

DIRECTIVE

WORKFORCE SERVICES

Number: WSD14-1

Date: July 8, 2014

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: WIA TRAINING EXPENDITURE REQUIREMENTS

EXECUTIVE SUMMARY:

Purpose:

This directive provides guidance regarding Workforce Investment Act (WIA) training expenditure requirements imposed by Senate Bill (SB) 734.

Scope:

This directive applies to all Local Workforce Investment Boards (local boards).

Effective Date:

This directive is effective upon release.

REFERENCES:

- WIA Sections 101(8), 101(31), 101(46), 134(a)(3)(A)(iv)(I), and 134(d)(4)(D)
- Title 29 United States Code (USC) Section 2864(d)(4)(D)
- Title 20 Code of Federal Regulations (CFR) Sections 663.300 and 663.508
- Title IV of the Higher Education Act of 1965 Section 401
- [SB 734](#) (DeSaulnier), Chapter 498, Statutes of 2011
- [Letter](#) from DeSaulnier (author of SB 734) regarding intent for supportive services
- California Unemployment Insurance Code (CUIC) Section 14211
- Workforce Services Directive [WSD12-3](#), Subject: Quarterly and Monthly Financial Reporting Requirements (July 18, 2012)
- [WSD13-10](#), Subject: Eligible Training Provider List (ETPL) (April 4, 2014)

STATE-IMPOSED REQUIREMENTS:

This document contains only State-imposed requirements.

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

FILING INSTRUCTIONS:

This directive supersedes Workforce Services Directive WSD11-9, dated May 17, 2012, and finalizes Workforce Services Draft Directive WSDD-95, dated January 7, 2014. The Workforce Services Division received 23 comments during the comment period. The comments resulted in two substantive changes to the directive which is viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. A summary of the comments is provided as Attachment 4. Retain this directive until further notice.

BACKGROUND:

The SB 734 (Chapter 498, Statutes of 2011) added Section 14211 to the CUIC. This section imposes training expenditure requirements on local boards carrying out WIA funded programs and details the actions that must be taken in the event that a local board does not meet the specified requirements.

POLICY AND PROCEDURES:

Definition of Terms

Note: These definitions apply only to this directive and the requirements of SB 734. They are independent of the definitions provided in WIA and Workforce Services Directive WSD12-3, Quarterly and Monthly Financial Reporting Requirements.

Cash Contributions - Federal and/or non-federal contributions of funds made available to the Subrecipient to be used for training services. Examples include federal and/or non-federal money received from employers, foundations, private entities, local governments, etc.

In-Kind Contributions - Federal and/or non-federal contributions of non-cash resources used for training services. Examples include donated personnel, services, or use of equipment or space.

Job Readiness Training - Job readiness training includes services that teach skills needed to be successful in the workplace, rather than skills needed to get into the workplace. Following Title 20 CFR Section 663.508, job readiness training should provide participants with specific occupational competencies needed to perform specific work tasks on the job. For example, job readiness training courses could teach WIA clients skills such as how to communicate in an office environment, how to function as part of a team, or how to work in a deadline driven workplace. In each of these instances, the focus of the training would be on competencies needed to succeed during the workday while on the job (rather than the skills needed to find and apply for a job).

Job Readiness Training does not include skills needed to find and apply for a job, (e.g., job search, interview, or resume writing skills). Under WIA Section 134, services that teach skills necessary to find and apply for a job are classified either as core or intensive services. For example, job search assistance is defined as a core service, while group counseling or prevocational services focused on resume writing and

interview skills are both classified as intensive services. These types of services do not qualify as training because they do not provide the client with competencies needed to perform specific tasks on the job. As such they do not qualify under the training program definition outlined in Title 20 CFR Section 663.508, and do not qualify as training expenditures under SB 734.

Leveraged Resources - Federal and non-federal resources (cash contributions and in-kind contributions) used by the Subrecipient and/or Subrecipient Contractor for training services. Leveraged resources must be allowable and auditable under the WIA program, and meet the requirements included in the “Leveraged Resources” section of this directive.

Match - Resources expended to support training services, if required as a condition of funding. Match resources can be cash match and/or in-kind contribution match. Match resources must meet the requirements included in the “Leveraged Resources” section of this directive.

Subrecipient - An organization funded directly by the State.

Subrecipient Contractor - An organization funded by the Subrecipient.

Support Services – Services such as transportation, child care, dependent care, housing, medical expenses, financial counseling, and needs-related payments that are necessary to enable an individual to participate in WIA funded activities.

Training Services – See the “Qualifying Training Services” section of this directive.

Training Expenditure Requirements

Required Expenditure Levels

Program Year (PY) 2012-13 through 2015-16:

Local boards must spend at least 25 percent of the combined total of their adult and dislocated worker WIA formula fund allocations on training services. The minimum training expenditure requirement does not apply to the youth WIA formula fund allocation. Local boards may apply designated leveraged resources used for training (up to 10 percent of the combined total of the adult and dislocated worker formula fund allocation) toward meeting the minimum training expenditure requirement. See the “Leveraged Resources” section of this directive. The training expenditure level will be calculated after the two-year availability period of the funds. See the “Procedures” section of this directive.

PY 2016-17 and each PY thereafter:

Local boards must spend at least 30 percent of the combined total of their adult and dislocated worker WIA formula fund allocations on training services. The minimum training expenditure requirement does not apply to the youth WIA formula fund allocation. Local boards may apply designated leveraged resources used for training (up to 10 percent of the combined total of the adult and dislocated worker formula fund allocation) toward meeting the minimum training expenditure requirement. See the

“Leveraged Resources” section of this directive. The training expenditure level will be calculated after the two-year availability period of the funds. See the “Procedures” section of this directive.

Calculating Required Expenditure Levels

The following examples display how a local board would calculate their required training expenditure level.

- Example 1: A local board met the 25 percent training expenditure requirement using adult and/or dislocated worker formula funds combined with leveraged resources.

In PY 2012-13, the local board received \$1,000,000 in WIA adult formula funds and \$2,000,000 in WIA dislocated worker formula funds.

Total adult and dislocated worker formula fund allocations (Calculation: \$1,000,000+\$2,000,000)	<u>\$3,000,000</u>
Minimum training expenditure requirement (Calculation: \$3,000,000 X 25%)	\$750,000
Leveraged resources applied to training expenditure requirement (Calculation: \$3,000,000 X 10%)	(\$300,000)
Required formula fund training expenditure (Calculation: \$750,000-\$300,000)	(\$450,000)

In this example, the local board must spend at least \$450,000 of WIA adult and/or dislocated worker formula funds on training services. There is no requirement that a specific amount be spent from each allocation (WIA adult vs. WIA dislocated worker), therefore the \$450,000 could be WIA adult funds, WIA dislocated worker funds, or a combination of both.

- Example 2: A local board met the 25 percent training expenditure requirement using WIA adult and/or dislocated worker formula funds only (no leveraged resources).

In PY 2012-13, the local board received \$1,000,000 in WIA adult formula funds and \$2,000,000 in WIA dislocated worker formula funds.

Total adult and dislocated worker formula fund allocations (Calculation: \$1,000,000+\$2,000,000 leveraged)	<u>\$3,000,000</u>
Minimum training expenditure requirement (Calculation: \$3,000,000 X 25%)	\$750,000

In this example, the local board is not using any leveraged resources to meet the training expenditure requirement and therefore, must spend at least \$750,000 of WIA adult and/or dislocated worker formula funds on training services. There is no requirement that a specified amount be spent from each allocation (WIA adult vs. WIA dislocated worker) therefore the \$750,000 could be WIA adult funds, WIA dislocated worker funds, or a combination of both.

Qualifying Training Services

Training services must meet the following criteria in order to be applied toward the minimum training expenditure requirement:

1. Must be provided to WIA adult or dislocated worker participants enrolled in a training activity in CalJOBSSM.
2. Must meet the definition of training services provided in WIA Section 134(d)(4)(D):

“Training services may include -

- Occupational skills training, including training for nontraditional employment;
- On-the-job training;
- Programs that combine workplace training with related instruction, which may include cooperative education programs;
- Training programs operated by the private sector;
- Skill upgrading and retraining;
- Entrepreneurial training;
- Job readiness training;
- Adult education and literacy activities provided in combination with one or more of the other training services listed above; and
- Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.”

3. Must meet the definition of a training service as provided in Title 20 CFR Section 663.508:

“A program of training services is one or more courses or classes, or a structured regimen that upon successful completion, leads to:

- A certificate, an associate degree, baccalaureate degree, or
- The skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.”

The conceptual emphasis in Section 663.508 is on structured learning leading to the attainment of competencies needed on the job to perform one’s job duties. The goal of training is for workers to attain specific occupational skill-sets needed to perform work tasks during the workday.

4. Must pass the following three-pronged test:

- a. Is the service defined as a core, intensive, or supportive service under WIA? If so, the service *cannot* be counted toward the training minimum.

Although supportive services can be counted as training under WIA, they cannot be counted toward the minimum training expenditure requirement under SB 734. Supportive service expenditures are reported separately from training expenditures in Section V of the WIA Summary of Expenditures Report. Specifically, training expenditures are recorded on line 4a, Training Payments,

and supportive services are reported on line 5, Other (see WSD12-13, Quarterly and Monthly Financial Reporting Requirements, Attachment 1).

- b. Is the service defined as training under WIA section 134(d)(4)(D)? If so, the service *can* be counted toward the training minimum.
- c. Is the service not listed under WIA section 134(d)(4)(D) but meets the definition of training in Title 20 CFR Section 663.508? If so, the service *can* be counted toward the training minimum. The determining factors are whether the services are provided through a structured learning process and whether this learning process leads to the attainment of skills or competencies needed to perform work duties during the course of the workday. In summary, the service should lead to greater labor productivity on the job.

5. Must meet the requirements specified in Title 20 CFR Section 663.300:

This section establishes that the list of training services in WIA Section 134(d)(4)(D) is not exhaustive. Additional training services may be applied toward the minimum training expenditure requirement if they meet the five requirements below:

- a. Must be specific to the training the participant is receiving;
- b. Must be necessary in order to participate in and graduate from the training;
- c. Must be required for every student in the training;
- d. Must benefit the individual only if they are in the approved training; and
- e. Must be documented in writing by the training provider as required. (Acceptable documentation includes a supply list for the course, an email from the training provider, or any other documentation that verifies the items are required for the course.)

Services that meet this criteria include, but are not limited to, books, licenses, tools, equipment, safety gear, drug testing, testing fees, certification fees, student association fees, and uniforms.

Services that do not meet this criteria include, but are not limited to, groceries, child care, dependent care, transportation, parking, housing, clothing, health care, financial counseling, and needs-related payments.

- Example 1: A participant that is signed up for a phlebotomy course requires a bus pass to travel to the training.

In this scenario, the participant requires the bus pass in order to participate in the training. However, the bus pass is not specific to the phlebotomy training, required to graduate from the training, or required for every student in the training. Additionally, this individual could benefit from a bus pass even if they weren't attending the phlebotomy course. As a result, this service *cannot* be counted toward the training expenditure requirement.

- Example 2: A participant that is signed up for a phlebotomy course requires latex gloves and a lab coat to participate in the training.

In this scenario, the participant requires latex gloves and a lab coat (i.e., safety gear) to participate in the training. These items are specific to the phlebotomy course, necessary to participate in the training, necessary to graduate from the

training, and required for every student in the training. Additionally, the participant wouldn't benefit from having the lab coat or latex gloves if they weren't taking the course. As a result, these services *can* be counted toward the training expenditure requirement.

Exceptional Circumstances

Under exceptional circumstances, local boards may apply services that don't meet the criteria for qualifying training services toward meeting the training expenditure requirement. These circumstances are rare and require prior approval from the local board's Regional Advisor. One such scenario is training that cannot be provided within a reasonable commuting distance (e.g., training only provided in a remote location, or training that is highly specialized and only provided in certain locations within the United States).

Example: A participant has been approved to attend a week long welding course. This welding course is only offered in a remote location hundreds of miles away from the participant's home. The participant requires transportation to the training, and food and lodging during the week of the training.

In this scenario, the individual requires transportation, food and lodging. Although these services do not meet the criteria under the "Qualifying Training Services" section of the directive, because the training is not provided within a reasonable commuting distance, these services would qualify under exceptional circumstances.

Local boards requesting prior approval for an exceptional circumstance should submit a completed copy of Attachment 1, Exceptional Circumstances Prior Approval, to the EDD at least 10 working days prior to the start of the training class to allow for proper consideration and determination of the request. The Regional Advisor will consult with the State Board and respond to the request within five working days.

Local boards may mail, hand deliver, or fax the Exceptional Circumstances Prior Approval form as follows:

Mail: ATTN: (Name of Regional Advisor)
 Workforce Service Division, MIC 50
 Employment Development Department
 P.O. Box 826880
 Sacramento, CA 94280-0001

Hand Deliver: ATTN: (Name of Regional Advisor)
 Workforce Services Division, MIC 50
 Employment Development Department
 722 Capitol Mall, Room 2071
 Sacramento, CA 95814

FAX: 916-657-0055, Attn: (Name of Regional Advisor)

Leveraged Resources

Local boards may apply leveraged resources spent on training services toward meeting a portion of their minimum training expenditure requirement (an amount of up to 10 percent of their adult and dislocated worker formula fund allocation). Local boards may apply only the seven leveraged funds listed below as part of the 10 percent credit:

1. Federal Pell Grants established under Title IV of the Higher Education Act of 1965
2. Public programs authorized by the Workforce Investment Act of 1998 (e.g., Job Corps, Migrant Seasonal Farm Worker, Rapid Response, WIA Title II Adult Education and Literacy, national and state WIA discretionary grants, WIA youth program, etc.). This category of leveraged resources does not include WIA adult and dislocated worker formula funds.

Local boards are permitted to apply youth formula funds expended on training for individuals ages 18-21 as a leveraged resource if: (1) the individuals are co-enrolled in either the WIA adult or dislocated worker program, and (2) the training meets all requirements set forth in this directive.

3. Trade adjustment assistance
4. Department of Labor National Emergency Grants
5. Match funds from employers, industry, and industry associations [including the employer paid portion of customized training, the wages of an apprentice during the apprenticeship period, and the employer paid portion of on-the-job training (OJT)]

Note: Match funds from the employer paid portion of OJT may only include the employer's cost attributed to the participant's training. See Attachment 2 for further details.

6. Match funds from joint labor-management trusts
7. Employment training panel grants

If a local board uses leveraged resources to subcontract with another local board to obtain training services, those funds cannot be counted by both parties toward meeting the training expenditure requirement. It is the responsibility of the local boards to negotiate and decide which local board will account for the expenditure towards meeting the training expenditure requirement.

- Example 1: Local board A sub awarded \$25,000 in National Emergency Grant funds to local board B to provide training services. The participants served by the \$25,000 were co-enrolled by both Local Workforce Investment Areas (local areas).

In this scenario, either local board A **or** local board B can apply the \$25,000 as leveraged funds toward meeting the training expenditure requirement. They both cannot apply the \$25,000.

- Example 2: Local board A sub awarded \$30,000 in WIA adult and/or dislocated worker formula funds to local board B to provide training services. The participants served by the \$30,000 were co-enrolled by both local areas.

In this scenario, only local board A can apply the \$30,000 of formula funds toward meeting the training expenditure requirement. Local board B *cannot* apply the \$30,000 as leveraged funds since WIA adult and dislocated worker formula funds are not one of the seven leveraged resources authorized under SB 734.

Local boards are not required to use leveraged resources toward meeting the minimum training expenditure requirement. However, if a local board does choose this option, they must report all leveraged resources applied as part of the 10 percent credit in Attachment 3, Summary of Leveraged Resources. Additionally, they must keep sufficient records of the leveraged resources which can be independently verified by the EDD.

In order to allow local boards maximum flexibility in using leveraged resources, the EDD does not specifically define what would classify as sufficient records. However, some examples of documentation that could qualify as sufficient records would include:

- A commitment letter or written agreement from an employer or training provider
- A training agreement with an employer detailing the employer's contribution
- A copy of the Pell Grant award letter or relevant correspondence from the school
- An executed worksite agreement and participant time record
- A participant progress report and/or evidence of completion

This list is not all inclusive. Local boards have the discretion to determine what constitutes sufficient records. This determination may vary depending on the local area.

Costs arising from the recordkeeping required to demonstrate compliance with leveraged resources requirements are the responsibility of the local board.

Note: All leveraged resources reported under this directive must also be included in the amounts reported under Section VII, Miscellaneous Items, of the WIA Summary of Expenditures Report (see WSD12-3, Quarterly and Monthly Financial Reporting Requirements).

Procedures

The EDD will calculate training expenditures for each local board within six months after the end of the second program year of the two-year availability period of funds (e.g., the EDD will calculate training expenditures for PY 2012-13 funds by December 31, 2014, and will provide to each local board).

- **Formula Funds**

The EDD will use the information provided in Section V, line 4a of the WIA Summary of Expenditures Report to calculate training expenditures of formula funds.

- **Leveraged Resources**

Local boards applying leveraged resources toward the minimum training requirement should submit a signed copy of Attachment 3, Summary of Leveraged Resources, to the EDD no later than the October 1st following the end of the two-year period of fund availability. Local boards may mail, hand deliver, or fax the completed summary as follows:

Mail: Financial Management Unit, MIC 69
Workforce Services Division
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

Hand Deliver: Financial Management Unit, MIC 69
Workforce Services Division
Employment Development Department
722 Capitol Mall, Room 5099
Sacramento, CA 95814

FAX: 916-654-9753, Attn: Financial Management Unit

Corrective Action

Any local board that does not meet the minimum training expenditure requirement will be required to submit a corrective action plan to the EDD that provides reasons for not meeting the requirement and actions the local board will take to address the training expenditure deficiencies. The corrective action plan will be due within 90 days of receiving notification from EDD that the local board did not meet the training expenditure requirement.

The EDD will notify the State Board whether each local board met their respective minimum training expenditure requirement.

ACTION:

Bring this directive to the attention of the local board and other relevant parties.

INQUIRIES:

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

/S/ JOSÉ LUIS MÁRQUEZ, Chief
Workforce Services Division

Attachments are available on the Internet:

1. [Exceptional Circumstances Prior Approval](#) (DOC)
2. [Match Funds from Employer Paid Portion of OJT](#) (PDF)
3. [Summary of Leveraged Resources](#) (DOC)
4. [Summary of Comments](#) (PDF)