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## Training Provider Eligibility / Appeal Policy

### Policy:

The purpose of this policy is to provide guidance regarding the training provider eligibility process and how to file an appeal to challenge actions initiated by NWPA Job Connect.

### Audience:

- Training providers
- NWPA Job Connect

### Background:

NWPA Job Connect administers the Eligible Training Provider List (ETPL) in Clarion, Crawford, Erie, Forest, Venango and Warren Counties.

### DEFINITIONS:

*Continued Eligibility*- is the condition of an entity remaining on the Eligible Training Provider List after establishing initial eligibility.

*Eligible Training Provider, or ETP* -is a provider of training services who has met the eligibility requirements to receive WIOA funds to provide training to eligible individuals. Individual Training Accounts are permitted for adults, dislocated workers, and older out-of-school youth, ages 18-24, when appropriate.

*Eligible Training Provider List, or ETPL*- means the commonwealth's statewide list of approved providers of training services who are eligible to receive WIOA Title I funds.

*High Priority Occupations, or HPOs* -are job categories that are in demand by employers, have evolving skill needs, and are likely to provide family-sustaining wages. They are occupations that generally require some amount of training, but no more than a 4-year degree.

*In-demand Industry Sector*- an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

*Initial Eligibility*- the establishment of an entity's presence on the Eligible Training Provider List. Entities wanting to be on the Eligible Training Provider List must meet several conditions to establish initial eligibility.

*Program of Training Services-* 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 skill gains toward such a credential or employment. Training services may be delivered as stackable services and could be provided in-person, online, or in a blended approach.

*Provider Performance Report-* WIOA requires that training providers who seek to become or remain eligible providers of training services must submit information with regard to their student populations and each program's performance. This information must be provided to USDOL as a "provider performance report." Data collected through CWDS is used to compile these reports on all eligible training providers included on the statewide ETPL.

## **Policy: Eligibility Requirements**

### **Training Provider Eligibility**

To be an eligible training provider, an entity must qualify as one of the following as described in WIOA sec. 122:

- 1) An institution of higher education that provides a program leading to a recognized post-secondary credential.
- 2) An entity that carries out registered apprenticeship programs.
- 3) Other public or private providers of a program of training services, which may include joint labor-management organizations or community- based organizations (CBOs),.
- 4) Eligible providers of adult education and literacy activities under WIOA Title II, if such activities are provided in combination with occupational skills training.
- 5) Local boards, if they meet the conditions of WIOA Section 107(g)(1).

Registered apprenticeship programs will be included on the ETPL but are not subject to the requirements outlined below. Training providers who wish to train individuals with Individual Training Accounts (ITAs) must meet the requirements of the ETPL, as outlined below.

Once a training provider has been deemed eligible, the entity remains eligible until it is removed from the applicable ETPL. Training providers must reapply for continued eligibility to have available courses/programs remain on the statewide list for the following year. All courses/programs are site-specific. All courses/programs must be resubmitted each program year. If there are multiple locations within a Local Workforce Development Area (LWDA), the institution or training provider must submit separate applications for each training location within the LWDA. Each training location must submit training courses/programs of study for ETPL approval each program year.

### **Training Providers Located Outside of Pennsylvania**

Training providers not physically located in Pennsylvania may be approved as eligible providers of training services for an eligible participant(s) living in the commonwealth.

Such training providers must complete the appropriate application in CWDS for inclusion on the statewide ETPL and agree to provide all information as required for inclusion on Pennsylvania's list, as well as the necessary performance data. Out of State providers have the same application process as providers located in Pennsylvania.

### **Eligibility and Reporting Requirements**

Attached to the local Eligible Training Provider Policy are Appendix A and B that clarify the steps for a training provider to qualify as an eligible training provider and their reporting requirements. Appendix B is the checklist stating the information that must be provided and or collected during the eligibility process.

### **Enforcement:**

**Compliance:** Eligible training providers must comply with all federal, state, or local statutes, regulations, policies, and procedures. Any providers that fail to comply may be denied eligibility or removed from a list.

Denials for eligibility may be based on:

- Incomplete or untimely application submission
- Failure to meet established criteria
- Intentionally supplying inaccurate information; and
- Violations of any provisions of federal, state, or local statutes, regulations, policies, or procedures.

Removals from a list may be based on:

- Failure to provide required data;
- Failure to notify of program changes including, but not limited to, costs, location of training, or a change in the program any time after its original approval;
- Failure to meet established criteria;
- Failure to meet minimum levels of performance;
- Intentionally supplying inaccurate information;
- Violations of any provisions of federal, state, or local statutes, regulations, policies, or procedures;
- Conduct that is either unreasonable or unprofessional; and
- Deregistration (in the case of a Registered Apprenticeship).

It is important to note that if a provider or program is removed from a list for cause, the provider must continue to provide the course of study to any participants already enrolled through the end of the course.

A training provider whose eligibility is terminated shall be liable for the repayment of funds received under Title I WIOA Adult, Dislocated Worker, and Youth Programs during the period of noncompliance.

Except/ registered apprenticeships, a training provider or program that has been denied initial or continued eligibility may apply for eligibility as follows:

- 1) Performance. A training provider or program removed or denied eligibility because of failure to meet minimum performance requirements, may reapply no sooner than the following quarter from the date of the denial or removal action. At this time, training providers must reapply and meet minimum performance based on the new quarter performance submission.
- 2) Violations of WIOA. Providers that were removed from an eligible training provider list may reapply two (2) years from the date of the final termination action taken either at the state or local level.
- 3) Unreasonable or unprofessional conduct by a person(s) acting on behalf of the provider. Providers that were removed from the eligible training provider list may reapply one (1) year from the date of the final removal action.
- 4) Licensure Issues and Training Provider closures are investigated by and handled by L&I to ensure participants are not added to the program if the provider is closing or if, per their licensure, are not qualified for the program.

A registered apprenticeship that has been removed or denied may be added to the ETPL once the program meets the requirements for registration with the U.S. Department of Labor, Office of Apprenticeship, or Pennsylvania's apprenticeship agency.

## **REQUESTS FOR APPEAL**

A training provider wishing to appeal a decision by the NWPA Job Connect must submit an appeal electronically through the CWDS website ([www.cwds.pa.gov](http://www.cwds.pa.gov)) not later than 30 calendar days from the date of the rejection notice or notice of suspension of eligibility. The appeal must clearly identify the program that was denied approval and the reason for the appeal. Any documentation supporting the training provider's case must be available upon request by the NWPA Job Connect. The system allows two rejections and one appeal from the level the rejection was initiated. Each party has 30 days to respond.

If the training provider is not satisfied with NWPA Job Connect's decision, they may appeal to the PA Department of Labor and Industry within 30 working days from the date of the decision. The PA Department of Labor and Industry's complaint review process would then be put into place. The state will determine if a fact-finding hearing is necessary. A decision will be rendered no later than 60 calendar days from either the date an in-person hearing is held or the date the appeal request is received by the state.

## **REFERENCE**

WIOA Section 122

20 CFR 680.400 – 680.530

Workforce System Policy-Eligible Training Providers and Pennsylvania's Eligible Training Provider List June 11, 2024

## **HISTORY**

| Name       | Date       | Rev. Level | Description of change            | Effective Date |
|------------|------------|------------|----------------------------------|----------------|
| Deb O'Neil | 08/07/2014 | A          | Policy approved under new LWIB   |                |
| Deb O'Neil | 10/20/2014 | B          | Revised per state recommendation | 12/17/2014     |

|                |            |   |                                                          |            |
|----------------|------------|---|----------------------------------------------------------|------------|
| Deb O'Neil     | 03/29/2017 | C | Update language per WIOA                                 | 08/11/2017 |
| Susan Richmond | 5/13/2022  | D | Update language based on updated Workforce System Policy | 3/10/2023  |
| Susan Richmond | 6/14/2024  | E | Update language based on updated Workforce System Policy | 9/13/2024  |
| Susan Richmond | 6/1/2026   | F | Updated language                                         | 08/01/2026 |

## **Appendix A Eligible Training Provider Eligibility and Reporting Requirements**

### **Initial Eligibility Requirements**

All providers and programs that have not previously been eligible to provide training services under WIOA sec. 122, except for registered apprenticeship programs, must submit required information to be considered for initial eligibility in accordance with the procedures outlined in this policy and the State's desk guide.

*Note: If a program is removed from the statewide ETPL for any reason, such program is subject to the criteria, information and procedures for initial eligibility.*

### **Initial Eligibility Application**

Step One. Training providers seeking inclusion on the statewide ETPL must complete an initial eligibility application through CWDS consistent with the Department's *WIOA Title I Statewide Eligible Training Provider List, Desk Guide for Public Training Providers to the Statewide ETPL*.

Step Two. Once the application has been submitted in CWDS by the training provider, the appropriate local workforce development area(s) will review the application and determine if the required information has been provided and the criteria listed in the ETPL desk guide has been met. NWPA Job Connect Board Staff will utilize the ETPL Eligibility Checklist to verify all criteria is met. (See Appendix B).

Step Three. Within 30 days of receipt of an application, local board staff will either recommend approval or denial to the Department through CWDS or request further information from the provider. If additional information is required, the local board will have an additional 15 days to either recommend approval or denial to the State (for a total of 45 days). The Department will make a final determination and add the program to the statewide ETPL within 30 days of receipt from a local workforce development area if the determination is favorable. If a local workforce development board does not render a determination within the timeframe allotted, the Department will make its final determination without the local board's recommendation.

Step Four. Once approved for inclusion on the statewide ETPL, local board staff must ensure the provider completes a memorandum of understanding known as the "computer match agreement" allowing the use of Personally Identifiable Information (PII) in student data to match against Pennsylvania wage records and SWIS **unless** the provider elects to submit a provider performance report.

### **Continued Eligibility Requirements**

To maintain eligibility, ETPs shall provide the following information to L&I in CWDS:

- The ETP's performance on WIOA performance indicators (employment 2nd & 4th quarters after exit, median earnings 2nd quarter after exit, credential attainment) for both WIOA and non-WIOA students enrolled in the program during the previous program year;

- A description of access to training services throughout the state (including rural areas and through technology use);
- Information reported to state agencies on federal and state training programs other than WIOA Title I-B programs;
- A description of the degree to which training programs relate to in-demand industry sectors and occupations, currently determined by HPOs in the state;
- State licensure requirements and licensing status, if applicable;
- Information regarding the ETP's ability to offer programs that lead to industry-recognized postsecondary credential and certificates;
- Information on the quality of the program of training services including a program that leads to a recognized postsecondary credential by including information about the expected outcome such as employment, certification, apprenticeship or degree or diploma;
- Information on the ETP's 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 ETP's performance reports;
- The ETP's performance and cost information for each of the provider's programs of study that are on the ETP list. The submission of this information must be made in the state-defined timeframe and manner; and
- Other factors determined by the Governor.

### **Eligible Training Provider List Reapplication Process**

Step One: Training providers seeking continued eligibility on the Eligible Training Provider List, or ETPL, must complete the reapplication process through CWDS consistent with the requirements found in the state's *WIOA Title I Statewide Eligible Training Provider List, Desk Guide for Public Training Providers to the Statewide ETPL*.

Step Two: Once the reapplication has been submitted in CWDS by the training provider, the local board will review the reapplication and determine if the required information has been provided and the required criteria has been met.

Step Three: Within 30 days of receipt of the reapplication, local board staff will either recommend approval or denial to the state through CWDS or request further information from the training provider. If additional information is required, the local board will have an additional 15 days to either recommend approval or denial to the state (for a total of 45 days). The state will make the final determination on adding the program to the statewide ETPL within 30 days of receipt from the local workforce development area if the determination is favorable.

Any training provider wishing to appeal the reapplication decision must follow the Request for Appeal section found in this policy.

### **Reporting Requirements**

The US Department of Labor requires states to report annually on the primary indicators of performance of training providers included on the ETPL for individuals regardless of WIOA status. In each training year, providers are required to report all WIOA funded and non-WIOA funded students who enrolled in the training program on the ETPL. The

information provided by ETPs will assist in determining continued eligibility and provide details for the public to identify effective training programs and providers.

In accordance with WIOA Section 116, federal guidance included in Training and Employment Notice 7-21, and further defined in ETA-9171 and Training and Employment Guidance Letter 03-18, the following must be reported for all WIOA title I core program participants receiving training from an ETP:

- The total number of participants who received training services through a WIOA Title I core program, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years;
- The total number of participants who exited from training services, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years;
- The average cost per participant who received training services, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years; and
- The number of participants with barriers to employment served by the WIOA Title I core programs, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age.

For all individuals receiving training provided by an ETP:

- The levels of performance achieved for all individuals engaging in the program of study (or the equivalent), specifically:
  - o The percentage of individuals who are in unsubsidized employment during the second quarter after exit from the program; and
  - o The percentage of individuals who are in unsubsidized employment during the fourth quarter after exit from the program;
  - o The median earnings of individuals who are in unsubsidized employment during the second quarter after exit from the program;
  - o The percentage of individuals who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent, during participation or within one year after exit from the program; and
  - o The total number of individuals exiting from the program of study (or the equivalent).



## Appendix B NWP Job Connect ETPL Eligibility Checklist

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |
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| 1  | <p>Provider is licensed, certified, or authorized by the Pennsylvania Department of Education or the relevant state agency with oversight, to operate training programs in Pennsylvania.</p> <p>*If compliant, move to step 2.</p> <p>*If not compliant, the application will not proceed until necessary requirements are met. (Do not include on the ETPL list at this time). (This applies to both in-state and out-of-state providers).</p> |  |
| 2  | Provider has submitted a policy that complies with the Americans Disabilities Act of 1990                                                                                                                                                                                                                                                                                                                                                       |  |
| 3  | Provider has submitted a policy that complies with nondiscrimination and equal opportunity laws: WIOA Sec. 188, and the regulations implementing this statutory provision                                                                                                                                                                                                                                                                       |  |
| 4  | <p>Provider submitted one of the following:</p> <p>*Most recently submitted IRS from 9-90, Return of Organization Exempt from Income Tax</p> <p>*Most recent independent audit</p> <p>*A letter from a Certified Public Accountant attesting to the fact the entity has a financial system in place for tracking participants in training and uses general accounting practices</p>                                                             |  |
| 5  | Provider complies with physical and programmatic accommodations as required by Section 504 of the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended and the regulations implementing these statutory provisions                                                                                                                                                                                   |  |
| 6  | <p>Ensure the providers financial capacity:</p> <p>*Must adhere to all federal, state, and local statutes, regulations, policies, and procedures regarding the administration of funds</p> <p>*Must follow accepted accounting practices</p> <p>*Have no tax liabilities or other commonwealth obligations</p> <p>*Must not be suspended or debarred by the commonwealth</p>                                                                    |  |
| 7  | Assures provider has disclosed any and all conflicts of interest with state or local workforce development boards and or staff including, but not limited to, family ties, fiduciary roles, employment or ownership interests in common                                                                                                                                                                                                         |  |
| 8  | Each program submitted is available to the general public                                                                                                                                                                                                                                                                                                                                                                                       |  |
| 9  | Provider agrees to provide performance data for each program as required for reporting purposes                                                                                                                                                                                                                                                                                                                                                 |  |
| 10 | Provider agrees to submit student data for each program of study as required for reporting purposes                                                                                                                                                                                                                                                                                                                                             |  |
| 11 | Provider agrees to accept Individual Training Accounts (ITA) or contracts for services so long as admission and program performance requirements have been met                                                                                                                                                                                                                                                                                  |  |
| 12 | Provider assures the timely and accurate reporting of required information                                                                                                                                                                                                                                                                                                                                                                      |  |
| 13 | Provider agrees to permit on-site visits by any federal, state, or local agency as legally authorized to monitor activities for which funds have been provided                                                                                                                                                                                                                                                                                  |  |

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|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|    | <p>Provider has provided the following information for each training program for the purposes of determining initial eligibility:</p> <ul style="list-style-type: none"> <li>*Description of the training program, including all costs associated (tuition, books, fees, etc.)</li> <li>*Evidence of state licensure requirements of training providers, and licensing status of providers of training services, as applicable</li> <li>Evidence supporting the provider's and/or program's relationship to business or industry</li> <li>*Description of credential earned to include, at a minimum, information supporting applicable training program leads to a post-secondary credential, an industry recognized credential; and a detailed description of the credential</li> <li>*Description of the accessibility of training services (facility based training; available through technology)</li> <li>*Describe the program's demonstrated effectiveness in serving employed individuals and individuals with barriers to employment (must be verified through the review of performance data for these populations)</li> <li>*Data regarding program alignment with in-demand sectors and/or high-priority occupations</li> </ul> |  |
| 14 | Performance data for each program is required                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |