




COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM

WORKFORCE INNOVATION AND OPPORTUNITY ACT

VIRGINIA WORKFORCE LETTER (VWL) No. 16-05 Change 2

TO: Local Workforce Development Boards

FROM: George Taratsas 
Director, WIOA Administration and Compliance

SUBJECT: **Incumbent Worker Training**

EFFECTIVE DATE: November 29, 2021

PURPOSE:

The purpose of this letter is to provide Local Workforce Development Areas (LWDAs) with procedures and guidance on Incumbent Worker Training requirements, appropriate data entry, and performance measure reporting. This guidance applies to incumbent worker training programs that receive funding through incumbent worker training contracts with an employer that are supported by the Workforce Innovation and Opportunity Act (WIOA) Title I-B statewide and local formula funds to train adults and dislocated workers, including those with disabilities.

REVISIONS:

VWL 16-05 Change 1 provides updated information regarding contracting, file documentation formats, and required data elements located in Section F, Section G, and Attachments A, B, and C.

VWL 16-05 Change 2 updates acceptable documentation for “Right to Work/Citizenship.”

REFERENCES:

Virginia Board of Workforce Development Policy No. 403-04, Incumbent Worker Training
Virginia Board of Workforce Development Policy No. 404-01, Identification of Eligible Providers of Occupational Skills Training
Workforce Innovation and Opportunity Act, Sections 122 and 134
Training and Employment Guidance Letter (TEGL) No. 10-16, Performance Accountability Guidance for WIOA Title I, Title II, Title III, and Title IV Core Programs

Workforce Innovation and Opportunity Act; Employment and Training Administration; Labor Final Rule, Subpart F—Work-Based Training Sections 680.700 through 680.840
Training and Employment Guidance Letter (TEGL) No. 10-16, Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs
Training and Employment Guidance Letter (TEGL) No. 19-16, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules

DEFINITIONS:

Incumbent Worker is an employed individual, who is:

- at least 18 years of age;
- a paid, full-time employee of the applicant’s business working at a facility located in Virginia;
- a citizen of the United States or a non-citizen whose status permits employment in the United States, who has registered for selective service as appropriate;
- meets the Fair Labor Standards Act requirements for an employer-employee relationship;
- who has an established employment history with the employer for 6 months or more; and
- recommended by their current employer for Incumbent Worker Training in order to address changes in the necessary skills to remain in their position, to remain in their company, or avoid a layoff.

Incumbent Worker Training (IWT) is a form of work-based training that is designed to ensure that employees of a company are able to acquire the skills necessary to retain employment and advance within the company, thus creating backfill opportunities for the employer, or to provide the skills necessary to avert a layoff. It is designed to either assist workers in obtaining the skills necessary to retain employment or to avert layoffs and must increase both a participant’s and a company’s competitiveness.

Individual vs. Participant for Reporting Purposes: See WIOA Final Rules for Definition – Because of the unique nature of the Incumbent Worker Training Program, where the Local Workforce Development Board evaluates the employers for eligibility consistent with § 680.810, individuals receiving Incumbent Worker Training are not subject to the same eligibility criteria that apply to participants in the adult or dislocated worker programs, unless they are also receiving other services under those programs. Therefore, individuals who only receive incumbent worker training and no other WIOA Title I service do not fall within the definition of “participant” in 20 CFR 677.150(a).

As such, those that are receiving only Incumbent worker training, shall be reported as an “Individual” and not a WIOA Program Participant for purposes of our reporting.

Program Year is the period that runs from July 1 through June 30 of the subsequent year.

Recognized Postsecondary Credential is a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the Commonwealth of Virginia or the Federal Government, or an associate or baccalaureate degree.

Virginia Workforce Connection (VaWC) is the System of Record for the WIOA Title I programs in the Commonwealth of Virginia.

BACKGROUND:

The Virginia Board of Workforce Development (VBWD) Policy No. 403-04: Incumbent Worker Training provides criteria for Local Workforce Development Boards (LWDB) for implementing the Incumbent Worker Training requirements in the Workforce Innovation and Opportunity Act of 2014 for the Commonwealth of Virginia.

Incumbent worker training is intended for workers who have an established work history with the current employer and the knowledge, skills, and abilities needed by their current employer, but now need additional training to advance in the company, creating backfill opportunities, or avoid a layoff. Incumbent workers are employed at the time of their participation, and the incumbent worker training contract funds are paid to the employer for training provided to the incumbent worker either to avert a lay-off or otherwise retain employment.

Incumbent worker training is targeted to improving the skills and competitiveness of the participant and increasing the competitiveness of the employer. The training should be high quality and, wherever possible, allow the participant to gain industry recognized training experience and ultimately should lead to an increase in wages.

Strategies for developing new workforce skills in the existing workforce shall be designed, using a sector strategy approach, to benefit business, industry and the employee in ways that encourage and support the integration of new technology and business processes, increase employee productivity, support the competitiveness of the company, and provide incumbent workers with opportunities for advancement and wage gains within their company.

The Training and Employment Guidance Letter (TEGL) WIOA No. 10-16, in accordance with WIOA sec. 122 and 134, explains the requirements in order to utilize WIOA Title I-B funds for incumbent worker training.

Based on the WIOA, TEGL No. 10-16 and the VBWD Policies No. 403-04 and No. 404-01, the WIOA Title I Administrator, Virginia Community College System-Workforce Development Services (VCCS-WDS) has developed the following guidelines and procedures for Local WDB Incumbent Worker Training activities effective July 7, 2017.

GUIDANCE:

A. Incumbent Worker *Employer* Eligibility

In accordance with VBWD Policy No. 403-04 employer eligibility criteria, Local Workforce Development Boards (LWDB) are expected to develop local policy that may include the following criteria:

- Demonstration of linkages of the training activity to demand occupations and/or regionally targeted industries;
- The positive relationship of the training to the competitiveness of a participant and the employer;
- The relative wage and benefit levels of those employees (pre-training and anticipated upon completion of the training); and

- The potential state and regional economic impact, if any, of the training project.

B. Incumbent Worker *Employee* Eligibility

At a minimum, any individual being served in an incumbent worker training program must meet the general criteria below:

- At least 18 years of age;
- A citizen of the United States or a non-citizen whose status permits employment in the United States;
- Males born on or after January 1, 1960 must register with the selective service system within 30 days after their 18th birthday or at least before they reach the age of 26;
- Meet the Fair Labor Standards Act requirements for employer-employee relations and have an established employment history with the employer for 6 months or more; and
- An employee to be trained that works at a facility located in Virginia or working for a staffing agency and placed at a Virginia facility.

Note, if the incumbent worker is receiving WIOA Adult or Dislocated Worker services in addition to incumbent worker training, the individual must also meet the additional program specific eligibility requirements like all other adult or dislocated worker participants and will be counted in local program performance.

In the event that the incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as a majority of those employees being trained meet the employment history requirement.

Individuals receiving incumbent worker training are subject to selection for the federally mandated data validation. Therefore, documentation must be available to support incumbent worker eligibility requirements (See Attachment B).

C. Additional Criteria

For an employer, and their employees, to receive incumbent worker funds in support of training activities, LWDBs must consider the characteristics of the individuals in the program with regard to the training requirements; the relationship of the proposed training to the competitiveness of the participant and the employer; and, other factors the Local Board may determine appropriate, including number of employees trained, wages and benefits including post training increases, and the existence of other training opportunities provided by the employer when determining to do Incumbent Worker Training with an Employer.

D. Funding and Data Entry

There is no distinct “Incumbent Worker Program,” as local funds and statewide rapid response funds are available to provide incumbent worker training.

The options for funding incumbent worker training are as follows (with no state priority assigned):

1. Adult Local Formula Funds
2. Dislocated Worker Local Formula Funds
3. Statewide Rapid Response Funds

The Local Board may reserve and use up to 20 percent of the WIOA Title I Adult and Dislocated Worker funds allocated to the local area to pay for the Federal share of the cost of providing a training program for incumbent workers. Local WDBs shall determine the appropriate funding stream for local formula funds based upon the needs of the employer and the area. Incumbent worker training should, *wherever possible*, allow the participant to gain industry-recognized training experience and a recognized post-secondary credential.

Incumbent worker training recipients must adhere to the procurement standards set forth by the Uniform Guidance. Allowable costs of incumbent worker training are consistent with the allowable costs rules for all types of training.

Data Entry

Specific data entry requirements are located in Attachment A.

E. Non-Federal Share – Employer Portion

Employers participating in the program are required to pay for the non-Federal share of the cost of providing the training to incumbent workers of the employers in accordance with VBWD Policy No. 15-00.

Local WDBs that utilize incumbent worker training shall ensure contracts with employers provide sufficient information to include participants in reporting (see Section F below).

F. Incumbent Worker Training Documentation

The LWDBs have the responsibility for receiving, reviewing, and approving employer applications for participation in Incumbent Worker Training. The LWDBs are responsible for developing and maintaining the Incumbent Worker contract with the employer. The boards must ensure that data elements related to employee demographics, eligibility, training and attainment of desired skills or industry recognized credential, and performance are entered into the Virginia Workforce Connection, the supported state system of record.

The LWDBs are required to maintain all documentation received and reviewed for the minimum required retention period of three years. Documents that must be retained include:

- completed and signed application
- completed and signed contract

- documentation or certification of employee eligibility (see attachments to this VWL for forms that may be used)
- training plans if separate from the application
- copies of credentials received or employer certification of training completion
- a copy of the invoice from the training provider
- a copy of the employer's payment made to the training provider
- a completed reimbursement request form
- a signed form indicating that the employer has been made aware of the local area's Grievance and Equal Opportunity Policies
- all documentation regarding IWT related complaints and actions taken on those complaints.

The required file format for IWT contracts, for both individual and cohort contracts, shall include the information noted above with a note of the location of the participant file for each individual co-enrolled in a WIOA Adult or Dislocated Worker Program. Please note that the IWT file contains PII (personally identifiable information) and should be handled accordingly.

All documentation collected and maintained will be subject to validation during the auditing, monitoring and data validation processes.

G. Program Performance Reporting

Local WDBs are required to enter all individuals receiving WIOA Title I funded incumbent worker training into the VaWC and to report outcomes on all individuals who receive incumbent worker training.

For individuals in incumbent worker training, outcome measures will be determined based on LWDB incumbent worker training program design and data entry (See Section D, Attachment A, and Attachment C). Attachment C includes data elements required for reporting of Incumbent Worker Training, for example, measurable skill gains, credential attainment, and post-program employment. If local formula funds are used, the incumbent worker must have an adult or dislocated worker classification, as specified in Attachment A, Section 11.

The primary data elements that are used to collect and report incumbent worker training to the federal government are as follows:

- Participant Information Record Layout (PIRL) Data Element 907 – Recipient of Incumbent Worker Training
- TEGL 10-16 Attachment 8 Incumbent Worker Training Required Data Elements (Attachment C)

ACTION REQUIRED: Update local forms used for IWT as appropriate and inform staff working with businesses and reportable individuals on the changes.

INQUIRIES:

Administrator, Federal Workforce Programs
 Workforce Development Services
 Virginia Community College System
 Arboretum III

300 Arboretum Place, Suite 200
Richmond, VA 23236
Telephone: (804) 819-5387
Fax: (804) 786-8430
Email: wioa@vccs.edu

ATTACHMENTS:

Attachment A: IWT Data Entry Process
Attachment B: Incumbent Worker Training Eligibility Document
Attachment C: IWT Required Data Elements