

Bay Consortium Workforce Development Board

Policy Number: 16-02

Effective Date: July 1, 2016

Revised Date: May 1, 2019

Title: Eligible Training Provider Policy

PURPOSE

This policy provides eligibility criteria for providers of training, information and procedures for implementing the Eligible Training Provider (ETP) requirements in the Workforce Innovation and Opportunity Act (WIOA) of 2014. This policy is applicable to providers of occupational skills training services for adults, dislocated workers and other populations as defined by WIOA, Title 1-B.

REFERENCE

Workforce Innovation and Opportunity Act, Section 122

Code of Virginia, Section 23-276.2

US DOL Training Employment and Guidance Letter (TEGL) 41-14

Virginia Board of Workforce Development Policy 15-02

BACKGROUND

The WIOA established the eligible training provider process as part of the overall strategy to ensure informed customer choice, performance accountability and continuous improvement.

WIOA legislation requires that in order to provide occupational skills training supported through an Individual Training Account (ITA), training providers and their specific programs must be included on the state maintained eligible training provider list (ETPL). WIOA sets forth the requirements and general process by which training programs can be included on the state ETPL by validating that all listed providers and their programs have met minimum state standards.

The requirements established by this policy for inclusion on the ETPL only applies to training services funded through issuance of an ITA. A program of training services is defined as one or more courses or classes, or a structured regimen that leads to a recognized post-secondary credential, secondary school diploma or its equivalent, employment or measurable skills gains towards a credential or employment.

POLICY

The Bay Consortium Workforce Development Board, Inc. (BCWDB) has the responsibility for receiving, reviewing and approving training providers and their programs within LWDA13. BCWDB must also ensure that data elements related to initial application, continued eligibility and performance information regarding approved providers and programs are entered into the supported state system. BCWDB will use the basic eligibility criteria, information requirements and procedures for local boards established by the Virginia Board of Workforce Development Policy 15-02 in order to ensure that programs on the ETPL meet the minimum quality standards and deliver industry-recognized skills and credentials that provide individuals with opportunity for career progression.

Approval by the BCWDB places the provider and the program on the state ETPL but does not guarantee a local area will fund the approved training activity through the issuance of an ITA. That determination is further based on local policy which must include, at minimum, relevance of training to demand occupations that are in demand regionally, availability of local funds and likelihood that training will support the individual in meeting their career objectives and employment.

State Criteria for Initial Provider/Program Eligibility

There are five categories of providers who may apply for consideration to be included on the state 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 Virginia Department of Labor and Industry.
4. A provider of a program of occupational training services that under Section 23-276.2 of the Code of Virginia is exempt from certification as a postsecondary school such as a professional or occupational training program regulated by another state or federal governmental agency other than the State Council of Higher Education for Virginia (SCHEV), any school, institute or course of instruction offered by any trade association or any nonprofit affiliation of a trade



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association on subjects related to the trade, business or profession represented by such association, or

5. A provider of adult education and literacy activities under Title II of WIOA, if these activities are provided in combination with occupational skills training.

Programs and Providers under categories 1 and 2 must provide evidence of active certification by the appropriate state agency to operate or must have program approval from an applicable state agency in order to be considered for approval by a LWDB to offer training services to WIOA customers through the ITA method.

Programs and providers under category 3 will be granted approval, if requested, following confirmation by the Virginia Department of Labor and Industry that the sponsoring employer and apprenticeship related instruction have been recognized by the state and are active and in good standing. Virginia Board of Workforce Development Policy 15-03 describes the eligibility criteria and procedures specific to Registered Apprenticeship programs.

Attachment A describes certain exceptions to the certification requirements of this policy. A list of certifying agencies is provided as Attachment B to this policy.

Distance and Online Training Providers

WIOA funds may be used for programs that are conducted in a completely online format. Online providers may apply and be considered for inclusion on the state ETPL and will be required to meet the same eligibility and performance criteria established for classroom-based instructional providers.

Out-of-State Training Providers

WIOA funds may also be used for approved programs from other states. Approved providers and programs based in other states are not required to complete an application for approval in Virginia. In order for an eligible customer to obtain training through an out-of-state provider, the training provider must be listed on a state maintained eligible training provider list from another state.

Eligible training provider lists in other states can be located here:

[Career One Stop: Service Locator](#)

To receive funding through BCWDB, all providers and programs recognized by other states must meet Virginia's state criteria established for initial eligibility and performance criteria established by this policy must be met. The Virginia Community College System (VCCS), as the Administrator of Title I funding will establish, maintain and periodically review reciprocity agreements with neighboring (bordering) states.

Exceptions to the ITA and the ETPL requirements

There are several exceptions to the required use of an ITA for training. In situations covered by these exceptions, a contract for services may be used to provide for training in lieu of the ETPL process.

1. On-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience and transitional employment are not included in the eligible training provider list and therefore are not subject to the eligibility requirements. BCWDB is required to identify their criteria for selecting such contractors in local policy and any performance information required by the state will be specified in the specific policies for those types of training;
2. Where BCWDB determines there are an insufficient number of eligible providers in the local area to accomplish the purpose of an ITA. The local plan and local policy must describe how this determination was made and the process used for contracting for services;
3. If BCWDB determines that a community-based organization (CBO) or nonprofit whose primary mission is to serve individuals with barriers to employment provides effective training services. The BCWDB must develop criteria in local policy to determine that the program is effective;
4. Contract training for multiple individuals in in-demand industry sectors or occupations, as long as the contract does not limit the individual's consumer choice; and
5. Circumstances in which a pay-for-performance contract is appropriate, if the BCWDB choose to utilize this strategy.

PROCESS

State ETPL Application Information Requirements

Training providers applying for inclusion on the ETPL must provide information using a common, statewide application. That application is available via www.vcwdbay.com to this policy. The following must be documented

- Description of each program of training services to be offered;
- Provide information regarding student outcomes, as described in WIOA, Section 116 (b)(2)(A)(i)(I)-(IV);
- Information on cost of attendance, including cost of tuition and fees;
- Whether the training program leads to an industry-recognized certificate or credential, including recognized post-secondary credentials;
- Whether the certificate or credential can be stacked with other credentials over time as part of a sequence to move an individual along a career pathway or up a career ladder;
- Whether the provider has developed the training in partnership with business (a description of the partnership(s) and the name of the business(es));

- Which in-demand industry sectors and occupations best fit with the training program and the average wages for the primary target occupation for which the training prepares the individual, as published by the Virginia Employment Commission, for the state and the local area where they are pursuing application;
- A description of the prerequisites or skills and knowledge required prior to the commencement of training;
- Description of how the provider will ensure access to training services throughout the Commonwealth, including rural areas and through the use of technology; and
- Description of how the training provider will work with the BCWDB to serve individuals with barriers.

Continued Eligibility and Program Performance Reporting

After one full year of eligibility, approved training providers will be required annually to provide basic information for continued eligibility and will submit performance information for participants whose activities were funded through an ITA.

If the BCWDB initially accepted the application and approved the provider/program, a request for renewal verification and program performance reporting for providers/programs will be provided using a standard statewide template and procedure. The data that is provided during the performance data collection period will be entered by the BCWDB into the state reporting system to ensure transparency and support informed customer choice in the evaluation and selection of training providers. Providers of training who fail to provide the verification and performance information by June 30th will be placed in probationary status by the BCWDB until the requested verification and performance information is received. Providers of training in probationary status who do not provide the requested performance information by September 30th will be removed from the state eligible training provider list.

A recognized apprenticeship program may remain on the ETPL as long as it remains registered and recognized by the Virginia Department of Labor and Industry. Annually, the administrator of Title I funds will provide DOL a list of approved providers in this category and verify the status of apprenticeship programs.

State ETPL Performance Requirements

Beginning in the Program Year 2019 (beginning July 1, 2019), in order to remain on the ETPL, all eligible training providers and programs who receive funding through an ITA must annually provide information on the following four outcomes for WIOA Title I participants:

1. Training Completion Rate
2. Credential Attainment Rate
3. Entered Employment Rate
4. Post Training Earnings



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Outcomes (1) and (2) will be used to evaluate continued inclusion on the ETPL. The performance levels required to remain on the ETPL are as follows:

1. Training Completion Rate must meet or exceed 50%
2. Credential Attainment rate must meet or exceed 65%

Registered apprenticeship programs are not subject to the state performance requirements. Any apprenticeship program may remain on the ETPL as long as it remains registered and recognized in good standing by the Virginia Department of Labor and Industry.

If a provider or program failed to meet the criteria established above, they will be removed from the state ETPL. A letter informing them of that removal will be issued by the BCWDB. Training providers who are removed from the state list may appeal.

Accuracy of Information and Appeals Process

The BCWDB has the responsibility for maintaining the statewide ETPL for the training providers and programs that are approved by the BCWDB and as such will have the final responsibility to ensure that the list of providers approved by BCWDB is accurate and is an honest reflection of the training opportunities available in the region.

1. ACCURACY OF INFORMATION – If after consultation with the BCWDB involved, it is determined that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information, the Commonwealth and BCWDB may terminate the eligibility of the provider or program to receive WIOA funds for any program for a period of time that is not less than two (2) years.
2. NONCOMPLIANCE – If the Commonwealth or the BCWDB Board working with the Commonwealth, determines that an eligible provider substantially violates any requirement under the WIOA legislation, the Commonwealth, or the BCWDB working with the Commonwealth, may terminate the eligibility of such provider or individual program to receive WIOA funds for the program involved or take such other action as the Commonwealth or BCWDB determines to be appropriate.
3. REPAYMENT – A provide whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all WIOA funds received for the program during any period of noncompliance. The BCWDB will make reasonable efforts to collect funds. Administrative processes and guidance for associated disallowed costs are established to support local boards in those efforts.
4. CONSTRUCTION – These penalties shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.



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Appeal Process for Denial of Placement on or Subsequent Removal from an Eligible Training Provider List

A training provider may appeal to the BCWDB Board if they are denied eligibility for the state ETPL by the BCWDB. The process will, if necessary, include the opportunity for a hearing and the prescription of appropriate time limits to ensure a prompt resolution of the matter.

The training provider shall have thirty (30) calendar days from the date the denial notification was provided to file a request for reconsideration to the BCWDB Board. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the training program and location(s) denied and must clearly state the reasoning for the appeal. Within thirty (30) calendar days of receipt of the request for reconsideration, the BCWDB Board shall review the request and issue a written decision that either upholds or reverses the original decision. Instances for a reversal may include, but shall not be limited to, an administrative error or instances where additional information submitted by the training provider changes the basis on which the original decision was made.

Reversal of Decision by BCWDB

If the BCWDB reverses the prior decision, the BCWDB shall add the training provider/program to the state ETPL list on the state supported system. The appeal will be kept on file for at least three (3) years physically and then documented electronically in an archived file. The BCWDB shall also notify the training provider in writing that it has reversed its original decision and that the list inclusion request has been completed. If the BCWDB fails to act during the 30-day time period described above, the initial decision shall automatically be reversed.

BCWDB Board Appeal Denial

If the BCWDB affirms its original decision, the provider shall have the option of filing an appeal with the Virginia Board of Workforce Development. Such a filing must be made within thirty (30) calendar days from the date the final denial notification was provided. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the provider and training program(s) denied and must clearly state the reasoning for appeal. A representative of the local workforce development who initially denied the application may be present at any hearing. The Virginia Board of Workforce Development shall review the request and issue a written decision that either upholds or reverses the original. If the decision is upheld, that program must wait twelve (12) months to reapply.

Attachment A: Training Provider/Program(s) Exempt from Certification

§ 23-276.2 of the Code of Virginia allows the following exemptions from certification:

1. Public institutions of higher education in Virginia
2. Educational offerings or activities that meet the following:
 - a. A nursing education program or curriculum regulated by the Board of Nursing;
 - b. A professional or occupational training program regulated by another state or federal governmental agency;
 - c. Those courses or programs of instruction given by or approved by any professional body that are principally for continuing or professional education and for which no degree credit is awarded;
 - d. Those courses or programs offered through approved multistate compacts, including, but not limited to, the Southern Regional Education Board's Electronic Campus;
 - e. Those courses offered and delivered by a postsecondary school that is accredited by an entity recognized by the U.S. Department of Education for accrediting purposes, if such courses are provided, solely on a contractual basis for which no individual is charged tuition and for which there is no advertising for open enrollment;
 - f. Any school, institute or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects related to the trade, business or profession represented by such association;
 - g. Any public or private high school accredited or recognized by the Board of Education;
 - h. Tutorial instruction delivered and designed to supplement regular classes for students enrolled in any public or private school or to prepare an individual for an examination for professional practice or higher education; or
 - i. Religious institution whose primary purpose is to provide religious or theological education.



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§ 23-276.4 (C) of the Code of Virginia states that institutions of higher education are not required to obtain further certification if they (i) were formed, chartered, or established in the Commonwealth; (ii) have maintained a main campus continuously in the Commonwealth for at least 20 calendar years under their current ownership; (iii) were continuously approved or authorized to confer or grant academic or professional degrees by the Council during those 20 years; and (iv) are fully accredited by an accrediting agency that is recognized by the U.S. Department of Education. Postsecondary institutions that do not meet the requirements of § 23-276.2 or § 23-276.4 (C) above are required to obtain certification in accordance with Attachment B.

Attachment B: List of Certifying State Agencies

The following State agencies can provide approval for Occupational Skills Training programs (please note this is not an all-inclusive list):

- Criminal Justice Services Department
- Department of Health Professions (DHP)
- Department of Medical Assistance Services (DMAS)
- Department of Motor Vehicles
- Department of Professional and Occupational Regulation (DPOR)
 - a. Board for Barbers and Cosmetology
 - b. Board for Contractors
 - c. Fair Housing Board
 - d. Real Estate Board
 - e. Real Estate Appraisers Board
 - f. Tradesmen
 - g. Board for Waste Management Facility Operators
 - h. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals
- State Council of Higher Education for Virginia (SCHEV)
- Virginia Board of Pharmacy
- Virginia Board of Nursing