

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 21-10, Change 1

TO: ALL STATE WORKFORCE AGENCIES
 ALL STATE WORKFORCE LIAISONS
 ALL REGIONAL COORDINATORS

FROM: JANE OATES /s/
 Assistant Secretary

SUBJECT: Clarification of Certain Work Opportunity Tax Credit (WOTC) Programmatic Policy Issues

1. Purpose. To provide the state workforce agencies (SWAs) clarification on the use of documents used to verify eligibility for WOTC, in order to support the uninterrupted processing of American Recovery and Reinvestment Act of 2009 (Recovery Act) Disconnected Youth related eligible certification requests.

2. References. The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (P.L. 111-312); the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, Recovery Act); Internal Revenue Code of 1986, Section 51, as amended; Internal Revenue Service Notices 2009-69 (August 31, 2009) and 2009-28, 2009-24 I.R.B 1082 (June 15, 2009); Training and Employment Guidance Letter (TEGL) No. 03-09, Information and Guidance on the Two New Work Opportunity Tax Credit (WOTC) Targeted Groups Introduced by the American Recovery and Reinvestment Act of 2009 (September 1, 2009); TEGL No. 11-08, Extension of the Information Collection for the Consolidated Work Opportunity Tax Credit Program: Revised Reporting and Processing Forms (February 19, 2009); TEGL No. 11-08, Change 1, Extension Period Granted to the State Workforce Agencies and Employers for the Uninterrupted Use of All 2007 and 2008 Work Opportunity Tax Credit (WOTC) Program Processing Forms (March 25, 2009); ETA Handbook No. 408, November 2002, Third Edition (the Handbook); and August 2009 Addendum to the Handbook.

3. Background. The Employment and Training Administration (ETA) has received requests for clarification regarding the correct combination of boxes in the Self-Attestation Form (SAF), ETA 9154 a youth must check for a SWA to accept as meeting certain requirements of the Disconnected Youth target group definition.

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4. Clarification and Guidance. The legislative authority for the Disconnected Youth WOTC target group, which was created by the Recovery Act, expired on December 31, 2010. ETA is aware that some states are not clear as to which combination of the three boxes in the SAF, ETA Form 9154, is sufficient to provide documentation to support a finding that the youth meets eligibility requirements number two and four, as explained below. As a result, it appears that some states may have interpreted the combination of the three boxes in the SAF incorrectly and issued incorrect denials to otherwise eligible and timely filed certification requests.

The Disconnected Youth group's statutory definition has four requirements, which all must be met in order to be certified as eligible by a SWA (in compliance with P.L.111-5, Sec. 51 of the Internal Revenue Code and ETA's TEGL No. 3-09, Changes 2 and 3). A SWA certifies members of the Disconnected Youth group if they have:

- (1) attained age 16 but not age 25 on the hiring date;
- (2) not regularly attended any secondary, technical, or post-secondary school during the six-month period preceding the hiring date;
- (3) not regularly been employed during such six-month period; and
- (4) not been readily employable by reason of lacking a sufficient number of basic skills.

TEGL No. 3-09 describes the way a SWA can verify that a newly hired youth meets these four eligibility requirements. Changes 2 and 3 to TEG L No. 3-09 require SWAs to use the national Self-Attestation Form, ETA 9054 (attached) to verify requirements two and four listed above.

The wording for the third checkbox on the SAF encompasses both requirements two and four. Therefore, any of the following three combinations of checked boxes in the SAF, ETA 9154, are sufficient to establish compliance with requirements two and four for eligibility in the Disconnected Youth group:

- 1) The SAF provides documentation in support of a finding that the worker has satisfied requirements two and four for the Disconnected Youth group if both boxes 1 and 2 are checked.
 - Box 1 verifies requirement two and Box 2 verifies requirement four; or
- 2) The SAF provides documentation in support of a finding that the worker has satisfied requirements two and four for the Disconnected Youth group if both boxes 1 and 3 are checked.
 - Box 1 verifies requirement two and Box 3 verifies both requirements two and four; or
- 3) The SAF provides documentation in support of a finding that the worker has satisfied requirements two and four for the Disconnected Youth group if only box 3 is checked.
 - Box 3 verifies both requirements two and four.

ETA is requiring SWAs to:

- 1) Revisit and reprocess all cases where denials were based on an incorrect interpretation of the SAF boxes;
- 2) Issue certifications to all timely filed and eligible certification requests according to the clarification above, provided that the youth and the requests met all other requirements; and
- 3) Process in a timely manner all appeals received from affected employers and consultants where denials were based on an incorrect interpretation of the SAF boxes.

5. Program Administration. SWAs' certification and overall program operation responsibilities remain the same as those described in the November 2002, Third Edition of ETA Handbook 408 and its 2009 Addendum, available at: www.doleta.gov/wotc.

6. Actions. SWA Administrators are requested to:

- a. Provide this information to all appropriate WOTC program staff, employers and their representatives, participating agencies and other interested partners; and
- b. Ensure that the SWAs and participating agencies implement these changes effective upon receipt of this TEGL.

7. Inquiries. Questions regarding these instructions should be directed to the appropriate WOTC Regional Coordinator.

8. Attachment. Youth Self-Attestation Form, ETA 9154.