

# **NON-DISCRIMINATION**

## C. 188. NONDISCRIMINATION

### (a) In General.--

(1) Federal financial assistance.--For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) Prohibition of discrimination regarding participation, benefits, and employment.--No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

(3) Prohibition on assistance for facilities for sectarian instruction or religious worship.--Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) Prohibition on discrimination on basis of participant status.--No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

(5) Prohibition on discrimination against certain non-citizens.--Participation in programs and activities or receiving

funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

(b) Action of Secretary.--Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a) (1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient complies. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may--

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

or

(2) take such other action as may be provided by law.

(c) Action of Attorney General.--When a matter is referred to the Attorney General pursuant to subsection (b) (1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a) (1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) Job Corps.--For the purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

(e) Regulations.--The Secretary shall issue regulations necessary to implement this section not later than one year after the date of the enactment of the Workforce Investment Act of 1998. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in a subsection (a) (1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

# **RAPID RESPONSE**

## **WARN Notification Process & Overview**



STATE OF TENNESSEE

**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

**DIVISION OF EMPLOYMENT AND WORKFORCE DEVELOPMENT**

Employment and Training Section

Andrew Johnson Tower

710 James Robertson Parkway, 1<sup>st</sup> Floor

Nashville, Tennessee 37243-0658

(615) 741-1031

### **Dislocated Worker/Rapid Response Services**

The Tennessee Department of Labor and Workforce Development's Dislocated Worker Unit is the Governor's designated site for the Worker Adjustment and Retraining Notification (WARN) Act, Public Law 100-379. The establishment of the Dislocated Worker Unit is mandated by the Workforce Investment Act of 1998.

Under WARN, Tennessee employers are required to send a written notice to the Dislocated Worker Unit (DWU) 60 days in advance of a plant closure or mass layoff. Tennessee Code annotated {TCA 50~1~601} requires such notice when 50 or more workers are affected, versus the 100 required by federal guidelines. The DWU generates the required WARN Notification Letters which are distributed to the highest elected local official, the Local Workforce Investment Act (LWIA) Executive Director, the Governors designated cabinet members, certain federally elected representatives and others in need of this information. Area Dislocated Worker Coordinators are electronically notified when the DWU receives a WARN Notice from an employer. The Coordinators then contact the company and other members of the Rapid Response team within 48 hours to

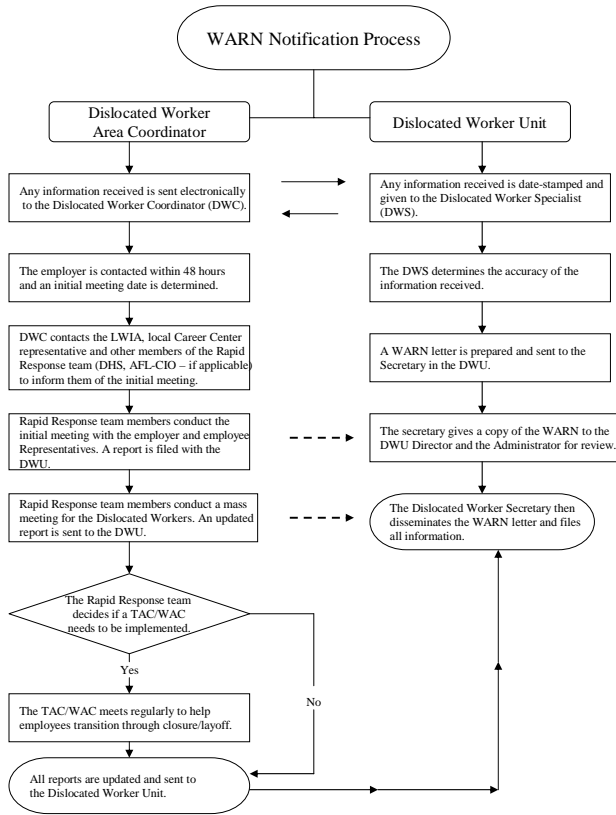
set up an Initial Meeting. The Rapid Response Team is made up of specialists who include Tennessee Career Center System representatives, the Area Dislocated Worker Coordinator, TN AFL-CIO (when applicable) and an Adult Education representative if deemed necessary. The AFL-CIO is a member of the team if the affected workers are represented by organized labor. Other member agencies are included as required. The Tennessee Career Center System is the basic delivery vehicle for the states Dislocated Worker Services.

During the Initial Meeting, a needs survey is disseminated to workers who are losing their jobs. These surveys enable the Rapid Response Team to organize all state and local resources that are available to implement an intensive program of assistance to help workers transition back into employment and reduce costs to the employers. A Rapid Response Mass Meeting is set for the workers and each member of the Rapid Response team makes a presentation about their services available for Dislocated Workers. The system is designed to provide information about services as quickly as possible to alleviate some of the anxieties caused by a workforce reduction and assist the workers in their efforts to quickly transition back into employment.

The Workforce Investment Act also authorizes a comprehensive program of services to assist permanently laid-off employees. Those services include Unemployment Insurance, job search and placement assistance, labor market and in demand occupation information, testing and assessment; resume preparation and interviewing skills workshops, and classroom and occupational skills training if deemed necessary. One-on-one counseling is also available to help Dislocated Workers with a variety of issues, including job search assistance and job referral information, and coping with the stress of having lost their job through no fault of their own.

Joe Fults, Director of Dislocated Worker/Rapid Response Services

**Tennessee Department of Labor & Workforce Development**  
**Employment and Training Division**  
**Dislocated Worker Unit/Rapid Response Services**



# **LWIA MAPS**



# **Letters From Regional Director**

**U.S. Department of Labor**

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



**JUN 28 2004**

The Honorable Phil Bredesen  
Governor of Tennessee  
State Capitol  
Nashville, Tennessee 37243-0001

Dear Governor Bredesen:

It is with pleasure that I respond to the State of Tennessee's request for an extension of a Workforce Investment Act (WIA) waiver of the prohibition on the use of Individual Training Accounts for older and out-of-school youth at 20 CFR 664.510, under the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and Sections 8-10 of the Wagner-Peyser Act.

The State of Tennessee's request (copy enclosed) indicates that a waiver extension will enable the state to continue to provide expanded training opportunities for youth. Additionally, the state notes that an extension will allow for broader application of the waiver and evaluation of its effectiveness.

The waiver is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c) and appears to meet the standard for approval at 20 CFR 661.420(e). Accordingly, the State of Tennessee is granted an extension of the waiver through June 30, 2005.

The granted waiver extension is incorporated by reference into the state's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and also constitutes a modification of the state's approved five-year strategic plan. A copy of this letter should be filed with the state's WIA Grant Agreement and the state's approved five-year strategic plan, as appropriate.

We look forward to continuing our partnership with you and achieving better workforce investment outcomes. We are prepared to entertain other state and local-level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Stover DeRocco".

Emily Stover DeRocco

Enclosure

**U.S. Department of Labor**

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



MAR 29 2004

The Honorable Phil Bredesen  
Office of the Governor  
State Capitol  
Nashville, Tennessee 37243-0001

Dear Governor Bredesen:

It is with pleasure that I respond to the State of Tennessee's request for a waiver of regulatory requirements under the Workforce Investment Act (WIA) in accordance with the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act. This authority is granted to the Secretary by WIA Section 189(i)(4)(A), and in the implementing regulations at 20 CFR 661.420.

The following is the disposition of the waiver submission.

*Requested Waiver: Waive the provision of 20 CFR 664.510 to allow local areas to use Individual Training Accounts for older and out-of-school youth participants.*

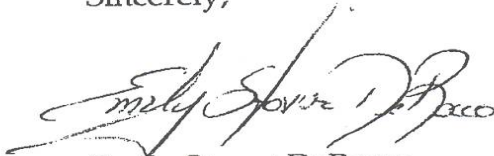
The State of Tennessee is requesting a waiver (copy enclosed) of the prohibition on the use of Individual Training Accounts (ITAs) for youth found at 20 CFR 664.510. The State indicates that the waiver would offer flexibility in using youth funds to provide training services to youth while retaining limited adult funds to be used on adult training services. It further states that the waiver would allow local areas to enhance delivery of occupational skills training and promote better customer choice for youth. The waiver is written in accordance with WIA Section 189(i)(4)(B) and 20 CFR 661.420(c) and appears to meet the standard for waiver approval at 20 CFR 661.420(e).

Accordingly, the State of Tennessee is granted a waiver of the prohibition on the use of ITAs for older and out-of-school youth at 20 CFR 664.510 so they can benefit from services provided by the State's certified eligible training providers. Under the waiver, local workforce boards will have the option to use the Eligible Training Provider system to secure training providers for these two youth populations, as appropriate. The waiver is granted through June 30, 2004.

The granted waiver is incorporated by reference into the State's WIA Grant Agreement, as provided under paragraph 3 of the executed Agreement, and also constitutes a modification of the State's approved five-year strategic plan. A letter is being sent to your State WIA Liaison, which supplements this notification letter and specifically defines the terms and conditions that apply to the granted waiver. A copy of each letter should be filed with the State's WIA Grant Agreement and approved five-year plan, as appropriate.

We look forward to continuing our partnership with you and achieving better workforce investment outcomes. We are prepared to entertain other State and local-level waiver requests that you may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Emily Stover DeRocco".

Emily Stover DeRocco

Enclosure



STATE OF TENNESSEE  
**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**  
DIVISION OF EMPLOYMENT AND WORKFORCE DEVELOPMENT  
Employment and Training Section  
Davy Crockett Tower  
500 James Robertson Pkwy., 12<sup>th</sup> Floor  
Nashville, TN 37245  
(615) 741-1031

November 10, 2003

Ms. Helen Parker  
Regional Administrator, United States Department of Labor  
Employment and Training Administration  
61 Forsyth St. S.W., Room 6M12  
Atlanta, GA 30303

Dear Ms. Parker:

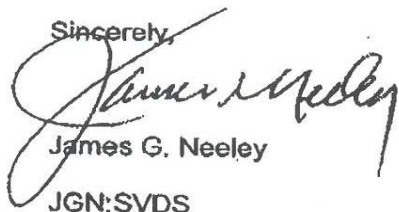
Tennessee is requesting a waiver on the regulatory prohibition of using Individual Training Accounts (ITAs) for youth (20 CFR 664.610), which would allow youth to use ITAs and access training through training providers included on the Eligible Training Provider list. We seek this waiver for the entire state consisting of thirteen local Workforce Investment Areas.

Tennessee has a high-quality WIA youth system in the state, and we strive to improve the comprehensive services offered to youth. Youth, especially out-of-school youth and/or older youth, desire access to the resources necessary to obtain self-sufficient, full-time employment. This waiver would improve customer choice for youth.

Career Centers would have more comprehensive training services to offer youth that can benefit from these services. Youth would not have to register in both youth and adult programs. The waiver would also allow for ease in tracking of funds for each funding stream.

As outlined in Training and Guidance Letter (TEGL) No. 12-01, attached are responses to the requested items in TEGL, Attachment B.

Sincerely,



James G. Neeley

JGN:SVDS

cc: Elaine Perryman, Administrator, Employment and Workforce Development  
Sterling van der Spuy, Employment and Training  
✓ Gene Caso, Atlanta Region III Office  
Susie Bourque, Employment and Training

Attachments

# **WAIVER REQUEST**

**STATE OF TENNESSEE**  
**WAIVER REQUEST**  
**WORKFORCE INVESTMENT ACT:**

The Tennessee Department of Labor and Workforce Development (DOLWD), as the administrative entity for the Workforce Investment Act (WIA) in the State of Tennessee, is requesting a waiver of the regulatory prohibition of the use of Individual Training Accounts (ITAs) for youth.

In compliance with WIA Section 189(I)(4)(B) and WIA Regulations 661.420(c), please accept the following as a request for a waiver.

**A. Statutory Regulation to be Waived:**

WIA Regulation 29 CFR §664.510 prohibits the use of Individual Training Accounts for youth. This waiver requests the use of Individual Training Accounts to access occupational skills training as needed for WIA youth, especially out-of-school youth and/or older youth.

**B. Goals to be Achieved by the Waiver:**

- Ensure local areas have the flexibility needed to design and deliver programs based on the needs of their customers, rather than on restrictions based on the age of the customer.
- Provide access to the required youth element of occupational skills training without the need to dual-enroll a youth as an adult to provide this element.
- Allows training opportunities for youth in demand occupations that can enable the youth to become self-sufficient.
- Provide Youth access to training needed instead of only the training opportunities that might be available through an RFP process. Training institutions have little interest in developing and submitting a proposal for youth training in response to an RFP.
- Allow more efficient use of resources by allowing youth dollars to be spent on youth and adult funds to be spent on adults.
- Eliminate the need to dual enroll a youth just to be able to provide the specific training needed by the youth to attain their

occupational goal as is currently necessary for a youth to access occupational skills training through the Adult Individual Training Account (ITA) and Eligible Training Provider List (ETPL) process.

- Offer Youth the customer choice and informed decision making opportunities specified in Section 129 of the Act through use of the ITA/ETPL process.
- Allow Youth to be counted only in the appropriate youth measures instead of in both the youth and adult measures. Youth and an adult. (This can be especially critical when serving challenging populations such as Older Youth.)

**C. State or Local Statutory or Regulatory Barriers:**

There are no existing state or local statutory or regulatory barriers to implementing this waiver request.

**D. Description of the Goals of the Waiver and Expected Outcomes:**

The implementation of WIA brought a shift from short-term approaches in providing youth training activities to a comprehensive, year-round program. The legislative intent of WIA was to provide more comprehensive services to youth with both in-school and out-of-school youth being served. We fully agree with the intent of the legislation but do not feel that contracted year round services are the only way or always the best way to serve our youth population.

Youth may currently access Individual Training Accounts (ITAs) through co-enrollment into the adult program. Approval of this waiver would allow flexibility in using youth funds to provide training services to youth while retaining limited adult funds to be used on adult training services. Co-enrollment would still be a viable option if the needs of the customer warrant co-enrollment. Being able to access the Eligible Training Provider (ETP) List would allow more comprehensive services to be provided to the WIA youth being served in Tennessee. The Tennessee Higher Education Commission (THEC) provides a consumer report available via web site that provides consumers with enrollment, completion and placement data on each program on the ETP List. Utilizing the ETP List would enhance the local areas' ability to better serve youth by not having to issue a

Request for Proposal for the single stand alone training services that might be needed by one or a small group of youth.

§664.510 states, “in order to enhance youth participant choice, youth participants should be involved in the selection of educational and training activities.” Receiving this waiver would provide the youth customers with more opportunity to be strongly involved in the development of their service strategies. Each local area would outline a youth strategy through the local plan process.

Receiving this waiver will allow the local areas in Tennessee to more efficiently and cost effectively, serve the youth population. The local areas could also better manage WIA Performance Measures by receiving this waiver. The ultimate outcome would be that individual needs of the youth will be better served.

WIA requires local areas make available a menu of ten program elements, specified at 20 CFR 664.410, to eligible youth. These required program elements include occupational skills training. Currently, it is difficult to provide that element to our youth. We believe the intent of this waiver request is practical and needed for successful outcomes for youth. We will, through the local plan process, require that the local workforce investment areas outline a plan of action to ensure compliance with this regulation for persons receiving occupational skills training through the use of an Individual Training Account.

**E. Description of the Individuals Impacted by the Waiver:**

This waiver will positively impact all youth customers. These customers will benefit from having more opportunities for training activities available to them. This waiver will also positively impact adult customers, as limited adult funds will not be needed to serve all youth customers accessing occupational training.

**F. Description of the Process to Monitor Progress:**

DOLWD will be the entity responsible for monitoring the goals established in this waiver request. We will also be responsible for monitoring the local area process during annual on-site reviews of each local area.

**G. Opportunity for Local Boards to Comment on the Waiver Request:**

This waiver request was initiated based on needs identified by local area Youth Leads.

**H. Public Comment on the Waiver Request:**

The public comment period for this waiver request will be issued from November 10, 2003 through November 30, 2003.

**I. Additional Information**

If this waiver is granted, the Tennessee Department of Labor and Workforce Development, administrator of the Workforce Investment Act in Tennessee, will issue through guidance memorandums, authority for the thirteen Local Workforce Investment Areas (LWIAs) to pursue the use of Individual Training Accounts (ITAs) for youth utilizing the methodology outlined in sections 663.400-440 and 663.500-595 of the regulations.

Each local area will be required to amend their local area plan to include use of this process for youth. They will also be required to implement guidelines outlining how the ITA will be utilized, including the maximum length of training and the maximum amount of allowable funding.

Each LWIA will follow state and locally established policies and procedures governing the use of the ITAs. The LWIAs will be encouraged to monitor the process through internal monitoring processes. The state will monitor the process during the annual on-site reviews of each local area.

# **WIA Funding Streams**

**Adult**

**Dislocated Workers**

**Youth**

# XVI.

## WIA Contacts

### **Local Workforce Investment Areas 1-2-3-4-8-10-11-13**

Joyce Gregory  
Technical Assistance Coordinator  
Toll Free: 1-800-255-5872  
Office: 615-741-1031—615-741-4316  
Fax: 615-741-3003  
Email: [joyce.gregory@state.tn.us](mailto:joyce.gregory@state.tn.us)

### **Local Workforce Investment Areas 5-6-7-9-12**

Peggy Harding  
Technical Assistance Coordinator  
Toll Free: 1-800-255-5872  
Office: 615-741-1031—615-741-3986  
Fax: 615-741-3003  
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Joan Craig  
Director  
Technical Assistance Unit  
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Fax: 615-741-3003  
Email: [joan.craig@state.tn.us](mailto:joan.craig@state.tn.us)