

Administrative Policy Issuance

POLICY NUMBER:
CEW04-201601-02

Policy Name: Criteria for Approval, Withdrawal and Denial of WIOA Eligible Training Provider Applications	Description: Establishes standards for reviewing the program applications submitted to WSNCT through the ETPS
Date of Approval: April 18, 2018	Revision History: Revision 2 of CEW04-201601
Effective Date: April 19, 2018	Scheduled for Review: April 19, 2022
Policy Topic: WIOA	Administering Department: PPPA

DEFINITIONS:

Certified program: A program approved by Workforce Solutions for North Central Texas, forwarded to Texas Workforce Commission for review and certified to be added to the Eligible Training Provider Statewide List.

Entered Employment: In unsubsidized employment during the second quarter after exit.

Industry Recognized Credential: Industry recognized credentials are defined as educational diplomas, and degrees, registered apprenticeship certificates, occupational licenses, personnel certifications from industry or professional associations, or skill certificates for specific skill sets or competencies within one or more industries or occupations that are endorsed by one or more industries, are stackable, portable, accredited, and have value in the labor market.

Liable Employer: A person, firm, corporation or other association or organization (1) which currently has a location within the United States to which U.S. workers may be referred for employment and which proposes to employ a worker at a place within the United States and (2) which has an employer relationship with respect to employees under this subpart as indicated by the fact that it hires, pays, fires, supervises and otherwise controls the work of such employee. An association of employers shall be considered an employer if it has all of the indications of an employer set forth in this definition. Such an association, however, shall be considered as a joint employer with the employer member if either shares in exercising one or more of the definitional indications. Note: Federal contractors associated with the military as employers are considered employers, even if the jobs are located outside the United States.

POLICY STATEMENT:

The Workforce Innovation and Opportunity Act (WIOA) requires Training Providers to apply to a Workforce Development Board for certification to receive WIOA funds. The publicly accessible Eligible Training Provider System (ETPS) includes all training programs currently approved by one or more boards and certified by the Texas Workforce Commission (TWC). Training Providers must

submit and receive approval of a Provider Assurance Statement (PAS) to obtain access to the online application system.

By having a signed PAS form on file with TWC, the provider's assurances shall apply to all applications for initial or subsequent eligibility determination submitted to Workforce Solutions for North Central Texas (WSNCT).

ETP applications for eligibility received after June 30, 2016, will be evaluated based on requirements set forth in WIOA. Existing ETPs grandfathered in under WIA must be recertified using WIOA criteria. The recertification process will occur after the issuance of final WIOA regulations and programmatic guidance, and after TWC has adopted new criteria and performance standards for initial and continued eligibility of ETPs.

A Provider is required to be

- an institution of higher education providing a program leading to a recognized postsecondary credential;
- an entity providing registered and approved apprenticeship training; or
- a public or private Training Provider, which can include:
 - joint labor-management organizations; or
 - adult education and literacy providers, as long as services are provided with occupational skills training.

ACTIONS REQUIRED:

To qualify as a Training Provider on the Eligible Training Provider List (ETPL) for WSNCT, Training Providers must comply with WIOA regulations. Training Providers must ensure all school staff are aware of the necessity of providing quality training and meet minimum performance standards for the approved training to be added and remain on the ETPL.

Minimum Initial Eligibility Criteria for New Programs under WIOA

- Describe each program of training services to be offered by submitting a curriculum outline and course descriptions, current catalog, or handbook;
- Provide documentation of regulatory or accreditation status and list of approved programs of instruction;
- Provide Indicators of Performance, specified by WIOA as:
 - percentage of program participants in unsubsidized unemployment during the second quarter after exit from the program;
 - percentage of program participants in unsubsidized employment during the fourth quarter after exit from the program;
 - median earnings of program participants in unsubsidized employment during the second quarter after exit from the program; and
 - percentage of program participants who obtain a recognized postsecondary credential, secondary school diploma or recognized equivalent during participation of, or within one (1) year after exit from the program.

- Provide information concerning whether the Provider is in a partnership with business and aligned training services with targeted industry sectors and occupations. Acceptable documentation of partnerships with employers related to the particular training program may include:
 - a letter of support from a liable local employer or employers, likely to hire graduates of the program. Letters of support must be on letterhead, and be signed and dated current with 12 months prior to application; or
 - a committee roster and minutes, current within 12 months prior to application, indicating attendance and participation from employers in an employer-based advisory committee relative to the training program.
- Provide other information required in order to demonstrate high quality training services, including a program of training services which leads to a recognized post-secondary credential; and
- Provide information addressing alignment of the training services with WSNCT targeted industry sectors and occupations, to the extent practicable.
- Identify and provide information regarding, industry recognized credential(s) the program is preparing the participant to attain.

ETPs are required to submit performance information to the ETP Department in Austin as directed in the application, and must meet the established performance minimums to be certified. New program offerings, a program/course never delivered to any student, regardless of funding source, on or before the date of Initial Eligibility Application submission, and Registered Apprenticeship programs are the only exceptions to this requirement.

Programs receiving initial eligibility are subject to review and renewal after one (1) year.

All registered apprenticeship programs that are registered with the U.S. Department of Labor, Office of Apprenticeship, or a recognized State apprenticeship agency, are automatically eligible to be included in the State list of eligible training providers and programs. All registered apprenticeship programs must be informed of their automatic eligibility to be included on the list, and must be provided an opportunity to consent to their inclusion, before being placed on the State list of eligible training providers and programs.

Continued Eligibility for Programs under WIOA

Continued eligibility requirements apply to both Training Programs transitioning to WIOA who were previously eligible under WIA, and newly eligible Training Programs determined to be initially-eligible under WIOA. All programs are subject to review and renewal of their eligibility at least every two (2) years.

For continued eligibility the Board will also take into account Indicators for Performance, listed above, as well as reporting of the entered employment wages on the individual level to verify the wages of the exiters meet or exceed the established performance minimums to continue eligibility.

Once Training Programs have two (2) years of Indicators of Performance outcomes, they will be expected to provide information regarding:

- access to training services, including rural areas and through the use of technology;
- information reported to state agencies on federal and state training programs, other than programs within WIOA, including Workforce partner programs;
- the degree to which training programs relate to targeted industry sectors and occupations;
- state licensure requirements and licensing status of Training Providers;
- the provider's ability to offer industry-recognized certificates and/or credentials;
- the ability of providers to offer programs which lead to post-secondary credentials;
- the quality of the program of training services, including a program leading to a recognized post-secondary credential;
- the ability of the providers to provide training services physically and programmatically accessible to individuals who are employed, and individuals with barriers to employment, including individuals with disabilities;
- the timeliness and accuracy of ETP's performance reports; and
- additional factors to ensure accountability of providers, Workforce centers will meet the needs of local employers and participants, with participants given an informed choice among providers. Examples of additional factors include the:
 - ability of a provider to partner with employers to provide job placement services;
 - dropout rate of the Training Provider; and
 - student loan default rate of the providers.

Required Provider Information

All eligible Training Providers must submit accurate and timely performance data and cost information at the time of initial application, and at a minimum of every two (2) years. The program-specific performance information submitted must include the following:

- Indicators of Performance, including program completion percentage, entered employment percentage, and entered employment hourly wage rate;
- information identifying any industry recognized post-secondary credentials received by WIOA participants;
- program cost information, including tuition and fees, for WIOA participants in the program; and
- information on the program completion rate for WIOA participants.

Providers are required to submit performance information for the state's Eligible Training Provider Performance Reports, which are disseminated publicly, similarly to the ETPL.

Adverse Determination

Should an adverse determination of the training program approval occur, the Training Provider has the right to file a written appeal within fourteen (14) calendar days of the mailing date of the determination. The written appeal must include the Training Provider's name, name of the agent filing, and current mailing address. The appeal must be addressed to:

Debra Kosarek, Hearing/Equal Opportunity Officer
NCTCOG/Workforce Development
P.O. Box 5888
Arlington, TX 76005-5888

The written appeal will be processed under the appropriate section of WIOA. Every effort will be made to conduct informal resolution and other alternative dispute resolution avenues. If no final informal resolution is reached, WSNCT shall provide an opportunity for a hearing to resolve an appeal. Either a final agreement resulting from informal resolution or a hearing and Board decision will be issued within sixty (60) calendar days of the original filing of the appeal.

Workforce Center Staff Responsibilities

The Workforce Center Contractor will recruit and certify those individuals who are eligible for training. The Workforce Center Contractor will assess each eligible applicant for career aptitudes, interests, abilities, academic skills, etc. to assist in determining appropriate training assignment. The Training Provider may refer applicants interested in its training to the Workforce Center Contractor for determination of eligibility and, if appropriate, referral and assignment to training.

The Workforce Center Contractor will only refer participants to the Training Provider who, in the Contractor's judgement (along with the participant), possess the aptitudes, interest, and abilities required to successfully complete training and attain unsubsidized employment in the occupation trained for, or in a training-related occupation. The referral will be done through the use of an Individual Training Account.

The Workforce Center Contractor will coordinate procedures with the Training Provider to share information on financial resources for participants as outlined in the Coordination of Department of Education (DOE), Pell Grants, and other Funding Sources.

Training Provider Responsibilities if Program is Approved

The Training Provider shall provide occupational skills training only for certified courses as identified on the ETP Statewide List. The Training Provider will:

- submit billing information to the Workforce Center Contractor as instructed on the WSNCT website at www.dfwjobs.com;
- notify WSNCT at least forty-five (45) days prior to the effective date of any changes in policies, such as admission requirements, tuition and fees, curriculum, or refund terms by submitting a change request in the ETP system;
- ensure all participants accepted for enrollment into approved training, meet established entry requirements;
- in conjunction with the Workforce Center Contractor and the participant, decide the appropriate use of funds from multiple sources to address participant needs prior to enrollment. Use of Pell Grant funding for WIOA eligible participants must adhere to all governing rules and regulations;

- notify the Workforce Center Contractor if a Pell Grant is awarded after enrollment. In instances of training beyond six (6) months, the Training Provider will submit the status of a participant's Pell Grant or other federal aid award upon renewal of eligibility, and the Individual Training Account will be amended accordingly;
- notify the Workforce Center Contractor of excessive absenteeism, withdrawal or falling below acceptable performance of enrolled participants;
- promptly inform the Workforce Center Contractor of any change in status of participants, including conditions which might result in termination. The Training Provider will consult with the Workforce Center Contractor prior to termination of any participant, and document the cause of termination in the participant's file;
- provide to each participant, a permanent record of their participation in each course. Upon successful completion of an approved program, the Training Provider will furnish each student with a Certificate of Completion and a copy to the Workforce Center Contractor for the participant's file;
- agree to cooperate with any monitoring, inspection, audit, or investigation of activities as may be conducted by the NCTCOG, WSNCT, the elected officials of the Consortium, the State of Texas, Texas Workforce Commission, the U.S. Department of Labor, the Comptroller General of the United States, or their duly authorized representatives giving access for three (3) years from the date of acceptance of the final close-out and until any outstanding litigation, audit, or claim has been resolved;
- establish, maintain and utilize internal program management procedures sufficient to provide for the proper, effective management of all activities funded by WIOA. Failure to comply with the provisions of WIOA, when such failure involves fraud or misappropriation of funds, may result in immediate withholding of funds and removal from the Statewide Eligible Training Provider List without the option to reapply for up to two (2) years or as modified by Texas Workforce Commission; and
- if available, provide to each WIOA participant assistance in securing unsubsidized employment in the occupation trained for, or in a training-related occupation, at no less than the minimum self-sufficiency wage established by WSNCT.
- the procedure for biennial review of the Provider eligibility must include verification of the registration status of registered apprenticeship programs and removal of any registered apprenticeship programs as described in §680.470

Termination from Eligible Training Provider List

Providers who substantially violate the requirement to timely and accurately submit all required information listed below, must be removed from the State list of eligible training providers and programs, as provided in §680.480(b).

- 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;

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- The percentage of program participants 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 participants;
- Information on cost of attendance, including costs of tuition and fees, for program participants;
- Information on the program completion rate for such participants.

A Provider whose eligibility is terminated under these conditions must be terminated for not less than two (2) years and is liable to repay all youth, adult, and dislocated worker training funds it received during the period of noncompliance. If the Provider disagrees with the determination, the Provider has the right to appeal the decision following the same procedure outlined in the “Adverse Determination” section of this policy.

Once on the State list of eligible training providers and programs, registered apprenticeship programs will remain on the list until:

1. They are deregistered;
2. The registered apprenticeship program notifies the State that it no longer wants to be included on the list; or
3. The registered apprenticeship program is determined to have intentionally supplied inaccurate information or to have substantially violated any provision of title I of WIOA or the WIOA regulations, including 29 CFR part 38.

A registered apprenticeship program whose eligibility is terminated for reason 3 in the preceding paragraph must be terminated for not less than two (2) years and is liable to repay all youth, adult, and dislocated worker training funds it received during the period of noncompliance. If the registered apprenticeship program disagrees with the determination, the Provider has the right to appeal the decision following the same procedure outlined in the “Adverse Determination” section of this policy.

RELATED POLICIES/RESOURCES:

Code of Federal Regulations, Title 20, Part 651. §651.10.

Code of Federal Regulations, Title 20, Part 680. Subpart D-Eligible Training Providers.
§680.400 through §680.530.

Code of Federal Regulations, Title 29, Part 37. §37.20.

Employment and Training Administration Advisory System of the U.S. Department of Labor
Training and Employment Guidance Letter 41-14.

TAC Title 40, Part 20 TWC, Chapter 823 “Integrated Complaints, Hearings, and Appeals,”
Sections 10 through 14.

Texas Education Code, Title 3, Subtitle G, Chapter 132 “Career Schools and Colleges.”

Texas Workforce Commission, WD Letter 02-16, Change 2: “Workforce Innovation and
Opportunity Act Eligible Training Providers Evaluation Criteria and Performance
Expectations-Update.”

Texas Workforce Commission, WD Letter 24-15: “Workforce Innovation and Opportunity Act
Eligible Training Providers Evaluation Criteria and Performance Expectations.”

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600 Six Flags Drive, Centerpoint Three
P.O. Box 5888, Arlington, Texas 76005-5888
Phone: 817-695-9184 • FAX: 817-640-6480
E-mail: workforce@dfwjobs.com
In Partnership with North Central Texas Council of Governments
A proud partner of the AmericanJobCenter® network

Workforce Innovation and Opportunity Act, §116(b)(2)(A)(i)(I)-(IV).

INQUIRIES:

Please contact policy@dfwjobs.com

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