and
3. Copy of Budget Worksheet [Resource 22](#).

WAIVER OF OVERPAYMENT

- If a participant chooses to seek a waiver of the overpayment determination, the participant must submit both the justification statement and Budget Worksheet [Resource 22](#) within 30 days of receipt of the notice of overpayment. To determine if a waiver is appropriate, the following will be reviewed:
 - A justification statement and explanation written by the participant on why the service was not completed,
 - Budget Worksheet [Resource 22](#) completed by the participant,
 - Copy of Condition and Assurance [Form 10A](#), Authorization for Purchase [Form 24](#), **or** TAA Required Training Supplies, Books, Fees [Form 48](#) signed by the participant prior to the service,
 - Any supporting paperwork.

DLR team members can assist in guiding a participant through the waiver process and provide them with resources such as Budget Worksheet [Resource 22](#), items in the resource room, submission of items through mail, etc.

A waiver of repayment may be granted for the following reasons:

- Undue Financial Hardship ¹
- Medical Reasons
- Unforeseen Life Circumstances
- Other reason determined by the review team

Any type of fraud is not eligible for a waiver. The burden of proof that fraud was NOT committed rests solely on the participant through the appeal process.

Waiver Request Determination

A waiver of overpayment request will be reviewed by a team of three DLR Labor Program Specialists from the Workforce Development and Administrative Services Divisions. The justification statement for failure of service completion, the household Budget Worksheet [Resource 22](#), and supporting paperwork will be used in the review. The review team will complete the Overpayment Determination (Form 98).

All reasons for waiver of repayment will be documented on the Overpayment Determination [Form 98](#), uploaded to the SDWORKS participant file, and in SDWORKS case notes.

Waiver Granted

If a waiver of repayment is granted, the completed Overpayment Determination [Form 98](#) is sent to the participant. A copy is sent to the Employment Specialist to be uploaded the SDWORKS participant file.

Waiver Not Granted

If the waiver of overpayment cannot be applied, DLR must enforce collection of repayment. The completed Overpayment Determination and a **Notification of Re-Payment** letter is sent to the participant by the Administrative Services Division. Copies are sent to the Employment Specialist and uploaded to the SDWORKS file. Complete steps under “Payment” section.

PAYMENT

Reimbursement to DLR for overpayment will be handled through the DLR Administrative Services Division.

Once the Initial Notice of Overpayment or Notification of Re-Payment is received, reimbursement to DLR can be completed one of the following ways within 30 days:

- Make payment in full.
- Establish a payment plan. If a payment plan is established, a payment plan agreement will be sent to the customer by mail and a statement will be generated monthly to the participant as a reminder of payment and their remaining balance. Communication on payment should be between the Administrative Services Division and the participant.

If payments are missed without communication between the participant and DLR Administrative Services, a **Final Notification letter** will be sent to the participant. If communication is not received within 30 days of the final notice, the outstanding balance will be submitted to the South Dakota Obligation Recovery Center.

¹ An undue financial hardship is determined by a participant's household budget worksheet [Resource 22](#) indicating the overpayment amount is necessary to pay for ordinary and necessary living expenses. (Subpart H Final Rule)

GRIEVANCES

SCSEP & WIOA Title I

To address a grievance regarding DLR's workforce services that is not discriminatory in nature, individuals should contact a DLR Job Service office manager by calling 605.773.3372.

TAA

Individuals may appeal a TAA determination by filing a written notice within 15 days of the date on the determination notice. If a written appeal is not filed within 15 days, you must explain why you are late in filing. Unless you can show good cause for the late filing, your appeal may be dismissed as untimely. DLR cannot accept an appeal over the phone or by e-mail.

The following must be included in your request:

- Your name and address.
- The reason for the appeal.
- Your Social Security number.

Mail or fax your appeal to:

DLR Appeals Section
Reemployment Assistance Division
SD Department of Labor and Regulation
PO Box 4730
Aberdeen, SD 57402-4730
Fax: 605.626.2322

§618.832
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Subpart H Final Rule