

DIRECTIVE
WORKFORCE SERVICES

Number: WSD08-8

Date: June 4, 2009

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: ARRA SUMMER YOUTH EMPLOYMENT PROGRAM

EXECUTIVE SUMMARY:

Purpose

This directive provides federal and state guidance for the implementation of the Summer Youth Employment Program funded by the American Recovery and Reinvestment Act (ARRA) of 2009. This issuance provides direction on areas such as administration, procurement, eligibility, and program design.

Scope

This directive applies to Local Workforce Investment Areas (LWIAs) and subrecipients of ARRA funds.

Effective Date

This directive is effective on date of issuance.

REFERENCES:

- Workforce Investment Act (Public Law 105-220)
- American Recovery and Reinvestment Act (ARRA) (Public Law 111-5)
- Wagner-Peyser Act, as amended, United States Code, Title 29, Section 49, et seq.
- Code of Federal Regulations (CFR), Title 20, Part 664 (WIA Youth Activities), et al. (August 11, 2000)
- CFR, Title 20, Part 1010 (Veterans)
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 13-08, Allotments for Training and Employment Services as Specified in the American Recovery and Reinvestment Act of 2009 (March 6, 2009)
- DOL 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 (March 18, 2009)

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- DOL TEGL 43-08, Change 1, 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, Change 1 (April 15, 2009)
- DOL TEGL 17-05, Common Measures Policy for the Employment and Training Administrations (ETA) Performance Accountability System and Related Performance Issues (February 17, 2006)
- DOL Training and Employment Notice 30-08, Overview of the Employment and Training Administration's Implementation Strategy for Workforce Investment Act and Wagner-Peyser Funding under the American Recovery and Reinvestment Act of 2009 (March 4, 2009)
- California Labor Code, Sections 1285 -1312, 1390 -1399
- California Unemployment Insurance Code, Section 629 - 657
- California Department of Industrial Relations, 2000 Child Labor Laws booklet www.dir.ca.gov/dlse/ChildLaborPamphlet2000.html
- Workforce Investment Act (WIA) Directive WIAD04-18, Title I Eligibility (March 29, 2005)
- Workforce Services Information Notice WSIN08-5, Proposed Waiver request for WIA Summer Youth Program Procurements (April 24, 2009)
- Workforce Services Information Notice WSIN08-56, ARRA Youth Formula Fund Grant Codes (April 30, 2009)

STATE-IMPOSED REQUIREMENTS:

This directive contains some state-imposed requirements. These requirements are indicated in ***bold, italic print***.

FILING INSTRUCTIONS:

This directive finalizes Draft Directive WSDD-21, issued for comment on May 6, 2009. The Workforce Services Division received two comments during the draft comment period. This final directive incorporates substantive comments that are viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. This directive applies to the 2009 Summer Youth Employment Program only, which operates from May 1 through September 30, 2009.

BACKGROUND:

The intent of the ARRA, signed by President Obama on February 17, 2009, is to preserve and create jobs, promote the nation's economic recovery, and to assist those most impacted by the recession. The ARRA provides an opportunity for disconnected youth to reconnect through multiple pathways to education and training opportunities necessary to enter and advance in the workforce.

The Department of Labor TEGL13-08 provided states with stimulus allotments under ARRA to supplement Program Year 2008 funds for WIA Title I Adult, Dislocated Worker and Youth Activities, and Employment Service activities, as required by Wagner-Peyser Act, and to provide Reemployment Service allotments. By formula allocation, the State of California allotted \$387,611,484 to its LWIAs, with \$158,628,729 targeted for youth.

The Employment and Training Administration (ETA) and Governor Schwarzenegger strongly encourage the LWIAs to use as much of these funds as possible to operate expanded youth employment opportunities during the summer of 2009. To implement the Congressional intent, the State also encourages LWIAs to be flexible in the implementation of a summer employment program. Although funds will be available until June 30, 2011, there is an expectation that more youth will be served during the summer, and that the majority of funds will be spent on youth employment activities that include a work experience component.

POLICY AND PROCEDURES:

Months of Operation

For purposes of ARRA, the period of "summer" is May 1 through September 30, 2009.

Youth may also be concurrently enrolled in other WIA youth, adult or dislocated worker programs. Participants must meet the age, income, and other eligibility requirements for the respective programs.

Procurement

Federal regulations state at 20 CFR 664.610 that chief elected officials and Local Workforce Investment Boards are responsible for ensuring that the local youth program provides summer employment opportunities to youth. The chief elected officials are grant recipients for the youth funds, unless another entity is the grant recipient or fiscal agent. If providers other than the grant recipient/fiscal agent provide summer employment, these providers must be selected through a competitive process.

The State encourages local areas to explore emergency or expedited processes that meet applicable federal, state, and local laws and policies. To meet the youth procurement requirements in WIA Section 123, the LWIAs should document all actions or steps taken to fulfill these mandates.

The California Workforce Investment Board plans to submit a waiver request, as detailed in Information Notice WSIN08-55, to Department of Labor for WIA summer youth procurements. The goal of the waiver is increased flexibility in contracting and expending ARRA funds on summer youth employment activities. While the waiver request must be approved by the Department of Labor, all indications are the waiver will be granted.

Eligibility

Youth must meet WIA eligibility requirements to participate in the Summer Youth Employment Program. For purposes of eligibility under ARRA, the term “eligible youth” means an individual who:

1. Is not less than 14 or more than 24 years of age;
2. Is a low-income individual as defined in WIA Section 101[25]; and
3. Is within one or more of the following categories:
 - Deficient in basic literacy skills;
 - School dropout;
 - Homeless, runaway, or foster child;
 - Pregnant or parenting;
 - Offender; or
 - Is an individual (including a youth with a disability) who requires additional assistance to complete an educational program, or to secure and hold employment (WIA Section 101 [13]).

Program Design

The summer program may include any set of allowable WIA youth services that occur during the defined summer months as long as it includes a work experience component. The LWIAs will not be required to operate or expend ARRA funds on all ten program elements. This allows LWIAs the flexibility to determine which program elements to focus on while providing as many youth as possible with summer employment opportunities.

The requirement that LWIAs expend a minimum of 30 percent of funds on out-of-school youth applies to all ARRA funding, including summer youth activities. The LWIAs must ensure that a minimum of 30 percent of funds are used for serving out-of-school youth. For older and out-of-school youth transitioning to the workplace following work experience, the Work Opportunity Tax Credit (WOTC) program may be an incentive for employers to hire these youth. The ARRA expands WOTC to include disconnected youth ages 16 to 24 years of age who are not regularly attending school, not readily employed, and lacking basic skills. Specific criteria and methods for documenting youth in this category will be forthcoming.

The LWIAs have the flexibility to determine the appropriate type of assessment and Individual Service Strategy (ISS) for youth served with ARRA funds during the summer months only. A full objective assessment and comprehensive ISS as specified in WIA regulations is not required.

The LWIAs have the flexibility to determine what, if any, academic needs should be addressed for these summer-only participants. Also, local programs will not be required to assess basic skills level for out-of-school youth participating in summer employment as part of the objective assessment.

When considering expanded summer employment opportunities, LWIAs should consider the following program design elements outlined in TEG 14-08:

- Incorporating Age Appropriate Activities and Establishing Work Readiness Goals

Summer employment activities should be designed to encourage participants to take responsibility for their learning, to understand and manage their career options, and to develop social skills and a maturity level that will help them interact positively with others. This is especially true for at-risk students and high school drop-outs since summer employment may be one of the few opportunities they come across to learn how to enter the world of work. These efforts should rely on developmentally or age appropriate strategies. Consequently, the services provided to these youth participants and the work readiness goals set for them should be age appropriate.

- Conducting Meaningful Work Experience

Work experience is the core component of a summer employment program. The LWIAs should ensure that worksites introduce and reinforce the rigors, demands, rewards, and sanctions associated with holding a job. The LWIAs need to make a concerted effort to match worksites with the interests and goals of the participants. Work experience provided to summer youth participants should be structured to impart measurable communication, interpersonal, decision-making, and learning skills.

- Establishing Positive Worksites

The LWIAs should seek employers who are committed to helping participants receive the experience and training required to meet the work readiness goals set for summer youth participants. The DOL recommends selecting employers that are willing to work closely with program staff. It is critical that LWIAs ensure proper worksite supervision in cooperation with both worksite supervisors and program monitors. The LWIAs should consider a combination of public sector, private sector, and non-profit summer employment opportunities.

The LWIAs should ensure that work experience opportunities do not unfavorably affect current employees and do not impair existing contracts for services or collective bargaining agreements. Additionally, participants in work experience should not displace current employees or replace the employees who were previously laid off from the respective worksites. Work experience is intended to increase work readiness skills of participants and not impact the profit margin of a for-profit company.

The ARRA funds cannot be used to support summer jobs at the following facilities or worksites: casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

- Integrating Work-Based and Classroom-Based Learning Activities

In some situations, LWIAs may want to complement work experience with classroom-based learning so that youth receive assistance in developing and refining attitudes, values, and work habits that contribute to their success in the workplace. For the appropriate youth, a combination of work-based and classroom-

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based learning activities may be needed to provide basic skills instruction, career exploration, and life skills training.

- Connecting to Registered Apprenticeships

Pre-apprenticeship programs represent a hands-on training experience that provides an introduction to the skills and knowledge needed in a potential career field and prepares young adults to be eligible for formal apprenticeship programs. Summer employment opportunities can include these introductory programs and combine basic technical skills training in the classroom with experience on the worksite or through a work experience or internship.

The LWIAs can contact the Department of Industrial Relations, Division of Apprenticeship Standards, to determine how to best coordinate a pre-apprenticeship or pre-employment training program. The Internet site is:

www.dir.ca.gov/databases/das/descOfAppr.html#Description

- Linking Academic and Occupational Learning

Under WIA regulations at 20 CFR 664.600, LWIAs are required to offer summer youth employment opportunities that link academic and occupational learning. The LWIAs have the flexibility to determine for each youth participant whether academic learning must be directly linked to a summer employment opportunity. LWIAs may choose to have a direct link between summer employment and academic learning when deemed appropriate for such individuals. The DOL encourages local areas to link summer employment to academic learning for summer employment participants who do not have a high school diploma.

- Continuing Services Supporting Older/Out-of-School Youth during Non-Summer Months

Out-of-school youth, ages 16 through 24 years, experience among the highest rates of unemployment and their future labor market prospects are poor given their lack of education and work experience. The DOL encourages LWIAs to develop strategies to engage this population.

- Focusing on Youth Most in Need

The DOL and the Governor strongly encourage LWIAs to focus services on the youth most in need including: out-of-school youth and those most at risk of dropping out, youth in and aging out of foster care, youth offenders and those most at risk of court involvement, homeless and runaway youth, children of incarcerated parents, migrant youth, Indian and Native American youth, and youth with disabilities.

Priority of service for veterans and eligible spouses applies to the summer program. This requirement is outlined in 20 CFR Part 1010, which are regulations implementing priority of service for veterans and eligible spouses in Department of Labor job training programs under the Jobs for Veterans Act published at 73 Fed. Reg. 78132 on December 19, 2008.

- Conducting Twelve-Month Follow-Up

The LWIAs have the flexibility to determine if and when the 12-month follow-up requirement is applicable for youth served with ARRA funds during the designated summer months. The LWIAs should provide follow-up services when deemed appropriate for such participants.

- Incorporating Green Work Experiences

Opportunities for skilled workers in the fields of solar, geothermal, wind power design, and the use of environmentally-friendly building materials means increased job opportunities for youth who have exposure to work experience that equip them with “green” knowledge. Conservation and sustainability efforts representing existing green work can be used to provide training and work opportunities in areas such as retrofitting public buildings, construction of energy efficient, affordable housing, solar panel installation, reclaiming of public park areas, or recycling of computers.

Performance

The work readiness portion of the original Youth Skill Attainment Rate, referenced in Section 136(b)(2)(A)(ii), will be the performance indicator used for youth that participate in summer work experience. The basic and occupational skills portions of the Skill Attainment Rate and the Literacy/Numeracy Gains measure will not be required for youth that participate in summer employment only. In addition, no other WIA or common measure indicator will be required for youth in summer employment only. However, clients co-enrolled into the ARRA year-round program or WIA Youth formula funds are subject to all of the Youth Common Measures. To support LWIAs efforts to serve youth most in need, the State is considering a waiver request to remove summer youth participants, co-enrolled in the year-round ARRA program, from the Common Measures performance outcomes. This waiver will not apply to co-enrollment in the WIA Youth formula funds.

For reporting purposes, LWIAs will be required to track the number of participants enrolled in summer employment and the work experience completion rate of those in summer employment [i.e., (the number of youth who complete their summer employment work experience, divided by the number of youth who participate in summer employment) multiplied by 100 percent].

The Work Readiness Skills Goal, as specified in TEGL 17-05, Attachment B – Definition of Key Terms, includes a measureable increase in work readiness skills including world-of-work awareness, labor market knowledge, occupational information, values clarification and personal understanding, career planning and decision making, and job search techniques. They also encompass survival/daily living skills, positive work habits, attitudes and behaviors, showing initiative and reliability, and assuming the responsibilities involved in maintaining a job.

Youth participating in the ARRA-funded summer youth program only will be included in the Youth Recovery Act report. Guidance will be provided by DOL in an upcoming Recovery Act Performance and Reporting TEGL.

Reporting

In the Job Training Automation (JTA) system, youth enrolled in the ARRA summer program should be reported as participants under Grant Code 107. Youth participants enrolled in the year-round ARRA program should be reported under Grant Code 103. If the summer youth participants require ARRA funded services after the end of summer program, they should be co-enrolled into Grant Code 103, or they may be co-enrolled in WIA funded services, such as Grant Code 201 (adults 18 and over), Grant Code 301 (youth 14 – 21), and/or Grant Code 501 (dislocated workers 18 and over) depending on the respective eligibility requirements.

All ARRA youth expenditures should be reported under Grant Code 103.

Eligibility code “K” on the JTA application screen will be used to identify ARRA youth. It uses the same eligibility criteria as codes “F” and “G” but extends youth eligibility to age 24 years.

For additional reporting information, please refer to the Workforce Services Information Notice [WSIN08-56](#) - ARRA Youth Formula Fund Grant Codes.

Workplace Guidelines

The State Department of Industrial Relations (www.dir.ca.gov), Division of Labor Standards Enforcement, administers the Child Labor Laws in California (www.dir.ca.gov/dlse/ChildLaborPamphlet2000.html). These laws govern wages, work permits and hours, and working conditions for youth. A synopsis of applicable sections is as follows:

- Permits to Employ and Work

Except under limited circumstances, all minors under 18 years of age employed in the state of California must have a permit to work. The federal Fair Labor Standards Act also requires a certificate of age for working minors.

Schools and/or district offices issue Permits to Employ and Work. After an employer agrees to hire a minor, the minor obtains a form titled “Statement of Intent to Employ Minor and Request for Work Permit.” The form is completed by the minor and the employer, and signed by the minor’s parent or guardian and the prospective supervisor. The school or district office then issues the permit on submission of the completed form.

Employers must have Permits to Employ and Work on file available for inspections by school and labor officials at all times. Permits are always required, even when school is not in session. The Local Workforce Investment Area or its subrecipient must ensure the employer of record has a copy of the work permit on file.

Job Safety and Working Conditions

The California Child Labor Laws also contain child labor restrictions to ensure youth are not assigned to activities that violate these standards or restrictions. Some of the areas covered are restricted and prohibited occupations, employer requirements, and penalties for violating child labor laws. A copy of the complete text is available at www.dir.ca.gov/dlse/ChildLaborPamphlet2000.html).

Compensation

- Wages

Funds may be used to pay wages and related benefits for work experiences in the public, private, for-profit, or non-profit sectors.

Minors must be paid at least the minimum wage and applicable overtime rates established by the California Industrial Welfare Commission [LC 1197, IWC Orders Section 4]. California's current minimum wage is \$8.00 per hour.

Employers who are subject to the federal Fair Labor Standards Act (and most are) must pay the applicable federal minimum wage and overtime rates [29 USC 206,207,214]. Whenever state and federal wage standards differ, the higher wage must always be paid [LC 1182, 29 USC 218].

High school graduates or equivalent must be paid commensurate with adults when they perform the same quantity, quality, and classification of work. This includes wage rates that are above the minimum wage [LC 1391.2].

- Stipends

The LWIAs may provide stipends to youth in a classroom-based component of a summer employment opportunity. Youth, however, may also be paid wages for participation in classroom-based training, particularly when work experience is coupled with classroom training.

The LWIAs must have a policy that outlines guidelines and procedures for the payment of classroom-based stipends and wages.

Unemployment and State Disability Insurance Coverage

According to the California Unemployment Insurance Code Section 634.5 (see [UI Code](#)), youth in the summer program may be excluded from the requirement to provide Unemployment and State Disability Insurance (SDI) coverage. Accordingly, an organization serving as the employer of record may choose to provide coverage for summer youth participants, but it is not required.

Oversight

The oversight requirements delineated in the WIA regulations, 20 CFR 667.410, apply to all ARRA funds. The LWIAs must conduct oversight and monitoring of their activities, including those of subrecipients and contractors. Oversight and monitoring should determine whether or not there is compliance with programmatic, accountability, and transparency provisions of ARRA and other federal and state guidelines.

The Employment Development Department's Compliance Review Office will conduct on-site monitoring of the summer youth employment program, including reviews of the LWIAs, subrecipients, and worksites.

ACTION:

This directive requires immediate implementation.

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ Bob Hermsmeier
Chief
Workforce Services Division

Attachment

Summary of Comments
ARRA Summer Youth Employment Program Draft Directive

1. Comment:

The commenter asked whether the LWIA could pay wages for classroom activities that are coupled with and directly related to a work experience component.

Response:

Yes, it is allowable to pay wages and stipends for classroom-based activities for summer youth participants. Included is clarifying language on page 9 of the directive.

2. Comment:

The commenter requests the State include language regarding the provision of State Disability Insurance (SDI) coverage for youth. The commenter also requests that the directive incorporate the language of the procurement waiver to be submitted to Department of Labor by the California Workforce Investment Board.

Response:

State Disability Insurance coverage is not required for summer youth participants. Included on page 9 is clarifying language regarding SDI.

In response to the request to incorporate the waiver language as detailed in Information Notice WSIN08-55, the State will send out separate guidance on the implementation of the waiver when it is approved by DOL.