

# **WORKFORCE DEVELOPMENT BOARD**

## **Herkimer, Madison & Oneida**

**POLICY # 18-01.2:** Eligible Training Provider List

**DATE:** March 2, 2021

**Applies To:** WIOA Title I – Adult, DW and Youth Programs

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### **PURPOSE**

Update New York State Department of Labor (NYSDOL) policy regarding the Eligible Training Provider List (ETPL) to comply with the Workforce Innovation and Opportunity Act (WIOA).

Rescind and replace Workforce Development System Technical Advisory (WDS TA) #06-7 “State Policy Guidelines for Local Workforce Investment Areas Regarding the Determination of Eligibility of Training Offerings and the Establishment of the Eligible Training Provider List” (May 25, 2006).

### **POLICY**

Training providers and offerings must be listed on the ETPL in order to receive WIOA funding through an Individual Training Account (ITA).

All Registered Apprenticeship (RA) programs are automatically eligible for inclusion on the ETPL and are not required go through the initial and continued eligibility processes.

NYSDOL’s Registered Apprenticeship training office will inform RA program sponsors of their right to be included on the ETPL through mail and email.

### **ACTION**

Workforce Development Board Herkimer, Madison & Oneida Counties, Inc. (LWDB) will accept applications, determine if training offerings are for in-demand occupations, assist training providers that wish to be placed on the ETPL by providing information on the application process, and determine the Initial Eligibility and Continued Eligibility of training providers and their offering(s).

LWDBs will review current procedures for approving training providers/offerings on the ETPL and update as necessary.

NYSDOL has final authority on approval/denial of ETPL providers, will maintain the State ETPL on the NYSDOL website, review LWDB procedures for the provision of Initial and Continued Eligibility, provide additional review of any training providers denied access, respond to inquiries regarding the ETPL, and provide technical assistance to LWDBs and training providers as necessary.

## Eligibility

### Initial Eligibility

Initial eligibility is based on the training provider/offering's authority or authorization to operate as determined by the LWDB.

- a. Period of Initial Eligibility: 12 months from the date the training provider/course offering is first approved for listing on the ETPL.
- b. Training Providers Eligible to Receive Funding: An institution of higher education that provides a program that leads to a recognized postsecondary credential; an entity that carries out programs under the National Apprenticeship Act; other public or private providers of a program of training services, including community-based organizations and joint labor-management organizations; and eligible providers of adult education and literacy activities under Title II if activities are provided concurrently or in combination with one or more of the following training services:
  - Occupational skills training;
  - On-the-job training (OJT);
  - Incumbent worker training;
  - Programs that combine workplace training and related instruction, which may include cooperative education programs;
  - Training programs operated by the private sector;
  - Skill upgrading or retraining; or
  - Entrepreneurial training.
- c. Courses: Approved providers are not required to list their entire course catalog on the ETPL. A single course offering should be submitted to gain entry to the ETPL with additional course offerings added when a WIOA participant wishes to enroll in a specific course or program of study.

WIOA Funding: Inclusion of a provider on the ETPL does not entitle or assure that the provider will receive funding from a LWDB. Course offerings being funded must provide training for an occupation identified by the LWDB as an in-demand occupation or industry sector in the Local Workforce Development Area (LWDA). Training providers not listed on the ETPL may receive WIOA training funds if the training is considered on-the-job training, customized training, incumbent worker training or transitional employment.

There are also additional circumstances when the LWDB can decide not to use an ITA, and instead use a contract to provide training services. These circumstances include, but are not limited to:

- When the LWDB determines there is an insufficient number of Eligible Training Providers (ETPs) in the LWDA;

- When there is already an effective training service that serves individuals with barriers to employment;
  - When the LWDB determines it is more appropriate to contract with an institution of higher education; and/or
  - When a pay-for-performance contract is used to provide the training services.
- d. Out-of-State Providers: Providers that do not have an in-state training facility may apply to any LWDB that is willing to approve out-of-state providers. If approved, the provider will be added to the ETPL.

During the Initial Eligibility Review Process LWDBs are responsible for the following:

- a. Notifying providers of the opportunity to apply to be on the ETPL.
- b. Acting on a training provider's offering application within 30 days of receipt.
- c. Setting levels of expected program-specific performance.
- d. Ensuring training providers submit for consideration performance and cost information for each course offering. Performance information should include data on employment 2nd and 4th Quarter after exit, median earnings 2nd Quarter after exit, and credential attainment.
- e. Requiring that training providers be in compliance with State laws by having a current license, certification, registration, approval or exemption from the appropriate State and/or federal oversight agency.
- f. Evaluating the experience and reputation of the training provider and the schedule of offerings.
- g. Considering other information that may be locally relevant in making a determination of funding eligibility (i.e., whether the training provider is in partnership with a business).

More information regarding the eligibility process can be found in the [ETPL Provider Guide](#), located on the NYSDOL website.

### Continued Eligibility

After a training provider has reached the end of the 12-month period of Initial Eligibility, LWDBs must perform a Continued Eligibility review of the provider.

- a. Training Provider Requirements: Training providers must complete accurate and timely performance and program cost information for offerings that have been on the ETPL for 12 months. ETP performance must include the following performance measures: Employment 2nd and 4th Quarter after Exit, Median Earnings, and Credential Attainment. Full details on the required performance indicators can be found in TA #“Primary Indicators of Performance for Titles I and III under the Workforce Innovation and Opportunity Act (WIOA)” (September 17, 2018).

- b. LWDB Review: LWDBs must review the information provided and make a determination to approve the training provider for a period of Continued Eligibility, or remove it from the ETPL.
- c. Approval: If approved, the period of Continued Eligibility is 24 months from the date the training provider/offering is reviewed and granted Continued Eligibility.
- d. Future Eligibility: A Continued Eligibility review must be performed at least once every 24 months thereafter.

When recommending a training provider and its offering(s) remain on the ETPL, the LWDB must consider the following:

- a. Specific economic, geographic and demographic factors in the local area and the characteristics of the population to be served, including offerings for rural areas, offerings provided through the use of technology, and offerings that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities.
- b. Program-specific performance information and attainment submitted by the training provider.
- c. Program-specific cost information, including tuition and fees.
- d. Compliance with the license, certification, registration, approval or exemption required by the appropriate State and/or federal oversight agency to provide the training.
- e. LWDB experience with the training provider.
- f. Ways in which the criteria can encourage training providers to offer quality training courses leading to industry-recognized certificates and postsecondary credentials.
- g. Training needs of the local area with respect to in-demand industry sectors and occupations.
- h. Any other information that may be relevant in determining Continued Eligibility status (i.e., information reported to State agencies on federal and State training programs other than WIOA Title I-B programs).

Additional information on LWDB considerations can be found in the [LWDB Guide](#), located on the NYSDOL website.

### **Registered Apprenticeship Programs on the ETPL**

WIOA grants RA programs registered with the U.S. Department of Labor, Office of Apprenticeship, or NYSDOL, automatic eligibility to the State ETPL. Additionally, RA programs are subject to an abbreviated application to be placed on the ETPL. RA program sponsors must provide NYSDOL the following for inclusion on the ETPL:

- a. The occupation(s);
- b. The name and address of the sponsor;

- c. The name and address of Related Instruction Provider (and the location of instruction if different from the program sponsor's address);
- d. Method/Training Approach (Time-based, Competency-based or Hybrid);
- e. Length of instruction; and
- f. Number of apprentices.

RA programs are exempt from performance reporting requirements, although they may wish to voluntarily submit performance outcomes.

RA programs will remain on the ETPL until:

- a. The RA program notifies the State agency it no longer wants to be included on the list;
- b. The program becomes deregistered under the National Apprenticeship Act;
- c. The program is determined to have intentionally supplied inaccurate information; or
- d. A determination is made that the RA program substantially violated any provision of Title I of WIOA or the WIOA regulations, including 29 CFR part 38.

There will be a biennial review (every two years) of RA sponsor's eligibility by NYSDOL, using the removal criteria above.

**Retention of Initial and Continued Eligibility**

To retain Initial and Continued Eligibility, a training provider must deliver results and provide accurate information to NYSDOL. Eligibility may be denied/terminated for the following reasons:

- a. The training provider does not have appropriate State and/or federal approval to operate.
- b. The application is not complete.
- c. The offering does not meet the definition of WIOA training services.
- d. Required performance data is not included with the application or the performance data does not meet established performance levels.
- e. The training provider is delinquent in delivery of reports, payment of debt, or otherwise out of compliance with WIOA or any agreement executed under WIOA.
- f. The training provider is not current in the payment of unemployment insurance contributions or reimbursements, or is in violation of State Labor Law.
- g. The training provider intentionally supplied inaccurate information.
- h. The training provider violated any requirement under WIOA.
- i. The training provider failed to demonstrate the business capacity or integrity to successfully deliver training.

### **Denial of Eligibility**

The recommendation to deny the eligibility of an offering may originate from either the LWDB or NYSDOL. Training providers will be notified of a decision to deny eligibility

status for an offering. If an offering is denied eligibility, the training provider may take the following steps:

- a. Training providers have the right to appeal denial of eligibility status. A training provider has 15 business days from the date of a denial notice in which to file an appeal. The request for appeal must be in writing, signed by an authorized agent of the training provider, and be submitted to both the LWDB and NYSDOL.
- b. The LWDB and NYSDOL may reverse their original denial if an administrative error was made or if additional information submitted by the training provider changes the basis on which the original decision was issued.
- c. If the LWDB and NYSDOL do not reverse their original denial, the training provider will not be able to reapply to the ETPL until after a specified waiting period. The length of the waiting period will be determined by the LWDB and NYSDOL based on the reason for the denial, up to a maximum of 24 months. Each case will be reviewed individually and the waiting period will be calculated from the original date of the denial.

## **REFERENCES**

Workforce Innovation and Opportunity Act of 2014 §122 and §134(c)(3)(F) and (G).

Regulations: Workforce Innovation and Opportunity Act, Part 680 Subparts C and D.