

441—93.13(239B) Resolution of participation issues. PROMISE JOBS participants who do not carry out the responsibilities of the FIA shall be considered to have chosen the LBP as described in 441—subrule 41.24(8). The participation issues listed in this rule are those that are important for effective functioning in the workplace or training facility and for the completion of the FIA.

93.13(1) Notification of participation issue. When participants appear to be choosing an LBP by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall send one written reminder letter as specified in subrule 93.10(1). The written reminder letter shall:

- a. Clearly identify the participation issue and the specific action needed to resolve it,
- b. Clarify expectations,
- c. Attempt to identify barriers to participation that should be addressed in the FIA,
- d. Explain the consequences of the LBP, and
- e. Offer supervisory intervention.

93.13(2) Participation issues. Actions that may cause participants to be considered as having chosen the LBP when the participant does not have a problem or barrier to participation as defined at paragraph 93.4(5) “a” or rule 441—93.14(239B) are:

a. *Tardiness.* Participants who, for a second time after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence, are more than 15 minutes late to a scheduled FIA activity without good cause or a barrier to participation.

b. *Failure to attend scheduled activities.* Participants who do not, for a second time after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence, appear for scheduled appointments, participate in assessment activities, including taking required vocational or aptitude tests, complete or provide required forms other than those described in subrule 93.10(3) or are absent from activities designated in the FIA.

c. *Absence from work experience.* Participants who do not, for a second time after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence, notify work experience sponsors or the PROMISE JOBS worker of an absence within one hour of the time at which they are due to appear.

d. *Disruptive behavior.* Participants who exhibit disruptive behavior for a second time after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence. “Disruptive behavior” means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.

e. *Unsatisfactory performance or participation.* Participants whose performance or participation in an FIA activity continues to be unsatisfactory after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

f. *Physical threats.* Participants who make physical threats to other participants or staff and have not provided written documentation from a doctor, licensed psychologist, probation officer, or law enforcement official after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

(1) “Physical threat” means having a dangerous weapon in one’s possession and either threatening with or using the weapon or committing assault.

(2) The documentation must verify that the act was caused by either a temporary problem or a serious problem or barrier that needs to be included in the FIA. The documentation must also provide reasonable assurance that the threatening behavior will not occur again.

g. *Accepting work experience assignments.* Participants who do not accept work experience assignments when the work experience is part of the FIA and do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

h. *Work experience interviews.* Participants who do not appear for work experience interviews for a second time after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1) at the first occurrence.

i. *Employment and other work activity issues.* Participants who do not follow up on job referrals, who refuse offers of employment or other work activity, who reduce hours of employment or other work activity, who terminate employment or other work activity, or who are discharged from employment or other work activity.

(1) At the time of the occurrence, PROMISE JOBS shall send a letter to the participant. The letter shall give the participant an opportunity to resolve the issue by accepting a previously refused employment offer if available, returning to previously terminated employment, if available, obtaining comparable employment, or demonstrating a problem or barrier that caused the failure.

(2) Reserved.

j. Failure to secure child care. Participants who do not secure adequate child care when registered or licensed facilities are available after PROMISE JOBS sends one written reminder as described in subrule 93.13(1) and when PROMISE JOBS has provided the participant with resources for locating adequate child care.

k. Inappropriate use of funds. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts and who do not demonstrate a problem or barrier that caused the failure after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1).

l. Failure to follow training plan. Education participants who do not follow the requirements of a training plan in the FIA as described in rule 441—93.8(239B).

m. Failure to renegotiate the FIA. When a participant fails to respond to the PROMISE JOBS worker's request to renegotiate the FIA because the participant has not attained self-sufficiency by the date established in the FIA, after PROMISE JOBS sends one written reminder letter as described in subrule 93.13(1), an LBP shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the FIA.

93.13(3) Choosing an LBP.

a. Before determining that a participant has chosen the LBP due to a potential participation issue, the PROMISE JOBS worker shall make every effort to negotiate a solution and determine:

(1) Whether the participant has a problem that provides good cause for the participation issue as described in rule 441—93.14(239B). If so, the participant shall be encouraged to take actions to fulfill the FIA.

(2) Whether participant circumstances indicate that a barrier to participation exists as described in subrule 93.4(5). If so, the FIA shall be negotiated to address the barrier.

b. The participant may be considered to have chosen the LBP when all of the following occur:

(1) The participant is notified of a participation issue as described in subrule 93.13(1);

(2) The participant does not resolve the participation issue;

(3) The participant does not present acceptable evidence of a problem providing good cause for the issue as described in rule 441—93.14(239B); and

(4) The participant does not present acceptable evidence of a barrier to participation as described in subrule 93.4(5) or fails to renegotiate the FIA to address the identified barrier.

c. If the resolution process does not lead to fulfillment of the FIA, the case shall be referred for review.

(1) The department retains control and oversees review procedures even when another agency is contracted with to provide PROMISE JOBS services.

(2) Reserved.

d. If the above steps do not lead to fulfillment of the FIA, the FIP participant is considered to have chosen the LBP and the notice of decision will be initiated. The notice of decision will inform the participant of:

(1) The action needed to reconsider the LBP as described in 441—subparagraph 41.24(8)“d”(1) and 41.24(8)“e”(3).

(2) Appeal rights under the LBP are described in rule 441—93.15(239B).

[ARC 9281C, IAB 5/14/25, effective 7/1/25]