



## **Eligible Training Providers Policy**

### **Purpose**

This policy provides information and direction for the Eligible Training Provider process, eligibility, application procedures, the appeal process, dissemination of the list, and reporting requirements.

### **Background**

In order to maximize customer choice and assure that all significant population groups are served, the Eligible Training Provider List (ETPL) offers a wide variety of training programs and choices within the demand occupations identified by the Northern Middle Tennessee Workforce Board (NMTWB). Eligible participants who need training use the ETPL to provide consumer choice, while also supporting increased performance accountability. Only those programs that are approved and listed on the State's ETPL are eligible for referral and enrollment of a WIOA customer. These guidelines are consistent with Title I of the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3101 et seq.); Americans with Disabilities Act of 1990 (42 USC, 12101 et seq.); WIOA Section 188 Nondiscrimination; WIOA Section 122 Identification of Eligible Providers of Training Services; WIOA Section 123; WIOA Section 122(e)(3)(1); Uniform Guidance Cost Principles codified in 2 CFR Part 220, Part 225 and Part 230; TEGL 41-14; Tennessee Workforce Development Act of 1999, Tenn. Code Ann. Title 4, Chapter 3, Part 14, §4-3-1401 et seq.

### **Policy & Instructions**

Prospective Eligible Training Providers must submit initial eligibility criteria including: training services to be offered; information addressing alignment of the training services with in-demand industry sectors and occupations to the extent possible; performance and cost information; and, annually met performance levels on specified performance measures as required.

The Board may require higher levels on specified performance measures or may require additional measures and corresponding levels. Once approved by the Board, the State will be informed to add to the ETPL. The Board may choose not to fund certain categories of training programs based on, but not limited to:

- Lack of occupational demand
- High tuition cost in comparison to comparable programs
- Lack of a livable wage upon program completion
- Academic program performance that does not meet acceptable thresholds determined by the Board

#### **A. Training Provider Eligibility**

To be eligible to receive funds, the training provider must meet one of the following requirements:

1. A postsecondary educational institution that is eligible to receive Federal funds under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and provides a program that leads to an associate degree, baccalaureate degree, or certificate.

2. An entity that carries out programs under the National Apprenticeship Act of August 16, 1937; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.
3. Another public or private provider of a program of training services for the general public or specialized training for participant populations that face multiple barriers to employment such as providers directly associated with the Division of Rehabilitation Services, TN Department of Human Services. These populations include the following categories: Low-income individuals with barriers to employment and people with disabilities.
4. Another public or private provider with demonstrated effectiveness providing training to a population that faces multiple barriers to employment. These populations include:
  - a. Displaced homemakers
  - b. Low-income individuals
  - c. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in Section 166.
  - d. Individuals with disabilities, including youth who are individuals with disabilities.
  - e. Older individuals
  - f. Ex-offenders
  - g. Homeless individuals (as defined in Section 41403(6) of the Violence against Women Act of 1994 (42 U.S.C. 14043e-2(6) as amended in 2013); or homeless children and youths (as H. R. 803-10 defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2) and Section 721)).
  - h. Youth who are in or have aged out of the foster care system.
  - i. Individuals who are English language learners, including individuals who have low levels of literacy, and individuals facing substantial cultural barriers,
  - j. Eligible migrant and seasonal farmworkers, as defined in WIOA Section 167(i), and services to other low income individuals. (l) Individuals within 2 years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.).
  - k. Single parents (including single pregnant women).
  - l. Long-term unemployed individual).
  - m. Other groups the Governor determines to have barriers to employment (WIOA section 133
5. They must provide a program of training that:
  - a. One or more courses or classes that, upon successful completion, leads to a certificate, an associate degree, or baccalaureate degree, or a competency or skill recognized by employers; or
  - b. A training regimen that leads to competitive integrated employment for individuals with disabilities that provides individuals with additional occupational skills or competencies generally recognized by employers.

## **B. Initial Eligibility and Application Procedures**

All training providers are required to complete the online application and follow all guidelines and requirements of the State Policy 16-9 in order to be included on the statewide Eligible Training Providers List (ETPL). Providers must provide quarterly performance as outlined in State Policy 16-9. The online application is reviewed and the Board will make the final determination about placement onto the ETPL.

1. Applications for initial eligibility must be initiated by the training provider by completing an online New Provider Application (WIOA Section 122 (b)(4)(C)(E).
2. The online application is first submitted for verification of completeness.

3. The Board must verify that the training provider is in compliance with all Tennessee regulations pertaining to training authorization.
4. In addition, all information requires completion and verification for the ETPL training provider before the applications are submitted to the Board for consideration.
  - a. If the training provider is not compliant or the application is incomplete, the Board will notify the training provider within 15 days of receiving the application.
  - b. If the training provider is compliant, and its application is complete, the Board must review the application within 5 days of receiving the necessary information.
  - c. The Board cannot send WIOA participants to new training providers until they are approved by the Board and the State office has been notified of the approval of the new provider.
5. The Board will ensure that the training provider meets their local eligibility criteria and then will vote to decide if the training provider and the associated programs will be added to the ETPL.
6. Training providers must supply any additional supplemental information requested by the Board to assist in the initial eligibility decision.
7. Applications must be presented in the time and manner determined by the Board. New training provider program application(s) may be submitted on any day of the year.
8. After the Board votes on the training provider's application, a written notification must be submitted to the State within 30 days of the decision to add or deny the training provider placement onto the ETPL.

If the Board denies a training provider's initial application for listing on the ETPL, the staff must, within 30 days from the date of determination, inform the training provider in writing, including the detailed reason(s) for the denial and complete information on the appeal process.

#### Reasons for Denial of Application for Initial Eligibility:

- a. The Board may deny eligibility if the application from a training provider is not complete or not submitted within required time frame.
- b. The Board may deny eligibility if an applicant fails to meet the minimum criteria for initial listing specified in this policy (WIOA Section 122(c)(1)).
- c. The Board may deny eligibility if the training programs offered by the training provider do not lead to gainful employment in in-demand occupations as determined by a labor market analysis.
- d. The Board may deny eligibility if the training program demographics (i.e. costs and length) are substantially higher (beyond 50%) than previously approved programs offering the same credential (within the past two program years).
- e. The Board may deny eligibility if it is determined that the applicant intentionally supplied inaccurate information (WIOA Section 122(f)(1)(A)).
- f. The Board may deny eligibility to a training provider who has been found to have substantially violated any WIOA requirements (WIOA Section 122(D)(1)(B)).

### **C. Program Changes**

To add new training programs for previously approved providers:

1. The Eligible Training Provider must submit the program using the online Web application for addition to the ETPL.
2. The application materials are received electronically by the Eligible Training Provider Coordinator and reviewed for completeness.
3. All new programs must have prior authorization by the appropriate State authorizing agency (Tennessee Higher Education Commission, Tennessee Board of Regents, etc.) before they can be added to the ETPL.
4. After verification of completeness, the application materials are forwarded to the Board for its vote on whether to add the program to the ETPL.
5. After the Board has rendered a vote about the application material, its decision is communicated in writing to the State.

### **D. Appeals to the Board**

This procedure applies to appeals by training providers to the Board based on the denial of a training provider's application for initial listing on the ETPL.

1. A training provider wishing to appeal a decision by the Board must submit an appeal to the staff within 30 days of the issuance of the denial noticed. The appeal must be in writing and include a statement of the desire to appeal, specification of the program(s) in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official.
2. The Board appeal process must grant the training provider the opportunity to directly address the reasons for denial and do it either in writing or through an appeal hearing.
3. The Board will have 1-3 impartial appeal officers who are responsible for reevaluating the supplemental materials supplied by the training provider in addressing the initial reasons for denial. An impartial appeal officer may be any staff member uninvolved in the initial decision.
4. The Board will notify the training provider of the final decision made on an appeal within 30 days of receipt of the appeal.
5. The Board appeal notification to the training provider will reference the process for filing a State appeal in the event that the training provider is not satisfied with the outcome of the local appeal.

### **E. Appeals to the State**

When training providers have exhausted the appeal process with the Board and are dissatisfied with the Board's final decision they may appeal to the State.

A training provider wishing to appeal to the State must submit an appeal request to the State within 30 days from the Board's notification to the training provider of its final decision on an appeal. The request for an appeal to the State must be in writing and include a statement of the desire to appeal, specification of the program(s) in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official and follow TN WIOA Policy 16-9.

### **F. Performance Data**

Eligible Training Providers must provide the information necessary to determine program performance and to meet other requirements of WIOA. The Eligible Training Provider must agree to make available verifiable data to validate any information submitted.

Eligible Training Providers on the ETPL are required to submit quarterly performance reports to the NMTWB and State. The report must contain individual level data for all participants in programs offered by the Eligible Training Provider that have serviced at least one student with the assistance of WIOA funding.

## **G. ETPL Penalties**

Eligible training Providers may be suspended from the ETPL for any of the following actions:

1. Failure to submit quarterly performance reports or the exemption claim sheet by the deadlines.
2. Failure to keep current the eligible training provider and program demographic information displayed on the ETPL.
3. Failure to respond to a NMTWB or State request for a data validation visit
4. Poor performance during a data validation visit
5. Failure to submit corrections needed following quarterly report validation by the specified deadline
6. Failure to comply with NMTWB or State request for information

During any State or Federal criminal investigation launched against the institution or key personnel at the institution, the Eligible Training Provider may be removed from the ETPL until a final resolution is reached. Depending on the final resolution, the provider may be permanently removed from the ETPL.

An Eligible Training Provider whose eligibility is terminated as a result of the reasons specified in above for a program shall be liable for repayment of all funds received during any period of noncompliance.

## **H. Registered Apprenticeship Programs**

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 such programs have gone through a detailed application and vetting procedure to become a Registered Apprenticeship program sponsored by the United States Department of Labor.

Registered Apprenticeship programs are exempt from performance and reporting related requirements in order to enable these evidence-based programs to be placed on the ETPL with minimum burden. The only criterion that applies to apprenticeships is that they be registered as apprenticeship programs with the U.S. Department of Labor. A Registered Apprenticeship program on the ETPL will be on every local ETPL in the State.

Registered Apprenticeship programs with openings for new apprentices will automatically be considered a statewide demand occupation to facilitate WIOA funding support as appropriate.

Registered Apprenticeship sponsors that want to add new programs to the ETPL must indicate their interest in being included on the list and must use the online Web application to submit their programs.

## **I. Out-of-State Providers, except Registered Apprenticeship Programs**

Sub-recipients can send a Tennessee WIOA participant to a provider located in a different State given that the training provider appears on the other State's ETPL. The Board will only approve training providers within the area and it must be a permanent training structure.

Reciprocal Agreements are subject to the following guidelines:

If the Board utilizes a training provider that does not appear on the Tennessee ETPL, it is the responsibility of the Board to track and report the necessary performance information needed for subsequent eligibility determinations. To fulfill this obligation, the Board must ensure that verification of enrollment, completion, and subsequent placement for training participants are recorded in the State performance tracking system (currently Virtual One-Stop Data Management Tracking System (VOS)).

**J. Dissemination of the ETPL**

The Board is responsible for ensuring that all American Job Center (AJC) staff members have access to the ETPL and are knowledgeable about utilizing the ETPL.

The AJC staff are to ensure local access to the ETPL for customers within the AJC and do not allow WIOA participants to enroll in programs that do not appear on the ETPL.

**References**

20 CFR 663.530; 20 CFR 680.490; 20 CFR 683.630(b); TEGL 41-14; WIOA Section 107(g)(1 ); WIOA Section 166(b); WIOA Section 167(i); WIOA Section 122(b)(1 )(A); WIOA Section 122(b)(1 )(E); WIOA Section 122(b)(2); WIOA Section 122(b)(2)-(b)(4)(D); WIOA Section 122(b)(4)(C)-(E); WIOA Section 122(c)(1 ); WIOA Section 122(c)(2); WIOA Section 122(d); WIOA Sections 122(d)(1) and (d)(3); WIOA Section 122(f)(1 )(C); WIOA Section 122(g); WIOA Section 122(f)(1 )(B); WIOA Section 134(c)(3)(E)

Authorized by:

Approved by:

Marla W. Rye      6/10/20  
Marla Rye, Executive Director      Date

John Zobl      6-10-20  
John Zobl, Chairman      Date