

**TEXAS WORKFORCE COMMISSION LETTER**

<b>ID/No:</b>	WD 16-10, Change 2
<b>Date:</b>	August 9, 2010
<b>Keyword:</b>	Financial Reporting; Recovery Act; TANF; TWIST; UI; WIA
<b>Effective:</b>	Immediately

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



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

**Subject:** **American Recovery and Reinvestment Act of 2009/Temporary Assistance for Needy Families: Subsidized Summer Youth Employment Program—Update**

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**PURPOSE:**

To provide Local Workforce Development Boards (Boards) with information and guidance on the Subsidized Summer Youth Employment Program (SSYEP) funded through American Recovery and Reinvestment Act (ARRA) of 2009/Temporary Assistance for Needy Families (TANF), including:

- guidelines;
- eligibility;
- participants;
- worksites;
- The Workforce Information System of Texas (TWIST) service tracking; and
- expenditure reporting.

**This WD Letter provides Boards with updated information and guidance on determining eligibility for SSYEP, specifically for:**

- **youth not currently living in a household due to temporary or voluntary residence elsewhere; and**
- **foster youth who are participating in SSYEP activities and are coenrolled in Workforce Investment Act (WIA) youth services.**

**CHANGES TO WD LETTER 16-10, CHANGE 1:**

New information in this WD Letter is indicated by:

- A ~~strikethrough~~ of the original language, which indicates that language has been deleted; and
- **Bold** typeface, which indicates new or clarifying language.

**BACKGROUND:**

The Texas Workforce Commission (Commission) has accessed ARRA/TANF Emergency Contingency Fund (ECF) funds to support the development of SSYEP.

While employers’ needs—such as increased demand for services or a job vacancy—are considered, SSYEP is primarily designed to address the needs of low-income youth and their communities. Additionally, the employer’s products or services are secondary to providing financial assistance, training, or work experience to youth to either:

- address their unemployment or poverty; or
- reduce their dependence on public assistance programs.

As described in the Federal Unemployment Tax Act §3309(b)(5) and §3304(a)(6)(A), and in the U.S. Department of Labor’s (DOL) Unemployment Insurance Program Letter No. 30-96, SSYEP is a work relief program. Therefore, under Texas Unemployment Compensation Act §201.067(a)(3), participation in SSYEP is not considered “employment” and is exempt from state unemployment tax reporting.

**PROCEDURES:**

**Guidelines**

Boards must use ARRA/TANF ECF funds to provide SSYEP activities for qualified low-income youth, as defined in this WD Letter.

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Boards must be aware that subsidized summer employment is the only service available to qualified youth under SSYEP.

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Boards must ensure that:

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- ARRA/TANF ECF funds are used for subsidized wages and the administration and oversight of SSYEP; and
- TANF/Choices funds are used for work-related support services, regardless of whether the youth is a recipient of TANF cash assistance. Examples of work-related support services include transportation assistance, uniforms, tools and equipment, background checks, and drug tests.

Boards must ensure that TANF/Choices funds are not used to provide child care services.

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Boards must be aware that the provisions restricting Boards from expending TANF/Choices funds if not meeting participation rates and performance measures—as set forth in WD Letter 118-99 and WD Letter 46-00, Change 1—are waived when providing support services to youth participating in SSYEP.

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Boards may establish a combination of public sector, private sector, and nonprofit SSYEP partnerships. **LF**

Boards establishing SSYEP partnerships in the public sector must ensure that supervisors' wages are not derived from federal funds. The Commission cites these wages in its ARRA/TANF ECF grant application to demonstrate increases in TANF maintenance-of-effort spending. **NLF**

Boards may document supervisors' wages using self-attestation. **LF**

Boards must publicly announce the availability of SSYEP and ensure fair and equal opportunities for employers to participate. **NLF**

Boards may commence SSYEP activities on or after the start date of the contract. **LF**

Boards must ensure that:

- subsidized employment activities conclude by September 30, 2010; and
  - 100 percent of the ARRA/TANF ECF funds for SSYEP are fully expended by November 30, 2010.
- NLF**

### **Eligibility**

Boards must be aware that only youth who meet all of the following qualifications are eligible to participate in SSYEP activities: **NLF**

- Youth who are 16 through 24 years of age
- Youth who are U.S. citizens or noncitizens authorized to work in the U.S.
- Youth who are defined as low income

Low-income youth are defined as youth whose families are receiving any of the following means-tested benefits:

- Household receives TANF benefits
- Household receives Supplemental Nutrition Assistance Program (SNAP) benefits
- Youth receives Children's Health Insurance Program (CHIP) benefits
- Youth receives Medicaid benefits
- Household receives subsidized child care through the Child Care and Development Fund
- Household is eligible for or receives subsidized public housing assistance
- Household participates in the U.S. Department of Agriculture Food and Nutrition Services' Women, Infants, and Children (WIC) program
- Youth receives free or reduced-cost school lunch
- Youth is eligible for, or enrolled in, WIA youth services
- Youth whose family income is 200 percent of or below the U.S. Department of Health and Human Services' Poverty Guidelines or the U.S. Department of Labor's Lower Living Standard Income Level

Boards may establish more restrictive standards for determining low-income status. For example, if the local school district does not assess family income to determine eligibility for free or reduced school lunch, the Board may choose not to allow receipt of free or reduced school lunch as a criterion for low-income qualification.

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Additionally, Boards must ensure that youth are members of, and reside in, households with family members.

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A youth is considered to reside with family members if the youth is:

- a member of, and resides in, a household with a parent, legal guardian, or adult relative\*, where the household consists of two or more persons related by blood, marriage, or decree of court, who are living in a single residence;
- a pregnant or parenting youth age 16–24;
- a noncustodial parent\*\* age 16–24; or
- married and living in a household with his or her spouse.

\*Adult relative includes:

- father or mother, including the “step” relationship;
- grandfather or grandmother, including “step” relationship, extended to the degree of “great-great-great”;
- brother or sister, including “step” relationship;
- uncle or aunt, extended to degree of “great-great”;
- niece or nephew, extended to degree of “great-great”; and
- first cousin, extended to degree of once removed.

\*\*A noncustodial parent is a parent who does not have physical and/or legal custody of his or her child by court order.

Boards must ensure that documentation of eligibility is maintained in case files.

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Boards may use self-attestation to document whether a youth is residing in a household with a parent, legal guardian, or adult relative.

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If self-attestation is used, Boards must ensure that a self-attestation document:

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- is completed, signed by all parties, and maintained for documentation purposes; and
- contains an accompanying signature of a parent, legal guardian, or adult relative for youth under the age of 18.

**Boards must be aware of the following:**

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- **Youth not currently living in a household due to temporary or voluntary residence elsewhere (e.g., attending school or college)—who can be claimed as a dependent on the income taxes of a parent, legal guardian,**

or adult relative—can be considered as residing in a household for the purposes of SSYEP eligibility.

- **In lieu of income tax returns, self-attestation can be used to document that the youth is claimed as a dependent of the parent, legal guardian, or adult relative.**
- **Foster youth who are not members of, or who do not reside in, a household with family members are eligible to participate in SSYEP activities if they are funded through WIA.**
- **Foster youth who are participating in SSYEP activities and are coenrolled in WIA-funded youth programs are covered under the following waivers:**
  - **A waiver of the common performance measures, allowing Boards to use only the work readiness indicator for these youth; and**
  - **A waiver of certain provisions under WIA that require a minimum of 12 months of follow-up services, an objective assessment, and an Individual Service Strategy, allowing Boards increased flexibility in program design.**

**For additional information on these waivers, see DOL’s waiver approval letter at [http://www.twc.state.tx.us/boards/wia/wiatanf\\_waiver\\_approval.pdf](http://www.twc.state.tx.us/boards/wia/wiatanf_waiver_approval.pdf).**

*Note:* Additional guidance and procedures on documenting eligibility are provided in WD Letter 25-10, Change 1, issued July 9, 2010, and entitled “American Recovery and Reinvestment Act of 2009/Temporary Assistance for Needy Families: Subsidized Summer Youth Employment Program Implementation Guide—*Update*.”

### **Participants**

Boards must ensure that SSYEP participants receive an orientation that includes the following:

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- Participation requirements
- Workplace safety information
- Time sheet tracking and payroll verification procedures
- Expectations regarding supervision and case management communication, including the frequency of worksite monitoring by Texas Workforce Center staff

Subsidized employment includes payments to employers or third parties to help cover the cost of employee wages, benefits, and supervision. Therefore, Boards must ensure that:

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- participating youth complete Internal Revenue Service Form W-4, Employee’s Withholding Allowance Certificate;

- participating youth are informed that any wages they earn may impact their TANF or SNAP benefits;
- participating youth and their families (if applicable) receive information on how to report subsidized employment wages to other organizations, and how those organizations may use the wages to recalculate income for various benefits; and
- participating youth receiving unemployment insurance (UI) benefits are informed that they must report any wages they earn to the Commission during the UI claim certification process.

**Worksites**

Boards must ensure that SSYEP worksite arrangements and activities:

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- do not unfavorably impact current employees;
- do not impair existing contracts for services or collective bargaining;
- do not impact the profit margin of a for-profit company; and
- do not occur in a casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Boards also must ensure that SSYEP worksites comply with:

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- health and safety regulations;
- the Fair Labor Standards Act; and
- all other applicable federal and state employment laws, including wage and hour provisions and child labor laws.

Boards must ensure that Texas Workforce Center staff assisting with SSYEP is familiar with the following:

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- Wage and hour provisions
- Child labor laws
- Worksite supervision

Boards must ensure that worksites are monitored and that appropriate worksite agreements are in place with all employers participating in SSYEP.

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For information related to Texas labor laws and requirements, see <http://www.twc.state.tx.us/ui/lablaw/lablaw.html>.

For training on child labor laws, contact the Commission’s Labor Law Section at (800) 832-9243 or (512) 475-2670.

For information and resources on safety and child labor laws, see <http://www.youthrules.dol.gov/about.htm> and <http://www.osha.gov/teens>.

**TWIST Service Tracking**

Boards must ensure that TWIST fund code *187-ARRA/TANF Summer Employment* is used to track SSYEP services.

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Boards also must ensure that TWIST service code *42–Subsidized Employment* is used for all SSYEP participants. If this service code is not available in TWIST by May 1, 2010, Boards must backdate services once the service code is available.

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**TA Bulletin 224, Change 1, issued August 9, 2010, and entitled “American Recovery and Reinvestment Act of 2009/Temporary Assistance for Needy Families Subsidized Summer Youth Employment Program—Update,” includes TWIST data entry instructions for youth who are participating in SSYEP activities and are coenrolled in WIA youth services.**

Boards must ensure that all mandatory fields in the TWIST *Service Information* tab are completed upon entry and at completion of the wage subsidy period in TWIST *Service Tracking*.

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### **Performance Reporting**

Boards must be aware of the following:

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- Youth who participate only in SSYEP and whose services are funded only under *187–ARRA/TANF Summer Employment* will not be included in Educational Achievement or other common measures.
- Youth served with funding from other programs while participating in SSYEP under *187–ARRA/TANF Summer Employment* will be included in all applicable common measures, **with the exception of youth who are participating in SSYEP activities and are coenrolled in WIA youth services during the summer months (May 1, 2010–September, 30, 2010)**. Otherwise, the primary performance measure used with SSYEP will be SSYEP Customers Served.

### **Expenditure Reporting**

Boards must be aware that SSYEP activities will be funded based on each Board’s projected activity levels.

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Boards must be aware that expenditures reported in the following cost categories are administrative and operating costs for purposes of the ARRA/TANF ECF contracts for SSYEP:

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- *100–Administration (Direct Recipient only)*
- *101–Administration (One-Stop Operator only)*
- *708–Program Management & Support (Direct Recipient only)*
- *709–Subrecipient Operating Costs (Non–One-Stop Operator)*
- *612–Core/Intensive Services* (see note)

*Note:* For purposes of the ARRA/TANF ECF contracts (also known as XSE contracts), allowable use of the *612–Core/Intensive Services* cost category is limited to charges for staff and operating costs associated with providing subsidized employment.

Except as noted for *612–Core/Intensive Services*, the cost categories above have the meanings provided by WD Letter 44-09, Change 2, and subsequent issuances.

Boards must report these and all other SSYEP-funded costs in the CDER system as outlined in the SSYEP Board contract. In addition, Boards must report monthly expenditures for total wages (i.e., gross wages) paid to SSYEP participants using supplemental cost categories.

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Boards must ensure that operating costs are kept to a minimum to maximize services and activities to participating employers and job seekers.

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Boards must be aware that the Commission will enter into a single, combined contract for the ARRA/TANF-funded initiatives, which in addition to SSYEP includes the Texas Back-to-Work Initiative for UI claimants. Boards must ensure that combined administration and operating costs charged to this grant award do not exceed:

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- 10 percent of the direct program expenditures for funds awarded for adult participants; and
- 25 percent of the direct program expenditures for funds awarded for youth participants.

Boards must ensure that administration costs charged to this grant award do not exceed 10 percent of total direct program expenditures.

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**INQUIRIES:**

Direct inquiries regarding this WD Letter to [wfpolicy.clarifications@twc.state.tx.us](mailto:wfpolicy.clarifications@twc.state.tx.us).

**RESCISSIONS:**

WD Letter 16-10, Change 1

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**REFERENCE:**

American Recovery and Reinvestment Act of 2009 (Public Law 111-5)  
Federal Unemployment Tax Act §3309(b)(5) and §3304(a)(6)(A)  
U.S. Department of Labor, Unemployment Insurance Program Letter No. 30-96, issued August 8, 1996, and entitled “Work-Relief and Work-Training Exclusion”  
Texas Unemployment Compensation Act §201.067(a)(3)  
WD Letter 118-99, issued December 10, 1999, and entitled “Uses of Temporary Assistance for Needy Families Funds”  
WD Letter 46-00, Change 1, issued March 29, 2002, and entitled “Temporary Assistance for Needy Families: Funds for Youth Services”  
WD Letter 26-08, issued November 5, 2008, and entitled “Cash Draw and Expenditure Reporting System Instructions for Non-Allocated Funds to Local Workforce Development Boards and other Texas Workforce Commission Grantees”  
WD Letter 44-09, Change 2, issued January 4, 2010, and entitled “American Recovery and Reinvestment Act of 2009: Cash Draw and Expenditure Reporting System Instructions and Other Reporting Information for Local Workforce Development Boards and Other Grantees—*Update*”

WD Letter 13-10, Change 1, issued June 8, 2010, and entitled “Texas Back-to-Work Initiative—Subsidized Employment—*Update*”

WD Letter 25-10, Change 1, issued July 9, 2010, and entitled “American Recovery and Reinvestment Act of 2009/Temporary Assistance for Needy Families: Subsidized Summer Youth Employment Program Implementation Guide—*Update*”

TA Bulletin 224, Change 1, issued August 9, 2010, and entitled “American Recovery and Reinvestment Act of 2009/Temporary Assistance for Needy Families Subsidized Summer Youth Employment Program—*Update*”

**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.”