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**Workforce Solutions Standards and Guidelines**

**Identifying, Reporting, Determining, and Resolving**

**Fraud, Waste, Theft and Abuse**

# Background

The Gulf Coast Workforce Board, its staff and Workforce Solutions contractors and their staff maintain the highest standards of integrity in conducting our business. We are committed to innovation, productivity, accountability and results in all that we do.

Workforce Solutions provides financial aid to customers who meet eligibility requirements. Workforce Solutions has a legal and fiduciary responsibility to ensure funds are spent in compliance with applicable laws, regulations, contract provisions, and official directives.

We recognize our responsibility as part of the public workforce system to ensure the integrity of public funds. Please refer to Issuance WS 17-07 regarding Workforce Solutions Code of Conduct.

Workforce Solutions contractors must post Fraud, Waste, and Abuse posters as well as Child Care Fraud posters in a location visible to both the public and staff. These posters must be hung together in the same location.

# Standard

All H-GAC Workforce Solutions Contractors will use these standards and guidelines for:

* identifying, reporting, and fact-finding for suspected fraud, waste, theft, or program abuse, including violations of state or federal laws, or Texas Workforce Commission/Workforce Solutions policies;
* providing information on fraud determination and appeal rights;
* providing procedures for recovering improper payments; and
* determining criteria for referring cases for potential prosecution.

Contractors will make sure that they discuss these requirements for reporting suspected fraud, waste, theft, and abuse with each of their staff members at least annually and all new hires during their new employee orientation.

Designated Board staff, including quality assurance monitors and / or the Board’s financial monitors may ask to review a contractor’s policies and its annual disclosure documentation at any time.

# Definitions

Fraud: An individual commits fraud if, to obtain or increase a benefit or other payment, either for the individual or another individual, the individual:

(1) makes a false statement or representation, knowing it to be false; or

(2) knowingly fails to disclose a material fact.

Waste: Any practice that a reasonably prudent person would deem careless or that would allow inefficient use of resources, items, or services. Waste includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.

Abuse: The intentional, wrongful, or improper use or destruction of state resources, or a seriously improper practice that does not involve prosecutable fraud. Abuse may include misapplication or misuse of public resources.

Theft: The unlawful appropriation of property with the intent to deprive the owner of that property.

Predication: The justification for opening a case for fact finding.

Program Integrity Reporting Tracking System (PIRTS): A tool for Workforce Solutions staff to use in reporting and tracking fact-finding, fraud determinations, and recoupments.

Financial Aid Communication System (FACS): A tool for Workforce Solutions staff to use for internal communication regarding suspected fraud, waste, and abuse.

Adverse Action: Any denial or reduction in benefits or services to a customer or vendor.

Preponderance of the evidence standard: A standard that is met if the proposition is more likely to be true than not true; that is, an allegation is found to be “more probable than not.”

Clear and convincing evidence standard: A higher standard carrying a greater burden of persuasion than the preponderance of the evidence standard. Clear and convincing proof means that the evidence presented by a party must be highly and substantially more probable to be true than not and the fact-finder must have a firm belief or conviction in its factuality.

Beyond a reasonable doubt evidence standard: The highest used for the burden of proof in American jurisprudence and typically one that only applies in criminal proceedings. In negative terms, the standard is met if there is no plausible reason to believe otherwise. If there is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence, or lack of evidence, in a case, then the standard has not been met.

# Reporting

Any member of the Gulf Coast Workforce Board, Board staff, or contractor staff having knowledge of suspected fraud, waste, abuse, possible illegal expenditures, unlawful activity, violations of law, or violations of state or Workforce Solutions rules, policies, and procedures occurring under any grant awarded to the Board, is required to report such information ***by following the* *procedures below*.**

## Employee Related Incidents

All cases of suspected fraud, waste, theft, or abuse that involve Workforce Solutions employees must be reported to Board staff within one work day regardless of the amount. *Employees* include Texas Workforce Commission staff, Board staff, and contractor staff.

Workforce Solutions staff **must not** conduct fact-finding on fraud, waste, or abuse involving Texas Workforce Commission staff, Board staff, and contractor staff, unless specifically directed to do so by the Office of Investigation. The state’s Office of Investigation maintains full jurisdiction over Texas Workforce Commission staff, Board staff, and contractor staff investigations.

Workforce Solutions Board staff must within one work day submit [***RID-32***](https://intra.twc.texas.gov/intranet/gl/docs/rid-32.docx) and any associated documentation relating to the incident to the Texas Workforce Commission Office of Investigation ***via email at RID.OfficeofInvestigations@twc.state.tx.us***, following the [Incident Report Instructions](https://intra.twc.texas.gov/intranet/gl/docs/rid-34i.doc). To maintain confidentiality, all e-mails to the Texas Workforce Commission must be encrypted.

Designated board staff, including quality assurance monitors and/or the Board’s financial monitors may ask to review a contractor’s policies and its annual disclosure documentation at any time.

## Non-employee Incidents

Workforce Solutions contractors will make sure their staff knows to report suspicion of fraud, waste, theft, and abuse immediately to:

* Their contractor management,
* The Workforce Solutions Financial Aid Payment Office, and
* The Gulf Coast Workforce Board staff.

Staff must report the information via FACS within one work day after identifying the situation. The Payment Office will enter information into PIRTS before beginning fact-finding. PIRTS will produce a case number for the incident.

## High-Profile Incidents (Emergency Reporting)

Anyone who discovers or suspects a high-profile incident related to Workforce Solutions’ operations or the programs it administers, shall within one workday contact Board staff and the Office of Investigations at (512) 463-2393.

Example: Complaints that could potentially have media or legislative inquiries.

# Financial Aid Provided for Customer Support to Job Search, to Get or Keep a Job, or to Participate in a Training or Work Program - Excludes Financial Aid for Child Care (Section VI)

## Suspected Fraud

A customer or any other person in a position to commit fraud may be suspected of fraud if they:

* Possess or use financial aid not issued to them
* Use financial aid for purposes other than those that were authorized

Fraud may be suspected if an anomaly or issue has been detected through:

* Tips and leads
* Monitoring / audits
* Cash Card Integrity Reviews

## Assessment, Fact-Finding, and Documentation

The Career Office, Financial Aid Support Center, and Payment Office will follow the steps detailed in Workforce Solutions Issuances that provide guidance regarding managing financial aid and the Cash Card Integrity Review Process to determine whether there is sufficient evidence of unauthorized use of funds.

## Recovery for Unauthorized Use of Funds

The Financial Aid Payment Office is responsible for fact-finding, for determining funds must be repaid and for recouping funds.

 The Desk-Aid, [Cash Card Integrity Review Process](http://www.wrksolutions.com/Documents/Staff/deskaids/Cash-Card-Integrity-Review-Process.docx), provides detailed procedures for assuring proper use of Financial Aid and for recouping funds when customers make inappropriate use of Cash Cards.

## Future Eligibility

Customers with improper payments as a result of fraud must ***~~be on a payment plan and~~**~~making payments as planned~~ repay the full amount owed*** in order to be eligible for future Financial Aid from Workforce Solutions.

# Financial Aid Provided for Support of Child Care Expenses

## Suspected Fraud

1. **Providers**

A provider may be suspected of fraud if the individual presents or causes to be presented to Workforce Solutions or its child care contractor one or more of the following items:

* + 1. Request reimbursement in excess of the amount charged
		2. Possess, use, or accept attendance cards on behalf of the parent
		3. Claim child care services that they know or should have known were
			- not provided
			- occurring during a period when the parent or child was not eligible
			- in violation of state or federal regulations regarding child care
1. **Parents**

A parent may be suspected of fraud and cause Workforce Solutions to conduct fact-finding for the following items:

1. Not reporting or falsely reporting at initial eligibility ***(200% FPG)*** or at eligibility redetermination:
	* + - household composition, or income sources or amounts that would have resulted in ineligibility or a higher parent share of cost; or
			- work, training, or education hours that would have resulted in ineligibility;
2. Not reporting during the 12-month eligibility period:
	* + - changes in income or household composition that would cause the family income to exceed 85% SMI (taking into consideration fluctuations of income);
			- a permanent loss of job or cessation of training or education that exceeds three months; or
			- improper or inaccurate reporting of attendance.
3. **Fraud may also be suspected if an anomaly or issue has been detected through:**
4. Tips and leads
5. A review of customer or vendor records
6. Monitoring and/or audits
7. Fraud Detection Reports:
	* + - **Child Care and Unemployment Insurance Early Warning**

The report identifies active child care customers whose eligibility is based on their employment, but who have recently filed for UI benefits and reported to TWC that they are unemployed or have had a reduction in work hours. The Financial Aid Support Center must check with customers to verify the change and track the interruption period. Customer may request an adjustment to the parent share of cost.

* + - * **Child Care Income**

The report compares currently available income sources for the parent / custodian (including UI wage records, UI benefit payments, and TANF) to the 85% SMI level using the family size indicated in TWIST. Excludes from consideration customers funded through CPS, foster care, or WIOA dislocated worker program (funding sources that are not subject to federal income eligibility limits).

* + - * **Child Care Work and Training**

The report includes customers funded under At-Risk Care and TANF Applicant Care with less than $500 in reported UI wages and UI benefits who are receiving more than $2,000 in child care in a given quarter.

* + - * **Relative Care Income**

The report includes relatives that are providing full-time care and receive more than $4,000 in taxable wages and $750 in child care payments during the same quarter. These parameters establish a baseline of relative providers that pose the most risk to parameters on income and billable care.

* + - * **Identity Mismatch**

The report includes parents who are receiving financial aid for child care and may have identity mismatches of their Social Security number, name, date of birth, or gender, as their information is verified electronically with federal databases.

The Financial Aid Support Center will follow the steps detailed in the [Child Care Authentication Guide](https://www.wrksolutions.com/Documents/Staff/deskaids/Child-Care-Authentication-Guide.docx) to make an assessment of whether there is sufficient cause to refer suspected fraud from a Fraud Detection Report to the Financial Aid Payment Office for fraud fact-finding.

All other instances of suspected fraud must be reported to the Financial Aid Payment Office via FACS.

## Fact-Finding

Payment Office Fact Finder staff will conduct a desk review to determine the facts regarding the allegations of suspected fraud. A fact-finding review may include the following steps or elements:

1. Entering information in FACS, if applicable;
2. Entering allegations into PIRTS;
3. Reviewing customer information in TWIST, DocuWare, paper files, and other sources as needed;
4. Comparing the information in PIRTS to the child care documentation;
5. Reviewing information resources to gather documentation to support or negate allegation(s), such as:
* BlueZone (TWC Benefits Mainframe)
* Social media sites
* Employer records
* Residential records (central appraisal districts online) and rental/lease agreements
1. Interviewing potential witnesses to determine the following:
* Ineligibility periods;
* Costs of services provided during the period(s) of ineligibility;
* Improper payments; and
* Whether services will be terminated for the parent or provider

The entire fact-finding process must be completed in all cases within ***90*** ~~30~~ days of case entry *into PIRTS* to ensure customers receive timely notice of the determination and notification of their appeal rights. ***The payment office must complete their portion of the fact-finding within 60 days.*** The results must be reported by entering the appropriate information into PIRTS. Cases that are still in care receive priority.

Note: If an informant / witness requests confidentiality, never promise complete confidentiality / anonymity; offer only what the law allows. (see the Freedom of Information Act, 5 USC §552). Litigation discovery and open records requests are possible.

## Documentation of the Findings

The Payment Office will document the findings as follows:

1. Document dates for any periods of ineligibility
2. Document specific codes for ineligibility (see section VII)
3. Determine and document improper payment amount, if any
4. Follow the steps in *Fraud Determination Section* of this standard to make a fraud / no fraud determination

Note: Avoid using legal terms such as guilty, negligent, and innocent. State the facts and avoid opinions.

## Fraud Determination

### Fraud Elements

1. Material: A material fact, one important to the outcome of the eligibility decision, was misrepresented or not disclosed. The result includes the possibility of an individual receiving something to which that individual would not otherwise be entitled. Responsibility for making the misrepresentation or nondisclosure was by the individual, or for another by the individual.
2. Willful: It is clear and convincing that there was an intentional misrepresentation. The individual would reasonably have known that the information submitted was incorrect, or it is clear that the individual intentionally failed to provide required information.

### Fraud Components

Using the fact-finding results, determine whether fraud was committed by answering the following questions:

1. Is there a misrepresentation or omission of information?
2. Is the misrepresentation or omission material?
	1. Possibility of or actually receiving services when not eligible
	2. Increase parent share of cost
3. Is the misrepresentation or omission willful?
	1. Did the individual have knowledge
	2. Was there an admission
	3. Consider if the individual did know or should have known based on these factors:
		1. First-time customer
		2. Level of education
		3. Previous issue and / or fraud
		4. Information provided during eligibility determination or redetermination
		5. Customer provided with responsibilities and reporting information
		6. Efforts to seek clarification
		7. Reasonableness

When the Payment Office makes the determination of fraud, the Payment Office will send an email to the H-GAC contract manager and backup. The Payment Office will include the support for the fraud determination in the email to Board staff. Board staff will respond within two business days and indicate concurrence or disagreement with the determination of fraud. If Board staff disagrees with the determination of fraud, that is the final decision regarding the case. The Payment Office will close out the record in PIRTS. If Board staff agree with the determination of fraud, the Payment Office will issue a determination letter to the customer.

Information must be entered into PIRTS and TWIST by the Fact-Finding staff as to whether they and Board staff are clearly convinced that fraud has been committed or that there was no fraud. Information reported should include fact-finding results, fraud determination results, and improper payment amount, as applicable.

## Determination Letter

The Payment Office will send a Determination Letter for any fact-finding resulting in an adverse action (any recoupment, denial or reduction in benefits or services to a party, including denying, delaying, reducing, suspending, or terminating a parent’s eligibility or a child’s enrollment) against a customer, parent, or provider.

An individual has the right to appeal a determination affecting the type and level of services provided. A determination is defined as a written statement issued to a Workforce Solutions customer by Workforce Solutions, its designee, or TWC, relating to an adverse action, or to a provider or contractor relating to denial or termination of eligibility under programs administered by Workforce Solutions.

A determination letter shall include the following:

1. A brief statement of the adverse action;
2. The mailing date of the determination;
3. An explanation of the individual’s right to an appeal;
4. The procedures for filing an appeal to the Board, including the 14-calendar day time frame;
5. Notification of the individual’s right to have a hearing representative, including legal counsel; and
6. The address or fax number to which the appeal must be sent.

## Recovery of Improper Payments

The Financial Aid Payment Office shall attempt recovery of the following improper payments for:

1. an ineligible recipient;
2. an ineligible service;
3. any duplicate payment; and
4. services not received

After the debt is final (no appeal is made or all appeals are exhausted), the Financial Aid Payment Office must take the following actions:

1. Send Collection Letter
2. If full repayment is not made or if a repayment schedule is not in place, send a Demand Letter, ***wait 30 days***
3. ***If a repayment plan is in place, and a payment is missed with a current amount due of $100 or more, wait 30 days and send the final debt to TWC collections.***

If there is no response within 30 days of the Demand Letter being sent, the Financial Aid Payment Office must notify TWC Collections with the following information, so they can place a warrant hold on the debtor’s account with the Texas Comptroller of Public Accounts:

1. Name of debtor
2. Social Security number of debtor
3. Amount of debt
4. Date debt was incurred / determined

Once the debt is paid in full, the Payment Office must notify TWC Collections and provide the following to remove the warrant hold:

1. Name of debtor
2. SSN of debtor
3. Date debt was paid in full

### Bankruptcy

When the Payment Office learns that an individual from whom it is seeking collection of an improper payment has filed for bankruptcy, Workforce Solutions will cease all collection activities immediately to avoid violation of the federal bankruptcy court’s automatic stay against collection activities against the debtor. Penalties for violation of this automatic stay are severe.

If Workforce Solutions wishes to safeguard its claim to payment in the bankruptcy proceeding, it must first determine if the bankruptcy was filed under the Federal Bankruptcy Code as a:

* Chapter 7 bankruptcy (known as “liquidation”); or
* Chapter 13 bankruptcy (known as “wage earner”—An employed individual pays back prepetition debts with post-petition earnings pursuant to a plan).

## Future Eligibility for Child Care

Customers with any improper payments will be prohibited from future financial aid eligibility until improper payment is paid in full. This rule will not prohibit child care for Choices or Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) customers.

## Records Retention

The Payment Office will retain all associated documentation to support the administrative determination resulting from fact-finding of the incident in PIRTS. Do not purge associated records until the debt is final and paid in full.

# Ineligibility Determination Reason Codes

## Parents (PA)

Findings and Conclusions:

* PA100 - It has been determined that the parent failed to submit eligibility documentation.
* PA110 - It has been determined that the child is not under 13 years of age.
* PA111 - It has been determined that the child with a disability is not under 19 years of age.
* PA112 - It has been determined that the child is not a U.S. citizen.
* PA113 - It has been determined that the family is not within the Board’s local workforce development area.
* PA114 - It has been determined that the family income is greater than 85 percent of the SMI.
* PA115 - It has been determined that the parent is not on military deployment.
* PA116 - It has been determined that the family income on military deployment is greater than 85 percent of the SMI.
* PA117 - It has been determined that the family assets are greater than $1,000,000.
* PA118 - It has been determined that the family is not homeless.
* PA120 - It has been determined that the parent is not working.
* PA121 - It has been determined that the parent is not working the minimum number of hours.
* PA122 - It has been determined that the parent is not attending job training.
* PA123 - It has been determined that the parent is not attending the minimum job training hours.
* PA124 - It has been determined that the parent is not attending an educational program.
* PA125 - It has been determined that the parent is not fulfilling the minimum educational program hours.

## Improper Payment Codes (200)

* PA200 - You were ineligible from [DATE] to [DATE], and you received benefits that you were not entitled to, thus establishing an improper payment totaling [$AMOUNT].
* PA210 - You were ineligible from [DATE] to [DATE], but your ineligibility did not result in an improper payment.

## Fraud / no Fraud Reason Codes (300)

It has been determined that the denial, delay, reduction, suspension, or termination of your child care services was based on the following fraudulent activity or activities.

* PA300 - Not reporting or falsely reporting initial determination or redetermination a household composition or income that resulted in ineligibility.
* PA301 - Not reporting or falsely reporting during initial determination or redetermination a household composition or an income that resulted in a higher parent share of cost.
* PA302 - Not reporting or falsely reporting a work status during initial determination or redetermination, with the result being ineligibility.
* PA303 - Not reporting or falsely reporting a training status during initial determination or redetermination, with the result being ineligibility.
* PA304 - Not reporting or falsely reporting education hours during initial determination or redetermination, with the result being ineligibility.
* PA310 - Not reporting during the 12-month eligibility period changes in income or household composition, with the result being an income of greater than 85 percent of the SMI.
* PA311 - Not reporting during the 12-month eligibility period the permanent loss of a job, training, or education for greater than three months.
* PA312 - Not reporting during the 12-month eligibility period improper or inaccurate recording of attendance in the Child Care Attendance Automation (CCAA) system.
* PA320 - It has been determined that the denial, delay, reduction, suspension, or termination of your child care services was NOT based on a fraudulent activity.