

§4429. High Unemployment Areas

(a) The Panel may apply special funding criteria to High Unemployment Area (HUA) training projects. To qualify for this type of funding, the employer or participating employer must be located in the HUA. The trainees in a HUA must earn at least the ETP Minimum Wage and complete the standard retention period except as identified in subsections (c) and (d) below.

(b) An HUA may be a county or portion of a county, or some other distinct region that has. To be designated as an HUA, the region must have an unemployment rate (Regional Rate) exceeding the state average rate (Benchmark Rate).

When the Benchmark Rate is less than 10%, the Regional Rate must be higher by a differential of at least 25%. When the Benchmark Rate is at or higher than 10%, the Regional Rate must be higher by a differential of at least 15%.

(c) The Panel may also adjust the differential between Benchmark Rate and Regional Rate on a case-by-case basis for good cause shown. Good cause may include the longevity of unemployment in the region, and whether unemployment has had a particularly adverse effect on the industry sector or occupation being considered for training funds.

(d) The Benchmark Rate and Regional Rate will be based on using the unemployment rates set by the Labor Market Information Division (LMID) of the Employment Development Department. In determining HUA status, the Panel will abide by the Benchmark Rate set by LMID. The Panel will also abide by the Regional Rate listing posted on its website at www.etp.ca.gov or the most recent information published by LMID on its website at www.edd.ca.gov. In so doing, the Panel will follow the Benchmark Rate(s) and Regional Rate(s) that favor designation as an HUA as updated by LMID.

(e) For HUA projects, the Panel may reduce the ETP Minimum Wage requirement at Section 10201(f) of the Unemployment Insurance Code by up to 25 percent, on a case-by-case basis. Retraining projects will only qualify for this reduction if post-retention wages exceed pre-retention wages by at least seven percent, **exclusive of cost-of-living adjustments (COLAs) or health benefits**. This reduction shall not apply to wages governed by a collective bargaining agreement. A new-hire project will qualify for the 25-percent reduction, without regard to the seven percent a wage differential, for post-retention wages.

~~On a case-by-case basis the wage differential may be adjusted to less than seven percent for retrainees in the agricultural industry. Typically, this industry is directly involved in harvesting, packing or processing crops and/or food products. (See the Crop Production and Food Manufacturing sectors in the North American Industry Classification System.)~~

(~~d~~-f) For HUA projects, the Panel may modify the retention period at *Section 10209*(~~f~~ g) of the Unemployment Insurance Code (See Section 4400(h).) For these projects, the Panel may choose to make a special modification, and designate a retention period of a minimum of 90 out of 120 consecutive days with up to ~~two~~ three employers pursuant to Section 10214.5(c) of the Unemployment Insurance Code. Any retention modification shall be made on a case-by-case basis.

(~~e~~-g) The Panel may make additional waivers for trainees in a HUA project who qualify as "working poor" under Section 4400(hh), on a per-trainee basis. In particular, the Panel may waive the limitations under Section 4420 and fund the same number of basic skills and literacy training hours as are funded for vocational skills training, on a per-trainee basis.

Reference: Sections 10201.5, 10204.5 and 10214.5, Unemployment Insurance Code.

Purpose of 15-Day Revision: The proposal to delete the requirement at Section 4429(e) that pre-retention wages must be exclusive of COLAs and health benefits, for purposes of comparison to post-retention wages which may be inclusive, is to create conformity with all other definitions of wages throughout Panel regulations. (See Section 4418.) This additional revision is consistent with the purpose of the amendment as originally noticed, which is to delete the requirement for a specific 7% differential in recognition that the Panel relies on employer representations of a wage differential rather than requiring payroll or other documents as proof. This revision is also needed to reflect current practice, insofar as employers report wages that include COLAs and health benefits for purposes of this comparison. In other words, this revision would reform the confusing comparison of "apples to oranges." As noted in the Initial Statement of Reasons on the amendment as originally noticed, this revision is also consistent with the statutory requirement that post-retention wages must be higher. (See UI Code Section 10201.5.) Furthermore, this revision is consistent with the statutory definition of "wages" which includes health benefits and does not mention COLAs. (Section 10201(f).)

The revision to add "to" at Section 4429(e) corrects a technical error.