

Title:	Eligible Training Provider Policy	Policy #:	25
Effective Date:	May 18, 2016	Revision Date:	October 17, 2023

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.

References:

VBWD 404-01, Change 1 Identification of Eligible Providers of Occupational Skills Training

VBWD 404-02 Registered Apprenticeship Programs

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 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 apply 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 Virginia Career Works – Piedmont Region (VCW-Piedmont) has the responsibility for receiving, reviewing, and approving the initial applications for training providers and their programs within LWDA 6. VCW-Piedmont 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. VCW-Piedmont will use the basic eligibility criteria, information requirements and procedures for local boards established by the Virginia Board of Workforce Development policy 15-02 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 VCW-Piedmont 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 provide 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 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.

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. 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:

http://www.servicelocator.org/program_search.asp?prgcat=1&officeType_1=0&frd=true

To receive funding through VCW-Piedmont, 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. VCW-Piedmont 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 VCW-Piedmont 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 VCW-Piedmont 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 VCW-Piedmont 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 VCW-Piedmont choose to utilize this strategy.

Process:

For initial applications:

- Providers will enter their relevant information and the information on specific programs they want considered for the ETPL.
- Upon completion of the application-VCCS/DWDA will forward the application to appropriate local workforce development board for review.
- The local workforce development board will follow their currently set policies and procedures for reviewing new training provider and program applications.
 - The local workforce development board must check VaWC to determine if the same training provider is already in the VaWC as a training provider. If it is determined that the training provider is already in the VaWC, the LWDB must not create a new account

for that training provider. **This is to prevent duplications of training providers in the system.**

- Once an application is approved, local workforce development board staff must complete the VaWC Application and update VCCS/DWDA that the application has been submitted including the programs that were approved.
- Local workforce development boards must amend their local ETPL policies to reflect their focus on review of initial applications for programs and providers. provide

For applications for recertification:

- Providers will supply the relevant information on their institution and the programs that they wish to submit for recertification.
- Staff at VCCS/DWDA will review applications and determine if the data is present for analysis of WIOA participants in accordance with VBWD Policy 404-01 Change 1.
 - Recertification decisions will be based on data collected by the state starting with PY 2023 (which will not be available for consideration until July 2024 and data will not be available until October 2024).
 - Recertification decisions made prior to October 2024 data availability will be based upon currently available data and discussions with the relevant local workforce development boards.
- VCCS/DWDA staff will determine if there are multiple entries in the system for the same training provider or programs.
 - If multiple accounts are found, VCCS/DWDA Staff will work with the provider to limit the number of provider account/entries.

VCCS/DWDA Review of Applications for Recertification

- Failure to report completed application.
 - Example: only completing a provider application and not a program application.
- Failure to provide annual performance reporting of all students may result in removal from the ETPL starting PY 2023. The report is not run until after July of 2024.

Determination for Eligibility and Recertification

- VCCS/DWDA staff will review submitted and supporting documentation to make a determination of Eligibility of Recertification.
- VCCS/DWDA staff will update the status of the training provider in the VaWC and notify the training provider of their status on the ETPL.

Additional Criteria

- In cases when our core education partners offer similar courses to our private training providers, we will encourage WIOA participants to utilize the core education partners. Core education partners include K-12 CTE providers, CATEC, George Washington Carver Agricultural Research Center, and the Regional Community Colleges.
- In cases when a WIOA job seeker encounters obstacles using the core education providers, we will encourage our WIOA participants to utilize the private training providers. Obstacles may include distance to core education partners, program timing, or other conditions that makes attendance at a core education partner a deterring factor.
- When the Programs Committee approves a provider and/or program, the information can be entered into the ETPL system and enrollments can begin. The Executive Director has the authority to approve this action for up to 90 days or until the next Board meeting, whichever comes first. The ETPL provider and/or program will remain in the system until the full Board vote occurs. In the event that the Board rejects the Committee approval, the provider/program in question will be removed from the system. Any participant enrolled in the preliminarily approved program will be allowed to continue until the program is complete.

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 VCW-Piedmont 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 and recertification approval is done through the DWDA.

The data that is provided during the performance data collection period will be entered by the DWDA 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 within 90 days of request 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 DOLI a list of approved providers in this category and verify the status of apprenticeship programs.

State ETPL Performance Requirements

Beginning in the Program Year 2017 (beginning July 1, 2017), 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

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 VCW-Piedmont. Training providers who are removed from the state list may appeal.

Accuracy of Information and Appeals Process

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

- 1) ACCURACY OF INFORMATION – If after consultation with VCW-Piedmont involved, it is determined that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information, the Commonwealth and VCW-Piedmont may terminate the eligibility of the provider or program to receive WIOA funds for any program for a period that is not less than two (2) years.
- 2) NONCOMPLIANCE – If the Commonwealth or the Piedmont Workforce Development Board (PWDB) working with the Commonwealth, determines that an eligible provider substantially violates any requirement under the WIOA legislation, the Commonwealth, or the VCW-Piedmont 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 VCW-Piedmont determines to be appropriate.
- 3) REPAYMENT – A provider 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. VCW-Piedmont 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.

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

A training provider may appeal to the PWDB if they are denied eligibility for the state ETPL by VCW-Piedmont. 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 PWDB. 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 PWDB 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 by VCW-Piedmont

If VCW-Piedmont reverses the prior decision, the VCW-Piedmont 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 VCW- Piedmont 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 VCW-Piedmont fails to act during the 30-day time period described above, the initial decision shall automatically be reversed.

Piedmont Workforce Development Board Appeal Denial

If VCW-Piedmont 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.