


<b>Policy Area:</b> Programs and Services	
<b>Title of Policy:</b> Eligible Training Provider List	<b>Number:</b> VBWD 404-01 Change 1
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<b>Revision History:</b> VBWD 404-01	

**I. Purpose**

The Workforce Innovation and Opportunity Act (WIOA) requires states to maintain a list of training providers and training programs that are eligible to be purchased through an Individual Training Account (ITA). The list is known as the Eligible Training Provider List (ETPL). The WIOA establishes the eligible training provider process as part of the overall strategy to ensure informed customer choice, performance accountability, and continuous improvement. This policy provides the eligibility criteria, required information, performance measures, reporting elements, and the application procedures for inclusion on Virginia’s ETPL. Virginia’s Department of Workforce Development and Advancement (VDWDA), as Virginia’s State Workforce Department is responsible for overseeing and maintaining Virginia’s ETPL. 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.

**II. Revision History**

This Virginia Board of Workforce Development (VBWD) policy rescinds and replaces VBWD 404-01 Identification of Eligible Providers of Occupational Skills Training and VBWD 404-02, Change 1 Registered Apprenticeship Programs. Registered apprenticeship ETPL guidance from VBWD Policy 404-02, Change 1 has been incorporated into VBWD 404-01 change 1. The Local Workforce Development Boards (LWDBs) will maintain responsibility for reviewing and evaluating initial eligibility applications. The renewal evaluation process will be conducted by the VDWDA. The VDWDA will expand the provider services module in the Virginia Workforce Connection (VaWC) for the submission and processing of ETPL initial and renewal applications.

**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
- United States Department of Labor, Workforce Innovation and Opportunity Act; Final Rule, 20 CFR, Part 680 Subpart F, Work-Based Training
- United States Department of Labor, Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations; Final rule, 29 CFR, Part 29
- Code of Virginia Section 23.1-217, 23.1-218, and 23.1-219

- Training and Employment Guidance Letter 19-16 *Operating Guidance for the Workforce Innovation and Opportunity Act (WIOA)*
- Training and Employment Guidance Letter 3-18 *Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)*
- Training and Employment Guidance Letter 8-19 *Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs*
- Training and Employment Guidance Letter 8-19 Change 1 *Guidance on registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act (WIOA)*
- Training and Employment Guidance Letter 10-16 Change 2 *Workforce Innovation and Opportunity Act (WIOA) title I Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Core Programs*

#### **IV. Policy**

##### **A. Providing Training Under WIOA Title I and Types of Training**

WIOA authorizes both direct contract for services and individual training accounts (ITAs). An ITA is a payment agreement established by a local workforce development board on behalf of a student with a training provider and may be used to pay for any allowable type of training as long as the program of training service is on Virginia's ETPL. Select training services may also be provided using a contract between the provider and the local board. For these select training services, students can receive the training from a program that is not on the ETPL.

Training services that are exempt from the requirement to use a training provider on the ETPL include:

- On-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience, and transitional employment. LWDBs are required to identify their criteria for selecting such contractors in local policy. Any performance information required by the state for training that is exempt from the ETPL will be specified in the policy for those types of training.
- When the 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.
  - A community-based organization (CBO) or non-profit whose primary mission is to serve individuals with barriers to employment provides demonstrated effective training services. The LWDB must develop criteria in local policy to determine that the program is effective.
  - It would be most appropriate to award a contract to a provider to facilitate the training of multiple individuals in in-demand industry sectors or occupations, as long as the contract does not limit the individual's consumer choice.

- Circumstances in which a pay-for-performance contract is appropriate, if the LWDB chooses to utilize this strategy.

A program of study is defined as one or more courses or classes, or a structured regimen that provides job-driven training services and leads to a recognized post-secondary credential, secondary school diploma or its equivalent, employment, or measurable skills gains towards such a credential or employment. Training services could be delivered in person, online, or in a hybrid model.

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

## **B. Roles and Responsibilities**

The VDWD, in consultation with the VBWD and soliciting and considering input from the local workforce development boards and public, is responsible for the following:

- Developing and maintaining the ETPL;
- Establishing initial and renewal criteria, information requirements, and performance requirements;
- Receiving initial training provider and program applications and referring to a LWDB for initial review;
- Ensuring that the LWDB reviews initial training provider and program applications in a timely manner;
- Notifying the training provider regarding all decisions to approve or deny eligibility on the ETPL and will update the ETPL accordingly;
- Ensuring that data elements related to the initial application, renewal, and performance information regarding approved providers and programs are entered into the supported state system of record;
- Receiving renewal applications, conducting evaluations for each training provider and program for renewal and will make the recommendation to approve or deny renewal applications;
- Taking appropriate actions, including the removal of ineligible training providers from the ETPL, against training providers that substantially violate the WIOA or state policies;
- Establishing an appeals procedure to training providers for programs that are denied inclusion on the ETPL;
- Establishing a process for adding Registered Apprenticeship (RA) programs to the ETPL and verify the registration status of the RA programs;
- Maintaining the infrastructure to support the state ETPL, including staffing, 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; and
- Ensuring that the ETPL does not reveal personally identifiable information about individuals.

The LWDB is responsible for the following:

- Ensuring that there are sufficient numbers and types of providers to offer training services (including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities) serving the local area and providing the services involved in a manner that maximizes consumer choice and leads to competitive integrated employment for individuals with disabilities;
- Evaluating and certifying the initial training provider and program(s) and communicating that decision to the VDWD within 90 days of receiving a complete application;
  - Local Boards must have an approved process in place to review initial training provider and training programs eligibility for certification;
- Removing ETPs that fail to meet state performance standards from the local ETPL, in accordance with state and local policies and procedures.
- Ensuring that the states' ETPL is disseminated publicly through the local one-stop system, including in formats accessible to individuals with disabilities, and its partner programs.
- Completing other responsibilities delegated to the LWDB by the state.

Training providers must submit accurate and timely performance data and cost information for both initial eligibility and renewals to the VDWD. Training providers must deliver results and provide complete and accurate information in order to retain status as an ETP (see Initial Eligibility and Renewal Criteria for additional information).

### **C. Eligible Institution Types**

There are five categories of providers who may apply for consideration to be included on the Virginia ETPL:

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 VDWD. See RAP section for additional information on how RAPs may opt in to the ETPL.
4. A provider of a program of occupational training services that under Section 23.1-219 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.

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 on the ETPL.

In addition to identifying as one of the five eligible categories described above, the training provider must also meet the following minimum requirements:

- The training provider has a current verifiable Federal Employer Identification Number (FEIN);
- The training provider is not federally debarred, suspended or otherwise excluded from or ineligible for participation in federal programs or activities;
- The training provider is not a delinquent taxpayer with the Virginia Department of Revenue;
- The training provider has to provide written grievance and EO policies for students to file complaints within an organization against faculty, staff, or other employees, that are published to ensure that students are aware of how to file a complaint; and
- The training provider complies with all applicable non-discrimination and equal opportunity provisions as potential recipients of WIOA funds.

*Out-of-state Training Providers:* WIOA funds may also be used for approved programs from other states. Reciprocity agreements between Virginia and other states will define initial eligibility criteria and application process and renewal criteria and process.

If Virginia does not have an active reciprocity agreement in place with the training provider's home state, the out-of-state training provider must follow the same application process for initial eligibility and renewal process as in-state providers. All out-of-state training providers must be in good standing on their home state's ETPL.

#### **D. Initial Eligibility**

To be considered for inclusion on the ETPL, the LWDB must certify the initial training provider application and all new program applications. The training provider must submit an application through the provider services module in the VaWC. An application may be submitted at any time of the year and new training providers and programs will be continually added to the ETPL as they become approved.

The LWDB will review the completed application within 90 business days of receipt to determine if the training provider meets the minimum criteria established. If approved, initial eligibility status is for no more than 12 months. After the initial eligibility period expires, training providers and each training program are subject to the procedures for eligibility renewal.

The training provider must agree to collect and report to the VDWD the social security numbers or some other form of identification that would allow for an employment and wage

match of all students in each eligible training program (WIOA and Non-WIOA funded students during the reporting time frames), as well as the performance outcomes described in the reporting section below on an annual basis.

*Information Requirements:* All training providers applying for inclusion on the ETPL must provide a completed application that must include the following:

- Description of each program of training services to be offered to include description of instruction delivery-classroom, distance learning, or hybrid instruction;
- Location of training provider;
- Information on cost of attendance, including costs of tuition and fees;
- Training program completion rate;
- 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;
- Credential attainment rate (see definition below);
- 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;
- 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;
- Description of how the training provider will work with the LWDB to serve individuals with barriers;
- Description of written and published refund policies specifying when refunds for tuition and other costs associated with the training program will be allowed;
- Description of whether the training program was developed in partnership with a business; and
- Description of how the training program aligns with the in-demand industry sectors and occupations within the region.

*Criteria for Evaluation:* The LWDB will review the initial training provider and training program application(s) to ensure that the following criteria are met.

- Verifiable training program completion rate for the previous program year (July 1- June 30) must meet or exceed 65%: Defined as the total number of ALL students who successfully completed (not withdrew or transferred) each program of study divided by the total number of ALL students who were enrolled in each program of study.
- Verifiable credential attainment rate for the previous program year must meet or exceed 65%: Defined as the total number of ALL students who exited each program of study AND attained a credential associated with the program of study within one year after exit divided by the number of ALL students enrolled in an education or training program who exited during the reporting period.

- Whether the provider has developed the training in partnership with business (a description of the partnership(s) and the name of the business(es)); and
- Verification that the training program aligns with in-demand industry sectors and occupations within the region.

If the training provider does not have program completion rates or credential attainment rates because the training program is a new program, then the provider may include written justification for the missing data. A new program is defined as a program that has been offered for less than 12 months.

Approval places the provider and program on the state ETPL but does not guarantee a local workforce development area will fund training activities in the program through the issuance of an ITA. The determination of funding is further based on local policy which must include, at minimum, relevance of training to in-demand occupations established by the LWDB, availability of local funds, and alignment with the individual's employment and career objectives.

#### **E. Renewal Criteria**

After the initial eligibility period of no more than one year, the training provider must submit an application for renewal for each program at least every two years. The initial eligibility letter shall state the initial certification period and specify the date for the renewal evaluation to determine continuation on the ETPL.

The training provider must submit a renewal application and performance outcomes for every training program on the ETPL even if the program served zero WIOA students. Inactivity in training state and federal grant funded students for a two-year period may result in removal from the ETPL and require reapplication. Failure to submit performance outcomes and/or a renewal application may result in removal from the ETPL. The training provider may contact the VDWD to indicate that they wish to remove a program from the ETPL and do not want to renew a program for inclusion on the ETPL. Non-compliance will result in not being eligible for federal or state workforce development grant funds during the period of non-compliance.

**Evaluations of training providers and programs will be completed at least every two years and will be conducted by the VDWD.** The results of the evaluation and any recommendation to remove a training provider program from the ETPL will be delivered to the VBWD in their December quarterly meeting.

#### *Required Information*

- Performance on WIOA Indicators
  - Employment 2<sup>nd</sup> quarter: percentage of program students who are in unsubsidized employment during the second quarter after exit from the program
  - Employment 4<sup>th</sup> quarter: The percentage of program students who are in unsubsidized employment during the fourth quarter after exit from the program

- Median earnings of program students who are in unsubsidized employment during the second quarter after exit from the program
- Credential attainment: the percentage of program students who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program.
- Information on recognized postsecondary credentials received by program students
- Information on the training program completion rate for students
- Access to training services throughout the state (including rural areas and technology use)
- Information reported to state agencies on federal and state training programs other than WIOA Title I B
- The degree to which training programs relate to in-demand industry sectors and occupations in the state
- State licensure requirements of training providers, and licensing status of providers of training services, if applicable
- Ability to offer industry-recognized certificates and credentials
- Ability to offer industry-recognized post-secondary credentials
- Quality of the program of training services including a program that leads to a recognized postsecondary credential
- Ability to provide trainings that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities
- Timeliness and accuracy of ETPL performance reports
- Performance and cost information for each program of study must be submitted annually

### *Criteria*

WIOA permits Governors, in consultation with their state boards, to establish performance criteria for training providers. The performance requirements may be revised as the state biannually negotiates performance measures with DOLETA. Training provider programs will be evaluated according to the criteria established in this policy beginning with program year 2023 data (Program Year 2023 is July 1, 2023-June 30, 2024).

In order to remain on the ETPL, all eligible training provider programs must meet the following outcomes for all students for the prior completed year ending June 30<sup>th</sup>:

1. Training Completion Rate: For the period July 1, 2023-June 30, 2024, 70%. For the period July 1, 2024-June 30, 2025, 74%. For the period July 1, 2025-June 30, 2026, and hereafter, 80%
2. Credential Attainment Rate within one year: For the period July 1, 2023-June 30, 2024, 70%. For the period July 1, 2024-June 30, 2025, 72%. For the period July 1, 2025-June 30, 2026, and hereafter, 75%
3. Employment 2<sup>nd</sup> quarter after Exit: Minimum performance level to be established after one year of baseline data has been collected for all students.



4. Median Earnings 2<sup>nd</sup> quarter after Exit: Minimum performance level to be established after one year of baseline data has been collected for all students.
5. Employment 4<sup>th</sup> quarter after Exit: Minimum performance level to be established after one year of baseline data has been collected for all students.

Virginia will use a phased-in approach with new student data starting July 1, 2023, to determine performance success or failure for each criterion. VDWD will work collaboratively with training providers to obtain the required information. Training providers that demonstrate a good faith effort in providing data will not be subject to removal from the ETPL; however, failure to provide any data may result in removal from the ETPL.

In the event the training provider does not have all the required performance data, it must show good cause as to why the data is unavailable, such as that the training program is new and data on past performance is not yet available.

If the performance data falls below the minimum standards and the program is recommended for removal from the ETPL, the training provider is provided an opportunity to appeal and provide an explanation that will be considered by the VBWD. (See appeals section for more information.)

Virginia's Secretary of Labor has the discretion to grant flexibility for extenuating circumstances.

In the VDWD's review of training provider program performance it will also consider whether the provider accurately and timely submitted all of the required information.

If a training provider's program failed to meet the criteria established above, they will be placed on ETPL probation for one year. The training provider will be required to develop a performance improvement plan and submit it to the VBWD. If a training provider on probationary status fails to meet performance levels on all measures the following year, the training provider program may be removed from the state ETPL. Training providers may re-apply for the ETPL the following year. Training providers who are removed from the state list may appeal.

## **F. Annual Reporting Requirements**

Training provider and program performance reports are intended to provide critical information regarding students' employment, earnings, and credential outcomes for all programs on the ETPL. The purpose of these reports is to maximize informed consumer choice by identifying effective training programs and providers. Annual performance requirements are driven by the Federal Department of Labor and are detailed in TEGL 3-18. The Department of Labor Employment and Training Administration (DOLETA) will make Training Provider Results available at: [TrainingProviderResults.gov](https://www.doleta.gov/training-provider-results). Providers are required to enter performance information into the state reporting system to ensure transparency and support informed customer choice in the evaluation and selection of training providers.

Performance information must be entered for all students that entered a program on the ETPL even if there were no students funded by WIOA Title I through an ITA. Data must also be included for any student located outside of Virginia.

All training providers on the ETPL must submit the following information for all students in all programs on the ETPL, no later than August 1<sup>st</sup> of each Program Year through the ETPL Portal.

- Training Provider Name
- Program Name
- For every student the following data must be reported
  - Social Security Number or some other form of identification that would allow for an employment and wage match for each student
  - Program Entry Date
  - Program Exit Date
  - Training Program Completion Status
  - Credential Earned-up to one year after exit

Providers of training who fail to provide the verification and performance information annually by August 1<sup>st</sup> may be removed from the state eligible training provider list.

### **G. Eligibility Denials and Terminations**

*Initial Eligibility Denials:* The VBWD must deny any application to have a training program included on the ETPL if the training provider does not meet the eligibility requirements stated in Section C. Eligible Institution Types or if the training program does not meet the state's initial eligibility requirements stated in Section D. Initial Eligibility.

*Renewal Terminations:* Once the training provider is on the ETPL, the VBWD must terminate the eligibility of the training provider if the eligibility requirements of the provider are no longer met or if the training provider commits a substantial violation. Substantial violations include failure to submit timely and accurate annual performance reports or renewal applications, intentionally providing false information, or violating any provision of the WIOA Title I or its regulations, including the nondiscrimination and equal opportunity provisions. Removal will be for a period of at least two years. When determining if a training provider has failed to submit timely and accurate information, the VBWD will consider exceptional circumstances beyond the provider's control such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues.

A training program may be removed from the ETPL if the program does not meet the minimum performance standards stated in Section E Renewal Criteria.

The VBWD may terminate eligibility at any time for cause, including, not meeting established performance standards. When a training provider or program is terminated, it will be removed from the published ETPL. If WIOA students are currently enrolled in a training

program that must be removed from the ETPL, the student will be informed by the LWDB and the student may decide to complete their training program so as not to disrupt their progress. If circumstances permit, the LWDB will be authorized to finalize all outstanding payments to the training provider for those students completing training during this period.

*Repayment:* A provider whose eligibility is terminated because of intentionally supplying inaccurate information or has substantially violated the WIOA shall be liable for repayment of all WIOA funds received for the program during any period of noncompliance. LWDBs will make reasonable efforts to collect funds based on established policies and procedures.

*Construction:* These penalties shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

## **H. Appeals**

The training provider may appeal the decision to deny a program for inclusion on the ETPL or to terminate the inclusion of a program on the ETPL.

**First Appeal Request:** The training provider must file a written appeal within thirty (30) calendar days after the date of program denial or termination from the ETPL. Appeals may be sent electronically to the Director of WIOA Title I or the director's designee at [wioa@vccs.edu](mailto:wioa@vccs.edu). The subject line should read ETPL Appeal. The appeal must indicate the purpose of the request including identifying the training provider and program(s), information supporting the grounds upon which the appeal is sought, and any vital factors to support the grounds for appeal. A first level appeal must occur before the matter can be appealed to the VBWD.

**Second Appeal Request:** After receiving notice of the outcome of the first appeal request, the training provider may file a second level appeal by sending a request to the Director of the VBWD. The email must clearly state the training provider's desire to appeal the matter to a hearing and the reason(s) the training provider believes the outcome of the first level appeal was incorrect or inaccurate. The email must be sent within ten (10) business days after email notification was sent containing the outcome of the first level appeal.

The VBWD requires that the individual who files the second appeal or a designee, appear at the hearing to represent the training provider. To "appear" means that the representative participates in the hearing using the method of communication chosen by the Administrative Law Judge (ALJ). If no representative(s) for the institution appears at the scheduled hearing, the institution loses its right to the hearing. A representative of the LWDB may be present at any hearing.

During the appeals process the impacted training provider program(s) will be removed from the ETPL. During the appeals process, if eligibility is reinstated, the VDWDA will republish the training provider program(s) to the ETPL within five (5) business days from the final determination. Following the appeal, if a training provider program is denied initial eligibility on the ETPL, it may reapply as soon as the training institution addresses the reason for its

denial on the list. Following the appeal, if a training provider is denied renewal on the ETPL for a substantial violation, the training provider must wait two years from the date of the final determination before reapplying to the ETPL.

## **I. Registered Apprenticeships and ETPL**

The Virginia Registered Apprenticeship Director will initiate contact with the Registered Apprenticeship (RA) program sponsors to provide information about the state's ETPL. RA Programs are automatically eligible to be included on the ETPL and are exempt from state and local ETPL eligibility requirements and performance requirements.

RA Programs that desire to be included on the ETPL must contact the Director of Registered Apprenticeship. RA Programs are not automatically included on the ETPL, the RA Program must opt in to be added to the ETPL. National RA Programs are not required to register their apprenticeship program in Virginia. The RA Program is required to submit the following information to be included on the ETPL:

- Occupations included within the RA Program;
- Name and address of the RA Program Employer/Sponsor;
- Name and address(es) of the Related Technical Instructions (RTI) provider(s) and the location(s) of instruction if different from the program sponsor's address;
- The method and duration of related technical instruction;
- The cost of the RTI if the RA sponsor is not providing the instruction; and
- The number of active apprentices in the program

Following the receipt of a completed application, the Director of Registered Apprenticeship will verify that the program sponsor is active and in good standing. Following that confirmation, the RA Application will be forwarded to the WIOA Title I Administrator to add the RA program information to the state ETPL.

At least every two years, the WIOA Title I Administrator will provide a list of the approved Registered Apprenticeship Eligible Training Providers to the Director of Registered Apprenticeship for verification of current registration status.

The RA Program will remain on the ETPL until:

- The RA Program notifies the VDWD it no longer wants to be included on the ETPL;
- The program becomes deregistered under the National Apprenticeship Act;
- The program is determined to have intentionally supplied inaccurate information; or
- A determination is made that the RA Program substantially violated any provision of WIOA Title I or the WIOA regulations, including 29 CFR part 38.

The RA Program may appeal the decision to deny or remove the program from the ETPL by following the appeals processed outline in this policy.