

COMMONWEALTH OF VIRGINIA
VIRGINIA BOARD OF WORKFORCE DEVELOPMENT

POLICY NUMBER:

REPLACES VBWD POLICIES 00-8, AND 13-02

EFFECTIVE DATE:

TITLE: Identification of Eligible Providers of Occupational Skills Training

PURPOSE

This policy provides eligibility criteria for providers of training, information, and procedures for implementing the Eligible Training Provider (ETP) requirements in the Workforce Innovation and Opportunity Act of 2014. This policy applies is applicable to providers of occupational skills training services for adults, dislocated workers, and other populations as defined by WIOA, Title 1-B.

REFERENCES

Workforce Innovation and Opportunity Act (WIOA), Section 122
Code of Virginia Section 23-276.2
US DOL Training Employment and Guidance Letter (TEGL) 41-14

BACKGROUND

The WIOA established the eligible training provider process as part of the overall strategy to ensure informed customer choice, performance accountability, and continuous improvement.

WIOA legislation requires that in order to provide occupational skills training supported through an Individual Training Account (ITA), training providers and their specific programs must be included on the state maintained ETPL. WIOA sets forth the requirements and general process by which training programs can be included on the state ETPL by validating that all listed providers and their programs have met minimum state standards.

The Governor, in consultation with the state board, must establish basic eligibility criteria, information requirements, and procedures for use by local boards in the determination of eligibility of training providers. These criteria are developed to ensure that programs on the ETPL meet the minimum quality standards and deliver industry-recognized skills and credentials that provide individuals with opportunity for career progression.

Local Workforce Development Boards (LWDBs) have the responsibility for receiving, reviewing, and approving training providers and their programs. They must also ensure that data elements related to initial application, continued eligibility and performance information regarding approved providers and programs are entered into the supported state system.

The state's WIOA Title 1 administrative entity is required to maintain the infrastructure to support the state ETPL, including publishing provided information related to cost and performance outcomes, and make that it publicly accessible in a user-friendly way to the consumers, other members of the public, and other workforce stakeholders.

Approval by a LWDB places the provider and program on the state ETPL but does not guarantee a local area will fund the approved training activity through the issuance of an ITA. That determination is further based on local policy which must include, at minimum, relevance of training to demand occupations that are in demand regionally, availability of local funds, and likelihood that training will support the individual in meeting their career objectives and employment.

It is important to note that the requirements established by this policy for inclusion on the ETPL only applies to training services funded through issuance of an ITA. A program of training services is defined as one or more courses or classes, or a structured regimen that leads to a recognized post-secondary credential, secondary school diploma or its equivalent, employment, or measurable skills gains towards a credential or employment.

DISTANCE AND ONLINE TRAINING PROVIDERS

Workforce Innovation and Opportunity Act funds may be used for programs that are conducted in a completely online format. Online providers may apply and be considered for inclusion on the state ETPL and will be required to meet the same eligibility and performance criteria established for classroom-based instructional providers.

OUT-OF-STATE TRAINING PROVIDERS

Workforce Innovation and Opportunity Act funds may also be used for approved programs from other states. Approved providers and programs based in other states are not required to complete an application for approval in Virginia. In order for an eligible customer to obtain training through an out-of-state provider, the training provider must be listed on a state maintained eligible training provider list from another state.

Eligible training provider lists in other states can be located here:

http://www.servicelocator.org/program_search.asp?prgcat=1&officeType_1=0&frd=true

To receive funding through a LWDB, all providers and programs recognized by other states must meet Virginia's state criteria establish for initial eligibility and performance criteria established by this policy must be met. Local workforce boards must have policies in place that addresses reciprocity with neighboring states and ensures the provider is able to meet the performance reporting requirements called for in this policy.

INFORMED CUSTOMER CHOICE REQUIREMENT

Occupational skills training shall be provided in a manner that ensures informed customer choice in the selection of training for regionally in-demand occupations, and prudent use of public funds in the selection of such providers.

ACCESSIBILITY

Training programs must make every effort to provide training services that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities.

EXCEPTIONS TO THE ITA AND THE ETPL REQUIREMENTS

There are several exceptions to the required use of an ITA for training. In situations covered by these exceptions, a contract for services may be used to provide for training in lieu of the ETPL process.

1. On-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience, and transitional employment are not included in the eligible training provider list and therefore are not subject to the eligibility requirements. Local Workforce Boards are required to identify their criteria for selecting such contractors in local policy and any performance information required by the state will be specified in the specific policies for those types of training.
2. Where a Local Workforce Board determines there are an insufficient number of eligible providers in the local area to accomplish the purpose of an ITA. The local plan and local policy must describe how this determination was made and the process used for contracting for services.
3. If the Local Workforce Board determines that a community-based organization (CBO) or nonprofit whose primary mission is to serve individuals with barriers to employment provides effective training services. The Local Workforce Board must develop criteria in local policy to determine that the program is effective.
4. Contract training for multiple individuals in in-demand industry sectors or occupations, as long as the contract does not limit the individual's consumer choice.
5. Circumstances in which a pay-for-performance contract is appropriate, if the Local Workforce Board chooses to utilize this strategy.

STATE CRITERIA FOR INITIAL PROVIDER/PROGRAM ELIGIBILITY

There are five categories of providers who may apply for consideration to be included on the state eligible training provider list:

1. A postsecondary educational institution that is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 and that provides a program that leads to certification or license or college certificate, associate degree, or baccalaureate degree.
2. A postsecondary school that offers formal instructional programs with curricula designed primarily for students who have completed the requirements for a high school diploma or its equivalent. Such schools include programs of academic-vocational, vocational, and continuing professional education that may lead to a certification or licensure. This category excludes avocational and adult basic education programs.
3. An entity that carries out related instruction under the National Apprenticeship Act that is recognized by the Virginia Department of Labor and Industry,
4. A provider of a program of occupational training services that under Section 23-276.2 of the Code of Virginia is exempt from certification as a postsecondary school such as a professional or occupational training program regulated by another state or federal governmental agency other than the State Council of Higher Education for Virginia (SCHEV), any school, institute, or course of instruction offered by any trade association or any nonprofit affiliation of a trade association on subjects related to the trade, business, or profession represented by such association, or
5. A provider of adult education and literacy activities under title II of WIOA, IF these activities are provided in combination with occupational skills training.

Programs and Providers under categories 1 and 2 must be provide evidence of active certification by the appropriate state agency to operate or must have program approval from an applicable state agency in order to be considered for approval by a local workforce development board to offer training services to WIOA customers through the individual training account method.

Programs and providers under category 3 will be granted approval, if requested, following confirmation by the Virginia Department of Labor and Industry that the sponsoring employer and apprenticeship related instruction have been recognized by the state and are active and in good standing. VBWD Policy # 15-02 describes the eligibility criteria and procedures specific to Registered Apprenticeship programs.

Attachment A describes certain exceptions to the certification requirements of this policy. A list of certifying agencies is provided as Attachment B to this policy.

STATE ETPL APPLICATION INFORMATION REQUIREMENTS

Training providers applying for inclusion on the ETPL must provide information using a common, statewide application. That application is presented as Attachment C.

- A. Description of each program of training services to be offered;
- B. Provide information regarding student outcomes, as described in WIOA sec 116 (b)(2)(A)(i)(I)-(IV).
- C. Information on cost of attendance, including costs of tuition and fees;
- D. Whether the training program leads to an industry-recognized certificate or credential, including recognized post-secondary credentials;
- E. Whether the certificate or credential can be stacked with other credentials over time as part of a sequence to move an individual along a career pathway or up a career ladder
- F. Whether the provider has developed the training in partnership with business (a description of the partnership (s) and the name of the business(es));
- G. Which in-demand industry sectors and occupations best fit with the training program; and the average wages for the primary target occupation for which the training prepares the individual, as published by the [Virginia Employment Commission](#), for the state and the local area where they are pursuing application;
- H. A description of the prerequisites or skills and knowledge required prior to the commencement of training;
- I. Description of how the provider will ensure access to training services throughout the State, including rural areas and through the use of technology; and
- J. Description of how the training provider will work with the local board to serve individuals with barriers.

CONTINUED ELIGIBILITY AND PROGRAM PERFORMANCE REPORTING

After one full year of eligibility, approved Eligible Training Providers will be required to provide basic information for continued eligibility and submit performance information for participants whose activities are funded through an ITA.

Local Workforce Development Boards that that initially accepted application and approved that provider/program will request renewal verification and program performance reporting for providers/programs using a standard statewide template and procedure.

The ETPL Continued Eligibility Checklist and Performance Reporting Template is provided as Attachment D. That provided data must be entered by the approving LWDB into the state reporting system to ensure transparency and support informed customer choice in the evaluation and selection of training providers. Providers of training who fail to provide the verification and performance information within 90 days of request will be removed from the state eligible training provider list.

A recognized apprenticeship program may remain on the ETPL as long as it remains registered and recognized by the Virginia Department of Labor and Industry (DOLI). Annually, the administrator of Title I funds will provide DOLI a list of approved providers in this category and verify the status of apprenticeship program.

STATE ETPL PERFORMANCE REQUIREMENTS

WIOA permits Governors, in consultation with the state Board, to establish performance criteria for training providers. Beginning in the Program Year 2016-2017, in order to remain on the ETPL, all eligible training providers and programs who receive funding through an ITA must annually provide information on the following four outcomes for WIOA Title 1 participants:

1. Training Completion Rate
2. Credential Attainment Rate
3. Entered Employment Rate
4. Post Training Earnings

Outcomes 1 and 2 will be used to evaluate continued inclusion on the ETPL. The performance levels required to remain on the ETPL are as follows:

- Training Completion Rate must meet or exceed 50%.
- Credential Attainment rate must meet or exceed 65%.

Registered apprenticeship programs are not subject to the state performance requirements. Any apprenticeship program may remain on the ETPL as long as it remains registered and recognized in good standing by the Virginia Department of Labor and Industry.

If a provider or program failed to meet the criteria established above, they will be removed from the state ETPL. A letter informing them of that removal will be issued by the LWDB that originally reviewed and accepted their application. Training providers who are removed from the state list may appeal.

This policy acknowledges that completion and credential attainment may be impacted by multiple factors and each local workforce board will adopt a policy that describes the factors that will be evaluated during that appeals process.

ACCURACY OF INFORMATION AND APPEALS PROCESS

The Commonwealth has the responsibility for maintaining the statewide certified training provider list and as such, will have final responsibility to ensure that the list is accurate and is an honest reflection of the training opportunities available in Virginia.

1. ACCURACY OF INFORMATION- If after consultation with the LWDB involved, it is determined that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information, the Commonwealth may terminate the eligibility of the provider or program to receive WIOA funds for any program for a period of time that is not less than 2 years.
2. NONCOMPLIANCE- If the Commonwealth, or the LWDB working with the Commonwealth, determines that an eligible provider substantially violates any requirement under this Act, the Commonwealth, or the LWDB working with the Commonwealth, may terminate the eligibility of such provider or individual program to receive WIOA funds for the program involved or take such other action as the Commonwealth or LWDB determines to be appropriate
3. REPAYMENT- A provider whose eligibility is terminated under paragraph (A) or (B) for a program shall be liable for repayment of all WIOA funds received for the program during any period of noncompliance.
4. CONSTRUCTION- These penalties shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

APPEAL PROCESS FOR DENIAL OF PLACEMENT ON OR SUBSEQUENT REMOVAL FROM AN ELIGIBLE TRAINING PROVIDER LIST

The training provider may appeal to the state workforce board if a local workforce development board denies their application subsequently denies them in a local appeal process. The provider must do so within thirty (30) calendar days from the date the final denial notification was provided. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the provider and training program(s) denied and must clearly state the reasoning for the appeal. The VBWD shall review the request and issue a written decision that either upholds or reverses the original. If the decision is upheld, that program must wait 12 months to reapply.

Attachment A - Training Providers/Program Exempt from Certification

§ 23-276.2 of the Code of Virginia allows the following exemptions from certification:

1. Public institutions of higher education in Virginia
2. Educational offerings or activities that meet the following:
 - a. A nursing education program or curriculum regulated by the Board of Nursing;
 - b. A professional or occupational training program regulated by another other state or federal governmental agency;
 - c. Those courses or programs of instruction given by or approved by any professional body that are principally for continuing or professional education and for which no degree credit is awarded;
 - d. Those courses or programs offered through approved multistate compacts, including, but not limited to, the Southern Regional Education Board's Electronic Campus;
 - e. Those courses offered and delivered by a postsecondary school that is accredited by an entity recognized by the U.S. Department of Education for accrediting purposes, if such courses are provided, solely on a contractual basis for which no individual is charged tuition and for which there is no advertising for open enrollment;
 - f. Any school, institute or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects related to the trade, business or profession represented by such association;
 - g. Any public or private high school accredited or recognized by the Board of Education;
 - h. Tutorial instruction delivered and designed to supplement regular classes for students enrolled in any public or private school or to prepare an individual for an examination for professional practice or higher education.
 - i. Religious Institutions whose primary purpose is to provide religious or theological education.

§ 23-276.4 C of the Code of Virginia states that institutions of higher education are not required to obtain further certification if they (i) were formed, chartered or established in the Commonwealth; (ii) have maintained a main campus continuously in the Commonwealth for at least 20 calendar years under their current ownership; (iii) were continuously approved or authorized to confer or grant academic or professional degrees by the Council during those 20 years; and (iv) are fully accredited by an accrediting agency that is recognized by the United States Department of Education.

Postsecondary institutions that do not meet the requirements of § 23-276.2 or § 23-276.4 (C) above are required to obtain certification in accordance with Attachment A.

Attachment B – List of Certifying State Agencies

The following State agencies can provide approval for Occupational Skills Training programs (please note this is not an all-inclusive list):

- Criminal Justice Services Department
- Department of Health Professions (DHP)
- Department of Medical Assistance Services (DMAS)
- Department of Motor Vehicles
- Department of Professional and Occupational Regulation (DPOR)
 - a) Board for Barbers and Cosmetology
 - b) Board for Contractors
 - c) Fair Housing Board
 - d) Real Estate Board
 - e) Real Estate Appraisers Board
 - f) Tradesmen
 - g) Board for Waste Management Facility Operators
 - h) Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals
- State Council of Higher Education for Virginia (SCHEV)
- Virginia Board of Pharmacy
- Virginia Board of Nursing

Attachment C – State ETPL Application

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Attachment D – ETPL Continued Eligibility Checklist and Performance Reporting Template

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