

<b>Policy Area:</b> Programs and Services	
<b>Title of Policy:</b> Identification of Eligible Providers of Occupational Skills Training	<b>Number:</b> 404-01 (2016)
<b>Effective Date:</b> January 1, 2017	<b>Review by Date:</b> January 1, 2019
<b>Approved Date:</b> December 1, 2016	<b>Approved by:</b> 
<b>Revision Date:</b>	

I. 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 (WIOA). This policy is applicable to providers of occupational skills training services for adults, dislocated workers, and other populations as defined by WIOA, Title I-B.

II. Summary and Impact

The WIOA establishes 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 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 eligible training provider list (ETPL). WIOA sets forth the requirements and general process by which training providers and programs can be included on the state ETPL by validating that all listed providers and their programs have met minimum state standards. This policy establishes the process and requirements for Virginia’s ETPL.

III. References

- Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- United States Department of Labor, Workforce Innovation and Opportunity Act; Final Rule, 20 CFR, Part 680 Subpart D, Eligible Training Providers
- Code of Virginia Section 23-276.2
- Training and Employment Notice No. 03-15, *Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services*

IV. Policy

The Governor, in consultation with the state board, must establish basic eligibility criteria, information requirements, and procedures for use by Local Workforce Development Boards (LWDBs) 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.

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 of record.

The state's WIOA Title I Administrator is required to maintain the infrastructure to support the state ETPL, including publishing provided information related to cost and performance outcomes, and make 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 workforce development 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 apply 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 such a credential or employment.

### **DISTANCE AND ONLINE TRAINING PROVIDERS**

WIOA 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**

WIOA 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 if there is an active reciprocity agreement in place. In order for an eligible customer to obtain training through an out-of-state provider, the training provider and program must be listed on a state maintained WIOA eligible training provider list from another state. The Virginia Community College System (VCCS), as the Administrator of Title I funding will establish, maintain, and periodically review reciprocity agreements with neighbouring (bordering) states.

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

**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 LWDB 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 LWDB determines that a community-based organization (CBO) or non-profit whose primary mission is to serve individuals with barriers to employment provides effective training services, the LWDB must develop criteria in local policy to determine that the program is effective.
4. Contract training is allowed 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 non-profit affiliation of a trade association on subjects related to the trade, business, or profession represented by such association.
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 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 LWDB 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.

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.

## V. Procedures

### **STATE ETPL APPLICATION INFORMATION REQUIREMENTS**

Training providers applying for inclusion of their programs on the ETPL must provide information using a common, statewide application. That application is presented as Attachment C. The following must be documented.

- Description of each program of training services to be offered;
- Provide information addressing factors related to student outcomes, as described in WIOA sec 116 (b)(2)(A)(i)(I)-(IV);
- Information on cost of attendance, including costs of tuition and fees;
- Whether the training program leads to an industry-recognized certificate or credential, including recognized post-secondary credentials;
- 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;
- Whether the provider has developed the training in partnership with business (a description of the partnership(s) and the name of the business(es));

- 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;
- A description of the prerequisites or skills and knowledge required prior to the commencement of training;
- Description of how the provider will ensure access to training services throughout the State, including rural areas and through the use of technology; and
- 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 annually to provide basic information for continued program eligibility and will submit performance information for participants whose activities were funded through an ITA.

Local Workforce Development Boards 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.

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 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%.

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.

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.

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 (1) or (2) for a program shall be liable for repayment of all WIOA funds received for the program during any period of noncompliance. Local Workforce Development Boards will make reasonable efforts to collect funds. Administrative processes and guidance for associated disallowed costs are established to support local boards in those efforts.
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 LWDB denies their application or renewal and 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.

A representative of the LWDB who initially approved the application may be present at any hearing. 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.