



Southwest Georgia Workforce Development Board

Policy/Procedure Name: Georgia Eligible Training Provider List (ETPL) and Eligibility for New Training Providers or Eligible Training Providers Submitting New Programs

Policy/Procedure #: WIOA-2016-37

Effective Date: December 6, 2016

Rescinds #37 Training Provider and Application

Revision Date: September 3, 2019

Revision Date: June 2, 2020

BACKGROUND

The WIOA legislation requires the establishment of criteria, information requirements and procedures regarding the eligibility of providers of training services to receive funds under Section 122(b) of WIOA.

WIOA emphasizes informed customer choice, job-driven training, program performance and continuous improvement. The quality and selection of training programs is vital to achieving these core principles. The Georgia Eligible Training Provider/Program List (ETPL), including performance and cost information, is publicly available online through the state's website with a searchable database to serve all significant population groups.

STATE POLICY

Reference: Technical College System of Georgia, Office of Workforce Development (OWD) Policies and Procedures Section 4.4 WIOA Eligible Training Providers and Programs List Procedures

LOCAL POLICY

Training Providers and Programs Subject to ETP Requirements

Eligible Training Providers (ETP) are entities that make available programs which are eligible to receive WIOA funds for adults and dislocated worker participants who enroll in training programs through Individual Training Accounts (ITAs). ITAs may also be utilized for WIOA youth funds to provide training for older, out-of-school youth ages 18-24. To be eligible to receive training funds, the ETP shall be one of the following:

- Post-secondary education institutions that provide a program which leads to a postsecondary credential;
- Entities that carry out programs registered through the National Apprenticeship Act (Registered Apprenticeship programs);
- Other public or private training providers, which may include: community-based organizations, joint labor-management organizations, pre-apprenticeship programs and occupational/technical training;

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- Eligible providers of adult education and literary activities, if combined with skills training; or
- Local Workforce Development Boards (LWDBs), if they meet the conditions of WIOA sec. 107(g)(1).

Eligible Programs of Training Services

A training services program is defined as one or more courses or classes or a structured regimen that leads to an industry recognized certificate or credential, a certificate of completion of a registered apprenticeship, a license recognized by the state or federal government, an associate or baccalaureate degree, a secondary school diploma or its equivalent, employment or measurable skills gain toward such a credential or employment.

Not all allowable types of training services are subject to the requirements of the training provider provisions. Contracts for services may be utilized instead of ITAs only when one or more of the following five exceptions apply and the LWDB has fulfilled the consumer choice requirements of 20 C.F.R. § 680.340:

- A. When the services provided are on-the-job training, customized training, incumbent worker training, transitional employment, internships, paid or unpaid work experience;
- B. When the LWDB determines that there is an insufficient number of eligible providers in the local area to accomplish the purposes of a system of ITAs. The determination process must include a 30- day public comment period and be described in the local plan;
- C. When the LWDB determines that there is a training program of demonstrated effectiveness offered in the area by a community-based organization or another private organization to serve individuals with barriers to employment. The LWDB must develop criteria (as noted in 20 C.F.R. § 680.320) to be used in determining demonstrated effectiveness, particularly as it applies to individuals with barriers to employment;
- D. When the LWDB determines that it would be most appropriate to contract with 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, provided that the contract does not limit customer choice;
- E. When the LWDB is considering entering into a pay-for-performance contract and the Local WDB ensures that the contract is consistent with § 683.510 of this chapter or
- F. When an LWDB may provide training services only if it submits a request to the State for a waiver. The proposed request should be made available to eligible training providers and the general public for public comment no less than 30 days. Public



comments must be included with the request. The request will include: evidence that there are an insufficient number of eligible provider of such a program of training services to meet local demand, information that the board meets the requirements for an eligible training provider under WIOA Section 122, and information that training will prepare participants for an in-demand industry sector or occupation in the local area.

Initial Eligibility for New Training Providers or Providers Submitting New Programs

I. New Training Providers/Programs

All Eligible Training Providers (ETP) that were not previously approved as eligible under WIA (except Registered Apprenticeship programs) must submit the required information to be considered for initial eligibility under Workforce Innovation Opportunity Act (WIOA). Under WIOA, ETPs may receive initial eligibility for only one year for an ETP-specific program. For potential ETPs seeking initial eligibility, verifiable program-specific performance information must be provided.

WIOA requires that programs, not ETPs, be approved for ITAs. Therefore, potential ETPs must submit an application for each course of study or program.

Potential ETPs submitting initial eligibility applications should submit training program applications directly to WorkSource Southwest Georgia. Training program applications will be reviewed and evaluated by the Southwest Georgia Workforce Development Board (WDB). If the program application is approved by the WDB, the program is submitted to the OWD for review, approval and placement on the State ETPL.

A Pre-Award Checklist will be conducted prior to recommendation for a Provider/Program inclusion on the State ETPL. The Checklist will include an on-site visit to access compliance with ADA accessibility and reasonable accommodations.

WorkSource Southwest Georgia has a locally developed Georgia Eligible Training Provider Application which the applicant should submit directly to WorkSource Southwest Georgia. Training program applications will be reviewed and evaluated by the Southwest Georgia Workforce Development Board (WDB). If the program application is approved by the WDB, the program is submitted to the OWD for review, approval and placement on the State ETPL.

Program applications need only be made with one Local Workforce Development Board (LWDB) for possible inclusion on the State ETPL. Once approved for placement on the State ETPL, an approved program is available to all Georgia LWDBs and cooperative States.



The current State ETPL can be accessed at: www.worksourcegeaportal.com

An Applicant must provide the following:

- A. A detailed description of each training program – Provide information that the program is a high-quality program, which can include information related to training services that lead to a recognized post-secondary credential, or a wage more than 150% of the Georgia self-sufficiency wage (\$10.88), or successful outcomes across all population groups;
- B. Performance information for each training program will include:
 - Employment Rate 2nd Quarter after Exit;
 - Employment Rate 4th Quarter after Exit;
 - Median earnings in the 2nd Quarter after Exit;
 - Credential Attainment; and
 - Measurable Skills Gains.
- C. Describe in detail applicant’s partnerships with business;
- D. Describe the recognized post-secondary credential attained after training completion;
- E. Describe how the training program(s) aligns with in-demand industries and occupations;
- F. Local Workforce Development Areas (LWDAs) must verify that the Applicant complies with the following to be considered for inclusion on the State ETPL:
 - i. Applicant must have been in business for at least six months prior to the initial application and must have a current business license or proof of active compliance with the Secretary of State Corporations Division;
 - ii. Training programs must be available to the general public, have published catalog price structures;
 - iii. Training facilities must comply with ADA requirements for accessibility and reasonable accommodation;
 - iv. Each training program must have proven outcomes and have successful program completions and training-related employment for at least five students per program;



- v. Applicant must be current on all federal and State taxes (Must supply certification from accounting/tax firm of current tax standing regarding federal and State taxes, including Unemployment Insurance taxes);
- vi. Applicant must be in statutory compliance with the laws of the State related to operation as a training education institution. Proprietary colleges or schools operating in Georgia are required by the Nonpublic Post-Secondary Educational Institution Act of 1990 to have a certificate of authorization from the NPEC before beginning operation or advertising in the state;
- vii. Applicant must provide documentation of current accreditation/authorization;
- viii. Applicant must not have been found at fault in criminal, civil or administrative proceeding related to its performance as a training or educational institution. Must disclose any pending criminal, civil or administrative proceeding as either a defendant or a respondent;
- ix. Applicant must disclose any and all conflicts of interest with State or LWDB staff or board members including, but not limited to family ties (spouse, child, and parent), fiduciary roles, and employment or ownership interests in common; and
- x. All applications must include a current federal tax identification number.

STUDENTS PAST PERFORMANCE INFORMATION – past 12 months period _ Minimum Standard - Must pass two of the following five measures

- Employment Rate 2nd Quarter after Exit, 70%, The percentage of program participants who are in unsubsidized employment during the 2nd quarter after exit from the program. For Title I Youth, the indicator includes the percentage of participants in education or training activities in the 2nd quarter after exit.
- Employment Rate 4th Quarter after Exit, 60%, The percentage of program participants who are in unsubsidized employment during the 4th quarter after exit from the program. For Title I Youth, the indicator includes the percentage of participants in education or training activities in the 4th quarter after exit.
- Median Earnings 2nd Quarter after Exit, \$11.50, The median earnings of participants who are in unsubsidized employment during the 2nd quarter after exit.



- Credential Attainment Rate, 60%, The percentage of participants enrolled in education or training program (excluding OJT and Customized Training) who attain a recognized postsecondary credential or secondary school diploma within 1 year after program exit.
- Measurable Skill Gains, 20%, The percentage of participants who during a program year, are in education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains towards such a credential or employment.

II. Currently approved ETPs proposing new training programs

Approved Eligible Training Providers proposing new training programs shall follow the following procedure in order to qualify for one year of initial eligibility. Approved Eligible Training Providers seeking initial eligibility for a new program shall provide the LWDB a narrative application, which must include the following verifiable program specific performance information (questions below are a part of the locally developed application):

1. Provide information on a substantially similar training program (in the same industry) indicating whether that program satisfied the following indicators of performance:
 - a. Unsubsidized employment during the second quarter after exit;
 - b. Unsubsidized employment during the fourth quarter after exit;
 - c. Median earnings;
 - d. Credential attainment; and,
 - e. Measurable skills gains.
2. A descriptive narrative with information on the proposed training program's ability to satisfy the following indicators of performance:
 - a. Unsubsidized employment during the second quarter after exit;
 - b. Unsubsidized employment during the fourth quarter after exit;
 - c. Median earnings;
 - d. Credential attainment; and,
 - e. Measurable skills gains.
3. Information concerning whether the provider is in a partnership with business. This could include information about the quality and quantity of employer partnerships.
4. Information that addresses alignment of the training services with in-demand industry sectors and occupations, to the extent possible.
5. The LWDA will re-verify that the Approved Eligible Training Provider's proposed new program complies with the following to be considered for one-year inclusion on the State ETPL:



- a. Approved Eligible Training Provider must have been in business for at least six months prior to the initial application and must have a current business license or proof of active compliance with the Secretary of State Corporations Division;
- b. Training programs must be available to the general public and have published catalog price structures;
- c. Training facilities must comply with ADA requirements for accessibility and reasonable accommodation;
- d. Approved Eligible Training Provider must be current on all federal and State taxes (must supply certification from accounting/tax firm of current tax standing regarding federal and State taxes, including Unemployment Insurance taxes);
- e. Approved Eligible Training Providers and Programs must be in statutory compliance with the laws of the State related to operation as a training education institution. Proprietary colleges or schools operating in Georgia are required by the Nonpublic Post-Secondary Educational Institution Act of 1990 to have a certificate of authorization from the NPEC before beginning operation or advertising in the state;
- f. Approved Eligible Training Provider must provide documentation of current accreditation/authorization;
- g. Approved Eligible Training Provider must not have been found at fault in criminal, civil, or administrative proceeding related to its performance as a training or educational institution and must disclose any pending criminal, civil, or administrative proceeding as either a defendant or a respondent;
- h. Approved Eligible Training Provider must disclose any and all conflicts of interest with State or LWDB staff or board members including, but not limited to, family ties (spouse, child, and parent), fiduciary roles, and employment or ownership interests in common; and,
- i. All applications must include a current federal tax identification number.

All information detailed above shall be reviewed and verified by the LWDB, to determine whether or not the proposed program shall be granted initial, one-year eligibility.

At the conclusion of the initial year, the program shall provide such required data as outlined and detailed below for the State to determine whether the program shall remain on the ETPL or be removed. Each required measure's data shall be collected and submitted by the Local Workforce Development Area. The Approved Eligible Training Provider may continue enrolling WIOA-funded students into the initially approved program until such time as the State issues a determination regarding continued eligibility and subsequent placement on the ETPL.



After receiving the program's data from the Local Workforce Development Area, the State shall perform its review of the program. If the necessary data is not received by the State in a timely manner, the Program shall not receive continued eligibility or be placed on the ETPL. The program must satisfy the following factors in order to be determined eligible for placement on the ETPL:

1. The program must enroll at least ten (10) students during the twelve-month initial eligibility period; and,
2. The program must satisfy two or more of the five factors identified below.

If the program fails to satisfy either of the two requirements listed above, the Approved Eligible Training Provider's program under review will be removed in accordance with section below *ETPL Notice of Denial of Eligibility or Removal*.

STUDENTS PAST PERFORMANCE INFORMATION – past 12 months period _ Minimum Standard - Must pass two of the following five measures

- Employment Rate 2nd Quarter after Exit, 70%, The percentage of program participants who are in unsubsidized employment during the 2nd quarter after exit from the program. For Title I Youth, the indicator includes percentage of participants in education or training activities in the 2nd quarter after exit.
- Employment Rate 4th Quarter after Exit, 60%, The percentage of program participants who are in unsubsidized employment during the 4th quarter after exit from the program. For Title I Youth, the indicator includes percentage of participants in education or training activities in the 4th quarter after exit.
- Median Earnings, \$11.50, The median earnings of participants who are in unsubsidized employment during the 2nd quarter after exit.
- Credential Attainment, 60%, The percentage of participants enrolled in education or training program (excluding OJT and Customized Training) who attain a recognized postsecondary credential or secondary school diploma within 1 year after program exit.
- Measurable Skill Gains, 20%, The percentage of participants who during a program year, are in education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains towards such a credential or employment.



A Pre-Award Checklist will be conducted prior to recommendation for a Provider/Program inclusion on the State ETPL. The Checklist will include an on-site visit to access compliance with ADA accessibility and reasonable accommodations.

WorkSource Southwest Georgia has a locally developed Georgia Eligible Training Provider Application which the applicant should submit directly to WorkSource Southwest Georgia. Training program applications will be reviewed and evaluated by the Southwest Georgia Workforce Development Board (WDB). If the program application is approved by the WDB, the program is submitted to the OWD for review, approval and placement on the State ETPL.

Additional Local Requirements

The WDB limits new providers and providers' proposing new programs to ten (10) referrals until satisfactory performance outcomes are obtained. Performance will be reviewed at the end of the current program year.

Registered Apprenticeships

I. Automatic Eligibility

Under WIOA, all Registered Apprenticeship (RA) programs that are registered with the USDOL Office of Apprenticeship (OA) are automatically eligible to be included on the State ETPL. RA programs are not subject to the same application and performance information requirements nor subject to a period of initial eligibility as other ETPs because they go through a detailed application and vetting procedure to become a registered apprenticeship program sponsor with USDOL/OA.

All RA programs will be informed of their automatic eligibility to be included on the State ETPL and are provided an opportunity to consent to inclusion, before being placed on the State ETPL. The state OWD has worked with OA to develop a mechanism to contact all RA programs within the State regarding inclusion on the State ETPL. OWD works with the Georgia OA Director on a semi-annual basis to collect program information (to populate the State ETPL) on newly OA Registered Apprenticeship programs.

Information required to populate the State ETPL includes: Occupations; name/address of program sponsor; name/address of instructional provider if different from the sponsor; method and length of instruction; and number of active apprentices.

II. Performance

There are no WIOA performance requirements for RA programs and RA programs are not required to provide ongoing reports to the State or LWDBs. OWD will work in concert with the OA to encourage voluntary reporting of performance information.



RA programs must remain registered and in good standing with the OA to remain on the State ETPL. OWD works in concert with the OA to verify registration status.

LWDAs may not impose additional criteria, information or reporting requirements on RA programs. Additionally, if an LWDA has a local ETPL, RA programs should be included and should be noted as 'in-demand occupations". If an issue arises, LWDAs should contact OWD's Apprenticeship Team for assistance.

III. Continued Eligibility

RA program sponsors appearing on the State ETPL will remain there as long as the program is registered or until the program sponsor notifies the OWD that it no longer wants to be included on the State ETPL. However, RAs may be removed if determined to have intentionally supplied inaccurate information or to have substantially violated any provision of Title I of WIOA (e.g., civil rights of discrimination violations) or the WIOA regulations, including 29 C.F.R. part 38. An RA program whose eligibility is terminated due to intentionally supplying inaccurate information or substantially violating WIOA provisions will be terminated for not less than 2 years and is liable to repay all youth, adult and dislocated worker training funds, if received during the period of noncompliance.

If instances of substantial violation are reported to OWD, OWD will work in concert with the OA to make the determination of ineligibility. The opportunity for an appeal and hearing is described in the ETPL Appeal Procedures.

At minimum, OWD will conduct a semi-annual review of RA programs including verification of the registration status and removal of any RA programs that are not currently registered or no longer wish to continue as ETPs, in collaboration with OA. Although RA programs are not required to provide ETP Performance reports, voluntary reporting of performance information is encouraged under WIOA regulations and outcomes for WIOA participants in WIOA funded RA programs must be included in the State's annual performance report. WIOA § 116 (d)(2)

Continued Eligibility Procedures for Eligible Training Providers

New Eligible Training Providers (ETPs) that were determined to be initially eligible under WIOA will be subject to the application procedure for continued eligibility after their initial year of eligibility expires.

WIOA Sections 116 and 122 and 20 C.F.R. § 680 detail the continuing eligibility criteria that States must take into account. However, until data from the conclusion of each WIOA performance indicator's first data cycle is available, the State has set minimum



performance criteria. Once ETPs have two years of performance outcomes using the WIOA performance indicators specified in WIOA Section 116, the State will utilize the WIOA performance indicators for continuing eligibility.

I. Review of Minimum Performance Outcomes Required for Continued Eligibility (to be utilized until WIOA performance data is available)

For the Transition Year, ETPs are not required to complete a Continued Eligibility Application. For a program to remain eligible to receive ITA funds for new enrollments after June 30, 2016, the State utilized data available through the WorkSource Portal to compare program level performance outcomes against established minimum State standards, covering the proceeding program year. Programs with an enrollment of at least 10 students were evaluated for continuing eligibility.

In addition to the evaluation of performance information for the past program year, for those programs not meeting performance for the past program year, an additional evaluation reviewed performance for the previous two program years to ascertain if failing to meet performance standards occurred in the past.

If approved, a program's continuing eligibility will extend until the biennial WIOA performance measurement review. If not approved, an ETP will be notified by OWD that the program will be removed from the State ETPL. The LWDA in which the program resides will also be notified.

**ALL WIOA STUDENTS PAST PERFORMANCE INFORMATION – preceding program year _
 Minimum Standard - Must pass two of the following five measures**

- Employment Rate 2nd Quarter after Exit, 70%, The percentage of program participants who are in unsubsidized employment during the 2nd quarter after exit from the program. For Title I Youth, the indicator includes percentage of participants in education or training activities in the 2nd quarter after exit.
- Employment Rate 4th Quarter after Exit, 60%, The percentage of program participants who are in unsubsidized employment during the 4th quarter after exit from the program. For Title I Youth, the indicator includes percentage of participants in education or training activities in the 4th quarter after exit.
- Median Earnings, \$11.50, The median earnings of participants who are in unsubsidized employment during the 2nd quarter after exit.
- Credential Attainment, 60%, The percentage of participants enrolled in education or training program (excluding OJT and Customized Training) who



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attain a recognized postsecondary credential or secondary school diploma within 1 year after program exit.

- Measurable Skill Gains, 20%, The percentage of participants who during a program year, are in education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains towards such a credential or employment.

II. Use of Quarterly Wage Records

WIOA requires the use of quarterly wage record information in measuring the progress of State adjusted levels of performance. The use of participants' social security numbers and other sensitive information necessary to measure the participants' through quarterly wage record information is authorized by WIOA. OWD reserves the right to request participants' information from the ETP, if necessary. OWD assures ETPs that any participants' social security number transmitted and resulting UI Wage File data will be used only to prepare aggregate program performance reports as required under WIOA; not disclosed in any personally identifiable form; safeguarded while OWD is in possession of the same; and destroyed when no longer needed for the purposes of complying with WIOA. In addition, disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Education Rights and Privacy Act, including the circumstances related to prior written consent.

Per Training and Employment Guidance Letter Number 39-11, "personally identifiable information and other sensitive information are required to be protected. Therefore, any transmission of such information shall be encrypted using a Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Standards and Technology (NIST) validated cryptographic module. For further information, reference FIPS PUB 140-2."

Subsequent Eligibility for Eligible Training Providers

All ETPs (excluding Ras) will be reviewed yearly for subsequent eligibility during the Annual Performance Reporting period. OWD will review the performance of providers to ensure they are meeting minimum levels of performance. Subsequent review will also include verification of the registration status of RA programs. The following factors will be utilized to determine subsequent eligibility.

- A. The performance of training providers of WIOA standards (see section on Required Provider Outcomes). The performance should be disaggregated by the LWDA being served.
- B. The subsequent review may include other factors such as:
 - i. The degree to which training programs are in-demand industry sectors and occupations;



- ii. State licensure requirements;
- iii. Use of industry recognized certificates and credentials;
- iv. Whether the programs lead to post-secondary credentials;
- v. The ability of the ETP 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;
- vi. The ability of the ETP to partner with employers and provide job placement services;
- vii. The dropout rate of the ETP; and
- viii. The student loan default rate of the ETP.

ETPs will be responsible for collection of performance data, which is not available through the state data management system, and for transmittal of that data to OWD. Actual performance measures for subsequent review will be issued in 2020 after state performance negotiations.

ETPL Notice of Denial of Eligibility or Removal

The LWDB who originally approved the program's inclusion to the ETPL shall be responsible for making ETP removal determinations under the following conditions:

- I. **Supplying inaccurate information** (If inaccurate information regarding a program is intentionally supplied to a LWDB or OWD.)
 - A. If instances of intentionally supplying inaccurate information are reported to, the LWDB shall submit a recommendation for ETP removal to OWD. Upon receiving a determination of ineligibility from the LWDB, OWD will remove the ETP from the ETPL at the LWDB's request.
 - B. The ETP may be excused if the inaccurate information was supplied unintentionally, but the burden for proving the inaccurate information supplied was unintentional rests with the ETP.
 - C. If warranted, a termination of eligibility will occur and will remain in effect for a minimum of two years.
- II. **Substantial violation**
 - A. If a LWDB determines that an ETP has substantially violated any requirements under WIOA (e.g., civil rights or discrimination violations), failed to provide timely and accurate information for the ETP report and for initial and continued eligibility, or failed to follow other State or federal laws, regulations or requirements, then the



LWDB shall notify OWD of the determination of ineligibility. Upon receiving a determination of ineligibility from the LWDB, OWD shall remove the ETP from the ETPL.

- B. Repeated failures to submit information and a failure to cooperate with the LWDB will be considered in the State determining whether a “substantial violation” occurred. “Substantial violation” may be construed to be one or more egregious violations in a short period of time or numerous minor violations over a longer period of time.
- C. With regard to a violation of the submittal of timely and accurate information for the ETP as well as initial and continued eligibility, the LWDB shall take into account exceptional circumstances beyond the ETP’s control, such as natural disasters, unexpected personnel transitions, and unexpected technology related issues.
- D. A termination of eligibility will occur and will remain in effect for a minimum of two years for all substantial violations.

III. Removal for failure to meet performance standards

- A. If an ETP’s program fails to meet minimum established State established performance levels set for continued eligibility, the program must be removed from the State ETPL.
- B. An ETP/ ETP program may reapply under the initial eligibility criteria if they can provide documentation of successful performance attainment with all students prior to the next program year. During that time the former ETP should take the opportunity to evaluate program design performance of non-WIOA students.
- C. Reapplication procedures may begin with a LWDB no earlier than 90 days preceding the beginning of the one-year exclusion period.
- D. If the LWDB program evaluation indicates that there have been successful performance outcomes of all students, the program may be added to the State ETPL no earlier than one year from the date of removal.

IV. Other Removals

- A. If an ETP loses its license or accreditation of its accrediting body.
- B. If an ETP’s program is inactive (no activity within three program years), the ETP’s program will be automatically removed and the provider (program) will have to re-apply using initial eligibility procedures.

V. Repayment

An ETP’s program whose eligibility is terminated under the above conditions shall be liable for repayment of funds received during the period of noncompliance.



If an ETP's program is terminated or removed from the State ETPL, the LWDA should assure timely assistance to participants who may be affected. Depending on the nature of the violation, WIOA participants may be allowed to complete the programs, or may transfer and enroll in other training programs.

If it is deemed by a LWDB that training received by a WIOA customer did not adhere to program information as marketed by the ETP, consequences levied upon the ETP may include: (1) additional training to the aggrieved customer at no cost; and/or (2) a refund to the fiscal agent of amounts paid; and/or (3) debarment from the State ETPL.

VI. ETPL Appeal Procedure

A. Introduction

These procedures are designed to provide guidelines for filing and resolving Appeals made by an ETP. In the event that an ETP seeks to file an Appeal, it must do with the entity whose action the ETP disputes. For example, in the event that an ETP is removed from a specified LWDB, the ETP must file an Appeal with the LWDB in accordance with LWDB's policies. Once an ETP has filed an Appeal with the LWDB, received a written resolution, and is dissatisfied with the LWDB's resolution, the ETP may file second level appeal with the State Workforce Development Board (SWDB).

Conversely, in the event that an entity is denied designation on the State ETPL, or if the ETP or is removed from the State ETPL, the ETP may file an Appeal directly with the SWDB.

B. Local Appeal Procedures

TEGL WIOA NO. 41-14(11)(b) requires LWDBs to establish an Appeal procedure for ETPs to dispute a denial of eligibility from the ETPL. Such procedures must allow for an attempt to resolve the dispute informally, provide an opportunity for a hearing, and require written resolution within 60 days of the filing date of the Appeal. They must also notify the ETP of its right to file a Second Level Appeal with the State.

Procedure

An ETP may file an appeal with the LWDB in the event that the ETP is denied eligibility or is removed from the State ETPL. In order to Appeal, the ETP must satisfy the following criteria:

1. The ETP must complete an ETPL Appeal form;
2. The ETP must include all other pertinent information; and
3. The ETP must file the Appeal no later than 30 days from the date that the ETP is denied eligibility or is terminated from the State ETPL.



The ETP shall have the option to request a hearing in the event that the Appeal cannot be resolved informally. In the event that a hearing is requested in writing, it will be conducted in accordance with the procedure set forth below.

A written resolution will be provided within 60 days of the filing date of the Appeal. If an ETP is dissatisfied with the resolution, the ETP may file a second level appeal with the SWDB.

C. SWDB Procedures for Second Level Appeals of LWDA Resolutions

An ETP may file a second level appeal of a LWDB resolution directly with the SWDB so long as the following criteria are satisfied:

1. The ETP has completed an ETPL Appeal form;
2. The ETP attaches the LWDB's Written Resolution and any other pertinent information to the Appeal form; and
3. The Appeal is filed with the SWDB no later than 30 days from the date the LWDB issued its written resolution.

The ETP shall have the option of requesting a hearing in the event that the Second Level Appeal cannot be resolved informally. In the event that a hearing is requested in writing, it will be conducted in accordance with the procedure set forth below. The SWDB ruling on all Second Level Appeals shall be final.

D. OWD Procedures for Appeals of denial or removal of an ETP from the State ETPL

An ETP may file an appeal directly with the SWDB in the event that the ETP is denied eligibility or is removed from the State ETPL. In order to Appeal, the ETP must satisfy the following criteria:

1. The ETP must complete an ETPL Appeal form;
2. The ETP must include all other pertinent information; and
3. The ETP must file the Appeal no later than 30 days from the date that the ETP is denied eligibility or is terminated from the State ETPL.

The ETP shall have the option to request a hearing in the event that the Appeal cannot be resolved informally. In the event that a hearing is requested in writing, it will be conducted in accordance with the procedure set forth below. The SWDB ruling on all Appeals shall be final.

E. Hearing Procedure for State and Local ETPL Determination Appeal

As required by WIOA, every ETP shall have the opportunity for a hearing for any Appeal that is filed. A request for a hearing must be made in writing by the ETP, preferably at the time the Appeal is initially filed. However, an ETP may file a written request for a hearing within sixty(60) days of the date the Appeal was filed. If a request for a hearing is made, then the hearing shall be held as soon as reasonably



possible to enable a resolution of the Appeal no later than sixty (60) days from the day the Appeal is filed. The LWDB and the SWDB shall use the following procedures if a hearing is requested:

1. Upon receiving written notice of the ETP's request for a hearing, the LWDB or the SWDB shall respond in writing acknowledging the ETP's request and notifying the ETP of the date of the hearing. Such acknowledgment and notice shall be transmitted to the ETP within ten(10) business days of receipt of the ETP's request. The notice shall include, at a minimum:
 - a. The date of issuance;
 - b. The name of the ETP;
 - c. The name of the Respondent against whom the Appeal has been filed (OWD or the LWDB);
 - d. A statement reiterating that the ETP and Respondent may be represented by legal counsel at the hearing;
 - e. The date, time, and place of the hearing, including the name of the hearing officer serving as an impartial party;
 - f. A statement of the alleged violations of WIOA, (This may include clarification of the original Appeal, but must accurately reflect the content of the submitted documentation of the ETP);
 - g. A copy of any policies or procedures for the hearing or identification of where such policies may be found; and
 - h. The name, address, and telephone number of the contact person issuing the notice.
2. The hearing shall be conducted in compliance with federal regulations. At a minimum, the hearing must include:
 - a. An impartial hearing officer selected by the LWDB or SWDB;
 - b. An opportunity for both the ETP and LWDB/OWD to present an opening statement, witnesses and evidence;
 - c. An opportunity for each party to cross-examine the other party's witnesses; and,
 - d. A record of the hearing which the LWDB or OWD shall create and retain.
3. The hearing officer, considering the evidence presented by the ETP and Respondent, shall issue a written decision which shall serve as the LWDB or SWDB official resolution of the Appeal. The decision shall include the following information, at a minimum:
 - a. The date, time, and place of hearing;
 - b. A recitation of the issues alleged in the Appeal;
 - c. A summary of any evidence and witnesses presented by the ETP and the respondent;



- d. An analysis of the issues as they relate to the facts; and
 - e. A decision addressing each issue alleged in the Appeal.
4. The SWDB meets every quarter. State level hearings shall be conducted in accordance with this schedule. To appeal to the SWDB and/or request a hearing, ETPs shall send all communication in writing to the staff liaison of the SWDB Performance and Accountability Committee, Steven Wilson, at SWilson@tcsg.edu.

Changes to the State ETPL

After approved for continued eligibility, requests for changes to contact information, program cost, program description, corporate entity change, etc. should be submitted to the LWDB which approved the initial application. Changes related to contact information should also be submitted to OWD.

ETPL/ITA-related questions should be directed to:

Technical College System of Georgia
Office of Workforce Development
1800 Century Place
Suite 150
Atlanta, GA 30345
404-679-1371
ETPL@tcsg.edu

Out of State Training Providers

In order for WIOA students to access training through Out-of-State Training Providers not currently on the ETPL, the training providers must comply with the conditions set forth below before the Local Workforce Development Board may consider contracting with the provider.

The provider shall:

1. Submit an application for Initial Eligibility, including program description attachments;
2. Submit evidence that the provider is accredited by an accreditation agency approved by the US Department of Education (If regulated by government entities such as the Department of Transportation, the provider should include applicable accreditation);
3. Submit evidence that the institution is currently on its state eligible training provider list and in good standing; and,
4. Report student completion data (employment and wage information to the OWD) consistent with WIOA performance information.



Regarding performance information, specific participant numbers shall be included to show satisfactory performance in any of the formats listed below:

- a. A certified report or letter from the State's Title I or WIOA Administration agency, reporting on the provider's satisfactory performance; or
- b. A certified report or letter from a Local Workforce Development Area within the provider's state reporting on the provider's satisfactory performance.

Out-of-state postsecondary training providers that are not operating within the State of Georgia are not required to be licensed by the Non-Public Post-Secondary Commission of Georgia (NPEC).

Local Workforce Development Boards will review and approve out-of-state training providers based on the needs of the local area and input provider information into the GWROPP for state approval.

REFERENCES

Technical College System of Georgia, Office of Workforce Development Policies and Procedures Section 4.4 WIOA Eligible Training Providers and Programs List Procedures
20 CFR Section 680
WIOA Section 116
WIOA Section 122(b)

SWGA WDB Approval Date: December 6, 2016
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