

TEXAS WORKFORCE COMMISSION LETTER

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Effective:	July 1, 2009

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Local Workforce Development Board ETP Contacts
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Workforce Investment Act Eligible Training Providers: Performance Requirements for Initial Eligibility**

PURPOSE:

To provide Local Workforce Development Boards (Boards) with the following information on performance requirements for the Workforce Investment Act (WIA) Eligible Training Providers (ETPs):

- The establishment of required minimum performance levels for the initial eligibility determination of nonexempt program applications under the WIA provisions.
- The requirements associated with Boards' adoption of local performance standards for initial eligibility determination of training provider certification.
- The criteria for accepting specified proxy information for programs approved by the Texas Higher Education Coordinating Board (THECB).
- The procedure for requesting assistance with documenting performance by matching with Texas unemployment insurance (UI) wage records.
- The linkage of the ETP Average Wage at Placement performance minimum to the average entry-level hourly wage for the individual occupations for which training is provided, as collected by the Texas Workforce Commission's (Commission) Labor Market and Career Information (LMCI) department.
- The establishment of a statewide performance minimum for ETP program applications leading to occupations that are not surveyed by LMCI and reported through the Standardized Occupational Components for Research and Analysis of Trends in Employment System (SOCRATES).

BACKGROUND:

I. General Information

- A. Issuance of State's ETP Performance Minimums. Under WIA, the Commission is required to adopt and issue minimum performance requirements for the initial eligibility determination processes.
Note: The minimum performance requirements listed in this WD Letter are applicable effective July 1, 2009.
- B. Commission Assistance in Documenting Performance. To assist training providers in documenting program performance, the Commission offers the UI Wage Match Service (for a fee) that matches against Texas' UI wage records. The performance data issued to a training provider by using this service will be considered valid for use in application submission to Boards for a period not to exceed 180 calendar days after issuance of the report. Additional information on the Commission's UI Wage Match Service is posted in the "Certification Process" section (public view) of the ETP automated system (automated system). To access the automated system, go to <https://services.twc.state.tx.us/PROVIDERCERT/dispatcher>.
- C. Federal Minimum Wage Increase. On May 25, 2007, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Act) was enacted. Effective July 24, 2009, §8102 of the Act raises the federal minimum wage from \$6.55 per hour to \$7.25 per hour.
- D. Initial Eligibility Performance Measures. On April 21, 2009, the Commission adopted the following initial eligibility minimum performance requirements, which are effective July 1, 2009:
- 60 percent Program Completion Rate;
 - 60 percent Entered Employment Rate; and
 - an Average Hourly Wage at Placement that is linked to the occupation(s) for which training is provided.
- E. Occupational wage data collected by LMCI is updated annually (May or June) and made available through LMCI's software tools. The most current data available as of July 1, 2009, will be used for the entire program year.

II. Initial Eligibility Determination

- A. Training Provider Types. Training providers are classified into three categories:
1. Exempt Training Providers: WIA extends automatic initial eligibility to certain training providers. Exempt training providers are still required to apply to the Board in order to be included on the Statewide List of Certified Training Providers. However, they are not required to submit performance information for initial eligibility determination. Exempt training providers are those that meet one of the following criteria:

- a. A postsecondary educational institution that is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and that provides a training program that leads to an associate's degree, baccalaureate degree, or certificate. For the purposes of initial eligibility determination, *certificate* is defined as “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” [see Commission rule §841.2(2)]. This definition applies only if the institution is currently eligible (i.e., at time of application submission) to receive federal funds under Title IV of the Higher Education Act of 1965.
 - b. 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.).
2. Nonexempt Training Providers: Under WIA, nonexempt training providers must apply to Boards for eligibility determination. Performance data must be submitted if the applicant has offered the training program prior to the date of application submission. Nonexempt training providers include:
- a. postsecondary educational institutions that provide training programs that do not lead to an associate's degree, baccalaureate degree, or certificate;
 - b. entities that provide apprenticeship programs that are not registered by the U.S. Department of Labor's Bureau of Apprenticeship and Training under the National Apprenticeship Act; and
 - c. all other public or private providers of training service programs.
3. Excluded Providers: Providers of on-the-job training, customized training, or youth activities authorized under WIA are not subject to ETP requirements or the application process.
- B. State Requirements. The state is required to establish initial eligibility procedures for training providers' programs not considered automatically eligible, including the establishment of minimum performance levels.

<p style="text-align: center;"><u>Initial Eligibility Performance Measures:</u> <u>Participant Universe – ALL</u></p>	<p style="text-align: center;"><u>State</u> <u>Minimum</u></p>
<p>reimbursements to the employer) during the specified 12-month Reporting Period.</p> <p><u>As calculated by the Training Provider:</u> The number of program participants who obtained or were engaged in unsubsidized employment <i>divided by</i> the number in the Participant Universe.</p>	
<p>Average Hourly Wage at Placement – ALL</p> <p>For the program participants who obtained or were engaged in unsubsidized employment during the specified 12-month Reporting Period, the average hourly wage.</p> <p><u>As calculated by the Training Provider:</u> <i>Total</i> the hourly wage of all program participants who obtained or were engaged in unsubsidized employment <i>and divide by</i> the number of program participants who obtained and/or were engaged in unsubsidized employment.</p>	<p>If wage data is available through SOCRATES, 80% of the statewide average entry-level hourly wage for the occupation(s) specified on the ETP Initial Application, but not less than the federal minimum wage, and with an allowance for requests for exception.</p> <p style="text-align: center;">OR</p> <p>If wage data is not available through SOCRATES, 80% of the average entry-level hourly wage for all occupations statewide, and with an allowance for requests for exception.</p>

PROCEDURES:

Adoption of Requirements (Initial Eligibility Applications)

- A. Boards must adopt local performance standards after issuance of the state’s minimum performance measures as outlined in this WD Letter. As required by Commission rule §801.51(f) and as detailed in WD Letter 10-07, Board members must take such actions in an open meeting. NLF
- B. Boards must use 60 percent or adopt a higher standard as the minimum performance requirement for the Program Completion Rate performance measure. NLF

- C. Boards must use 60 percent or adopt a higher standard as the minimum performance requirement for the Entered Employment Rate performance measure. **NLF**
- D. Boards must use the following to determine the minimum performance requirement for the Average Hourly Wage at Placement performance measure: **NLF**
1. If occupational wage data is available through SOCRATES, Boards must use 80 percent of the SOCRATES statewide average entry-level hourly wage for the occupation(s) specified on the ETP Initial Application, or adopt a higher standard. **NLF**
 2. If occupational wage data is *not* available through SOCRATES for the occupation(s) specified on the ETP Initial Application, Boards must use 80 percent of the average entry-level hourly wage for all occupations statewide, or adopt a higher standard. **NLF**
 3. Boards must ensure that the minimum performance requirement for the Average Hourly Wage at Placement performance measure does not fall below the federal minimum wage. **NLF**
- E. Boards must consult with the Workforce Development Division’s WIA ETP Unit for assistance in determining the appropriate occupation-specific average entry-level hourly wage. **NLF**
- F. Boards may, in coordination with a training provider, submit an exception request for individual applications that have an average entry-level wage that falls below the Board’s adopted occupational average entry-level wage. **LF**
- When submitting an exception request, Boards must include local wage information that supports the request. **NLF**
- G. Boards that adopt a higher local standard for the Average Hourly Wage at Placement performance measure must use the adjusted hourly wage to calculate the Average Quarterly Wage at Placement for use in reviewing applications. **NLF**
- Note:* To calculate the Average Quarterly Wage at Placement, use the following formula:
- $$13 \text{ weeks} \times 30 \text{ hours} \times \text{Average Hourly Wage at Placement}$$
- H. If Boards elect to modify local standards, it is recommended that Boards reconsider program applications that were previously denied on the basis of not meeting locally adopted performance standards. **LF**

I. Within 14 calendar days of Board action, the Board must notify the Commission, using the notification form included as Attachment 1 to this WD Letter, of the adoption of or any change to a local performance standard(s):

NLF

1. If a Board's previously adopted local performance standards for the Program Completion Rate and Entered Employment Rate performance measures exceed the state's minimums (effective July 1, 2009), the previously adopted standards remain in effect until the Board takes action to change them.
2. If a Board's previously adopted local performance standards for the Program Completion Rate and Entered Employment Rate performance measures do not exceed the state's minimums (effective July 1, 2009), the state's minimum performance requirements will apply until the Board adopts new performance standards and notifies the Commission.

J. Boards must provide applicants with information about Board-adopted performance measures.

NLF

K. Boards must maintain appropriate oversight and accountability of WIA-eligible certified programs and providers.

NLF

To promote continuous improvement of WIA training services and meet the needs of local employers and participants, it is recommended that Boards incorporate locally adopted minimum standards of performance into their monitoring processes.

LF

INQUIRIES:

Direct inquiries to the ETP Help Desk at:

- etp.helpdesk@twc.state.tx.us
- (866) 256-6333 [Toll-free]
- (512) 936-0669 [Local/Austin]

ATTACHMENT:

Attachment 1: Texas' WIA Eligible Training Provider Certification System – Notification of Board Performance Requirements (FORM – 4/09)

RESCISSIONS:

WD Letter 23-08 (as of June 30, 2009)

REFERENCES:

Workforce Investment Act §122
Workforce Investment Act, Final Rule, Part 663, Subpart E
Title IV, Higher Education Act of 1965; 20 U.S.C. 1070 et seq.
National Apprenticeship Act, 50 Stat. 664, Chapter 663; 29 U.S.C. 50 et seq.

U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Public Law 110-28)

Texas Workforce Commission Local Workforce Development Boards Rules: 40 TAC §801.51(f)

Texas Workforce Commission Workforce Investment Act Rules: 40 TAC §§841.1–841.96

Guidelines for Instructional Programs in Workforce Education, Chapter 3, p. 9 (A)(2)(a)

WD Letter 10-07, issued February 2, 2007, and entitled “Adoption of Local Workforce Development Board Policies in Open Meetings”

WD Letter 46-07, issued September 10, 2007, and entitled “Guidelines for Implementing Workforce Investment Act Waivers”

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”