

WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

CHAPTER 8 PROGRAM SERVICES

SECTION 9 WORKFORCE INVESTMENT ACT

Texas Workforce Commission Rule Chapter 841.
Workforce Investment Act

Modified January 11, 2008

and

Workforce Solutions Texoma Board Policies
8.9.1 – 8.9.28

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TEXAS WORKFORCE COMMISSION

The rules are adopted under Texas Labor Code §§301.0015 and 302.002(d), which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

Chapter 841. WORKFORCE INVESTMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

The rules are adopted under Texas Labor Code § 301.061 which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Texas Workforce Commission programs.

§ 841.1. Goal

These rules provide the implementation of the Workforce Investment Act (WIA) as it relates to the duties of the Commission and the Local Workforce Development Boards (LWDBs). This implementation accommodates prior consistent state laws as permitted by WIA. This integration of new federal law and prior existing state law will continue to promote and support Texas' ongoing workforce development reform efforts. WIA compliments Texas' reform efforts, which stress:

- (1) limited and efficient state government;
- (2) local control;
- (3) personal responsibility; and
- (4) support for strong families.

The provisions of this § 841.1 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

8.9.1 WST ADOPTION OF TWC RULE CHAPTER 841

The Workforce Solutions Texoma Board (hereinafter referred to as WST) adopts all of Texas Workforce Commission's Rule Chapter 841 pertaining to the Workforce Investment Act (WIA) as policy. In addition, WST Policy is intended to incorporate and reflect guidance from the Workforce Investment Act of 1998, located at <http://www.doleta.gov/usworkforce/wia/wialaw.txt>; the Final WIA Regulations (20 CFR, Part 652, et al), located at http://www.icesa.org/articles/template.cfm?results_art_filename=wiafinreg.htm; as well as Issued Department of Labor Training and Employment Guidance Letters (TEGLs), Training and Employment Information Notices (TEINs) and Training and Employment Notices (TENS). TEGLs, TEINs, and TENS can be located at <http://wdr.doleta.gov/directives> pertaining to the Workforce Investment Act. In addition, TWC's Guideline for Determining WIA Eligibility as per WD Letter 32-03, Change 2, dated 4/28/09, as well as Workforce Development Letters pertaining to WIA are also referenced herein. WST's additional policy references are to clarify local policy with regard to these Federal and State Rules and Regulations.

§ 841.2. Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) **Administrative costs**--The necessary and allowable costs that are associated with the overall management and administration of the workforce investment system and which are not related to the direct provision of employment and training services, as further defined by the federal regulations and subject to the cost limitations set forth in WIA § 134(a)(3)(B) and the cost principles set forth in WIA § 184(a)(2)(B).
- (2) **Certificate**--For the purpose of establishing initial eligibility under § 841.38, a document or other proof provided by an educational institution or other training provider awarded after successful completion of a course, sequence of courses or program that is a minimum of 144 non-credit clock/contact hours or 9 credit hours in length.
- (3) **Certified provider**--A training provider certified as eligible to receive training funds as authorized under WIA and state rules.
- (4) **Commission**--The Texas Workforce Commission as established in the Texas Labor Code, § 301.001 and designated by the Governor as the state administrative agency for WIA in Texas.
- (5) **Complainant**--Any participant or other personally interested or personally affected party alleging a non-criminal violation of the requirements of WIA.
- (6) **Completion**--Finishing a program or course of study and receiving a formal credential as currently recognized by the Commission, a designated partner agency or State regulatory board.
- (7) **Customized Training**--As defined in WIA § 101(8), training that is designed to meet the requirements of an employer, conducted with a commitment by the employer to employ an individual on successful completion of the training and for which the employer pays not less than 50 percent of the cost of the training.
- (8) **Hearing Officer**--An impartial party who shall preside at a hearing on a grievance.
- (9) **ITAs**--Individual Training Accounts.
- (10) **LWDA**--Local Workforce Development Area designated by the Governor as provided in Tex. Government Code § 2308.252.
- (11) **LWDB**--Local Workforce Development Board created pursuant to Tex. Government Code § 2308.253 and certified by the Governor pursuant to Tex. Government Code § 2308.261.
- (12) **On-the-Job Training**--As defined in WIA § 101(31), training by an employer that is provided to a paid participant while engaged in productive work in a job.
- (13) **One-Stop Partner**--An entity which makes services available to participants through a one-stop delivery system under the terms of a memorandum of agreement with a LWDB.
- (14) **Participant**--As defined in WIA § 101(34), an individual who has been determined to be eligible to participate in, and who is receiving services under, a program authorized by WIA.
- (15) **Performance Standards**--The minimum acceptable levels of performance based on established measures of performance as described in WIA § 122.
- (16) **Respondent**--The person, organization or agency against which a complaint has been filed for the alleged violation of the requirements of WIA.
- (17) **WIA**--Workforce Investment Act, P.L. 105-220, 29 U.S.C.A. § 1601 *et seq.*

The provisions of this § 841.2 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579. Amendments to this section were adopted to be effective October 27, 1999, as published in the Texas Register, October 22, 1999, 24 TexReg 9311.

SUBCHAPTER B. ONE-STOP DELIVERY SYSTEM

§ 841.11. Requirement to Maintain a One-Stop Delivery System

Each Board shall maintain a One-Stop Service Delivery Network consistent with WIA, state law, and Chapter 801 of this Title, relating to Local Workforce Development Boards. The One-Stop Service Delivery Network shall include at least one Certified Full Service Workforce Center as defined in § 801.23 of this Title, relating to Definitions, providing the core services listed in § 801.28 of this Title, relating to Services Available Through the One-Stop Service Delivery Network.

The provisions of this § 841.11 adopted to be effective May 25, 2000, as published in the Texas Register, May 19, 2000, 25 TexReg 4595.

8.9.2 WST ONE-STOP DELIVERY SYSTEM

WST's WIA services strategy includes all of the provisions of TWC Rule §841.11, including the establishment of at least one Certified Full Service Workforce Center. WST staff and service providers will adhere to all state and federal statutes, regulations, and rules in development and implementation of the Workforce Solutions Texoma Board's (WST) WIA program. It is the policy of the WST that all customers are treated in a fair, equitable manner and that a nondiscrimination and equal opportunity policy is followed. WST is committed to ensuring that all customers in the Texoma Board area have equal access to all services, programs, and facilities. It is WST's policy that no customer will be denied access or services on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief. Refer to WST Equal Opportunity Policy at 8.1 for additional equal opportunity policies and procedures.

The goal of WST's WIA services is to assist customers in locating unsubsidized employment that will lead to a self-sufficient wage in the most expedient manner possible. WST WIA funds are utilized to assist customers through Core, Assisted Core, Intensive, and Training Services through the One-Stop Centers in the Texoma area. WST's workforce centers are staffed with the highest quality staff and resources available to assist customers in accessing employment and overcoming barriers to self-sufficiency. Resource room access and services, specialized screening and referral services, group and individual activities, and an individualized Family Employment Plan, are combined to provide WIA customers with the tools and skills needed to access employment opportunities. WST's service delivery approach supports all customers in accessing the labor market in the most expedient manner possible. Services provided to assist customers in early attachment to the labor force include assessments, specialized job assistance services; support services, individualized family employment plan, referrals to local work-oriented educational and training opportunities, intensive case management, and post employment services.

8.9.3 ELIGIBILITY DETERMINATION

WST will utilize the Workforce Investment Act Eligibility Technical Assistance Guide referred in TWC WD Letter 32-03, Change 2, as well as the most current USDOL 70% Lower Living Standard Income Level (LLSIL) for the purpose of determining participant's eligibility to receive services provided by Workforce Investment Act Funds.

8.9.3.1 Adults and Dislocated Workers Eligibility

There are two categories of adults and dislocated workers who may be eligible for progression to intensive and training services:

- 1) Adults and dislocated workers who are unemployed, have received at least one core service and are unable to obtain employment through core services, and are determined by the WFC Contractor to be in need of more intensive services to obtain employment; and
- 2) Adults and dislocated workers who are employed, have received at least one core service, and are determined by the WFC Contractor to be in need of intensive services to obtain or retain employment that leads to self-sufficiency as described in 663.230 and WST 8.9.10.1.
- 3) Dislocated Workers must apply for training services within two (2) years of their date of dislocation. WST Service Provider may request an exception to this policy in extenuating circumstances.

8.9.3.1.1 Separating Military Personnel

Pursuant to WD 01-08, separating military personnel can meet dislocated worker eligibility if they meet the following criteria:

- discharged under conditions other than dishonorable, voluntarily, or involuntarily;
- be nonretirees, and
- satisfy other WIA criteria for dislocated worker eligibility, including the requirement that the individual is unlikely to return to his or her previous industry or occupation.

8.9.3.1.2 Military Spouses

The spouse of an active military service member must:

- leave a job to follow his or her spouse who is a military service member; or
- be unable to continue employment because of his or her spouse's change of military station, or lose employment as a result of his or her spouse's discharge from the military; and
- satisfy other WIA criteria for dislocated worker eligibility, including the requirement that the individual is unlikely to return to his or her previous industry or occupation. Service provider is instructed to see WD 01-08 for further definition on documenting spouses unlikely to return to a previous industry or occupation.

TA Bulletin 177 offers clarification on One-Time Tax Rebates (stimulus payments) from the Internal Revenue Service and their impact on income.

8.9.3.2 Re-Enrollment of Adults and Dislocated Workers

WST service provider will obtain written approval from WST Executive Director or designee prior to re-enrollment of an Adult or Dislocated Worker who has previously received training services from WST or any other Board.

8.9.3.3 Displaced Homemakers Eligibility

By definition of WIA 101(10), displaced homemakers are considered dislocated workers as they are individuals who have been providing unpaid services to family members in the home and who:

- 1) have been dependent on the income of another family member but is no longer supported by that income; and
- 2) are unemployed or underemployed and are experiencing another family difficulty in obtaining or upgrading employment.
- 3) WIA training services must be applied for within 2 years of the date of displacement.

8.9.3.4 Youth

Youth are exempt from progression through the Sequence of Services (Core, Assisted Core, Intensive, and Training) and must meet low income guidelines or eligibility through the 5% Window (see WST 8.9.3.1) to be enrolled.

All youth enrolled under the age of 18 years of age must have a parent or legal guardian's signature on all enrollment, eligibility, and subsequent paperwork. Although youth can fill out and sign forms, a parent or legal guardian's signature must be also included on the paperwork along with the youth's signature. 'Legal guardian' is defined as individual who:

- a) has been awarded legal custody over a minor child,
- b) has official authorization from a court official,
- c) is related to the child by blood or marriage and has a notarized document signed by youth's parent authorizing care for a minor child,
- d) has included the youth on their certified SNAP or TANF case.

Exceptions to the requirement for a legal guardian signature include:

- a) youth that are married or has been married, and
- b) youth that have legal documentation stating they are emancipated.

Copies of this documentation must be maintained in the eligibility section of the case file.

8.9.3.4.1 Re-Enrollment of Qualified Youth

WST service provider will seek written WST approval to re-enroll any in-school youth that has already received WIA youth services.

8.9.3.5 Eligibility Documentation

Copies of all documents collected to support eligibility elements will be maintained in the customer's case file in the eligibility section.

8.9.3.5.1 Birth Certificates

If a birth certificate is used for eligibility purposes, it must contain the

court clerk seal. If the copy of the birth certificate does not reflect the court clerk seal, the case manager must document on the copy of the birth certificate that they viewed the court clerk seal that was on the original document.

8.9.3.5.2 WIA Applicant and Self-Certification Statements

WST Service Provider will ensure that all efforts have been exhausted to collect other allowable eligibility documents prior to using either the Applicant or Self-Certification Statement. Guidelines for use of these statements as noted in WD 32-03, Change 2, must be followed.

8.9.3.5.3 WIA Eligibility Documentation Log

WST Service Provider is directed to document all WIA eligibility documentation on the most recent version of the WST-revised WIA Eligibility Documentation Log that is attached to this policy. This documentation log contains all federal, state, and local allowable documents that will support WIA eligibility elements. A copy of the completed Documentation Log is required to be placed in the front of the eligibility section of each case file.

8.9.3.6 TWIST Data Entry of Eligibility

Data entry of eligibility is required to be maintained in The Workforce System of Texas (TWIST). Documents that are collected from the customer and maintained in the case file must be identified in the TWIST Program Detail Section. The identified WIA Certification Officer must review all eligibility documentation and verify a copy of all required documentation is valid and present in the case file and that this documentation matches TWIST data entry prior to certifying the eligibility of the WIA case. Additionally, per TA Bulletin 195, data entry of Selective Service will be reviewed in TWIST, as this is a WIA eligibility requirement for male customers. Only after the WIA Certification Officer has certified that the case is eligible, will WIA Adult and Dislocated customers be given Intensive/Training services and enrolled in a component activity. The WIA Certification Officer is directed to follow the same enrollment procedure for WIA Youth prior to WIA youth receiving WIA services or being enrolled in a component activity.

WIA Title I eligibility is determined prior to or on the WIA registration date. WIA Title I eligibility is valid for a maximum of 45 days, pursuant to TWC WD Letter 136-99, Change 2.

8.9.3.7 Additional Youth Barrier

The Workforce Investment Act requires (664.200) that eligible youth participants are between the ages of 14-21, meet low-income guidelines, and have at least one barrier as follows:

- 1) Deficient in basic literacy skills as defined by 664.205 as follows:
 - a) Computes or solves problems, reads, writes, or speaks English at or below grade level 8.9 or
 - b) Is unable to compute or solve problems, read, write or speak English at a level necessary to function on the job, in the individual's family, or in society.

For WFC contractor's documentation of this barrier, documentation from the youth's school of records reflecting youth is performing at or below grade level 8.9, TABE scores within the last year, school standardized test scores within the last year, or a self-attestation from the youth or guardian reflecting specifics of the youth's inability to compute or solve problems, read, write, or speak English at the levels specified above is required.
- 2) School Dropout;
- 3) Homeless, runaway, or foster child;
- 4) Pregnant or parenting;
- 5) Offender; or
- 6) Is an individual (including a youth with a disability) who requires additional assistance to complete an education program or to secure and hold employment. WST provides the following clarification of this barrier:
 - 6a) Definition of a youth "who requires additional assistance to complete an education program" includes youth ages 14-21 who have documented evidence from their school of record that additional assistance is needed to advance a grade level or to advance grades in a particular subject, i.e., English, math, etc. or who can provide a written statement that clearly states additional assistance is needed to complete an educational program.
 - 6b) Definition of a youth "who requires additional assistance to secure and hold employment" includes youth ages 14-21 who have either documented evidence or written statement of lack of an employment history or unsuccessful job search activity, or a written statement detailing their unsuccessful efforts in obtaining and/or retaining employment.
 - 6c) Definition of an employed youth "who requires additional assistance to secure and hold employment" includes youth ages 14-21 who are employed, but do not have sufficient work skills to qualify for a promotion at their current job or secure a different job with wages at levels over and above current wages.
 - 6d) Former foster care youth who have been released from foster care within two (2) years of the date they apply for the WIA program who state they require additional assistance to secure and hold employment or require additional assistance to complete an education program.

Complete details on attributes and required paperwork to support this Board-defined Barrier are contained in the TWDB WIA Document Log attached to this policy.

In addition, Sec 664.220 gives an exception for youth eligibility for those who do not meet low-income guidelines. Up to 5% of the WST youth participants can be considered eligible if they do not meet the low-income eligibility guidelines (referred to as the 5% window) if they met one or more of the following barriers:

- 1) School dropout;
- 2) Basic skills deficient, as defined in WIA Section 101(4) as: a youth that has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test. For the purposes of WST contractor determination/documentation of this barrier, scores from the TABE test administered within the last year or school-administered standardized test administered within the last year reflecting the youth's English reading, writing, or computing skills being below the 8th grade level will be accepted.
- 3) One or more grade levels below the grade level appropriate to the individual's age;
- 4) Pregnant or parenting;
- 5) Possess one or more disabilities, including learning disabilities;
- 6) Homeless or runaway;
- 7) Offender; or
- 8) Face serious barriers to employment as identified by the Local Board.

At the July 21, 1999 WST Meeting, one additional barrier as identified by WST was approved for youth applicants under the 5% window. This barrier was:

- *Applicant has one or more parents who have been dislocated within 12 months prior to the application date.

At the January 17, 2007 WST Meeting, additional barrier of Former Foster Care Youth (time limited to within two years of being released as a Foster Care Youth), was identified by WST as approved for youth applicants under the 5% window.

3.9.3.8 ARRA Eligibility

Eligibility is extended to youth enrollments from the ages of 21-24 years old when funded with ARRA funding for the Summer Employment Program (5/1 – 9/30/09.) In addition, continuing eligibility is allowed for youth ages 21-24 who

participated in the summer youth employment program to continue to participate in formula-funded programs beyond the summer months.

8.9.4 REGISTRATION

Eligibility is extended to youth enrollments from the ages of 21-24 years old when funded with ARRA funding for the Summer Employment Program (5/1 – 9/30/09.) In addition, continuing eligibility is allowed for youth ages 21-24 who participated in the summer youth employment program to continue to participate in formula-funded programs beyond the summer months.

Pursuant to TWC WD Letter 136-99, Change 2, WIA registration for adults or dislocated worker customers occurs after a customer has been determined Title 1 eligible and immediately prior to a customer receiving the first Assisted Core or Intensive Service. WIA registration for youth customers occurs after eligibility determination and when the first service is delivered to that youth. WIA registration is automatically recorded for adults and dislocated workers in the Workforce Information System of Texas (TWIST) when the first Assisted Core or Intensive service is entered into TWIST and for youth when the first service is entered into TWIST.

8.9.5 SUITABILITY DETERMINATION

Prior to receiving Training services provided by Workforce Investment Act funds, participants will not only be determined eligible, but also suitable. Suitability will be based on information gathered during the assessment and eligibility determination process. Suitability will be based on a number of factors, including interest, aptitude, and ability to meet financial obligations during services.

SUBCHAPTER C. TRAINING PROVIDER CERTIFICATION

§ 841.31. Scope and Coverage

This subchapter establishes rules governing the state's eligible training provider certification system as required by WIA §122 and is applicable to providers of training services for adults and dislocated workers. At the discretion of the Board, the Eligible Training Provider Certification System (ETPS) may be applied to the delivery of training services funded through the Commission including Choices, Food Stamp Employment and Training (FS E&T), Welfare to Work (WtW), Trade Adjustment Assistance (TAA) and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA-TAA).

The provisions of this §841.31 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

§ 841.32. Training Services

- (a) As used in this subchapter, training services shall mean those services which are described in WIA §134(d)(4)(D) and are provided by an LWDB to eligible adults and dislocated workers. At the discretion of the Board, the eligible training provider certification system may be applied to the delivery of training services funded through the Commission including Choices, FS E&T, WtW, TAA and NAFTA-TAA.
- (b) Training services shall be directly linked with employment opportunities on the list of occupations in demand for the LWDA of the participant's residence or another area to which the participant is willing to relocate. In addition, each LWDB shall develop a process for considering requests from participants for training in occupations not on the demand list if sufficient and verifiable documentation is provided.
- (c) Training services shall be provided in such a manner as to maximize consumer choice in the selection of eligible providers.
- (d) Training services shall be provided through the use of individual training accounts except for those situations described in §841.35 of this title (relating to Training Services Which are Not Provided Through Individual Training Accounts).

The provisions of this §841.32 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

8.9.6 SEQUENCE OF SERVICES

In accordance with WD 136-99 Change 2, WST adopts the sequence of services for the Workforce Investment Act, including the addition of Assisted Core Services. Complete definitions of Core, Assisted Core, Intensive and Training Services are contained within WD 136-99 Change 2, and the citations listed therein. It should be noted that WIA youth participants are exempt from the sequence of services requirements.

8.9.6.1 Core Services

WST will offer Core services to participants through the One-Stop Resource Room and other activities that can be accessed by customers on a self-service basis. Core Services include job search, job referrals, placement assistance, career counseling, orientation, initial self-assessment of skill levels, aptitudes, abilities, and supportive service needs, LMI, performance and cost information for Eligible Training Providers, information and referrals to local support services, information on filing unemployment insurance, resume writing, Internet job search, and eligibility determination. Core Services do not require eligibility

determination or WIA registration.

8.9.6.1.1 Rapid Response Services

Rapid Response services are provided in the event of a layoff notification. Forms of notification include WARN Act Notifications, direct contact from the affected employer, contact with the employer originated by information received from affected employees, and others. When WST receives word of a layoff event, the Rapid Response Coordinator will contact the Employer, the Texas Workforce Commission Unemployment Insurance Division Field Specialist, and the Contractor in order to begin coordination of an Executive Level Rapid Response Meeting. Per WD 01-10, WST must establish contact, by phone or in person, with employers and representatives of affected workers within 48 hours of receiving a WARN notice, a public announcement of a layoff, or notification that a Trade petition has been filed.

The Rapid Response Coordinator will attend the meeting, and represent the Board. During this meeting, the Rapid Response Coordinator and Contractor Representative will explain Rapid Response Services available, and will work with the Employer to determine those services appropriate for the event.

After the Executive Level Meeting, the Rapid Response Coordinator will coordinate services with the Contractor, and approve any expenditures related to these services. These services may include seminars, materials, on-site services, satellite dislocated worker centers, or any other services determined appropriate and allowable.

In accordance with WD 01-10, service provider will ensure that rapid response services flow seamlessly from initiation of services to the transition to reemployment or other workforce services, provide an integrated array of services, and benefit eligible affected workers by meeting their individual needs.

WST's Service Provider will be responsible for the delivery of all services. WST directs service provider to TA Bulletin 209 for instructions on completing TWIST data entry following a Rapid Response event.

The Rapid Response Coordinator will complete the Layoff Notification Form and forward it to the Texas Workforce Commission Dislocated Worker Unit within 72 hours in accordance with WD 01-10. The Contractor will complete the monthly Rapid Response Report and forward it to the Rapid Response Coordinator.

Service provider is referred to WD 01-10 for an overview of Rapid Response Services available to both employers and affected workers.

8.9.6.2 Assisted Core Services

Assisted core services include staff assisted referrals, TABE testing, background checks, individual job development, job search and placement assistance and follow-up services.

8.9.6.2.1 Eligibility for Assisted Core Services

WST's Assisted Core Services will be provided after eligibility determination and registration into the WIA program through TWIST data entry, pursuant to 8.9.3.

8.9.6.3 Intensive Services

WST's WIA Intensive Services include comprehensive and specialized assessments of skill levels and service needs, Individual Employment Plan (IEP) development, group and individual counseling, career planning, case management, job search assistance, out of area job search assistance, literacy activities related to basic workforce readiness, relocation assistance (available to dislocated workers only), internships, work experience and short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare for employment or training.

8.9.6.3.1 Eligibility for Intensive Services

In order to receive Intensive Services, customers must meet all WIA eligibility requirements as outlined in the TWC Eligibility TAG, have at least one Core or Assisted Core service documented in TWIST, pursuant to 8.9.6.2. The Core or Assisted Core service can be obtained from resources outside the One-Stop system, as long as the service is verified and documented in TWIST.

Income Eligibility to receive Intensive Services for Adult and youth must be determined prior to providing services. See TWIST WDA Administration screen in the Income Amounts folder for income level guidance.

Pending revised state guidance and according to the 2009 Trade Act reauthorization and according to new Department of Labor guidance contained in TEGL 22-08 and WD 52-09, Change 1, WST service provider will assist TAA customers in selecting a training program that meets their needs. As this training program may not necessarily be limited to training programs available under Title I of WIA, and therefore listed on the ETPS, customer may not be eligible for co-enrollment in WIA-sponsored training. However, customer can still be co-enrolled in WIA to provide support

services, if needed, throughout the training period. TAA customers can also be co-enrolled in WIA to receive intensive services, if said intensive services are required to accept or retain employment.

8.9.6.3.2 Short-Term Pre-Vocational Services

In the area of Intensive Services, short-term pre-vocational services are those services that are limited to six months or less, unless special circumstances require a longer time frame, which will be determined on a case-by-case basis by the Executive Director. Short-term prevocational services include course-like services, such as Literacy and Adult Basic Education, Workplace literacy, Introductory Computer classes, and development of learning skills, communication skills, punctuality, personal maintenance skills, and professional conduct to prepare for unsubsidized employment or training. Also included in these services are any services provided in the One-Stop Resource Rooms or Computer Labs as long as the activity can be completed within the six-month time frame.

WST has established local-area partnerships with local literacy programs such as the Fannin Literacy Council, the Sherman & Denison Boys & Girls Club Literacy programs and Grayson County College who offers ESL classes in all three counties in the WST area. In compliance with WD 47-09, ESL classes should be directly linked to job readiness or employment. In addition, ESL instruction should be part of a continuum of services leading to employment and noted as such on the customers employment plan. In support of this requirement, the service provider must document participation in job training services and when ESL classes are provided in relation to other services. In compliance with WD 47-09, eligible TAA individuals are eligible to participate in English as a Second Language (ESL) classes in combination with other training-related activities/classes. It should be noted that if ESL classes are required in conjunction with a WIA Training activity, said classes must be provided by an Eligible Training Provider. WD 47-09 provides for ESL classes being provided in combination with other WIA training services or as stand-alone classes if the classes are prevocational, short-term (less than 6 months), and offered as a WIA Intensive service in preparation for employment or training.

Pre-vocational, short-term (less than six (6) months) ESL classes may be offered as a WIA Intensive service in preparation for employment or training. However, staff must fully document how the ESL classes will support the customer's employment goals. Individuals who require time above and beyond the 6-month limit to complete ESL or GED classes can submit written documentation from the training provider requesting an exception to policy. Said documentation must outline the progress of the

customer in the last 6 months and state what goals and timeframe is required to complete the ESL/GED classes. WST will consider a 6 month extension if all student's progress and documented plan from the training provider support completion of student goals during this time.

WST Service provider is referred to WD 45-04 and 47-09 to develop procedures to assist TAA customers in their ESL/GED goals.

8.9.6.4 Training Services

WIA Training Services include occupational skills training, on-the-job training, workplace training with related instruction, job readiness training, private sector training programs, skill upgrading and retraining, entrepreneurial training and customized training. Adult education and literacy activities may also be provided when combined with other training services. All training must be documented in the most recent WST approved demand occupations list. In addition, customers seeking training must access approved WST training providers as listed on the TWC Website. The training must be certified as an approved training via the WIA Certified Training Provider List (located on the TWC Website) on the day the customer begins training and documentation of this must be located in the customer file.

8.9.6.4.1 Eligibility for Training Services

Customers must meet all WIA eligibility requirements as outlined in the TWC Eligibility TAG and must have at least one documented Core/Assisted Core and one Intensive Service in order to be enrolled in training services. In addition, customers must have been screened and considered eligible for the specific training program through the workforce center Career Investment Committee.

Customers who are considering enrollment in training programs that have an expectation of employment in certain employment fields that have expectations that must be met prior to employment must have background checks conducted prior to enrollment in these types of training. Examples include truck drivers and LVN/RN training. Customers being considered for truck drivers training must have a background check for DUI/DWI and criminal convictions and possess a valid driver's license. Customers seeking truck driving training who possess a Class B or C CDL License will be considered eligible for WIA-sponsored truck driving training, if they meet all other eligibility requirements. Customers being considered for LVN/RN training must have a background check for criminal convictions in the area of substance abuse. Customers who have issues found in their background check that would prevent them from gaining employment in a field tied to their training can not be considered as eligible for that particular training.

Customers who have a degree in a current demand occupation will be excluded from eligibility for training services.

Prior to being considered eligible for training in a demand occupation, the following pre-requisites must be met:

~~1)~~ all eligibility paperwork, testing, completion of the ISS/IEP, degree plan, and training program pre-requisites required by the training provider must be completed no later than 1 week prior to the training start date in order for funds to be properly encumbered.

~~2)1)~~

~~3)2)~~ Training provider/program required physicals and dental checks must be completed prior to the beginning date of training. Examples of programs that require physicals include truck driving programs (Department of Transportation) and nursing programs (State Board of Nursing).

Pending revised state guidance and according to the 2009 Trade Act reauthorization and according to new Department of Labor guidance contained in TEGE 22-08 and WD 52-09, Change 1, WST service provider will assist TAA customers in selecting a training program that meets their needs. As this training program may not necessarily be limited to training programs available under Title I of WIA, and therefore listed on the ETPS, customer may not be eligible for co-enrollment in WIA-sponsored training. However, customer can still be co-enrolled in WIA to provide support services, if needed, throughout the training period.

8.9.6.4.2 Out-of-State Training

Effective Summer I 2006 classes, WST will no longer pay for out-of-state tuition charges for WIA customers. WST service provider will continue to notify WST of any out-of-state tuition charges for WIA customers as soon as possible and WST will continue to work with the out-of-state training provider to attempt to waive these charges. However, any out-of-state tuition charges WST can not have waived will be the responsibility of the WIA customer.

WST service provider is directed to notify current customers who are enrolled in an out-of state training program of this policy in writing. This information will also be disseminated to potential new enrollments at the WIA Orientation. In addition, new enrollments will be required to sign an Informed Consent of this policy prior to enrollment. The WIA Training Agreement will be revised to include this information.

8.9.6.4.3 Definitions of Degree/Diploma and Certificate

WD 37-07, Change 1, clarifies definitions for credentials,

degrees/diplomas, and certificates funded through the WIA training program. TEGE 17-05 defines degree/diploma and certificates as follows:

- Degree/Diploma – any credential that the state education agency accepts as equivalent to a high school diploma. The term diploma also includes postsecondary degrees including associate (AA and AS) and bachelor degrees (BA and BS).
- Certificate – awarded in recognition of an individual’s attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are based on standards developed or endorsed by employers.

8.9.6.4.4 Training – Books, Equipment, and Supplies

Guidance received from TWC in May, 2011 states that a single purchase of books and supplies that exceeds \$3,000 must be procured. Small purchase procurements under the \$3,000 threshold can occur without requiring price or rate quotations, if the price is considered to be reasonable. All books, equipment, and supplies required for training should be documented from the customer’s educational institution. Books, equipment, and supplies purchased should fall within price reasonableness standards based on previous paid costs for said item or knowledge about the books, equipment and supplies.

WST service provider will monitor customer purchases of books and supplies to ensure that single purchases that exceed \$3,000 are backed up with a minimum of 2 bids to satisfy purchasing procurement standards, with the lowest bid item selected, unless justification for purchase of the higher-cost item can be made.

8.9.6.4.54 Training Data Entry

Pursuant to WD 33-07, WST service provider will ensure training codes and information is correctly entered into TWIST in the Service Detail window. In addition, service provider will ensure that the correct service completion reason and date is entered to close the training component.

Further guidance is offered to service provider via TA Bulletin 179 and 180 about how data entry directly correlates to performance.

8.9.6.5 Progression through Services

Adult and Dislocated Worker participants will progress through the services offered by the Workforce Centers beginning at the Core Level, and continuing, if necessary, to the Assisted Core Level, the Intensive Level, and finally the Training Level. Participant’s access to and progress in Core/Assisted Core,

Intensive and Training Services must be documented in participant's case file as well as entered into TWIST. Youth are not required to follow the levels of service in order to receive services or be enrolled in training services that are WIA-funded.

With the implementation of Common Measures, it is imperative that customers be encouraged to complete identified activities in a timely manner. TWC has allowed a "planned gap" service for customers who have extraordinary circumstances that prohibit them from completing service activities. Planned Gaps should be authorized for no more than a six month period. WST service provider will request a policy exception for customers who need one additional planned gap after the six month period prior to granting the second planned gap. This measure is necessary to encourage customers to complete activities in a timely manner.

8.9.6.6 Employment Service and Workforce Investment Act Service Delivery Strategies and Integration

Job seekers most in need, including unemployment insurance (UI) claimants profiled as high risk by the Rapid Reemployment Services (RRES) program, other UI claimants, and job seekers who are not UI claimants, could all benefit from integrated services available to them through ES and WIA. While obvious differences exist between the two programs, both provide core and intensive services. Although ES and WIA customers are often identified by the types of services provided, many commonalities among the two programs' services exist, including the more intensive staff-assisted services.

Service provider must identify, outreach and inform job seekers who appear likely to have significant difficulty obtaining and retaining meaningful employment of services available through the workforce system. Additionally, service provider must establish outreach and service delivery strategies for each of the following customer groups requiring additional staff assistance to successfully connect or re-connect with employment:

- UI Claimant Job Seekers
 - High-Risk UI Claimants – individuals identified through RRES as most likely to exhaust their regular UI benefits and called in to the workforce center for reemployment services;
 - Other UI Claimants; and
- Universal Job Seekers – individuals who are not receiving UI benefits but are registered in WorkInTexas.com and who appear likely to have significant difficulty obtaining and retaining meaningful employment.

Service provider must ensure that RRES is provided to high-risk UI claimants in accordance with WD 56-07, Change 1. Additionally, service provider will use outreach and service delivery strategies in conjunction with new automation tools (reports) to target job seekers most in need of staff assistance.

A continuum of workforce services that range from self-directed job search and staff-guided intensive services are noted in WD 17-09. WST refers service provider to WD 17-09 for specific details concerning these services along with the factors identified in the new reports.

Service provider will ensure that UI claimants and universal job seekers identified for staff-guided intensive services are enrolled in the WIA program when appropriate.

Lastly, WD Letter 55-09 offers guidance regarding Commission-approved training. Claimants enrolled in Commission-approved training are exempt from work search, denial of UI benefits based upon availability for work, and suitable work refusal. In accordance with WD Letter 55-09 and WD 52-09, Change 1, all training funded by WIA or TAA is recognized as Commission-approved training. Therefore, when service provider enrolls claimants in WIA or TAA funded training, effectively, the determination is made that the claimant is enrolled in Commission-approved training. WD Letter 55-09 offers service provider additional guidance on other training and training entities that are classified as Commission-approved training as well as TWIST data entry requirements. With the exception of WIA and TAA training, UI Tele-Center staff makes the final determination, based on the evaluation by Texas Workforce Center staff, on whether training is recognized as Commission approved.

8.9.7 SUPPORTIVE SERVICES

WIA Supportive Services can be provided to individuals who are registered in Assisted Core, Intensive, Training or Follow-up, as defined by the WST Support Services Policy, Chapter 8, Section 15. Supportive services will only be provided if requested by the customer due to a stated need, support the activity the customer is enrolled in, and there are no local alternatives. Customer's request for supportive services based on need must be documented in TWIST. Effective October 22, 2009, service provider is no longer required to enter supportive service information on the Support Services tab in TWIST.

WST refers service provider to TA Bulletin 178, Change 2 and WD Letter 34-09 for additional information regarding transportation as a support service.

8.9.7.1 Board Responsibilities

In regard to this portion of Workforce Investment Act (WIA) funding, the Board

will be responsible to offer guidelines to the Contractor on types and amounts of supportive services to be offered. Additionally, the Board, acting as fiscal agent, will review requests for supportive services for the contractor and encumber the funds. Specifics on supportive services are provided to the contractor staff through the WST Support Services Policy, Chapter 8, and Section 15.

8.9.7.2 Contractor Responsibilities

The Contractor will utilize the WST Support Services Policy, Chapter 8, Section 15 to determine which supportive services are allowable and the necessary documentation to be submitted to WST for supportive services to be paid for customers.

The Contractor will be responsible to submit to the Board, as fiscal agent, a budget request for each participant based on the participant's Financial Assessment containing participant's budget information, Individual Training Account (ITA) and the total amount of supportive services for each participant at the time the ITA request is submitted or when supportive services are requested.

The Contractor will ensure that all supportive services authorized are consistent with the provisions of the Workforce Investment Act (WIA) and documented in TWIST. Additionally, the service provider shall follow guidance offered in WD 58-09 and 52-09, Change 1, regarding TWIST data entry of supportive services given to participants co-enrolled in WIA and TAA.

8.9.7.3 Work Related Expenses

WST will provide customers, for the purpose of assisting in obtaining or maintaining employment, certain necessary and reasonable supportive services including business clothing or uniforms, minor automobile maintenance, insurance start-up, travel expenses, and required tools or equipment.

8.9.7.4 Special Circumstances

Special circumstances, in which one or more supportive services for a participant exceed the total agreed upon, must be submitted to WST in writing with justification for exceeding the cap. These requests will be considered on a case-by-case basis.

8.9.7.5 Nonmonetary Incentives

Per WD 27-08, WST will work with service provider to develop a menu of nonmonetary incentives to offer WIA participants that are eligible and that achieve or exceed goals of the program. Service provider will develop procedures that provide guidance on the specific use and accurate documentation of nonmonetary incentives. Additionally, procedures developed should identify eligible participants; establish time frames for attaining achievements and strategies for issuing nonmonetary incentives. WST Service provider will ensure

that all non-monetary incentives are entered into TWIST under support services code 219-incentives, as described on page 5 of WD 27-08.

8.9.7.6 Follow-Up Supportive Services

Follow-up supportive services will only be provided if they are necessary to employment and there are no other local alternatives. Follow-up supportive services are limited to the following: limited transportation assistance, emergency or short-term housing assistance; disability-related services and referral, crisis management, mediation, counseling, drug testing, and eye glasses. Follow-up services, including supportive services and case management, are available for all WIA participants for up to 12 months after the first day of unsubsidized employment or upon exit from the program, whichever occurs first. Follow-up services can only be provided to customers if they are enrolled in a follow-up service activity. Follow-up services that may be provided to exited WIA customers to enable them to maintain or retain unsubsidized employment include, but are not limited to:

8.9.7.6.1 Job Retention

Job retention services may be offered to assist customers in retaining unsubsidized employment.

8.9.7.6.2 Crisis Management

Crisis management services are provided to the customer to assist in resolving a crisis situation that may impact the customer's ability to retain unsubsidized employment. Services which may be offered to resolve crisis situations may include limited transportation assistance, emergency or short-term housing assistance, mediation, or counseling.

8.9.7.6.3 Job Advancement

Services provided to the customer to assist in advancement to a higher level of employment toward the customer's goal of self-sufficiency.

8.9.7.6.4 Career Development

Career development services assist the customer in providing opportunities to look at what steps must be taken in making career choices targeted toward their goal of self-sufficiency.

8.9.7.6.5 Mentoring

Mentoring opportunities for adults and youth may be needed in the follow-up period to assist in job retention for youth or adults or educational endeavors for youth.

8.9.7.6.6 Case Management

Case management services can be provided to assist customers in career

counseling options, crisis management, job advancement, job referrals, and other areas that might impact the customer's ability to retain unsubsidized employment.

WST service provider staff will ensure that adult and dislocated customers are provided with follow-up contact on an as-needed basis to assist in maintaining or retaining unsubsidized employment that meets their self-sufficiency goals.

Youth customers will be provided with individualized follow-up services on an at-least monthly basis for 12 months, in accordance with WIA Regulations, following their exit from the WIA program.

8.9.8 ASSESSMENT, COUNSELING, AND INDIVIDUAL EMPLOYMENT PLANS

Assessment of customer's skill levels, aptitudes, abilities, and supportive needs can be offered in Core Services (8.9.6.1). This assessment will be primarily performed through self-assessment by the customer through utilizing programs installed on computers in the Resource Rooms and must be documented in customer's file prior to customer entering Intensive Services.

Through Intensive Services, customers will be offered comprehensive and specialized assessments of skill levels and services through the use of diagnostic testing, other assessment tools, in-depth interviewing and evaluation. The goal of this assessment is to determine customer's employment barriers and appropriate employment goals and training objectives.

As required in Wd 35-10, participants will receive assessment, counseling, and an Individual Employment Plan (IEP) (8.9.6.3; 8.9.8) throughout Assisted Core and Intensive service levels, prior to enrollment in training activities and issuance of an ITA (8.9.10). Employment plans will take into consideration each participant's individual work experience, skill set, education, abilities, barriers to employment and employment goals.

After assessments are completed, Career Specialists will work with customers to jointly develop IEP/ISS's that will be signed by both the customer and the Career Specialist. WST Service Provider can use either a locally developed employment plan or the employment plan provided in TWIST. Pursuant to WD 35-10, The IEP/ISS will contain the following:

- Specific employment goal;
- A strategy to address barriers to employment
- Detailed step-by-step activities and training the participant will perform and/or participate in;
- Time-frames for the start and completion of each activity

- A list of requirements that the participant must meet in order for the Board to continue to fund training and support services; and,
- Specific dates on which staff will follow-up to evaluate each activity, provide additional assistance, and make any necessary adjustments.

The IEP/ISS will be updated as needed to reflect customer's progression through and completion of activities. A copy of each IEP/ISS will be provided to the customer with the original placed in the customer file. A service code of 68-Employability Development Plan must be entered into TWIST each time an employment plan is developed and at each major revision/update. All employment plans and updates must be made available for monitoring reviews.

Prior to advancing to Training Services, all customers must be administered the TABE assessment to determine their basic education level. However, TABE test results from the TABE administered at other sites within the past 6 months, such as the GCC Education Plus program, will also be acceptable documentation of the determination of participant's basic educational levels. In addition, for youth ages 18-21, any standardized test scores from their school of record will be acceptable documentation of their basic educational level in lieu of the TABE test. Specific basic education levels required for training programs based on the Educational Functioning Levels (EFL) as outlined in the Department of Labor's Training and Employment Guidance Letter (TEGL) 17-05, Change 1, issued August 13, 2007 and WD 42-06, Change 1. Based on DOL guidance, individuals can be considered Basic Skills Deficient, and in need of additional basic skills instruction, if they test lower than an EFL of 7. Therefore, new guidelines for TABE Test scores required for training programs are as follows:

PROGRAM TYPE	TABE Grade Level Equivalent
Certificate, including Truck Driving	8 or above in Reading & Math
Degree – LVN	Reading & Language – 12 Math - 10
Degree, including RN, and all Computer Programs <i>(Those leading to a degree or certificate in the computer field.)</i>	Reading, Language, Math – 12

No high school diploma/GED or certificate is required for participants entering truck-driving training. However, all other training programs require at least a high school diploma/GED.

All customers considering training will be given the TABE Locator as a screening tool. The Locator scores will determine the customer's ability to proceed further in the

training assessment process. Locator test scores must indicate the customer is ready to test on the M (Medium), D (Difficult), or A (Advanced) Survey level.

Participants being considered for the Certificate or Truck Driving training programs need to obtain locator scores indicating they are ready to test on the TABE M or above. If unsuccessful at scoring the required basic educational level, individuals may return one time for a re-test, after a 48-hour time frame. An alternative test form will be given for the re-test. If the required basic educational level is not obtained at the time of the re-test, customers will be referred to upgrade their basic skill levels prior to testing again. After customers have upgraded their basic skill levels, TABE tests can be taken at the Education Plus Centers, Grayson County College, or North Central Texas College, and bring those scores to the workforce center, or, they can return to the workforce center to take the TABE again. Under no circumstances, will customers be given a 3rd re-test within a five-month period at any workforce center.

Participants being considered for all other training programs need to obtain locator scores indicating they are ready to test on the TABE D or above. If unsuccessful at scoring the required basic educational level, individuals may return one time for a re-test, after a 48-hour time-frame. An alternative test form will be given for the re-test. If the required basic educational level is not obtained at the time of the re-test, customers will be referred to upgrade their basic skill levels prior to testing again. After customers have upgraded their basic skill levels, TABE tests can be taken at the Education Plus Centers, Grayson County College, or North Central Texas College and bring those scores to the workforce center, or, they can return to the workforce center to take the TABE again. Under no circumstances, will customers be given a 3rd re-test within a five-month period at any workforce center.

See WD 61-06, Change 1, and 61-06, Change 2, regarding data entry of scale scores. Service provider must follow guidance given in WD 61-06, Change 1, regarding accurate record maintenance to support data validation. Additionally, service provider is referred to WD 23-09 for data validation requirements set forth in the Data Element Review. Service provider will ensure that records retention time frames are based on the Common Measures exit date and not on the date the participant stops receiving WIA services. Service provider will also follow 61-06, Change 2, as it relates to youth that remain basic-skills deficient and follow up post-test requirements.

If the TASP is required for a training program, participants must provide proof of passing the TASP prior to being enrolled in WIA training-funded services.

Participants may submit one semester or more of grades equaling a cumulative GPA of 3.0 in lieu of TABE test results if they are already enrolled in a training program prior to applying for WIA funding.

Customers are required to pass any training-program required pre-requisites prior to

being enrolled into WIA training.

§ 841.33. Determining Occupations in Demand

- (a) Each LWDB shall annually establish a list of occupations in demand in the LWDA.
- (b) In establishing the list of occupations in demand, the LWDB shall consider:
 - (1) labor market information provided by the Commission;
 - (2) information provided by businesses and business organizations in the LWDA; and
 - (3) information provided by workers and worker organizations in the LWDA.

The provisions of this § 841.33 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

8.9.9 DEMAND OCCUPATIONS

WST’s strategic planning process incorporates researching, developing, and publishing a list of demand occupations on an at least yearly basis. WST’s Business Services Unit will develop a list of demand occupations through analyzing local industry needs based on the regional market demand, related industry trends, events or characteristics. WST will also seek out information from meetings with local employers through board-sponsored meetings, informal meetings, and individual meetings to develop opportunities to gain additional information for the demand occupations list and to assist workforce center customers with opportunities for early attachment to the labor force.

WST’s Demand Occupations list will include those jobs anticipated to have large numbers of job openings but also meet other criteria, such as a self-sufficient wage, as determined by WST.

WST service providers will use the demand occupations list to assist job seekers in their employment endeavors. Participants interested in attending WIA-funded training will access information about WST demand occupations from Career Specialists, after assessment has been completed. Results of interest and aptitude inventories, combined with wage information and other pertinent data will be used to help customers develop a training plan, which will meet their needs and interests. Contractor staff will ensure customer choice will be utilized as the primary factor in assisting customers in selecting a training provider.

In the event a training plan cannot be developed which is suitable to the customer, an appeal shall be offered. The appeal process will involve a written request that must be presented to the Career Investment Committee. The next level of appeal will be the Workforce Center Director, with the Board Executive Director being the last level of appeal. WST’s Executive Director’s decision is final.

§ 841.34. Individual Training Accounts

- (a) An ITA is an account established by a one-stop operator on behalf of an eligible adult or dislocated worker program participant and funded with WIA adult and dislocated worker funds. Participants may use ITAs for training services for skills in demand or allowed occupations as defined by the LWDB from training providers on the state-distributed list of approved eligible training providers.
- (b) At its discretion, a LWDB is authorized to approve a request for training for occupations not on the occupations in demand list, if sufficient and verifiable documentation is provided.
- (c) At the discretion of the Board, ITAs may be used as a payment mechanism for the delivery of training services funded through the Commission including Choices, FS E&T, WtW, TAA and NAFTA-TAA.

The provisions of this §841.34 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

8.9.10 INDIVIDUAL TRAINING ACCOUNTS (ITA)

8.9.10.1 ITA Eligibility

Adult and Dislocated Worker customers approved by the Career Investment Committee for training will be issued an ITA in a sufficient amount not to exceed WST's maximum training reimbursement rate for tuition and fees for their training. In accordance with WD 09-03 and after public review and comment, WST voted (May 21, 2003 meeting) to approve the USDOL approved waiver to allow Older Youth and Out-of-School Youth the option of using the established Eligible Training Provider List (see WD Letter 34-10).

8.9.10.2 Covered Costs

ITAs issued by WST will cover required books; tuition, fees, educational material, supplies, and equipment in accordance with the Board's ITA established ceilings (see 8.9.10.3). Supportive services such as childcare, transportation, etc. will also be covered if no other resources exist; however, costs associated with these services will not be included in the ITA.

8.9.10.3 Determination of ITA Values

WST will set a ceiling for ITAs for specific programs. Board staff, in cooperation with contractor staff, will review program costs and set specific program ceilings based on an approximate average of the cost of that program as provided by parties who are approved training providers through the Texas Workforce Commission's Eligible Training Provider Certification System (ETPCS). This ceiling amount will allow WST's training funds to be stretched to meet demand for training needs in the Texoma area.

The value of individual ITAs will be determined by program, relative to the cost of each specific program, as offered by training providers on the WST approved

list. ITA's for transfer to training providers outside the Workforce Solutions Texoma Area (WDA) will be issued in accordance with the normal cost for the specific program, as approved by WST. See Eligible Training Provider System Chapter 12.3.2 and Out-of-State Training 8.9.6.4.2 for details on selecting providers certified outside the WST area.

8.9.10.4 Other Sources of Funding

Career Specialists will work with participants and other service providers to ensure other sources of funding are investigated for all participants. Evidence of this investigation will become part of each participant's permanent file.

8.9.10.5 Estimating the Cost of Training Prior to Issuance of an ITA

The Contractor shall develop, prior to the issuance of an ITA, a good faith estimate of the total cost of training which will be covered by the ITA. This may require the utilization of a degree plan developed especially for the customer to whom the ITA will be issued. This estimate will ensure the adopted ITA ceiling for the program in question is sufficient to cover the anticipated costs. See Section 8.9.10.10 for details regarding projected training costs which are expected to exceed the ITA ceiling.

8.9.10.6 Procedure for Issuance

After an ITA has been approved by the Career Investment Committee and at least one Contractor Management staff, a request will be forwarded to the Board for creation of the account. This request will contain the name of the participant, the approved training provider, the approved course of study as titled by the training provider and all costs to be included in the ITA. Each completed ITA will contain the above listed information, i.e. participant name, training provider, training program, as well as the term of agreement, and an itemized listing of the items covered, with specific allocations.

After Board staff has created the ITA account, Workforce Center staff will produce the ITA, secure the signature of the Workforce Center Director or designee, and maintain the ITA in the participant's case file. At this time, the Career Specialist assigned to the participant will explain the ITA to the participant, pointing out the various items covered and the amounts of funding allocated for each.

The Career Specialist will explain to the customer the limits of the ITA and that any expenditure initiated by customer choice that is in excess of the ITA will not be covered by WST, and will therefore become the responsibility of the customer. Customers will then sign their ITA certificate indicating the limits have been explained to them, and that they understand they will be held responsible for expenditures in excess of the allocations listed. Customers will be required to provide information on how they will cover additional costs and that

documentation will be maintained in their case file.

Customers will be required to pay for training costs in excess of the allowable ITA.

8.9.10.7 Tracking Expenditures

Expenditures for each ITA will be tracked at the Board level, using tracking capabilities within the Micro Information Products (MIP) accounting software. Refer to WST Policies & Procedures – Chapter 1 – Fiscal, for additional details of funds management.

8.9.10.8 Account Status

Participants will be informed of the status of their account at least twice a year with information provided through the information reported on the ITA screen in TWIST maintained by WFC service provider. Support documentation for this will also be maintained in each participant's file.

8.9.10.9 Disbursement of Funds

The cost of tuition, books, educational materials, supplies, and other related expenses will be initiated by an ITA produced by the Board. This ITA will be issued prior to the creation of the expense.

8.9.10.10 Projected Training Costs Which Exceed ITA Ceilings

When projected training costs are expected to exceed the adopted ITA ceiling the customer will be required to pay all costs above the ceiling. Using the estimate, the Contractor will provide a detailed plan outlining the projected expenditures for each semester. This plan will allocate the Individual Training Account (ITA) funds and the customer investment proportionately across the semesters. The customer will be required to sign the ITA acknowledging their responsibility to cover the additional costs. Additionally the customer will be required to provide information on how they will cover additional costs and that documentation will be maintained in their case file.

8.9.10.11 Special Circumstances

Special circumstances in which one or more costs exceeds the budgeted amount must be submitted in writing, with justification for exceeding the cap. These requests will be considered on a case by case basis. Board approval for exceptions to policy granted for special circumstances will be fully documented in customer's case file.

8.9.11 TRANSFER OF FUNDS BETWEEN ADULT AND DISLOCATED WORKER PROGRAMS

In accordance with TWC WD 10-03, and after public review and comment, WST voted

(May 21, 2003 meeting) to approve the USDOL approved waiver eliminating the 20 percent limitation of transferring funds between the Adult and Dislocated Worker Programs. Prior to transferring funds between these programs, WST Fiscal officer will send a written request to the Executive Director stating the need for the transfer. After Executive Director approval, a Funds Transfer Notification Form will be sent to the TWC's Workforce Development Division requesting the transfer. This form will contain all required information located in WD 34-10. WD 34-10 contains approval of the DOL Waiver Extension for this waiver.

§ 841.35. Training Services Which are Not Provided Through Individual Training Accounts

Training services may be provided pursuant to a contract for services instead of an ITA as provided in WIA § 134(d)(4)(G)(ii) in the following situations:

- (1) the services are on-the-job training provided by an employer or are customized training, as defined in § 841.2 of this title (relating to Definitions);
- (2) the LWDB determines there is an insufficient number of eligible providers of training services in the LWDA to accomplish the purposes of a system of ITAs; or
- (3) the LWDB determines that there is a training services program of demonstrated effectiveness offered in the LWDA by a community-based organization or other private organization which serves participant populations that face multiple barriers to employment, including one or more of the following categories:
 - (A) individuals with substantial language or cultural barriers;
 - (B) offenders;
 - (C) homeless individuals; or
 - (D) other such population defined by the LWDB.

The provisions of this § 841.35 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

8.9.12 CUSTOMIZED TRAINING

See WST P&P, Chapter 8, Section 17 Subsidized Employment – On-the-Job Training for information on WIA Customized Training, Customized Training Contracts, and Employer Match required for WIA Customized Training, and customized training costs.

8.9.13 INCUMBENT WORKER TRAINING

See WST P&P Chapter 8, Section 17 Subsidized Employment/Training for information on WIA Incumbent Worker training and contracting.

8.9.14 ON-THE-JOB TRAINING

See WST P&P, Chapter 8, Section 17 Subsidized Employment-OJT for information on WIA On-the-Job Training (OJT), OJT contracting, OJT Wage Reimbursement Restrictions, and OJT contracting.

§ 841.36. Priority of Access to Services

- (a) The LWDBs shall determine whether WIA funds allocated to the LWDA for adult employment and training activities are insufficient to meet the anticipated request for services. The LWDBs' local plans shall reflect this determination and the basis for the determination.
- (b) If a determination is made that funds are insufficient, the LWDBs shall determine the priority of access to services for participants, in compliance with WIA requirements. Priority for intensive services and training services shall be given to recipients of public assistance and other low-income individuals in the LWDA. The LWDB shall develop instructions for one-stop operators in the LWDA regarding the provision of services related to such priorities.
- (c) If a determination is made that WIA funds are sufficient, the LWDBs shall provide services to any eligible participant.

The provisions of this § 841.36 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

8.9.15 PRIORITY FOR INTENSIVE AND TRAINING SERVICES

WST has established several groups that will have priority to intensive and/or training services, as follows:

8.9.15.1 Adult, Youth and Dislocated Worker Priority

As WIA funding for services is limited, it is necessary to establish an overall priority policy. WST contractor will use this priority when there is the need for a waiting list for program enrollment for Adults, Youth, and Dislocated Workers. Priority will be established as follows:

8.9.15.1.1 Youth

Youth enrollment into the WIA program is contingent on their residing in the Texoma Board area. Therefore, if youth funds are limited, youth will be placed on the wait list on first-call basis. WST contractor will make every effort to ensure youth from all 3 Board counties are enrolled in the youth program based on the population perspective of each county.

8.9.15.1.2 Adults

Adults will be placed on their respective waiting lists in the following order:

- 1) Individuals who live in the WST area.
- 2) Individuals who live outside of WST's area.

8.9.15.1.3 Dislocated Workers

Dislocated Workers will be placed on the waiting list in the following order:

- 1) Individuals who live in the WST area and were dislocated from an employer in the WST area.
- 2) Individuals who live outside of the WST area and were dislocated from an employer in the WST area.
- 3) Individuals who live outside of the WST area and were dislocated from

an employer outside of the WST area.

These priority guidelines will apply for all WIA enrollment waiting lists. WIA wait lists that are established for employed individuals and when a declaration of sufficient funds is made will also include these priority guidelines.

8.9.15.2 Veterans and Foster Youth Priority to Staff-Assisted Services

Pursuant to House Bill 1452 (enacted by the 81st Texas Legislature), Texas Family Code §264.121, Jobs for Veterans Act of 2002, USDOL TEGL 5-03, USDOL TEGL 10-09, TWC WD Letters 04-09 (and Changes 1, 2, & 3), 01-08, and 58-05, qualified Veterans and foster youth who meet existing WIA eligibility requirements will receive priority access to training services over a non-veteran or others who meets WIA eligibility requirements. WD 04-09, Change 3, establishes the following priority order for workforce services:

- a. Federal/State qualified veterans,
- b. Federal qualified spouse,
- c. State qualified spouse

These persons will receive priority over all other equally qualified individuals in the receipt of services funded in whole or in part by DOL, in accordance with 38 U.S.C. §4215.

Eligible foster youth (includes current and former foster youth) receive priority over all other equally qualified individuals—except federal qualified veterans and spouses, and state qualified veterans as defined in Chapter 801—in the receipt of federal and state-funded services.

TA Bulletin 237 defines foster youth as an individual who is under 22 years of age for whom the state or local government has been appointed managing conservator prior to his or her 18th birthday according to Texas Family Code §264.101(a-1) and §246.101(d). A foster youth meets the low-income requirement so long as a court order exists and the state or local government makes payments on the youth's behalf.

Service provider must ensure that eligible veterans are identified at the point of entry in all workforce centers and that they are informed of their right to priority of service, the full array of services available, and any applicable eligibility requirements for such programs. Service provider will develop and implement procedures to ensure the actions noted above occur. Provider will also ensure that non-eligible persons who are currently receiving workforce services are not displaced in order to provide priority of service to eligible veterans. Additionally, service provider will ensure that any Veteran that

receives staff-assisted services sign a self-attestation form to certify that they meet the definition of eligible veteran. However, per WD 04-09, Change 3, if a veteran presents a DD-214 upon arrival at a workforce center, staff may use the DD-214 instead of a self-attestation form. Additionally, if a DD-214 is on file at the workforce center or if the veteran is registered in WorkInTexas.com, the self-attestation form is neither necessary nor required.

The following three categories of qualified job training programs in which priority of service will apply are:

1. Universal access programs
2. Discretionary targeting programs
3. Statutory targeting programs

Service provider will ensure workforce services are prioritized and targeted for youth transitioning out of the foster care system and for former foster care youth.

Additionally, to ensure that eligible veterans and foster youth receive priority over all other equally qualified individuals in the receipt of workforce services, they also must have access to needed support services. However, child care for state qualified veterans and eligible foster youth is contingent upon the availability of Commission child care funds. When a waiting list exists, care can not be discontinued for a child already enrolled in child care services in order to serve the child of a state qualified veteran or child of a foster youth. The following priority order exists for children on the waiting list [under Priority Status 2](#):

1. children who need to receive protective services child care
2. children of a qualified veteran
3. children of an eligible foster youth
4. children of teen parents
5. children with disabilities

WST service provider will ensure that any waiting list for WIA-funded training will include screening and documentation of the above priority orders, with preference given as stated above.

Additionally, service provider will document the receipt of staff-assisted workforce services in TWIST or WorkInTexas.

Service provider will utilize WD 04-09, Change 3, for specific definitions and further explanation of priority of service expectations.

8.9.15.3 Self-Sufficiency

WST is required under the Act to determine a self-sufficiency wage for the purpose of providing priority for intensive and training services for employed adult and dislocated worker customers. In developing the definition of self-sufficiency, a number of factors were considered. For the purpose of determining priority for intensive and training services, self-sufficiency is determined by wages. WST will follow additional guidance for developing self-sufficiency wage levels from WD 32-09. This definition will work for all persons including those receiving food stamps or other public assistance, and people with disabilities.

8.9.15.3.1 Adult Self-Sufficiency Wage

Adults who are not dislocated workers, are employed at time of registration, and whose family earnings are 150% or less of the current 100% Lower Living Standard Income Level (including usage of the LLSI for income per number of members in the family) will be given priority for and considered eligible for intensive or training services, pursuant to the WST Self-Sufficient Methodology developed 9/04. A priority group of employed individuals who can receive intensive and training services under this policy are those who are receiving At-Risk Childcare Services through Workforce Texoma (*as approved by WST on 7/6/03*).

8.9.15.3.2 Dislocated Worker Self Sufficiency Wage

Dislocated workers who are employed at the time of registration, and whose earnings are less than 80% of their wage at dislocation will be given priority and considered eligible to receive intensive or training services.

8.9.15.4 Low-Income Priority Policy

Under WIA, funding for intensive Services will be drawn from the same resource pool as the funding for Training, thus reducing the amount available for Training Services. When WIA funds are insufficient to meet anticipated requests for services, priority for intensive and training services shall be given to recipients of public assistance and other low-income individuals. Additional References can be found in the Workforce Investment Act of 1998; WIA Regulations 663.600, Section 134(d)(4)(E); and State Rules Section 841.36. WST will give priority to low-income individuals who, at the time of application:

- Have income 70% or less of the Lower Living Standard Income Level;
or
- Received Food Stamps within the last 6 months; or
- Received TANF within the last 6 months; or

8.9.15.4.1 Declaration of Unrestricted Funds Policy

WST service provider will determine eligibility for training Services through an application process that includes documentation of the individual's income.

- 1) Priority will be given first to those who are considered low-income or receive public assistance.
- 2) At the mid-point of the program year, an analysis of expenditures will be conducted to determine if WST is serving all clients who are in need. If it is determined that sufficient funding exists to meet anticipated requests for services by prospective clients who are considered low-income, or who have received public assistance, additional clients can be served under the following provisions:
 - a. A declaration by the Board that funds are unrestricted and exists to meet anticipated requests for services by prospective clients who are considered low-income, or who have received public assistance. And b below:
 - b. A review of the prospective customer's household income reveals the income to be above 70% of the Lower Living Standard Income Level (LLSIL) but not in excess of 200% of the 100% Lower Living Standard Income Level (LLSIL), and have at least two identified barriers to employment from i-vi below. Family income must still be determined, but will not be the only factor considered when determining eligibility:
 - i. Low educational level, defined as less than 8.9 on the Test of Adult Basic Education (TABE)
 - ii. Currently attending school and making a last semester grade of 3.0 or above (note: TABE scores are then waived)
 - iii. Poor work history, defined as less than 6 months of consecutive employment within the last 2 years.
 - iv. Single parent
 - v. Received Food Stamps within the last 12 months
 - vi. Received TANF within the last 12 months
 - vii. Lack of certifications or degrees that will lead to employment in a field on the current Demand Occupations List.Other barriers may be presented to the Board for approval on a case-by-case basis.

8.9.15.5 Documentation

Case file documentation will be maintained on all customers, including those whose income is not 70% or less of the Lower Standard Income level, with sufficient back-up documentation to support each identified barrier.

§ 841.37. Coordination of Services

- (a) Prior to enrolling a participant in an adult education or literacy activity provided in combination with other training services, the one-stop operator shall develop an individual employment plan with the participant. The plan shall identify the skill training for the occupation in demand that will be pursued and the required skill competency level associated with the additional training service.
- (b) LWDBs shall collaborate with adult education and literacy providers as well as other providers, whenever possible, to develop coordinated training activities.

The provisions of this § 841.37 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

§ 841.38. Initial Certification Process for Exempt Providers

- (a) For purposes of this section, exempt providers are those providers exempt from having to submit performance data for their initial application as set forth in WIA §122.
- (b) Each LWDB shall develop local application requirements for initial certification for the following providers of training services when offering the programs described:
 - (1) a postsecondary educational institution that:
 - (A) is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*), and
 - (B) provides a program that leads to an associate degree, baccalaureate degree, or certificate; or
 - (2) an entity that carries out programs under the Act of August 16, 1937, commonly known as the "National Apprenticeship Act," 50 Stat. 664, chapter 663; (29 U.S.C. 50 *et seq.*).

The provisions of this §841.38 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

§ 841.39. Initial Certification Process for Non-Exempt Providers

- (a) Non-exempt providers are those not defined as exempt under §841.38.
- (b) The following entities shall be eligible to receive WIA funds if they complete the provider certification process and are determined eligible for participation by a LWDB in the LWDA in which the provider desires to provide training services and the Commission:
 - (1) public or private providers of a program of training services, including faith-based providers which are not:
 - (A) postsecondary educational institutions that are eligible to receive federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. §1070 *et seq.*), and provide programs that lead to an associate degree, baccalaureate degree or certificate; or
 - (B) entities that carry out programs under the Act of August 16, 1937, also known as the "National Apprenticeship Act," 50 Stat. 664, chapter 663, (29 U.S.C. 50 *et seq.*);
 - (2) postsecondary educational institutions which seek to receive WIA funding for a program that does not lead to an associate degree, baccalaureate degree or certificate; and
 - (3) providers that carry out programs under the Act commonly known as the National Apprenticeship Act that seek to receive WIA funding for a program not covered by the National Apprenticeship Act.
- (c) All training provider applicants under this section shall provide the following information to the LWDB:
 - (1) the name, mailing address and physical address of the training facility;
 - (2) the name of the program(s) of training services submitted for WIA funding;

- (3) the total hours of instruction associated with each program of training services;
 - (4) the cost of each program of training services, including tuition, fees, books, and any required tools, uniforms, equipment, or supplies;
 - (5) a description of the skill set which will be acquired through each program of training services;
 - (6) a list of occupations determined by using a coding system specified by the Commission, in which these skill sets are of primary interest;
 - (7) if all of the occupations described in paragraph (6) of this subsection are not on the Occupations in Demand List provided by the LWDB, evidence from employers, in a format and meeting specification set by the LWDB, that demonstrates that the occupation is in demand;
 - (8) information on whether the students in the course are eligible for Title IV of the Higher Education Act funding (Pell grant);
 - (9) an outline of the course or program curriculum, including criteria for successful completion; and
 - (10) any additional information that is required by the LWDB in the LWDA in which the training provider is located.
- (d) Training provider applicants who provide training on the date of application through a program for which they are seeking certification shall include in their application the following verifiable performance information, or appropriate portion of verifiable performance information, for the program(s) of training services:
- (1) the program completion rates for all individuals participating in the applicable program;
 - (2) the percentage of all individuals participating in the applicable program who obtained unsubsidized employment;
 - (3) the wages at placement in employment of all individuals participating in the applicable program; and
 - (4) a description of the methodology that will be utilized to collect and verify performance information.
- (e) Each LWDB shall annually establish minimum requirements for initial eligibility. Such requirements shall include consideration of the information required by §841.44(a) of this title (relating to Determination of Subsequent Eligibility). The LWDB shall provide to each applicant the current levels of performance required by the Commission or levels of performance required by the LWDB if higher than those established by the Commission.
- (f) For purposes of confirming training provider initial eligibility application information, and as determined reasonable by LWDBs, on-site visits shall be made by LWDB staff or representatives to training provider program sites.

The provisions of this §841.39 adopted to be effective April 10, 2002, as published in the Texas Register, April 5, 2002, 27 TexReg 2843.

§ 841.40. Application Submission

- (a) Applications for initial eligibility determination shall be submitted to the LWDB in the LWDA in which the provider of training services desires to provide training. Applications will be accepted throughout the year.
- (b) Provider application submission and LWDB and Commission application review shall be conducted via the automated, Internet-based eligible training provider certification system.
- (c) Training provider applicants shall be in compliance with applicable state law, including Texas Education Code Chapter 132, related to Proprietary Schools.

The provisions of this §841.40 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

§ 841.41. Initial Eligibility Determination

- (a) A LWDB shall provide a written notice of determination of acceptance or rejection of an initial application to an applying entity within ninety (90) calendar days of the receipt of the completed initial eligibility determination application.
- (b) LWDB policy shall determine the circumstances under which reconsideration of an application may be afforded to an entity whose initial application for provider certification was denied.

The provisions of this §841.41 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

§ 841.42. Exceptions to Provider Certification Requirements

- (a) On-the-job or customized training providers are not subject to the training provider certification requirements. In order to be eligible to receive WIA funding, such training providers shall provide to one-stop operators the performance information as may be required by the Commission.
- (b) Providers of youth activities are not subject to the training provider certification system and are not eligible to provide training through the use of ITAs. Providers of youth activities are selected through a competitive procurement by LWDBs in consultation with providers of youth services and based on criteria contained in the state plan. Eligible providers of youth activities are subject to the Commission's standards for core indicators of performance established for youth programs in WIA.

The provisions of this § 841.42 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

§ 841.43. Application for Subsequent Eligibility Determination

- (a) All training services providers, including training providers who were determined to be eligible under §841.38 and §841.39 of this chapter, shall annually, from date of certification, establish continuing eligibility to receive funds from WIA to provide training services.
- (b) Provider application submission and LWDB and Commission application review shall be conducted via the automated, Internet-based eligible training provider certification system.
- (c) Training provider applicants shall be in compliance with applicable state law, including Texas Education Code Chapter 132, related to Proprietary Schools.
- (d) If an application for subsequent eligibility determination is denied and later approved on appeal, the Agency may adjust the certification period to ensure that the certification period is one year in length.
- (e) Each training services provider shall provide verifiable program-specific performance information as required, and in a format and on a schedule determined by the Commission.
- (f) The Commission and the LWDB may accept program-specific performance information consistent with the requirements for eligibility under Title IV of the Higher Education Act of 1965 from the provider for purposes of enabling the provider to fulfill the applicable requirements of this section if the information is substantially similar to the information otherwise required.

The provisions of this §841.43 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

§ 841.44. Determination of Subsequent Eligibility

- (a) Each Board shall annually establish minimum requirements for subsequent eligibility. In determining subsequent eligibility, Boards shall consider the following:
 - (1) the specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located;
 - (2) the characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable;

- (3) current and projected occupational demand within the local area;
 - (4) the performance of a provider of a program(s) of training services, including the extent to which the annual standards of performance established by the Board have been achieved;
 - (5) the program cost of training services;
 - (6) the involvement of employers in the establishment of skill requirements for the training program; and
 - (7) the feedback of employers who employ individuals who have recently completed WIA-funded training to verify that the training provided produced the expected skills.
- (b) No later than July 1, 2000, each Board shall ensure that training providers, in developing programs of training services and establishing performance criteria for successful course completion, use in descending order:
 - (1) skill standards recognized or conditionally recognized by the Texas Skill Standards Board;
 - (2) industry-endorsed skill standards; or
 - (3) skill requirements determined by employers.
 - (c) Boards may require enhancements to programs or courses to meet local industry needs.
 - (d) For programs of training services certified as initially eligible on or after July 1, 2000, a Board shall provide a written notice of determination of acceptance or rejection of a subsequent eligibility application to an applying entity within 30 calendar days of the receipt of the completed subsequent eligibility determination application.
 - (e) Board policy shall determine the circumstances under which reconsideration may be afforded to an entity whose application for subsequent eligibility certification determination was denied.

The provisions of this §841.44 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223

§ 841.45. Standards of Performance

- (a) The Commission shall annually adopt performance standards for WIA-supported participants and for all individuals enrolled in the program of training services, as applicable.
- (b) Each LWDB shall adopt local performance standards after the Commission's annual publication of state performance standards. LWDB standards shall meet or exceed the standards adopted by the Commission.
- (c) Performance standards may be adjusted by the LWDB for local conditions.
- (d) Each LWDB shall notify the Commission upon adoption of local performance standards. Until such notification occurs, the LWDB's local performance standards shall be considered by the Commission to be consistent with state performance standards for the determination of initial or subsequent eligibility.

The provisions of this §841.45 adopted to be effective April 10, 2002, as published in the Texas Register, April 5, 2002, 27 TexReg 2843.

§ 841.46. Verifiable Program-Specific Performance Information

- (a) Performance information submitted for a training services program, as a part of the subsequent eligibility determination process, shall be verifiable.
- (b) Participating training providers shall provide to the Commission the participant and employer information determined by the Commission to be necessary to utilize unemployment insurance wage records and employer-based, follow-up surveys to obtain performance information. The training providers shall submit the information in a form and format determined by the Commission.
- (c) Subject to approval by the Commission, alternate procedures may be used to collect and verify supplemental performance information in addition to those described in subsection (b) of this section. Approval or use of an alternate procedure shall not release the training provider from the obligation to provide the information required by subsection (b) of this section. Submission of

supplemental performance data obtained through use of an alternate procedure must be in accordance with formats determined by the Commission.

- (d) An independent audit of any alternate methodology used shall be conducted on an annual basis by a certified public accountant for programs of training services in which 100 or more WIA-supported students are served within a twelve-month period. Programs that serve less than 100 WIA-supported students within a twelve-month period shall provide for an independent audit of the performance data collection methodology every two years. A copy of the report shall be made available to the LWDB and to the Commission within 30-days of the completion of the report.
- (e) The Commission may conduct performance verification throughout the year and may require training providers to submit additional information to resolve performance reporting anomalies or irregularities.
- (f) Providers of training services shall retain participant program records for a period of three years from the date the participant completes the program.

The provisions of this §841.46 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

§ 841.47. Eligible Training Provider Lists

- (a) At least annually, the LWDB shall publish in a newspaper of general circulation in the LWDA an invitation to training providers to submit an application.
- (b) Each LWDB shall develop an eligible training provider list that includes the list of providers determined to be eligible to receive training funds as authorized under WIA and state rules.
- (c) The Commission shall publish the program, performance, and cost information of each program receiving eligibility certification.
- (d) The Commission may remove a provider from the list of eligible providers or restrict WIA funding eligibility if the Commission determines that:
 - (1) the provider does not meet the performance levels established by the Commission, or
 - (2) the training provider has committed fraud or has violated applicable state or federal law, including prohibitions against discrimination and requirements related to the Americans with Disabilities Act.
- (e) If the Commission, after consultation with an LWDB, determines that a provider, or an individual providing information on behalf of the provider, has intentionally supplied inaccurate program performance information, the Commission shall terminate the eligibility of the provider to receive funds for training services for a period of not less than two years.
- (f) The Commission shall provide written notice of the removal of a provider from the list of eligible providers to both the LWDB and the training provider. The notice will include a description of the appeal process.

The provisions of this §841.47 adopted to be effective November 12, 2001, as published in the Texas Register, November 9, 2001, 26 TexReg 9223.

8.9.16 SERVICE COORDINATION

Pursuant to § 841.37, WST service provider will ensure that IEP's will be developed that tie training goals back to assessment results. The IEP developed for training will also identify the demand occupation and the required skill competency level associated with the training. The development of the IEP will follow all requirements outlined in 8.9.7.

SUBCHAPTER D. LOCAL AREA GRIEVANCE PROCEDURE - REPEALED

SUBCHAPTER E. STATE LEVEL HEARING

§ 841.94. Appeal of Denial of LWDA Certification

All appeals of denial of LWDA certification shall be referred to the Texas Council on Workforce and Economic Competitiveness.

The provisions of this § 841.94 adopted to be effective June 22, 1999, as published in the Texas Register, June 18, 1999, 24 TexReg 4579.

8.9.17 WST LOCAL LEVEL TRAINING PROVIDER APPEALS

WST's Eligibility Training Provider System policies are located in Chapter 12. Specifics relating to WST Local Level Training Provider Appeals that follows TWC Policy guidance can be located within this policy at 12.10.2.

SUBCHAPTER F. WIA NONDISCRIMINATION AND EQUAL OPPORTUNITY

§841.201. Scope and Purpose.

All recipients of Workforce Investment Act (WIA) funds received under a contract with the Agency are responsible for meeting the nondiscrimination and equal opportunity requirements included in WIA §188 (29 U.S.C.A. §2938), 29 CFR Part 37, the Texas Workforce Commission's Methods of Administration (MOA) and 40 TAC Chapter 841, Subchapter F. WIA recipients are prohibited from discriminating on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and, for beneficiaries only, citizenship or participation in a WIA Title I financially assisted activity.

The provisions of this § 841.201 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.18 WIA COMPLAINT/GRIEVANCE AND EQUAL OPPORTUNITY POLICY

WST's Program Grievance/Complaint Policy and Procedures are located at Chapter 8, Section 2. Specifics relating to WIA discrimination and non-discrimination complaint that follows TWC Policy guidance as stated above can be located within this policy. WST's Equal Opportunity Policy is located at Chapter 8, Section 1. Specifics relating to WIA equal opportunity that follows TWC Policy guidance as stated above can be located within this policy.

§841.202. Definitions.

The following words and terms when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Beneficiary--An individual or individuals intended by Congress to receive aid, benefits, services or training from a recipient.
- (2) Complainant--An individual alleging a violation of WIA §188 (29 U.S.C.A. §2938) or 29 CFR Part 37.
- (3) CRC--The Civil Rights Center of the U.S. Department of Labor.
- (4) EO Officer--The Equal Opportunity Officer is the individual responsible for coordinating a recipient's responsibilities under the nondiscrimination and equal opportunity provisions of WIA §188 (29 U.S.C.A. §2938) and 29 CFR Part 37.
- (5) MOA--The Methods of Administration developed by the Agency and described in 29 CFR Part 37.
- (6) Recipient--A recipient is any entity to which financial assistance under WIA Title I is extended directly from the U.S. Department of Labor, through the Governor or through another recipient but excluding the ultimate beneficiaries of the WIA Title I funded services or activities. The term recipient includes but is not limited to Boards, workforce area grant recipients, one-stop operators (operators of Texas Workforce Centers including Certified Texas Workforce Centers and Certified Full Service Texas Workforce Centers as defined in §801.21 *et seq.* of this title), service providers, including eligible training providers, on-the-job and training employers. One-stop partners (Texas Workforce Center partners) are also considered recipients to the extent that they participate in the one-stop delivery system. When used in this subchapter, the term recipient does not include the Commission or Agency.
- (7) Respondent--A respondent is an entity receiving WIA Title I funds directly or indirectly from the Agency and is the subject of a complaint alleging a violation of WIA §188 (29 U.S.C.A. §2938) or 29 CFR Part 37.
- (8) Service provider--As defined in 29 CFR §37.4, any operator or provider of WIA aid, benefits, services, or training, when used in this subchapter, the term does not include one-stop operators.
- (9) Small recipient--A small recipient is a recipient who serves a total of fewer than 15 beneficiaries during the entire grant year and employs fewer than 15 employees on any given day during the grant year.

The provisions of this § 841.202 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.203. Assurances.

- (a) Recipients shall comply with the assurances requirements of 29 CFR §§37.20-37.22. All applications for financial assistance under Title I of WIA shall include the assurances required by 29 CFR §37.20. Recipients shall ensure that all contracts, agreements, grants, cooperative agreements or other arrangements under which WIA Title I funds are available shall include or incorporate by reference the assurances contained in 29 CFR §37.20.
- (b) Recipients shall include in any instrument effecting or recording a transfer of property acquired or improved under a WIA Title I program the covenant required by 29 CFR §37.22 assuring nondiscrimination and equal opportunity.

The provisions of this § 841.203 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.19 ASSURANCES

WST will comply with the assurances requirements as stated in TWC §841.203. In addition, all contracts, agreements, or other arrangements involving Title I funds shall incorporate verbiage pertaining to these assurances.

§841.204. EO Officers.

- (a) Each recipient, except small recipients and service providers, shall designate a senior level employee to act as EO Officer and to report directly to the recipient's administrative officer. The recipient's executive director shall not be designated as the recipient's EO Officer.
- (b) Each recipient's EO Officer shall:
 - (1) serve as the recipient's liaison with the Agency EO Officer; the Board EO Officer, if appropriate; and the CRC, if necessary;
 - (2) monitor and investigate the recipient's WIA Title I funded subrecipients to ensure that the recipient and its subrecipients are not violating nondiscrimination and equal opportunity provisions of WIA §188 (29 U.S.C.A. §2938), 29 CFR Part 37, and the state MOA;
 - (3) review the recipient's written policies to assure that those policies are nondiscriminatory;
 - (4) coordinate the recipient's compliance activities under WIA §188 (29 U.S.C.A. §2938) and 29 CFR Part 37;
 - (5) assist complainants in completing complaint forms;
 - (6) be responsible for accepting discrimination complaints, and forwarding such complaints to the Agency; and
 - (7) undergo, at the recipient's expense, nondiscrimination and equal opportunity training to maintain competency when such training is required by CRC or the Agency.
- (c) Each recipient shall provide to the Agency EO Officer the name, position title, address, and telephone number of the individual appointed as the recipient's EO Officer, as well as the job description of the position detailing the EO Officer's responsibilities and the staff and resources available.
- (d) Although small recipients are not required to designate EO Officers who have the full range of responsibilities, each small recipient must designate an individual who will be responsible for developing and publishing complaint procedures and processing complaints as required by 29 CFR §§37.76-37.79.

The provisions of this § 841.204 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.20 WST EO OFFICER

In accordance with TWC §841.204, WST will appoint an EO officer that will have responsibility and authority to carry out duties as designated in §841.204(b). WST's EO officer will incorporate above-referenced duties into WST job description and undergo required training.

§841.205. Notice and Communication.

- (a) Each recipient shall comply with the notice and communication requirements of 29 CFR §§37.29-37.36.
- (b) The notice required by 29 CFR §37.30 shall be made available to each participant and made part of each participant's file. A copy of an acknowledgment of receipt of notice, in a format determined by the Agency EO Officer, signed by the participant must be maintained in each participant's file.
- (c) For information and services accessed electronically, each recipient shall establish a procedure which assures that the notice requirements of 29 CFR Part 37 are met.
- (d) Each Board shall ensure compliance with and dissemination of information regarding the requirements of 29 CFR Part 37 by assuring that training regarding the nondiscrimination and equal opportunity requirements of WIA is provided to the Board, the operator of the Texas Workforce Center, other workforce area recipients and recipients' staffs.

The provisions of this § 841.205 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.21 NOTICE AND COMMUNICATION

WST will ensure that service providers communicate the requirements of 29 CFR §37.30 to each customer by providing customers a copy of the "Equal Opportunity is the Law" document. Each customer will sign this notice and a copy of said notice will be maintained in the participant's file.

8.9.21.1 Non-Discrimination and Equal Opportunity Training

WST EO Officer will provide training to Board and Contractor Staff information regarding nondiscrimination and equal opportunity requirements of 29 CFR Part 37.

§841.206. Data and Information Collection and Maintenance.

- (a) Each recipient shall collect such data and maintain such records, in accordance with the requirements of 29 CFR §§37.37-37.41 and the procedures prescribed by the Director of CRC, as the Director finds necessary to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of WIA and 29 CFR Part 37.
- (b) Each recipient shall permit access by the Agency or its designated agent during normal business hours to its premises and to its employees and participants for the purpose of conducting complaint investigations, compliance reviews, and monitoring activities, and for inspecting and copying such books, records, accounts and other materials as may be pertinent to ascertain compliance with and ensure enforcement of the nondiscrimination and equal opportunity provisions of WIA.
- (c) Each recipient shall notify the Agency EO Officer within five business days of receipt of any complaint, administrative enforcement action, or lawsuit filed against the recipient alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and, for WIA beneficiaries only, citizenship or participation in a WIA Title I financially assisted program or activity. This notification shall include:
 - (1) the names of the parties to the complaint, action, or lawsuit;
 - (2) the forum in which each case was filed; and
 - (3) the relevant case numbers or, if applicable, other identifying information.
- (d) A recipient who is also a subrecipient of a Board shall provide the Board with the same notice described in §841.206(c) of this subchapter.
- (e) To enable the Agency to effectively monitor recipients' efforts to provide universal access to WIA Title I assisted programs as provided in 29 CFR §37.42, all recipient requests for proposals, proposals, and contracts shall contain information regarding the proposed levels of service to members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups.

The provisions of this § 841.206 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.22 RECORDS MAINTENANCE

WST Board and Contractor staff will ensure that all records are maintained in accordance with the requirements of 29 CFR §§37.37-37.41 and the procedures prescribed by the Director of CRC. Records will be made available to ensure compliance with the nondiscrimination and equal opportunity provisions of the Workforce Investment Act, 29 CFR Part 37, provisions of the TWC §841.206, and WST's policies on Equal Opportunity and Non-discrimination.

8.9.23 THE WORKFORCE SYSTEM OF TEXAS (TWIST) DATA ENTRY

WST service provider is instructed to develop procedures to ensure staff compliance with weekly data entry of all customer contact and actions pertaining to customer's case in TWIST.

WST requires weekly contact with all WIA customers who are participating in any WST subsidized activity, such as customized training, on-the-job training, or work experience. WIA customers involved in other training activities such as

Occupational/Vocational Training, or secondary school activities must be contacted at least monthly to determine their progress towards their employment/educational goals. WST expects WIA customers involved in job search activities to receive intensive job search assistance and this will require a weekly contact with these customers to assist in their job-search efforts. All contact with customers, or any other activity or communication pertaining to WIA customers must be documented in TWIST within one week of said communication or activity.

In addition, pursuant to WD 27-07 (Common Measures) and 27-07 (Entering Attained Credentials, Certificates, Diplomas, and "Last Grade Level Completed" Data), staff will ensure that all required information pertaining to customer's performance-related requirements are entered into TWIST on a weekly basis. WD 27-07 requires that verification of customer's credentials, certificates, diplomas, achievement of a higher grade level, and post program activities (pertaining to WIA Youth only) are documented in TWIST in the Performance Data Menu under the Performance Outcomes Tab or the Last Grade Completed Tab. Staff will also ensure appropriate back-up documentation of attainment of the credential, certificate, diploma, or achievement of a higher grade level is maintained in the customer case file. WST service provider is referred to WD 27-07 for staff training and development of appropriate procedures. Additional guidance is offered in 06-07, Change 3 in relation to data entry and related DINT requests specific to WIA. Additionally, service provider is referred to WD 38-09 for details on appropriate data entry of ONET and CIP codes for training services. Service provider staff must ensure that data entry deadlines are met as set forth in 41-09.

As directed by WD 31-08, youth service provider information is documented in TWIST.

Additionally, service provider staff must understand exclusion reasons and data entry of such as noted in TA Bulletin 197. This may be necessary if a circumstance arises that is beyond the control of the participant or the program, and will exclude a participant from performance outcomes.

§841.207. Universal Access.

As required in 29 CFR §37.42 recipients shall take appropriate steps to ensure that they are providing universal access to WIA Title I financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups.

The provisions of this § 841.207 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.24 UNIVERSAL ACCESS

In accordance with 29 CFR §37.42, TWC §841.207, and WST Equal Opportunity Policy Chapter 16, WST will ensure all services and programs are provided in a manner that ensures equal access for all customers.

§841.208. Filing Complaints of Discrimination.

- (a) Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIA or 29 CFR Part 37 may file a written complaint, either by him/herself or through a representative.
- (b) A complainant may file a complaint with either:
 - (1) the Agency EO Officer at: The TWC Building, 101 E. 15th Street, Room 220, Austin, Texas 78778; or
 - (2) the Director of the Civil Rights Center at: U.S. Department of Labor, 200 Constitution Ave. NW, Room N-4123, Washington, DC 20210, or the address listed in 29 CFR Part 37.
- (c) Complaints shall be filed within 180 calendar days of the alleged violation unless such time limitation is waived by the Director of CRC for good cause shown.
- (d) All complaints shall be submitted in writing. A complainant may file a complaint by:
 - (1) completing and submitting a CRC Complaint Information and Privacy Act Consent Form;
 - (2) completing and submitting a Texas Workforce Commission Discrimination Complaint form; or
 - (3) submitting a written document containing the information required by 29 CFR §37.73, which includes:
 - (A) the complainant's name and address, or other means of contacting the complainant;
 - (B) the identity of the respondent;
 - (C) a description of the complainant's allegations with sufficient detail to allow the Agency's EO Officer to determine whether the Agency has jurisdiction, whether the complaint was filed on time, and whether the complaint has apparent merit; and
 - (D) the complainant's signature or the signature of complainant's representative.
- (e) Both the complainant and the respondent have the right to representation by an attorney or other individual of their choice. The Agency shall not be responsible for any costs incurred by either the complainant or the respondent in obtaining representation.
- (f) For the purposes of this subchapter, filing with the Agency shall be deemed to have occurred on the date that written notice is actually received by the Agency.

The provisions of this § 841.208 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.209. Notice of Receipt of Complaint of Discrimination.

The Agency's EO Officer shall issue a written acknowledgment of receipt by the Agency of a complaint alleging discrimination by a WIA recipient and shall include a notice of the complainant's right to representation in the complaint process.

The provisions of this § 841.209 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.210. Jurisdiction of Complaints of Discrimination.

- (a) The Agency EO Officer shall accept and investigate only those discrimination complaints alleging a violation of WIA §188 (29 U.S.C.A. §2938) or 29 CFR Part 37 by a respondent or the Agency.
- (b) If a complaint filed with the Agency alleges discrimination by a recipient on a basis that is both prohibited by WIA §188 (29 U.S.C.A. §2938) and by a federal law enforced by a federal grant-making agency other than the U.S. Department of Labor, and the recipient is funded in whole or in part by that other federal agency, the Agency EO Officer shall refer the complaint to the other federal agency for processing under that other federal agency's procedures.
- (c) If the Agency EO Officer determines that the Agency does not have jurisdiction over the complaint, the Agency EO Officer shall provide written notification to the complainant which includes:
 - (1) a statement of the reasons for the determination; and
 - (2) a notice that the complainant may file a complaint with CRC within 30 days of the receipt of the notification.

The provisions of this § 841.210 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.211. Acceptance of Complaints of Discrimination.

- (a) The Agency EO Officer shall issue to the complainant a statement of the issues raised in the complaint and a statement regarding each issue of whether the Agency will accept the issue for investigation or reject the issue with the reasons for any rejection.
- (b) The statement of acceptance of issues raised in the complaint shall include a notice informing the complainant that the complainant may choose to participate in an alternative dispute resolution process rather than the customary process described in 29 CFR §37.76(b) and §841.213 of this subchapter.

The provisions of this § 841.211 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.212. Alternative Dispute Resolution of Complaint of Discrimination.

- (a) Each Board shall establish a written alternative dispute resolution (ADR) procedure. The Board EO Officer shall be responsible for implementing the ADR procedure in the case of a complaint within the workforce area.
- (b) A complainant within the workforce area may choose to use the Board's ADR procedure rather than the complaint processing procedure described in 29 CFR §37.76(b) and §841.213 of this subchapter. If the complainant elects to use the Board's ADR procedure, the complainant shall file a notice with the Agency of this election within seven calendar days of the complainant's receipt of the Agency's statement of issues.
- (c) The Agency EO Officer shall inform the Board of the complainant's election to use the Board ADR process. The Board EO Officer shall coordinate the scheduling of mediation with a qualified mediator at a location convenient to the complainant and respondent.
- (d) The Board EO Officer shall file with the Agency a copy of the final agreement or the notice of failure to reach an agreement within 30 days of the Agency's receipt of the complainant's election to participate in an ADR process.
- (e) If the parties do not reach an agreement under the ADR process, the Agency EO Officer shall process the complaint as described in 29 CFR §37.76(b) and §841.213 of this subchapter.

The provisions of this § 841.212 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.25 WIA DISCRIMINATION COMPLAINT POLICY

WST's Program Grievance/Complaint Policy and Procedures are located at Chapter 8, Section 2. Specifics relating to WIA discrimination and non-discrimination complaints that follow TWC Policy guidance as stated above can be located within this policy. Information pertaining to WST's Alternative Dispute Resolution policy can be located in WST's Equal Opportunity Policy, Chapter 16, Section 11.

§841.213. Agency Processing of Accepted Complaints of Discrimination.

- (a) If a complainant elects not to participate in the ADR process or if an agreement is not achieved through an ADR process, the Agency EO Officer shall investigate the circumstances underlying the complaint.
- (b) The Agency EO Officer shall attempt to resolve the complaint. At any point in the investigation of a complaint, the complainant, respondent, or the Agency EO Officer may request that the parties attempt conciliation. The Agency EO Officer shall act to facilitate such conciliation efforts.
- (c) Within 90 days of the date of receipt of the complaint, the Agency EO Officer shall issue a Notice of Final Action which shall include:
 - (1) for each issue raised, the Agency's decision on the issue and reasons for the decision, or a description of the way the parties resolved the issue; and
 - (2) notice that the complainant has the right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is issued, if the complainant is dissatisfied with the Agency's final action on the complaint.
- (d) If the complainant is dissatisfied with the Agency EO Officer's decision in the Notice of Final Action, the complainant or the complainant's representative may file a complaint with the Director of CRC within 30 days of the date on which the complainant received the Notice of Final Action.

The provisions of this § 841.213 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.214. Corrective Actions and Remedies.

- (a) As part of the Notice of Final Action, the Agency may impose any corrective or remedial action which may be imposed by the Director of CRC under 29 CFR §37.94.
- (b) In addition to the corrective actions and remedies described in 29 CFR §37.94, the Agency may require that the respondent complete one or more of the following:
 - (1) development of an appropriate equal opportunity policy;
 - (2) removal of any discriminatory information from the complainant's records; and
 - (3) delivery of equal opportunity training to all staff members.
- (c) The respondent shall file a notice with the Agency within ten calendar days of receipt of the Notice of Final Action that it has accepted the Agency's resolution of the complaint and that it will complete the required corrective actions listed in the Notice.
- (d) Monetary relief required by a Notice of Final Action may not be paid from federal funds.

The provisions of this § 841.214 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

§841.215. Sanctions.

If the Agency finds a recipient to be in violation of the nondiscrimination and equal opportunity provisions of the WIA, or such entity has not accepted an Agency suggested resolution or conciliation agreement, or has breached an established resolution or conciliation agreement, the Agency may impose sanctions pursuant to Chapter 800, Subchapter E, of this title (relating to Sanctions).

The provisions of this § 841.215 adopted to be effective October 30, 2000, as published in the Texas Register, October 27, 2000, 25 TexReg 10764.

8.9.26 FAITH-BASED AND COMMUNITY-BASED ORGANIZATIONS

In compliance with WD 37-05, WST will ensure that contracts with Faith-Based Organizations (FBO) allow the FBOs to retain their independence from federal, state, and local governments and be allowed to carry out its mission; use its facilities to provide social services without removing or altering religious art, icons, scriptures, or other religious symbols from those facilities; and retain its authority over its internal governance, including retaining religious terms in its name, selecting its board members on a religious basis, and including religious references in its mission statements and other governing documents.

In addition, WST will ensure that organizations that receive direct DOL financial assistance to provide services must not discriminate for or against a current or prospective service recipient on the basis of religion or religious beliefs; or use that DOL financial assistance to provide inherently religious activities, such as worship, religious instruction, or proselytization. WST will also ensure that participation in any religious activities by WIA service providers is strictly voluntary for WIA participants.

Also in compliance with WD 37-05, WST will ensure WIA participants are aware that they can be trained or employed in religious activities, within the parameters of the WST Demand Occupations List, when "indirect" DOL financial assistance is used. Definition of DOL indirect financial assistance is when it is used to pay for training or services to a WIA participant; and the WIA participant is offered an independent choice among training providers or program options. WST service provider can refer to WD 37-05 and referenced information to develop additional procedures in this area.

8.9.27 NATIONAL EMERGENCY GRANT (NEG) POLICY

WST will ensure that its Workforce Centers will provide National Emergency Grant (NEG) Services to eligible individuals in accordance with WD 73-05, as well as all other applicable TWC guidance. WST service provider staff will ensure any NEG applicants impacted by Federally-approved disasters are provided access to all Core services.

8.9.27.1 NEG Eligibility

WST Service Provider Staff will provide assistance in determining eligibility for NEG and other appropriate enhanced workforce services and public assistance programs. Eligibility must be determined, documented, and entered into TWIST prior to delivery of NEG Services. WD 73-05 outlines three participant eligibility criteria: Workers who have been temporarily or permanently dislocated as a result of the disasters and have been evacuated to or within Texas; Eligible dislocated workers as defined in WIA §101(9)(B), (C), and (D); and, Long-term unemployed individuals. WD 73-05 further defines "long-term" unemployed for NEG eligibility purposes as those individuals who were unemployed at the time of a Federally-approved disaster; those who were seeking employment prior to a Federally-approved disaster; and, those who do not currently have employment opportunities to return to because of a Federally-approved disaster.

WST service provider staff will make every effort to obtain WIA Dislocated Worker eligibility documentation must be made. If documents are not available, self-certification will be accepted for all eligibility criteria, with the exception of Child Care Services eligibility. Self-attestation of eligibility will be initially accepted; however, parents must provide additional documentation within 30 days.

WST Service Provider will conduct NEG activities in accordance with Federal and State guidance that may be issued. This includes State guidance issued in the form of WD letters, TA Bulletins, or Question & Answer documents.

8.9.27.2 NEG Services/Activities

WST Service Provider staff will ensure that priority of service is provided to Veterans for NEG Services and Activities. NEG funds can be expended on the following activities:

- Temporary Employment for public service employment projects only such as disaster relief efforts, supporting shelter operations, and assisting with humanitarian efforts. Employment must be paid at the prevailing wage as determined by wage analysis for similar occupations in the WST area as determined by TWC Labor Market information and documented in customer's file. Funds may cover wages for eligible participants.
- Rapid Response Services includes disseminating information on how to access Disaster Unemployment Assistance (DUA) and Unemployment Insurance (UI); establishing temporary transition centers in or near the greatest concentration of evacuees; providing crisis and financial counseling; and providing job search assistance such as resume writing, Interviewing Skills, Basic Computer Skills, Job Search Skills, and Workintexas.com assistance.
- Training includes training that focuses on short-term, vocational

training needs that can be utilized in efforts to rebuild areas destroyed by the disaster.

- Training can be provided for any NEG eligible participant that was enrolled in a training program listed in WST's Demand Occupations list prior to being dislocated by the disaster. ETPS criteria will apply.
- NEG participants may receive needs-related payments (NRPs) if they are enrolled in training, and who do not qualify for, or have exhausted, DUA or UI benefits.
- Support Services includes providing evacuees with support services, which may include transportation, work related expenses, child-care (see 8.9.34.2.1 below), temporary housing, food, and clothing. Documentation will need to be provided that support services could not be secured by any other means.

8.9.27.2.1 NEG-Funded Child Care Services

NEG-funded child care services can be provided to customers participating in NEG services, including WIA Core, Intensive, or training services, or disaster relief employment and for a period of 12 months after an individual obtains employment. Customers receiving NEG-funded Child Care Services must comply with Commission rules § 809.92 (income limits), §809.46 (parent share of cost), and §809.75 (reporting requirements). Additional Child Care Services clarification can be located in WD 73-05 and 73-05, Change 1, Attachment 1.

8.9.27.3 NEG TWIST Data Entry

NEG data entry requirements follow WIA policy in the area of requirements for contact and weekly data entry of all customer contact and services provided. All NEG Services must be coded to the NEG KAT 146 Fund Code, or other approved disaster fund codes, upon opening a WIA Program Detail. Use the appropriate TWIST codes for allowable NEG Services.

8.9.28 American Recovery and Reinvestment Act (ARRA) of 2009

By authorization of the USDOL TEGL 14-08 and WD 13-09, WST will deliver services to low-income adults and youth and dislocated workers.

WD 13-09 specifies the expenditure thresholds and summer employment minimum amounts. However, WST reserves the right to notify WST Contractor in writing more restrictive requirements. This WD Letter also authorizes a 30 percent out-of-school youth funds expenditure rather than the more restrictive 60 percent previously authorized by TWC.

8.9.28.1 ARRA Eligibility

When considering eligibility for ARRA-funded services, WST Contractor is

instructed to observe Priority of Service requirements for eligible veterans and eligible foster youth, as outlined in Section 8.9.15 of this policy and WD Letter 04.09. Existing customers will not be displaced to provide services to individuals meeting the priority of service criteria.

8.9.28.1.1 Low Income Adults and Dislocated Workers

All requirements noted above in 9.9.34.1 and 8.9.3.3 pertaining to eligibility for low income adults and Dislocated Workers must meet in order for said applicants to be considered eligible for ARRA-funded services. In addition, low-income adults and Dislocated Workers are still required to meet the sequence of services requirements noted at 8.9.6 and 8.9.6.4 of this policy.

8.9.28.1.2 Youth

USDOL guidance has extended youth eligibility to include not only youth ages 14-20, but also youth from the ages of 21-24, when funded with ARRA funds. WST reserves the right to impose additional restrictions on youth enrollment due to age. All other eligibility requirements noted in 8.9.3.4 and 8.9.3.7 must be followed prior to enrolling in ARRA-funded services.

WD 13-09, Change 1, offers service provider guidance on data entry specifications for waivers on youth that are served outside of the summer months.

8.9.28.2 Data Validation and TWIST Data Entry

All back-up documentation must be maintained to support eligibility, data validation requirements, and back-up TWIST data entry.

8.9.28.3 Required Activities

The following are required activities for low-income adults, dislocated workers, and low-income youth:

8.9.28.3.1 Assessment

a1) Low-income adults and dislocated workers who plan to enroll in ARRA-funded training must follow guidelines noted at 8.9.6.4 and 8.9.8 of this policy.

a2) Low-income youth who are participating solely in the ARRA Summer Employment program do not have to follow assessment guidance noted in this policy. However, if youth continue to participate in either formula-funded or ARRA-funded occupational/vocational training, a TABE test is required prior to enrollment. See 8.9.8 for additional details on required assessments for training enrollments.

8.9.28.3.2 IEP/ISS

All participants, regardless of funding stream are required to have an initial and updated ISS in the case file.

8.9.28.3.3 Support Services. See WST Chapter 8, Section 15 for

additional details about allowable support services.

8.9.28.3.4 Youth Summer Employment Program

ARRA guidance establishes a mandate and guidance to implement a summer youth employment (work experience) program. Additional details on this guidance can be located in WST Policy 8, Section 17 – Subsidized Employment and Training. Although youth are allowed to be enrolled in procured short-term training, they are also required to complete a summer youth employment (work experience) component for performance-related purposes. Under no circumstances will youth be enrolled in a training-only component activity with ARRA funds.

8.9.28.4 Youth Follow-Up

WST will not place youth that are only in the summer employment program in 12-month follow-up.

8.9.28.5 Performance

8.9.28.5.1 Common Measures

Low-income adults and dislocated workers funded by ARRA will be included in the already contracted WIA Common Measures.

Youth who participate in formula-funded or ARRA funded activities past the summer months (defined as 5/1 – 9/30/09) will also be included in all Youth Common Measures performance.

According to additional USDOLETA guidance in the ARRA FAQ's, youth ages 22-24 are not eligible to be served with WIA Youth formula funds. Youth ages 22-24 can continue to receive WIA Youth services after the summer employment period only when those services are funded with ARRA funds. Youth ages 22-24 that require services past the summer months may be co-enrolled in the WIA Adult program if there are insufficient ARRA funds. (reference: [ARRA FAQ](#))

8.9.28.5.2 Work Readiness Indicator

Youth who participate in summer employment programs only will not be included in Common Measures performance. These youth will be included in the work readiness skill goal performance. Working with Board staff, WST Contractor is directed to develop a work readiness assessment that will give both a pre and post assessment score. This information is to be documented in TWIST Assessment Screen, Goals tab. Youth who show a post score gain will be included in the numerator for this measure.

8.9.28.5.3 Completion Rate

Youth who participate in summer employment programs will be tracked for completion of these activities. WST's contractor is directed to ensure

that an accurate completion is entered into the TWIST Service Tracking Screen, Service Information Tab.

8.9.28.6 Contracting with Institutions of Higher Education and Other Eligible Training Providers

Guidance offered from TEGL 14-08 and WD 25-09, Change 1, allows local Boards to contract with institutions of higher education, such as community colleges or other eligible training providers, if the Board area determines it would facilitate the training of multiple individuals in high-demand occupations and if the contracts do not limit customer choice. The trainings offered with new contracts may not be duplicative of existing courses and curricula. In the event WST contracts with an institution of higher education, the Board will conduct a cost-benefit analysis and will maintain justification of the demonstrated need, how WIA enrollments will increase, the benefit to WIA participants, the occupations addressed by the contract, and the benefit to the Board area. WST will follow all additional requirements set forth in WD 25-09, Change 1, regarding contract requirements and TWC's Financial Manual for Grants and Contracts (FMCG). Additional guidance offered in WD 39-09 regarding submitting information on ARRA contracts and data entry will also be adhered to.

REFERENCES:

WIA of 1998

Final WIA Regulations and CFR, Part 652 et al;

TWC Rule Chapters 841

TEGL 14-08 -Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009, 3/18/09.

Workforce Investment Act: American Recovery and Reinvestment Act of 2009 Implementation Guide

TEGL 22-08 – Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, 5/15/09

WD Letters:

WD 136-99 – Sequence of Services under the Workforce Investment Act: Addition of Assisted Core Services (8/24/00)

WD 45-04 (Page 16) – The Workforce Information System of Texas: Workforce Investment Act Training Services, 12/17/04

WD 37-05 – Workforce Investment Act: Final Rule Concerning Faith-Based and Community-Based Organizations (8/29/05)

WD 73-05 – Requirements for Disaster national Emergency Grant Participants (9/29/05) (Page 4 rescinded and replaced by WD 73-05, Change 1)

WD 73-05, Change 1 - Requirements for Disaster national Emergency Grant Participants: *Update* (11/8/05)

WD 42-06, Change 1 – Workforce Investment Act: Interim Procedures for Testing Literacy and Numeracy Gains for Out-of-School Youth – *Update* (10/1/06)

WD 61-06, Change 1 – Literacy and Numeracy Testing for Out-of-School Youth: *Update* (3/1/07) (Page 4 of Attachment 1 rescinded per WD 61-06 Change 2)

WD 33-07 – Training Services Information, 6/6/07

WD 27-07 – Integrated Data Collection and Performance Management, 8/1/07

WD 37-07, Change 1 – Workforce Investment Act: Application of Definitions of Credential, Degree/Diploma, and Certificate: *Clarification* (1/2/08)

WD 01-08 – Workforce Investment Act Dislocated Worker Funds: Serving Exiting Military Service Members and Spouses of Active Military Service Members, 1/4/08

WD 61-06, Change 2 – Literacy and Numeracy Testing for Out-of-School Youth: *Revised*, 4/1/08

WD 27-08 – Guidelines for the Provision of Nonmonetary Incentives for Workforce Investment Act and Choices Participants, 10/23/08

WD 31-08 – Statewide Youth Activities Provider List, 9/15/08-effective 11/1/08

WD 56-07, Change 1 – Revisions to the Rapid Reemployment Services Program: *Update* (1/28/09)

WD 32-03, Change 2 – Workforce Investment Act: Updated Workforce Investment Act

- Eligibility Guidelines (4/28/09)
- WD 13-09 – Workforce Investment Act: American Recovery and Reinvestment Act of 2009 Implementation Guide, 5/14/09
- WD 32-09 – Determining Minimum Self-Sufficiency Levels: Adjusted 2009 100% Lower Living Standard Income Level
- WD 06-07, Change 3 – The Workforce Information System of Texas: New Data Integrity Process-*Update* (6/1/09)
- WD 17-09 – Wagner-Peyser Employment Service and Workforce Investment Act Service Delivery Strategies and Integration (6/11/09)
- WD 41-09 – Workforce Automated Systems’ Data Entry Deadlines for Board Contract Year 2010 (9/11/09)
- WD 34-09- Transportation Services and Job Access and Reverse Commute Projects (9/15/09)
- WD 35 – 10 – Workforce Investment Act Individual Employment Plan for Adults and Dislocated Workers Enrolled In Training (10/12/10)
- WD 38-09 – Changes to Reporting Training Activities in the Workforce Information System of Texas (9/16/09)
- WD 39-09 – Submitting Information on ARRA Contracts with Institutions of Higher Education and Other Eligible Training Providers (10/6/09)
- WD 23-09 – Workforce Investment Act State Data Validation Requirements (10/13/09)
- WD 13-09, Change 1 – American Recovery and Reinvestment Act of 2009: Waivers for Youth Served Outside the Summer Months (10/23/09)
- WD 55-09 – Commission-Approved Training for Unemployment Insurance Claimants (11/6/09)
- WD 47-09 – Job training Course Requirements for English as a Second Language Classes (11/30/09)
- WD 58-09 – The Workforce Information System of Texas: Providing Workforce Investment Act Support Services to Trade Adjustment Assistance Participants (12/21/09)
- WD 01-10 – Rapid Response Early Intervention Services
- WD 34-10 – Guidelines for Implementing Workforce Investment Act Waivers (9/29/10)
- WD 04-09, Change 3 – Priority of Service for Eligible Veterans and Eligible Foster Youth: *Update* (2/20/10)
- WD 52-09, Change 1 – Trade and Globalization Adjustment Assistance Act of 2009 – *Update* (2/2/10)
- WD 25-09, Change 1 – Contracting with Institutions of Higher Education and Other Eligible Training Providers – *Update* (4/12/10)

TA Bulletins:

- TA Bulletin 177 – Internal Revenue Services One-Time Tax Rebate: Impact on Income Eligibility, 3/10/08
- TA Bulletin 179 – Attainment of Degree or Certificate, 6/25/08
- TA Bulletin 180 – Literacy and Numeracy Gains, 4/29/08

TA Bulletin 195 – Selective Service Registration

TA Bulletin 203 – American Recovery and Reinvestment Act of 2009: TWIST Fund Codes, 4/9/09

TA Bulletin 197 – Exclusion Reasons and Performance Outcomes (3/3/09)

TA Bulletin 209 – Rapid Response Service Tracking (8/14/09)

TA Bulletin 178, Change 2 – Transportation Services – *Update* (9/15/09)

[TA Bulletin 237 \(4/19/2011\)](#)

WST Demand Occupations List