

Eastern Area Workforce Development Board  
Workforce Innovation and Opportunity Act  
5-18 Eligible Training Provider List (ETPL)

DRAFT

Effective Date:

Revision Date:

Revision Number:

Revision effective Date:

Most Recent Approval Date:

Contact Entity: Inquiries regarding this document should be directed to Administrative Staff of the EAWDB at (575)208-2210.

## REFERENCES:

Workforce Innovation and Opportunity Act (WIOA), July 22, 2014: §116, §122, §134, §188, 20 CFR §677.230, §679.370-380, §680.400-530, §683.630, TEGL 41-14 Change 1, 29 CFR Part 38

### 1. PURPOSE:

This guidance provides information, criteria, and procedures that inform the local workforce connection centers, training providers and workforce system partners of changes to the New Mexico Eligible Training Provider system. These new procedures are based on the passage of Workforce Innovation and Opportunity Act final rules jointly published by U.S. Department of Labor and Education on August 19, 2016 and effective October 18, 2016.

### 2. BACKGROUND:

The workforce development system established under WIOA emphasizes informed consumer choice, jobdriven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principles. As required by WIOA Sec. 122, states, in partnership with Local Boards, must identify eligible training providers (ETPs) and programs that are qualified to receive WIOA title I-B funds to train adults, dislocated workers **and out-of school youth ages 16 through 24\***, including those with disabilities. The approved State list of eligible training providers and programs serves as an important tool for participants seeking training to identify appropriate providers and programs, and relevant information, such as cost and program outcomes. WIOA Sec. 122 (c) specifies that states must establish an application procedure for training providers and programs to maintain their eligibility and the eligibility of their programs.

Beginning January 1, 2017, the State centralized the administrative responsibility for certifying ETP applications. As such, the New Mexico Department of Workforce Solutions (NMDWS) as the State Administrative Entity (SAE) in partnership with the Local Workforce Development Boards (LWDBs) provide oversight and administration for the Eligible Training Provider (ETP) certification system. LWDBs work with NMDWS to identify eligible training providers and programs qualified to receive WIOA title I-B funds to train adults and dislocated workers, **and out-of-school youth ages 16 through 24\***, including those with disabilities. Local workforce development boards shall revise all local policies to ensure that they are in compliance with the new requirements outlined in this document.

***\*Although youth programs are not specifically mentioned in the federal guidance, the SAE requires youth providers and programs who both serve WIOA program participants AND confer an industry recognized certificate or license to be registered and approved on the ETPL system***

### 3. DEFINITIONS: Reserved

### 4. ACTIONS

#### A. ELIGIBLE TRAINING PROVIDERS AND PROGRAMS

##### I. ELIGIBLE PROVIDERS OF TRAINING SERVICES

Only providers that the State determines to be eligible, as required in WIOA sec. 122, may receive training funds under WIOA title I-B to provide training for participants enrolled in a WIOA-funded program of training services.

Eligible training providers include:

- Post-secondary education institutions;
- Registered Apprenticeship programs;
- Other public or private providers of training, which may include joint labor-management organizations and eligible providers of adult education and literacy activities under title II if such activities are provided in combination with occupational skills training;
- Community Based Organizations (CBOs) or private organizations of demonstrated effectiveness that provide training under contract with the Local Board.

Eligible training providers are subject to the equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA. The types of eligible training providers for WIOA are substantively the same as those under WIA. The requirements to become an eligible provider of training services apply to all organizations providing WIOA title I-B- funded training to adults and dislocated workers, **and out-of-school youth ages 16 through 24\***, with the specific exception of Registered Apprenticeship programs.

## II. ELIGIBLE PROGRAMS OF TRAINING SERVICES

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 skill gains toward such a credential or employment. These training services could be delivered in person, on-line, or in a blended approach.

Not all allowable types of training services are subject to the requirements of the eligible training provider provisions in WIOA title I-B. Training services exempt from the Section 122 eligibility requirements include:

- On-the-job training; customized training; incumbent worker training; transitional employment; or
- The circumstances described at WIOA sec. 134(c)(3)(G)(ii), where the Local Board determines that:
  - There are insufficient providers, or
  - There is a training services program with demonstrated effectiveness offered in the local area by a community-based organization or other private organization to serve individuals with barriers to employment, or
  - It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, and such contract does not limit customer choice; or
  - When the Local Board provides training services through a pay-for-performance contract.

Providers and programs that meet eligible training provider criteria and are certified on the State ETP List are considered eligible to receive Individual Training Account funds for the provision of training services of WIOA enrolled participants.

### **B. INITIAL ELIGIBILITY PROCESS**

Training providers or programs that have a physical location, are recruiting or serving area participants, and/or are providing training within the Eastern area may apply for initial eligibility at any time. All applications for the ETPL will be completed using the NMWorkforce Connection On-Line System. The online application process for training providers starts with verifying the training provider is licensed, certified, or authorized by the New Mexico Department of Higher Education, or the relevant state agency or oversight agency, to operate training programs. If a provider is in compliance with the oversight agency, the provider can proceed to the next step in the application process. If a provider is not in compliance with the oversight agency, the provider will not be able to apply for inclusion on the ETPL until they meet the necessary requirements.

Once the online initial eligibility application is submitted by the service provider, the EAWDB has 30 working days to review for completeness and submit a recommendation to the State Administrative Entity (SAE) for approval.

*I. Initial Eligibility Criteria.*

Training providers or programs applying for initial eligibility must provide the following information through the online application:

- Describe each program of training services to be offered.
- Provide information on cost of attendance, including costs of tuition and fees.
- Identify type of industry-recognized certificate or credential, including recognized postsecondary credentials.
- Indicate whether the provider has developed the training in partnership with a business (and the name of the business).
- Provide information that addresses alignment of the training services with in-demand industry sectors and occupations.
- Outline of the prerequisites or skills and knowledge required prior to the commencement of training.
- Provide performance information for all students regardless of funding source, as detailed in Attachment 1. To support this effort, the State will also work to acquire performance information already in existence at other state agencies. Training providers and programs that have not been in existence for at least two years will be required to provide available student and program data for the time period in existence.

*II. Continued Eligibility Process*

After the initial eligibility period of one year, training providers must be reviewed, updated and approved for continued eligibility every two (2) years. Applications for continued eligibility must show the training provider is still authorized by the appropriate oversight agency. Dropping off the list for a period of time does not return a provider to an initial eligibility status. All applications for continued eligibility must be completed using the Workforce Connection On-Line System.

*III. Continued Eligibility Criteria.*

Training providers or programs applying for continued eligibility must adhere to the following criteria **in addition to the criteria listed under the Initial Eligibility Criteria section** of this policy.

- Total number of participants enrolled in the program.
- Total number of participants completing the program.
- Total number of participants exiting the program.
- Information regarding the completion rate of participants.
- Information on recognized post-secondary credentials received by program participants.
- 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 providers provide training services to individuals who are employed and/or individuals with barriers to employment.
- Information reported to State agencies on Federal and State training programs other than programs within WIOA title 1B, including partner programs, (i.e. Adult basic education and literacy, Division of Vocational Rehabilitation, etc.) that are used to provide additional information about overall effectiveness, quality and utilization of programs.

**C. PERFORMANCE REQUIREMENTS**

Beginning July 1, 2017, all Eligible Training Providers will be required to include the performance information, as detailed in Attachment 1, to remain eligible and obtain subsequent certification. To support this effort, the State will

also work to acquire performance information already in existence at other state agencies. Once training providers and their programs have two years of data for the WIOA performance indicators, the State will collect the required information, determine performance outcomes and make the performance data available through the NM Workforce Connection On-Line System, for each training provider on the ETPL. Programs with less than 10 students enrolled will not be included in performance data.

Required Performance Information Include:

- The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program.
- The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.
- The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program.
- The percentage of program participants who obtain a recognized post-secondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program.

*I. CONDITIONS FOR REMOVAL*

Local boards may recommend for State removal or denial of an application, providers or programs, for a period of not less than 2 years, for the following reasons.

- If the provider knowingly supplies false performance information, misrepresents costs or services, or substantially violates requirements of WIOA law or regulations. Such providers are liable to repay all adult, dislocated worker and youth funds received during the period of non-compliance.
- If the provider fails to meet the established criteria. Situations that will result in removal include but are not limited to the following:
  - A) failure to meet established performance levels of:
    - i. 50 % completion rates for the general population and/or 60% completion rates for WIOA participants;
    - ii. 75% Passage rate or higher for industry required certification or licensure exams;
    - III. failure to provide all required performance information for continued eligibility; and
    - iv. failure to maintain accreditation required for professional licensure.
- If the training provider or program is temporarily unable to meet the objectives of the approved program(s).

A training provider that is removed from the list for the reasons stated above may re-apply for continued eligibility when they can demonstrate that they meet all the requirements and/or have established new processes and procedures that are likely to correct provider/program deficiencies. Training providers debarred by the Federal government are not permitted to be placed or remain on the ETPL.

If a training provider or a program of training services is removed from the list while WIOA participants are enrolled, the participants may complete the program unless the provider or program has lost state licensing, certification, or authorization to operate by the appropriate state oversight agency.

*II. PROCESS FOR REMOVAL FROM THE ETPL*

The EAWDB shall inform the SAE in writing of their request for removal of an eligible training provider/program and include the reason(s) for removal. The EAWDB shall inform the training provider in writing; include the reason(s) for the removal; and provide information on the appeal process.

### *III. APPEALS PROCESS*

Training providers can appeal the rejection of their program for inclusion on the ETPL or the subsequent termination of eligibility. An appeal must be submitted in writing via email to the Department of Workforce Solutions, State Administrative Entity within 14 days after notification of the decision to remove. The appeal must include the justification for the appeal. The training provider also has the right to request a hearing to discuss their appeal. A Training Provider appeals board will be assembled by the State Administrative Entity. The appeals board will schedule a hearing and make a decision within 60 days of appeal. This will be a final decision.

### **D. REGISTERED APPRENTICESHIP AND THE ETPL**

Under WIOA title I-B, Registered Apprenticeship program sponsors that request to be ETPs are automatically included on the list and will remain as long as the program is registered or until the program sponsor notifies the State that it no longer wants to be included on the list. Registered Apprenticeship programs are not subject to the same application and performance information requirements or to a period of initial eligibility or initial eligibility procedures as other providers because they go through a detailed application and vetting procedure to become a Registered Apprenticeship program sponsor with the United States Department of Labor or the State Apprenticeship Agency (SAA). All Registered Apprenticeship programs are eligible to be included on the State list of eligible training providers.

Registered Apprenticeship can take many forms and the sponsors are diverse, including:

- Employers who provide related instruction. A number of employers with Registered Apprenticeship programs provide formal in-house instruction as well as on-the-job training at the work site.
- Employers who use an outside educational provider. Under this model Registered Apprenticeship program sponsors do not provide the related instruction or educational portion of the apprenticeship, but rely upon an outside educational entity to deliver instruction. Employers can use two- or four-year post-secondary institutions, technical training schools, eligible providers of adult education and literacy activities under title II, or on-line courses for related instruction. The employer is the ETP and must identify their instructional provider as defined locally.
- Joint Apprenticeship Training Programs. These programs are made up of employers and unions. They have an apprenticeship training school where the instructional portion of the Registered Apprenticeship program is delivered. The training schools are usually administered by the union.
- Intermediaries. Intermediaries can serve as program sponsors when they take responsibility for the administration of the apprenticeship program. They can also provide expertise such as curriculum development, classroom instruction and supportive services, as appropriate. The intermediary is the ETP and must identify the instructional provider if an outside organization is providing the educational portion of the apprenticeship. Intermediaries include:

Educational institutions including two- and four-year post-secondary institutions, technical schools, or eligible providers of adult education and literacy activities under title II. In this model the educational institution administers the program, works with employers to hire apprentices and provides classroom or on-line instruction for the apprenticeship program;

- Industry associations administer the program and work with employer/members and educational entities to implement the apprenticeship program; and,
- Community based organizations administer the program and work with employers, educational entities and the community to implement the apprenticeship program.

Pre-apprenticeship programs do not have the same automatic ETP status under WIOA title I-B as do Registered Apprenticeship programs.

#### ETPL Procedures for Registered Apprenticeship Programs

Registered Apprenticeship program sponsors interested in being an ETP will be required to provide the following information to the State Apprenticeship Agency (SAA):

- Occupations included within the Registered Apprenticeship program;
- The name and address of the Registered Apprenticeship program sponsor;
- The name and address of the Related Technical Instruction provider, and the location of instruction if different from the program sponsor's address; ☐ The method and length of instruction; and, ☐ The number of active apprentices.

Registered Apprenticeship program sponsors that do not provide the Related Technical Instruction portion of the apprenticeship program may be required to provide additional information about their education provider, including the cost of the instruction.

The SAE will work with the (SAA) to verify the status of Registered Apprenticeship programs as part of the State's review of the State list of eligible training providers at least every two years.

Registered Apprenticeship programs may request removal from ETPL system. An RA program whose eligibility is terminated, for a period not less than 2 years, if they intentionally supplied inaccurate information, or substantially violated any provisions of WIOA law or regulation, is liable to repay all youth, adult, and dislocated worker training for non-compliance.