



October 18, 2016

Dear Colleagues,

The Workforce Innovation and Opportunity Act (WIOA) requires the state to develop a process for training providers to apply and be selected for inclusion on the Eligible Training Provider List (ETPL). The ETPL is a statewide list of providers that have been deemed eligible by the state to receive WIOA training funds. This statewide list ensures accountability, quality, and labor-market relevance of training programs that receive WIOA funds. The Indiana Department of Workforce Development (DWD), acting on behalf of the state, has developed this procedure and described it in the attached ETPL Policy ("Attachment A").

The Workforce Innovation and Opportunity Act (WIOA) regulations require the state to provide an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on the state's procedure for determining the eligibility of training providers to be included on the ETPL. [§ 680.440]

This letter will serve as public notice for interested members to comment on the state's eligible training provider eligibility procedures described in the attached ETPL policy. Please send any comments to policy@dwd.in.gov no later than **COB November 21, 2016**.

DWD will also be holding a hearing for public comment on **October 26, 2016 at 10:30am** at the DWD offices at 10 N. Senate Ave., Indianapolis, IN 46217 in Conference Room 301B. There will be a conference line available at this time should you wish to provide comment by phone. The conference line number is: 877-422-1931, code: 9510108315.

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An Economic Development Partner

Attachment A

To: Workforce Development Board Chairs
Workforce Development Board Directors
Regional Chief Elected Officials

From: Regina Ashley, Chief Strategy Officer
Josh Richardson, Chief Operating Officer

Date: July __, 2017

Subject: 2017-XX
Eligible Training Provider List Eligibility and Establishment under the Workforce Innovation and Opportunity Act (WIOA)

Purpose

To provide an updated policy with new information, criteria, and procedures required under the Workforce Innovation and Opportunity Act of 2014 for the Eligible Training Provider List.

Rescission

DWD Policy 2015-03, Training Provider Eligibility and Establishment of the Eligible Training Provider List under the Workforce Innovation and Opportunity Act (WIOA)

References

- Workforce Innovation and Opportunity Act (WIOA) Section 122
- WIOA Regulations, Sections 680.400 – 680.530
- TEGL 41-14

Content

Background

The workforce development system established under The Workforce Innovation and Opportunity Act (WIOA) emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principals.

Under WIOA, the state is required to compile and disseminate a single statewide list of eligible training providers, known as the Eligible Training Provider List, (ETPL). This statewide list ensures the accountability, quality, and labor-market relevance of training programs that receive funds through WIOA. Likewise, it is also a means for ensuring informed customer choice for individuals who are eligible to receive training services.

Indiana's ETPL will be administered through the INTraining website, which has been updated to support the implementation of WIOA by providing enhanced features and accessibility for users. It is important to note the distinction between the INTraining website and the ETPL. The INTraining website is the means by which training providers submit applications to have their programs listed for consumers to view and access. Once the providers have submitted the required program information to be determined eligible to be placed on the INTraining website, a more thorough review will be completed by DWD staff to determine whether the program is also eligible to receive WIOA funding, and therefore be placed on the ETPL. The ETPL is a subset of INTraining and will contain the selected INTraining providers and programs which have been determined eligible to receive WIOA funding.

The INTraining website and all corresponding procedural documents can be found at <https://solutions.dwd.in.gov/INTraining>

Definitions

Eligible Training Provider

An entity that provides a program of training services and has been determined as eligible to receive WIOA funding for training services through an Individual Training Account (ITA). These providers and programs will be included on the state ETPL. The provider must be one of the following types of entities:

- Institutions of higher education that provide a program which leads to a recognized postsecondary credential; or
- Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50 et seq.); or
- Other public or private providers of training services, which may include:
 - Community-based organizations;
 - Joint labor-management organizations; and
 - Eligible providers of adult education and literacy activities under Title II of WIOA if such activities are provided in combination with training services described at § 680.350 of the WIOA regulations.

In-Demand Occupation

Indiana utilizes a scoring formula to rate occupations for both short-term and long-term outlooks to determine if the occupation is an in-demand occupation in a particular region. The formula takes into account the following job characteristics: total job openings, growth openings, percentage change, real-time online job postings, labor market information, and wages. The final score results in a rating of one (1) through five (5) for each occupation, one (1) being least in-demand and five (5) being highly in-demand. A training program must lead to an occupation rated as a three or more in a region order to be considered "in-demand" and eligible for WIOA funding. The demand ratings will be updated periodically to reflect emerging in-demand occupations.

Program of Training Services

One or more courses or classes, or a structured regimen that provides the services that leads to:

- (a) An industry-recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the State involved or the Federal government, an associate or baccalaureate degree;
- (b) A secondary school diploma or its equivalent;
- (c) Employment; or

- (d) Measurable skill gains toward a credential described in paragraph (a) or (b) of this section or employment.

Skill Gains

Number of in-program participants in an education or training program that leads to a postsecondary credential or employment and are achieving skill gains in one of the following:

- Educational Achievement
- High School Diploma or equivalent
- Secondary/post-secondary transcript/report card
- Training milestone
- Skills progression

Initial Eligibility

Application

Training providers must complete and submit both a *provider* application and a *program* application(s) through the INTraining website.

The *provider* application will require information about the provider, such as the type of entity. Once the provider application has been submitted and reviewed by DWD, the provider must fill out a *program* application for each program it seeks to have included on the ETPL. The program application will require information regarding the curriculum, etc. After the program application(s) has been submitted, the provider will receive a request for submission of student-level data or an accountability waiver (if applicable).

Data Submission

Training providers must report the following student-level data to DWD for ALL students (regardless of funding source):

- Social Security Number (optional)
- Name
- Address (only required if SSN is not provided)
- Date of Birth (only required if SSN is not provided)
- Entry Date
- Completion Date
- Enrollment Status
- Name of Assessment (if applicable)
- Pass/Fail Assessment (if applicable)
- Name of Second Assessment (if applicable)
- Second Assessment Pass/Fail (if applicable)

In circumstances when a provider does not have student-level data available for a new program, the provider may be eligible to receive an accountability waiver. If the request for the waiver is granted, the waiver will be effective for up to 150% of the program's length.

If the provider fails to complete either application or fails to submit data/waiver, the provider will be notified. If the missing information/data has not been provided after sixty (60) days, the application will be terminated. The provider is able to re-apply immediately.

ETPL Determination

Upon satisfactory submission and approval of applications and the required data or waiver, the program(s) will appear on the INTraining website. At this point, the provider will receive a notification indicating the applications and data will undergo further review to determine whether program(s) are eligible to receive WIOA funding, and therefore included on the ETPL.

In order for a program to be eligible to receive WIOA funding, and be included on the ETPL, the program must lead to an in-demand occupation in the region and also meet certain performance criteria. The occupations identified in each program application will automatically be cross-checked against the in demand occupation listing to determine whether the occupation is in-demand in the region (denoted by a 3 or more). The student-level data provided for each program will be used to determine whether the program meets the following state minimum performance criteria (programs that received an accountability waiver are exempt from this requirement):

- Best of 2nd or 4th Quarter employment rate greater than 30%; **OR**
- Credential Rate greater than 50%; **OR**
- Median wage \$10/hour (\$28,000 annually)

Failure to meet Performance Criteria

If a program has been denied inclusion on the ETPL for failure to meet the required performance criteria, the provider and program will remain listed on INTraining, however it will not be eligible to receive WIOA funding until the performance criteria has been met.

Review of Demand Determination

If a program has been denied inclusion on the ETPL for lack of occupational demand in the region, or in other words, has a one (1) or two (2) rating, the local Workforce Development Board (WDB) may request a review of the occupational demand determination on behalf of the provider. The board must include a letter of support with supporting documentation with its request for review. This documentation must include one or more of the following:

- **Job Orders.** Regional job listings through reputable sources. The number of non-duplicated regional job orders should be no less than five openings over four months, or fifteen openings in a twelve-month period.
- **Employer Surveys.** Employer surveys that demonstrate occupational shortages. These surveys may be conducted by the local workforce development board, chambers of commerce, economic development entities, business and trade organizations, DWD, and/or academic institutions. The surveys must support an annual demand of fifteen or more and a median wage that is above the 40th percentile for that region.
- **Targeted Industries.** Identified occupations within targeted industries are to be locally determined by the workforce development boards and identified in its local plan, through coordination with chambers of commerce, economic development entities, and business and trade organizations. These industries should be identified in economic development plans

whose objectives are to attract or expand specific industry sectors within the region. It should be demonstrated that occupations within these industries would result in an annual demand of fifteen or more, and a median wage rate above the 40th percentile for that region.

The State Workforce Innovation Council (SWIC) or its designee will evaluate the request for review and all supporting documentation and make a determination of whether or not the occupation should be a considered an in-demand occupation in the region for the purpose of ETPL. This decision will be final and no further review will be permitted.

Continued Eligibility

All providers on the INTraining website must update all information, including required student-level data on an annual basis. The provider will receive a notification for the deadline for submission of the updated information and data. Upon submission, the updated program information will be reviewed and eligibility will again be determined for the program to be included on the INTraining website and the ETPL. The same review and appeal processes outlined in initial eligibility will apply.

Apprenticeships

Registered Apprenticeship programs are not subject to the same application and performance information requirements or the initial eligibility period or procedure because they are monitored on a regular basis by apprenticeship staff at the federal level. Registered Apprenticeship program sponsors should request that the apprenticeship program be listed on the ETPL. The Registered Apprenticeship program will automatically be included on the ETPL once the program sponsor has provided the following information to DWD:

- 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 programs will remain on the ETPL as long as they maintain an active registration or until the program sponsor indicates they no longer wish to have the program on the list. The registered apprenticeships registration status will be reviewed every two (2) years. The registered apprenticeship program will also be removed from the list if it is determined to have intentionally supplied inaccurate information or to have substantially violated any provision of Title I of WIOA or the WIOA regulations.

Exceptions

Programs located out of state and who are approved for inclusion in another state's ETPL will be automatically approved for inclusion on Indiana's INTraining website, but will still need to meet the ETPL eligibility requirements for Indiana in order to be included on the state ETPL.

Per WIOA, certain work-based training programs will be exempt from the ETPL requirements. Any performance information required to be reported to the state for work-based training programs will be outlined in their respective state policies. These programs include:

- On-the-Job training (OJT)

- Incumbent worker training
- Customized training
- Internships
- Transitional employment
- Paid or unpaid work experience opportunities

Conditions for Removal

A provider or program may be removed from INTraining and the ETPL for failure to submit updated program information and/or required student-level data for continued eligibility or for failure to attain or retain required accreditation for professional licensure. If removed for the above reasons, the provider may re-apply as soon as the issue has been rectified.

A provider or program *shall* be removed from INTraining and the ETPL if the provider intentionally supplies inaccurate information, misrepresents costs or services, substantially violates the law or regulations under WIOA, or when the provider has been barred by the federal government to receive federal funds. If the provider is removed for these reasons, the provider must wait no less than two (2) years before re-applying.

If a training provider and/or program is removed from the list, (for reasons other than failure to meet data submission requirements), while WIOA participants are enrolled, the participants may complete the program unless the provider or program has lost state licensure, certification, or authorization to operate by the appropriate state oversight agency.

Appeals

A provider has the right to appeal denial of program inclusion on INTraining or ETPL during initial eligibility (terminated applications are not subject to appeals) or subsequent removal of the program from INTraining or the ETPL for failure to submit or deficient updated program information/data during continued eligibility. A provider may also appeal DWD's decision to remove a program from the list for failure to attain or retain required accreditation for professional licensure, intentionally supplying inaccurate information, misrepresenting costs or services, substantially violating the law or regulations under WIOA, or when the provider has been barred by the federal government to receive federal funds

Administrative Review

Providers of training services may request a review by the department. The request for review for the above reasons must be submitted using the INTraining website within ten (10) business days after the department notifies the training provider of its denial for inclusion on the ETPL or termination of eligibility.

The request for review shall include, but is not limited to, the following items: Name of Provider and the affected program, date, justification for review, any documentation to support the provider's justification.

The department committee comprised of three staff members who were not involved in the initial decision will conduct a review and send notice of its decision to the provider within thirty (30) business days of receiving the request for review.

Appeal of Review Decision

Providers may request an appeal of the department administrative review decision by submitting a written petition for review within fifteen (15) business days of receipt of the notice of administrative decision.

A review committee made up of one to three individuals designated by Commissioner who have not been involved in the initial decision or the administrative review will hold an administrative hearing not more than sixty (60) business days after the department receives the written request. The hearing shall include an opportunity for the petitioner and the respondent to submit written and verbal information to the presiding committee. Following the hearing, the committee will issue a decision within ninety (90) business days of the completion of the hearing. The DWD commissioner shall serve as the ultimate authority.

Local Workforce Development Board Inflection

The local WDB may (except with respect to registered apprenticeship programs) require additional criteria and information from local providers to become or remain eligible in its local area and set higher levels of performance than those required by the State as criteria for local programs to become or remain eligible to provide services in that local area. If local WDB chooses to require additional criteria or information or set higher levels of performance, there must be a policy in place. The board must also coordinate with the state INTraining manager to ensure all data is properly reported.

Accessibility

The list of eligible training providers and programs will be made publicly accessible to consumers through the INTraining website. The list will also be provided in formats accessible to individuals with disabilities. The local WDBs must assist the state to ensure the dissemination and appropriate use of the State list of eligible training providers and programs through the local one-stop delivery system, including formats accessible to individuals with disabilities.