



# Technical Assistance Guide (T.A.G.)

## Workforce Innovation and Opportunity Act (WIOA)

Number: 22-01

Date: July 5, 2022

**Subject:** Eligible Training Provider List (ETPL)

**Purpose:**

To provide instruction update, guidance for training organizations requesting to provide training services under the Workforce Innovation and Opportunity Act (WIOA) of 2014.

**Executive Summary:**

The Workforce Innovation and Opportunity Act (WIOA) Section 122 and 20 CFR part 680 requires the establishment of the eligible training provider list (ETPL) to ensure informed customer choice, performance accountability and continuous improvement. WIOA expands the WIA requirements by increasing accountability and transparency through reporting and biennial review. WIOA requires that the State of Nevada – Department of Employment, Training and Rehabilitation – Workforce Investment Support System (WISS), on behalf of the Governor and in consultation with the Governor’s Workforce Development Board (GWDB), establish criteria and procedures regarding the eligibility of training providers to receive WIOA funds for the provision of training services.

**Scope:**

The requirements in this TAG apply to Local Workforce Development Boards (LWDB/Local Board).

**Effective Date:**

This directive is effective upon its issuance.

**REFERENCES:**

- The Workforce Innovation and Opportunity Act (WIOA)
- TEGl 8-19, Attachments I & II
- 20 CFR Part 680
- WIOA State Plan 2022

### 1. Eligible Providers of Training Services

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 skill gains toward such a credential or employment. These training services could be delivered in person, on-line, or in a blended approach. The types of eligible training services under WIOA title I-B are similar to those approved under WIA title I with expanded options for incumbent workers, and the use of Local Board contracts for training services.

Providers of training services are identified within the following categories:

- Institutions of higher education that provide a program that leads to a recognized postsecondary credential;
- Apprenticeship programs, including Industry Recognized Apprentice Programs (IRAPs) and Registered Apprenticeship Programs RAP) in accordance with the language below and in forthcoming guidance on RAPs and WIOA;
- Other public or private providers of training, which may include Community Based Organizations (CBOs) and joint labor-management organizations;
- Local Boards, if they meet the conditions of WIOA sec. 107(g)(1); and
- Eligible providers of adult education and literacy activities under WIOA Title II if such activities are provided in combination with training services described in 20 CFR 680.350.

A provider, as described above, must comply with the criteria, information requirements, and procedures established under WIOA and this TAG to be included on the list of eligible providers of training services.

ETPs are subject to the equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA and implementing regulations at 29 CFR part 38.

Registered Apprenticeship Programs (RAPs) are automatically eligible to be included on the ETP list and are exempt from state and local ETP eligibility requirements.

## **2. Initial Provider Eligibility Requirements**

All providers and programs that have not previously been eligible to provide training services under WIOA sec. 122 or WIA sec. 122, except for registered apprenticeship programs, must submit required information to be considered for initial eligibility in accordance with the State's procedures.

In establishing the State requirements, the Governor must, in consultation with the State (Governors) WDB, develop a procedure for determining the eligibility of training providers and programs. This procedure, which must be described in the State Plan, must be developed after:

- Soliciting and taking into consideration recommendations from Local WDBs and providers of training services within the State;
- Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on the procedure; and
- Designating a specific time period for soliciting and considering the recommendations of Local WDBs and providers, and for providing an opportunity for public comment.

The Governor must require providers and programs seeking initial eligibility to provide verifiable program specific performance information. At a minimum, these criteria must require applicant providers to:

- Describe each program of training services to be offered;
- Provide information addressing a factor related to the indicators of performance, as described in WIOA secs. 116(b)(2)(A)(i)(I)-(IV) and § 680.460(g)(1) through (4) which include unsubsidized employment during the second quarter after exit, unsubsidized employment during the fourth quarter after exit, median earnings and credentials attainment;
- Describe whether the provider is in a partnership with a business;

- Provide other information the State may require in order to demonstrate high quality programs of training services, which may include information related to training services that lead to a recognized postsecondary credential; and
- Provide information that addresses alignment of the training services with in-demand industry sectors and occupations, to the extent possible.

For institutions of higher education that provide a program that leads to a recognized postsecondary credential and for other public or private providers of programs of training services, including joint labor-management organizations, and providers of adult education and literacy activities, the Governor must establish criteria and State requirements for providers and programs seeking initial eligibility. In establishing the initial eligibility procedures and criteria, the State may establish minimum performance standards, based on the performance information above.

Under WIOA sec. 122(b)(4)(B), eligible training providers receive initial eligibility for only 1 year for a particular program. After the initial eligibility expires, these initially eligible training providers are subject to the State's application procedures for continued eligibility, described at § 680.460, in order to remain eligible.

### **Continued Eligibility Requirements**

In addition to the above requirements, continued eligibility requires the following factors be considered by LWDBs to stay on the list until the next continued eligibility determination. States must make continued eligibility determinations before the end of the first year of an ETP's initial eligibility, and at least every two years as a part of the required biennial review of the ETP list thereafter. 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](#).

- The performance of providers of training services on the performance accountability measures described in WIOA sec. 116(b)(2)(A)(i)(I)-(IV) and as initially and subsequently required by WISS and indicated initially through the provider application process;
- Access to training services throughout the State 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 title I-B, including one-stop partner programs;
- The degree to which training programs relate to in-demand industry sectors and occupations in the State;
- State licensure requirements of training providers, and licensing status of providers of training services, if applicable;
- The provider's ability to offer industry-recognized certificates and/or credentials;
- The ability of providers to offer programs that lead to post-secondary credentials;
- The quality of the program of training services including a program that leads to a recognized post-secondary credential;
- The ability of the providers to provide training services that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities;

- The timeliness and accuracy of the eligible training provider’s performance reports; and,
  - Other factors that the Governor determines are appropriate in order to ensure: the accountability of providers; that one-stop centers in the State will meet the needs of local employers and participants; and that participants will be given an informed choice among providers. This includes the annual recertification process and performance reporting functions.
- States are responsible for ensuring the quality and value of eligible training providers for WIOA program participants. Examples of additional factors that the Governor may consider include: the ability of a provider to partner with employers and to provide job placement services; the dropout rate of the training provider, and the student loan default rate of the provider.

Not all allowable types of training services are subject to the requirements of the eligible training provider provisions in WIOA title I-B. Training services exempt from the Section 122 eligibility requirements include:

- On-the-job training; customized training; incumbent worker training; transitional employment; or
- The circumstances described at WIOA sec. 134(c)(3)(G)(ii), where the Local Board determines that:
  - There are insufficient providers, or
  - There is a training services program with demonstrated effectiveness offered in the local area by a community-based organization or other private organization to serve individuals with barriers to employment, or
  - It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, and such contract does not limit customer choice; or
  - When the Local Board provides training services through a pay-for-performance contract.

For training programs that are exempt from the Section 122(a) through (f) eligibility requirements, the Governor may establish performance criteria those providers must meet to receive funds under the adult or dislocated worker programs. Local boards must collect this information, if required, and determine whether the providers meet the Governor’s performance criteria before entering into contracts with training providers that meet these criteria.

### **3. Registered Apprenticeship Programs (RA) Inclusion on the ETPL**

Apprenticeship programs registered under the National Apprenticeship Act are exempt from initial eligibility procedures. Registered apprenticeship programs (RAPs) must be included and maintained on the State list of eligible training providers and programs as long as the program remains registered, unless the registered apprenticeship program is removed from the list for a reason set forth in § 680.470. Procedures for registered apprenticeship programs to be included and maintained on the list are described in § 680.470. These include;

**Employers who provide related instruction;** Employers with Registered Apprenticeship programs provide formal in-house instruction as well as on-the-job training at the work site.

**Employers who use an outside educational provider;** Under this model, Registered Apprenticeship program sponsors do not provide the related instruction or educational portion of the apprenticeship, but rely upon an outside educational entity to deliver instruction. Employers can use two- or four-year post-

secondary institutions, technical training schools, eligible providers of adult education and literacy activities under title II, or on-line courses for related instruction. The employer is the ETP and must identify their instructional provider as defined locally.

**Joint Apprenticeship Training Programs;** These programs are made up of employers and unions. They have an apprenticeship training school where the instructional portion of the Registered Apprenticeship program is delivered. The training schools are usually administered by the union.

**Intermediaries;** Intermediaries can serve as program sponsors when they take responsibility for the administration of the apprenticeship program. They can also provide expertise such as curriculum development, classroom instruction and supportive services, as appropriate. The intermediary is the ETP and must identify the instructional provider if an outside organization is providing the educational portion of the apprenticeship. Intermediaries include:

- Educational institutions including two- and four-year post-secondary institutions, technical schools, or eligible providers of adult education and literacy activities under title II. In this model, the educational institution administers the program, works with employers to hire apprentices and provides classroom or on-line instruction for the apprenticeship program;
  - Industry associations administer the program and work with employer/members and educational entities to implement the apprenticeship program; and,
  - Community based organizations administer the program and work with employers, educational entities and the community to implement the apprenticeship program.
- LWDBs are responsible for establishing contact with Registered Apprenticeship program sponsors within their local area to identify the programs that want to be included on the State's ETPL through appropriate means (mass email or other general communication, personal communication or a telephone call to local Registered Apprenticeship program sponsors). (TEGL 8-19 section 1)
  - A written response to the LWDBs from the Registered Apprenticeship program sponsor requesting inclusion will serve as the program sponsor's affirmation to be included on the ETPL.
  - LWDBs must notify WISS in writing of all registered apprenticeship programs that indicate an interest in being included in the ETPL.

Note: Pre-apprenticeship programs do not have the same automatic eligibility as do RA's and must pursue the standard application process to apply to the ETPL.

### **Procedure**

- LWDBs shall work with local providers to comply with training provider and program application requirements.
- LWDBs shall provide the following information to WISS for all Registered Apprenticeship programs that indicate an interest in being on the ETPL:
  - Occupations included within the Registered Apprenticeship program;
  - Name and address of the Registered Apprenticeship program sponsor;
  - Name and address of the Related Technical Instruction provider, and the location of instruction, if different from the program sponsor's address;
  - Method and length of instruction; and
  - Number of active apprentices.

Registered Apprenticeship program sponsors that do not provide the Related Technical Instruction portion of the apprenticeship program (as outlined above) may be required to provide additional information about their education provider, including the cost of the instruction.

#### 4. Technology Based Training

All technology based training (on-line programs), must complete the application process as lined out in the application/instructions and include the following additional information; how students log-in and submit their assignments, testing requirements, if a proctor test, what location, who grades the online submission, and how attendance is being tracked.

#### 5. Performance Requirements per TEGL 8-19 (Attachment II)

The (ETP) Performance Report, applicable only to the title I Adult and Dislocated Worker programs, must report the below five indicators with respect to *all individuals* who exited a program of study and all individuals who completed a program of study including individuals in the program of study who are not WIOA participants.

1. The percentage of individuals who are in unsubsidized employment during the second quarter after exit from the program of study;
2. The percentage of individuals who are in unsubsidized employment during the fourth quarter after exit from the program of study;
3. The median earnings of individuals in the program of study who are in unsubsidized employment during the second quarter after exit;
4. 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 one year after exit from the program. For those participants who obtained a secondary school diploma or its recognized equivalent, the participant must also have obtained or retained employment or be in an education or training program;
5. The total number of individuals who exit from the program of study.

The ETP Performance Report must report the below indicators with respect to *all WIOA participants* in the program of study.

1. The number of participants exiting from the program of study (or the equivalent);
2. The total number of participants who received training services through each of the adult program and the dislocated worker program authorized under chapter 3 of subtitle B, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years;
3. The total number of participants who exited from training services, disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years;
4. The average cost per participant for the participants who received training services, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years; and
5. The number of individuals with barriers to employment served by each of the adult program and the dislocated worker program authorized under chapter 3 of subtitle B, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age.

#### 6. Proposed Performance Measures

- **Unsubsidized employment during the second quarter after exit.....34%**

- **Unsubsidized employment during the fourth quarter after exit.....33%**
- **Median Earnings.....\$3,480**
- **Credential attainment.....20%**

Note: Data collected will be analyzed as appropriate, and considered in setting, re-setting and in determining additional WIOA Performance Measures, as determined by the Governor. Additional performance measures may be released in the future; along with final performance requirement should they change from the above proposed. The designated levels of performance will be published on the ETPL website on a yearly basis.

**7. ETPL Training Provider Appeals**

LWDB’s are responsible to have an appeals process policy in writing to include standard time frames, in effect should the need arise. Any registrant, participant, applicant, eligible applicant, sub-recipients, subcontractors, employees or other interested persons may file a grievance with an administrative entity, contractor or grantee. Complainants must exhaust the procedures at the local level before the grievance/complaint may be filed with the State per SCP 4.4.

**8. Responsibilities:**

The LWDBs are responsible for carrying out the following procedures assigned by the State:

- Review new and subsequent training provider applications for programs of training services to ensure labor market relevance, WIOA training providers eligibility criteria, performance information and State required items have been provided accurately prior to submission to the WISS for final approval.
- Consult with the State when establishing procedures affecting the ETPL;
- Quarterly determine new RA programs wishing to be on the list and provide required information to the State for submission to the ETPL.
- Yearly determine those RA programs who no longer wish to be on the list and those who are de-registered with federal Office of Apprenticeship (OA) director or the applicable State agency and are communicated to the State for removal from the ETPL.
- Ensure the LWDBs’ current policy outlines the Appeals Process for ineligible provider/programs denied inclusion and or removed from the ETPL for cause, is provided to all interested parties.
- Recommend the termination of programs/providers from the ETPL per SCP 1.13.
- Work with the State to ensure that: there are sufficient numbers and types of providers of career services and training services (including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities) serving the local area and providing the services involved in a manner that maximizes consumer choice and leads to competitive integrated employment for individuals with disabilities;
- Maintain the credibility of the State ETPL Applications, which means that ONLY State approved changes/updates to the applications are allowed.
- Ensure the State’s eligible training provider list is disseminated publicly through the local one-stop system, and its partner programs;
- LWDBs may require additional information and/or set higher levels of performance for providers to become or remain eligible to provide services in their particular area within the parameters set forth in WIOA and State requirements;
- Establish a procedure to provide interested members of the public an opportunity to make

recommendations and submit comments regarding the eligibility process. Quarterly submit these comments to WISS; and

- Determine programs meet the eligibility criteria and performance levels established by the State

State (WISS) is responsible to ensure the quality and value of eligible training providers for WIOA participants by:

- Establishing ETPL eligibility procedures;
- Clarifying State and LWDB roles and responsibilities;
- Providing Statewide publication/dissemination of ETPL;
- Verifying programs meet the eligibility criteria and established performance levels;
- Verifying the accuracy of LWDB submitted information;
- Verifying the accuracy of LWDB procedure on adding and removing RA programs;
- Upon request from the LWDBs, removing programs that do not meet established program criteria or performance levels;
- Ensuring performance and cost information relating to each provider is available to the public;
- Adjudicating as required in Appeals Process;
- Providing final approval of providers and programs recommended by the LWDBs; and
- Consulting with the State Board when establishing procedures affecting the ETPL
- Establish a procedure by which a provider can demonstrate that providing the required additional performance information would be unduly burdensome or costly. If DETR determines that the provider has demonstrated this, DETR will provide access to costeffective methods for the collection of the required performance information