

SUBJECT: Eligible Training Provider Guidelines, Penalties, Appeal Process and Performance Reporting

PURPOSE: To provide eligibility criteria, biennial certification procedures, penalties and appeals processes.

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This Commission Policy Statement rescinds Policy Statement PS 06-2019 and the procedures herein supersede all previous policy, procedures, and guidelines regarding Eligible Training Providers.

Background: WIOA seeks to promote an environment that fosters customer choice in education and training through data transparency in performance accountability. Such an environment will enhance the quality of customers' choices in the attainment of skills, credentials, certificates, and diplomas that will lead to employment in occupations that are in demand in the local economy. WIOA sets forth the requirements and general processes by which training providers and programs can be included on the State Eligible Training Provider List (ETPL) by validating that all listed providers and their programs meet minimum State standards.

Action: Effective immediately, Local Area Workforce Development Boards (WDBs) should utilize the attached guidelines in the review and approval of training providers and their programs of study. In addition, all Local Area WDBs shall create or update existing policy to ensure compliance with this policy.

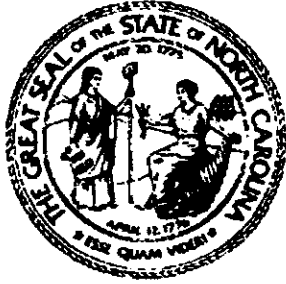
Effective Date: Immediately

Expiration: Indefinite

An Equal Opportunity/Affirmative Action Employer/Program
Auxiliary aids and services available upon request to individuals with disabilities

Contact: David Garrett

David Garrett
Workforce Development Director



NCWorks Commission

NCWorks Commission Policy Statement Number: CPS 11-2021

Date: November 10, 2021

**Subject: Eligible Training Provider Guidelines, Penalties,
Appeal Process and Performance Reporting**

From:

A handwritten signature in black ink that reads "Tom B. Rabon, Jr." with a stylized flourish at the end.

Tom B. Rabon, Jr.
Chair, NCWorks Commission

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Contact: DWS Director of Performance or ETP Program Coordinator

Attachments: Eligible Training Provider Guidelines

Eligible Training Provider Guidelines

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

Training and Employment Guidance Letter (TEGL) 03-2018 issued by the United States Department of Labor (USDOL) provides guidance on performance reporting on Eligible Training Providers (ETPs). It states: *States must collect and report performance information on all individuals and WIOA Title I Core Program participants (of Adult, Dislocated Worker, and Youth Programs) served by each program on the state list of Eligible Training Providers (ETP List). The requirements for ETP reporting can be found in WIOA section 116(d)(4) and 116(d)(6)(B) and in the WIOA Joint & Department of Labor Only Final Rules at 20 CFR 677.230 and 20 CFR 680.490.*

North Carolina is charged with ensuring that data elements related to the initial application, continued eligibility and performance information regarding approved training providers, and programs are entered into the supported State system, NCWorks Online (www.ncworks.gov).

North Carolina received a waiver from USDOL for program years 2018 through 2020, which required training providers to only report performance information on individuals enrolled in WIOA Title I programs. Beginning July 1, 2021, training providers will need to submit required performance information on all enrollees, regardless of WIOA status.

Training providers and their associated training programs are initially approved to be on the State ETPL, and from the State's list each individual Local Area Workforce Development Board (WDB) can select the training providers and programs they wish to use within their region as necessary. Hence, a training provider may be approved to be on the State ETPL, but a Local Area WDB may choose to not opt in to use a provider or some of its training programs for its specific region.

This guidance addresses the process for establishing initial criteria for the State approval of training providers and their training programs to produce the Eligible Training Provider List. This policy also addresses the appeal process for denial, suspension, termination, and removal of training providers and/or training programs. (Providers eligible for the ETPL under Workforce Investment Act (WIA) previously remained eligible to stay on the list through September 30, 2016. These providers are subject to the continued eligibility procedures under WIOA, in order to continue as an ETP.)

Definitions

1. **Eligible Training Provider (ETP)** is a provider of training services who has met the eligibility requirements to receive WIOA Title I-B Adult, Dislocated Worker, and Youth funds to provide training services to eligible individuals. This includes:

- Post-secondary education institutions;
- Registered Apprenticeship programs¹;
- Other public or private providers of training, which may include joint labor-management organizations and eligible providers of adult education and literacy activities under Title II, if such activities are provided in combination with occupational skills training;
- Local Area WDBs that meet the condition set forth in WIOA Sec. 107(g)(1); and
- Community Based Organizations (CBOs) or private organizations of demonstrated effectiveness that provide training under contract with a Local Area WDB.

2. **Eligible Training Provider List (ETPL)** is North Carolina's statewide list of approved providers of training services who are eligible to receive WIOA Title I-B funds.

Note: having a program on this list simply means that basic WIOA criteria for eligibility has been met. It DOES NOT mean that the program will be certified at the local WDB level and made available to WIOA customers in the local WDB area. This list is displayed and maintained in NCWorks Online.

3. **Program of Training Services** is defined as one or more courses or classes, or a structured regimen that leads to one of the following:

- A recognized post-secondary credential, secondary school diploma or its equivalent
- Employment
- Measurable skill gains toward such a credential or employment

4. **In-demand** refers to occupations, industry sectors or clusters, or career pathways that have been identified in State, regional, and/or local area workforce development plans as emerging, growing, a priority for local area workforce partners, or otherwise having the best job prospects due to the workforce needs or hiring demands of employers.

5. **Informed Customer Choice** refers to the knowledge of the choices available to job seekers necessary for them to make sound career decisions. NCWorks Career Center staff will provide access to the following: skills assessment tools; career planning resources; updated labor market information identifying industry sectors and occupational clusters that are high-growth, high-demand, projecting skills shortages, and/or vital to the regional economy; and access to the ETPL through the NCWorks Online system (www.ncworks.gov), to ensure that job seekers can make an informed customer choice and are prepared with the skills needed to fill hiring opportunities in in-demand sectors and career pathways in high wage occupations. The NCWorks Online system provides relevant information on available training programs, including performance and cost.

Part I – Roles and Responsibilities of the State and Local Area WDBs

The quality and selection of providers and programs or training services, including Registered Apprenticeship programs and others, are vital to achieving the WIOA core principles. The North Carolina Division of Workforce Solutions (DWS) plays a leadership role in ensuring the success of the eligible training provider system in partnership with Local Area WDBs, the virtual one-stop system, and its partners. The approved list of eligible training providers is the primary

¹Only Registered Apprenticeship programs registered under the National Apprenticeship Act (29 U.S.C 50, *et. Seq.*) are included as eligible training providers. For additional information, please refer to page 9 of this policy.

tool for participants seeking training to identify appropriate providers with the assistance of their individual Career Advisor(s), and relevant information such as cost and program outcomes.

A. Roles of the State

DWS is the designated State agency for WIOA administration. DWS must establish criteria and procedures for initial determination and renewals of eligibility for training providers and training programs to receive funds under WIOA Title I-B. The DWS Eligible Training Provider Coordinator and his or her staff has explicit responsibility for managing and disseminating the approved list of eligible training providers. The State must perform the following required roles:

- Establish eligibility procedures and criteria clarifying State and Local Area WDB roles and responsibilities;
- Establish a mechanism for adding Registered Apprenticeship programs to the list and verifying registered status at least every two years;
- Consult with the NCWorks Commission and DWS when establishing these procedures;
- Determine whether the provider submitted accurate information, and take enforcement actions as needed;
- Collaborate with the Local Area WDBs on eligible training provider issues when necessary;
- Notify training providers and the Local Area WDBs of the denial of programs at the State level;
- Disseminate information concerning the ETPL to the Local Area WDBs and maintain the State ETPL via NCWorks Online;
- Evaluate the performance data of all training providers during the subsequent eligibility review;
- Monitor training providers for compliance and performance;
- Monitor Local Area WDBs and the administration of the ETPL implementation;
- Determine if State-established minimum performance levels for eligibility are met;
- Remove programs and/or providers that do not meet State-established program criteria, performance levels for eligibility, and/or are out of compliance with the provisions of WIOA law; and,
- Develop and implement a complaint and appeals procedure.

B. Roles of the Local Area WDBs

As indicated in TEGL 08-19 and its Attachment II, WDBs have specific responsibilities to adhere to, as well as responsibilities that are allowable, but not mandatory.

WDBs must work in conjunction with the State to:

- Ensure 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;

- Confirm the State's Eligible Training Provider List is disseminated publicly through NCWorks Online, and its partner programs;
- Inform the State ETP Coordinator in cases where termination of an eligible provider should be considered using the State's Complaint and Appeals procedure set forth in this policy;
- Inform the State ETP Coordinator of any changes reported by the training provider that ultimately affect their corresponding approved programs;
- Assist, when specifically requested by the State, in the collection of participant and non-WIOA participant performance information for the purposes of managing individual and ETP program performance. The State is still solely responsible for the collection of performance data, but in rare instances where communication is lost between the State and a provider, the WDB may be asked to assist in reestablishing communication and aiding the exchange of performance data.
- As determined by each WDB, set additional information requirements and minimum performance levels for local providers beyond what is required by DWS's procedure. WDB's may also provide comment and input into the DWS's development of the eligible training provider procedure by contacting the ETP Coordinator. Any additional requirements established by the WDB will only affect a program's eligibility and performance level eligibility requirements within the local area and must be monitored accordingly to ensure compliance; and,
- In instances where a WDB chooses to put in place more strenuous performance requirements than are required by the state, the WDB must remove any providers that fail to meet those local performance standards from the local ETP list. There must also be an appeal process in accordance with the State's appeal procedure for providers of training to appeal a denial of eligibility from the local list of eligible training providers.

Part II – Eligible Training Provider Determination Process

A. Qualifications for Training Providers:

1. Licensing/Accreditation

Eligible Training Providers must be licensed by the appropriate North Carolina or federal licensing authority, as required by both North Carolina and federal law. Training providers must be in good standing and compliant with all other State and federal regulatory agencies including:

- In instances where specific occupations have governing boards that issue licenses, such as the North Carolina Department of Health and Human Services – Division of Health Service Regulation, North Carolina Department of Motor Vehicles, Training providers must be licensed by the appropriate governing board to offer training for the occupation.
- Private post-secondary institutions must be approved by a federal or North Carolina authority such as the Southern Association of Colleges and Schools.

Licensed/Accredited Training Providers not eligible to be on the ETPL include, but are

not limited to:

- Training providers that are debarred by State or federal government during the debarment period;
- Private post-secondary training providers who apply for a NC Proprietary license and are denied licensure due to the determination that the training program is not vocational in nature after vetting conducted by the NC Community Colleges.

2. Business Requirements

- Training providers must be a legal entity, registered to do business in the State of North Carolina.
- Training providers must have provided training services during all of the 12 months prior to applying for the ETPL and have a proven track record of students successfully completing its programs. Note: this provision does not apply to Registered Apprenticeship programs.
- Training providers are required to have refund policies specifying when refunds for tuition and other costs associated with the training program will be allowed. Refund policies that indicate that no refunds will be made are not acceptable. Refund policies must be written and published so that students are aware of how to request a refund.
- Training providers must have a grievance policy which provides for due process to allow students to file complaints with an organization against faculty, staff, or other employees. Grievance policies must be written and published so that students are aware of how to file a complaint.
- Training providers must have a form of general liability insurance. General Liability Insurance is defined as a standard insurance policy issued to business organizations to protect against liability claims for bodily injury (BI) and property damage (PD) arising out of premises, operations, products, and completed operations; and advertising and personal injury (PI) liability.
- All Public and Private providers of training services must maintain a current insurance policy for the duration of being listed as an eligible training provider per federal and state law. Upon expiration of the certificate, the provider must submit a new certificate to the DWS-ETP Coordinator.
- Training providers must establish, publish, and disseminate materials to students including, but not limited to, official catalogs and other materials. Training providers must provide to students, and to prospective students, information that is complete and accurate. The information provided must be sufficient to enable prospective students to make rational decisions about enrolling in the school and to enable enrolled students to understand their rights and responsibilities as a student in the school.
- A training provider's financial capacity must be appropriate to its scale of operations. The school must demonstrate, principally from its annual comprehensive financial statements, and from other financial information, that it has adequate capability to satisfy its contractual obligation to students, including the capability to provide the programs and services described in its official publications and to meet its financial obligations.
- Training providers must comply with non-discrimination and equal opportunity provisions of all federal and state applicable laws including, but not limited to:
 - Regulations under Section 188 of the Civil Rights Act of 1964;

- 29 CFR 37, Title VI of the Civil Rights Act of 1964;
- Age Discrimination Claims Assistance Act of 1988;
- Sections 504 and 508 of the Rehabilitation Act of 1973;
- Title IX of the Education Amendments of 1972;
- Title II Subpart A of the Americans with Disabilities Act of 1990; and
- The Genetic Information Nondiscrimination Act of 2008.

3. **Necessary Documentation for Eligibility Determination**

The training provider must meet all State criteria listed in Part II numbers 1 and 2 of this policy to allow the State to make an eligibility determination, along with the necessary documentation listed below. The information requirements established mandate that a provider of training services submit appropriate, accurate, and timely information to the State, to enable the State to disseminate information that assists participants in choosing training providers. Documents to be collected and reviewed are:

- College's or Company's Accreditation (state or national);
- Legitimacy of the College or Company (must include the provider's NCID # or FEIN #);
- Most recent financial audit or financial statements for the prior six months
- Agreement for a drug-free workplace and;
- General Liability Insurance – If this expires during the Program Year, it is the responsibility of the training provider to submit the current policy.

B. Eligible Training Provider Exemptions

Certain training providers are not subject to the requirements of the ETP provisions, as set forth in WIOA Title I-B Section 122, because they are exempt from ETP requirements. However, it is required that such a training provider's basic information be entered in NCWorks Online.

Training services exempt from the ETP eligibility requirements include:

- **On-The-Job Training (OJT)** - Training by an employer that is provided to a paid participant while engaged in productive work in a job that provides knowledge and skills essential to the full and adequate performance of the job and is made available through an OJT program;
- **Customized Training – Training:**
 - That is designed to meet the specific requirements of an employer (including a group of employers);
 - That is conducted with a commitment by the employer to employ an individual upon successful completion of the training, and;
 - For which the employer:
 - Pays a significant portion of the cost of training, as determined by the Local Area WDB involved, taking into account the size of the employer and such other factors as the local board determines to be appropriate, which may include the number of employees

participating in training, wage and benefit levels of those employees (at present and anticipated upon completion of the training), relation of the training to the competitiveness of a participant, and other employer-provided training and advancement opportunities; and,

- In the case of customized training involving an employer with locations in multiple local areas in the State, a significant portion of the training cost, as determined by the Governor, takes into account the size of the employer and other factors as the Governor determines to be appropriate.
- **Incumbent Worker Training** – Training designed to assist workers in obtaining the skills necessary to retain employment or avert layoff;
- **Transitional Jobs** – Time-limited work experiences which are to be combined with comprehensive employment and supportive services and are to be designed to help individuals establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention of unsubsidized employment;
- **Internships and Work Experience** – Planned, structured learning experience that takes place in a workplace for a limited time period. Work experience may be paid or unpaid, as appropriate. An internship or work experience may be arranged within the private (for profit) sector, the non-profit sector, or the public sector.
- Instances where the Local Area WDB provides training services through a pay-for-performance contract, or;
- When circumstances as described in WIOA Section 134(c)(3)(G)(ii) occur, and the Local Area WDB 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.

C. State Eligible Training Provider Application Process

All providers and programs that have not previously been eligible to provide training services under WIOA sec. 122 or WIA sec. 134, except for Registered Apprenticeship (RA) Programs, must submit required information to be considered for initial eligibility. The requirements to become an eligible training provider apply to all organizations providing WIOA Title I-B training to adults, dislocated workers, and youth with the specific exception of RAs. For RAs, under WIOA, all programs must be included upon request and maintained on the list of ETPs for as long as that program remains registered.

State ETPL Application Process

The State of North Carolina uses a two-tier eligibility determination approach. First, the training provider must be an eligible entity to apply for the ETPL by meeting the State's criteria listed in Part II numbers 1 and 2 of this policy. Second, the training programs offered by the training provider must meet eligibility and performance criteria to be listed on the ETPL.

Under WIOA Title I-B, a training provider must provide verifiable program-specific information based on criteria established by the State. The application process for initial eligibility on the ETPL is as follows:

1. The training provider must submit a fully completed online application via the State's website, www.ncworks.gov. Further, the provider must submit any required supporting documentation by electronically uploading such documentation into their online application.

The application will include the following required information:

- a. At least one or more factors for performance [refer to ETP Performance section for details on performance information];
 - b. A description of the degree in which the training provider is in partnership with a business. This could include information about the quality and quantity of employer partnerships;
 - c. A description of the accessibility of all training programs pertaining to physical access, programmatic process, and communications. This includes, but is not limited to, location, delivery of service, and access for individuals with barriers;
 - d. Other documentation as needed [refer to the Qualifications for Training Providers section for other documentation information].
2. An initial review is conducted by the state's ETP Program Coordinator and/or ETP staff to determine if the training provider is an eligible entity.
 3. Once the training provider is deemed eligible, the training provider will receive access to key their training program(s) into their NCWorks Online profile for review.
 4. The training provider will then be instructed to submit each desired program for program review and approval via the virtual one-stop system.
 5. The application is reviewed by the ETP Program Coordinator and/or ETP staff using a standard ETP Rubric.

Rubric Components include the following factors in determining a quality training program:

- I. Performance Data
 - II. Partnership(s) with Employer(s)
 - III. In-Demand Occupation/Industry
 - IV. Credential obtained upon program completion
 - V. Accessibility of Program
6. A determination of eligibility letter will be sent electronically to the training provider.
 - a. If approved, a WIOA Eligible Training Provider Agreement and

Approved Program List Addendum (ETPL Contract) is sent by the state's ETP Coordinator or ETP Staff to the provider within 30 days of the provider's application submittal.

Once the contract is signed, the State will disseminate the new program listing on the State's website and virtual one-stop system (NCWorks Online).

- b. If denied, the training provider has the right to appeal or reapply when ready.

D. Registered Apprenticeships & Industry Recognized Apprenticeship Programs

Registered Apprenticeship (RA) – TEGL 13-16 defines a Registered Apprenticeship as "...a proven model of job preparation that combines paid on-the-job training (OJT) with related instruction to progressively increase workers' skill levels and wages. Registered Apprenticeship is also a business-driven model that provides an effective way for employers to recruit, train, and retain highly skilled workers. It allows employers to develop and apply industry standards to training programs, thereby increasing productivity and the quality of the workforce. As an 'earn and learn' strategy, Registered Apprenticeship offers job seekers immediate employment opportunities that pay sustainable wages and offer advancement along a career path. Graduates of Registered Apprenticeship programs receive nationally-recognized, portable credentials, and their training may be applied toward further post-secondary education."

Registered Apprenticeship Programs are not subject to the same eligibility procedures for ETPL approval. RA Programs are considered eligible, and will be added to the ETPL, if the program sponsor indicates its desire to be on the ETPL. RA Programs will remain on the ETPL for as long as the program remains registered under the National Apprenticeship Act or until the program sponsor notifies the State that it no longer wants to be included.

Industry Recognized Apprenticeship Program (IRAP) – In March 2020, USDOL produced Final Rule 20-386-NAT to define and give specific instructions pertaining to IRAPs. IRAPs are high-quality apprenticeship programs, recognized as such by a third-party entity under standards established by the department in the new rule. Through these programs, individuals will be able to obtain workplace-relevant training and progressively advancing skills that result in an industry-recognized credential, all while getting paid for their work. An IRAP is developed or operated by entities such as trade and industry groups, corporations, non-profit organizations, educational institutions, unions, and joint labor-management organizations. Unlike RA Programs, IRAPs are subject to the same eligibility process and requirements as a standard training provider.

Part III – Eligible Program of Training Services

A program of training services may be delivered in person, online, or in a blended approach and is defined, under WIOA, 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,
Types of acceptable Credentials:

- Secondary School diploma or equivalent
- Associate's Degree
- Bachelor's degree
- Graduate degree for purposes of the Vocational Rehabilitation program
- Occupational licensure
- Occupational certificate, including RA and Career and Technical Education educational certificates
- Occupational certification
- Other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.
- employment, or
- measurable skill gain toward such a credential or employment.
 - The Employment and Training Administration (ETA) defines a measurable skill gain as one of the following types of gains:
 - Educational Functioning Level (EFL) gain
 - Attainment of Secondary School Diploma
 - Secondary Transcript/Report Card
 - Training Milestone
 - Skills Progression

A. Initial Period of Eligibility for Approved Programs

Initial eligibility will be granted for a 12-month period once approved by the State. After the initial period, the training provider is subject to continuing eligibility requirements.

B. Technology-Based Learning

Training providers using technology-based learning, also referred to as **distance**, **online**, **web-based**, or **computer-based** learning, must meet the following requirements:

- Training providers offering distance learning programs must be licensed to provide training in the State of North Carolina.
- Training providers must have a platform for student interaction with an instructor or instructors.
- Training providers must ensure periodic assessment of each student.
- Training providers' policy must describe the responsibilities of each party (training provider, participant) to the distance learning experience.
- Training providers must have procedures in place for tracking student's participation in the training program.
- Training providers must comply with any additional requirements determined by the Local Area WDB.

C. Criteria for Determining Program Eligibility

State Criteria – In establishing criteria pursuant to WIOA Sec. 122(b)(1), the State shall consider each of the following: *(An addendum will be created and added to this policy at a later date to provide more clarity to the following areas.)*

- Performance Accountability and Outcomes

- Ensure access to training services throughout the State (including use of technology)
- Dissemination of the training provider's Performance Outcomes and training information
- Training must lead to "In-Demand" industry occupations and sectors
- State licensing requirements and licensing status of providers
- Encouragement of industry recognized certifications
- Provider's ability to offer a credential
- Quality of training
- Ability to serve individuals with barriers
- Other including:
 - Compliance
 - Informed Choice
 - Providers must meet the needs of local employers and participants
 - Accountability of providers

Local Criteria: The Local Area WDBs may establish criteria and information requirements in addition to the criteria and information requirements established by the State or may require higher levels of performance than required by the State for purposes of determining eligibility for providers of training services to receive funds. The criteria set by each Local Area WDB will be described in its corresponding ETP policy.

D. Criteria for Registered Apprenticeship (RA) Program Inclusion

The inclusion process for a RA program begins once a RA indicates they wish to be placed on the ETPL. At that time, the RA must supply the following information to the State:

- Occupations included in the RA
- The name and address of the RA sponsor
- The name and address of related technical instruction provider and location of instruction if different from the program sponsor's address
- The method and length of instruction and;
- The number of active apprentices

The RAs are automatically eligible to be included in the state's ETPL and are exempt from eligibility and performance requirements. (Note that Pre-Apprenticeship programs do not have the same automatic ETP status. [20 CFR Sec. 680.470]) Any voluntarily provided performance data will be provided by the State Apprenticeship Agency. Once on the state ETPL, RAs will be included and maintained on the list until:

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

E. Program Costs

An eligible training provider must make available to the prospective students its schedules of tuition and fees. The institution shall disclose all fees required to be paid by students

(including tuition, required fees, books, supplies, activities, etc.), and any non-refundable fees must be so identified. A reduction in tuition, fees, or other charges may be implemented when there are specific criteria for student eligibility and selection procedures precisely disclosed within the policy at the institution. All students within the enrollment period that the reduction is offered shall be eligible to apply. The cost of the training to WIOA participants must not exceed the cost charged to any other student in the program. All costs necessary for successful completion of a program must be clearly stated. A breakdown of cost must be identified for publication on the ETPL. A breakdown may include the following:

- Tuition
- Fees
- Books
- Licensing cost
- Certificate fees
- Graduation fees
- Uniforms
- Tools
- Registration fees
- Supplies

F. Publication of ETPL

[ETA TEGL 08-19 pg. I-8]

WIOA requires that the State disseminate the statewide list of all eligible training providers and accompanying performance and cost information to WDBs and to the public. The State of North Carolina will post the list on its Virtual One-Stop System (NCWorks Online). Individuals, counselors, and providers will have direct access to the list.

Training providers will appear on the statewide ETPL after verification by the State to determine eligibility. As new programs, and providers, are verified and approved, the statewide list will be updated on an ongoing basis. If a program is removed from the list, the WDB will cease to approve additional Individual Training Accounts for that program, and the ineligible program will be removed from the statewide list.

The State ETPL must be accompanied by appropriate information to assist participants in choosing employment and training activities. Such information must include the following, disaggregated by local areas served, as applicable:

- Recognized post-secondary credential(s) offered;
- Provider information supplied to meet the State's eligibility procedure;
- Performance and cost information aligned with the time periods; and,
- Additional information as determined by the State as follows:
 - Program length including number of units such as credits, hours, weeks, or semesters needed to earn the credential(s) offered.
 - Program Service/Location and type
 - Class/Faculty size
 - Program prerequisites
 - Target occupations

- Program description, and
- Additional information as deemed appropriate.

G. Solicitation of Training Providers

The State and each Local Area WDB may solicit an invitation to training providers to submit applications to apply for status as approved training providers. This solicitation may be done through various appropriate methods, including, but not limited to, mailings, email, phone conversations, and in-person meetings. The State may also solicit training providers from outside of the State.

Part IV – Continuing Eligibility

Eligible training providers that were determined to be initially eligible under WIOA Title I-B will be subject to the application procedure for continued eligibility when their initial year of eligibility expires. In addition, all providers previously approved under Continuing Eligibility will have a review at least every two years to determine continuing eligibility status.

A. Application Process

Initially, one month prior to the expiration of the initial period of eligibility, eligible training providers must submit a new and completed ETP application on the State's virtual one-stop system (NCWorks Online), and for each program for which recertification is sought. The training provider must confirm all detailed program information listed. To maintain eligibility status, training providers must submit any such information as the State may request to adequately prepare the performance information for each training program for which continued eligibility is being sought.

In determining continuing eligibility status, the State will take into consideration the following elements:

1. Changes in Organization/Provider Information:
 - a. Business Requirements
 - b. Accreditation/licensure renewals, if necessary
 - c. Updated Certificate of Insurance
 - d. Updates and/or changes in refund or grievance policies, if any;
2. Changes in Program Information:
 - a. Schedule changes
 - b. Curriculum updates
 - c. Match against In-Demand List
 - d. Credential offered
 - e. Review of business partners that affect the program; and
3. The performance of providers of training services on the performance accountability measures described in WIOA Sec 116(b)(2)(A)(i)(I-IV). This includes the timeliness and accuracy of the eligible training provider's performance reports. The State reserves the right to establish minimum performance standards. Until the performance data for all accountability measures

are available, the State may consider alternate factors related to performance for that accountability measure. Once training providers have two years of performance outcomes using the WIOA performance indicators specified in section 116, the State will then take them into account.

4. To ensure equity throughout the State, these factors will be taken into consideration when determining eligibility:
 - a. Specific economic, geographic, and demographic factors in the local area for which providers are seeking continued eligibility; and
 - b. Characteristics of the populations served, including demonstrated difficulties in serving these populations.

Upon review of the factors above, the State will determine if the program maintains eligibility. Continued eligibility status will be confirmed and transmitted to each provider through the NCWorks Online email messaging system.

A continuing eligibility review must be conducted at least once every two years from the date of any prior continuing eligibility review.

B. Continuing Eligibility Review for Registered Apprenticeship (RA) and Industry Recognized Apprenticeship Programs (IRAPs)

RAs that have initially indicated their desire to be placed on the State ETPL are not subject to the same continuing eligibility and performance requirements of the State's ETPL policy.

Note: Pre-Apprenticeship programs do not have the same automatic ETP status. [20 CFR sec. 680.470].

The biennial review of provider eligibility will include verification of the registration status of RA and removal of any programs as described in 20 CFR Sec 680.470. Any voluntarily provided performance data on RAs will be provided by the State Registered Apprenticeship Agency. Once on the State ETPL, RAs will be included and maintained on the list until:

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

Unlike RA Programs, IRAPs will be held to the same recertification process as all other Eligible Training Providers.

Part V – Eligible Training Provider Performance

A. Background

In accordance with WIOA section 116 and regulations at 20 CFR 677.230 and 20 CFR 680.490, North Carolina is required to report performance information about ETPs to USDOL ETA. This requirement covers all three WIOA Title I programs: Adult, Dislocated Worker, and Youth. Further, as noted previously, all waivers regarding the reporting of data

for all participants (not solely WIOA participants) have expired. This means that starting with PY 2021 (July 1, 2021 to June 30, 2022), all approved programs of study that appear on North Carolina's ETPL must have data submitted not only for the WIOA participants within

the program, but also for every individual in that program of study regardless of WIOA participation status.

B. Annual Performance Data Submission

Performance reporting for ETPL will be comprised of data from multiple sources:

- NCWorks Online, North Carolina's chosen case management platform
- Provider initial application and recertification documentation
- Data submitted directly from providers

The ETPL contains approved programs of study. This means that a single training provider may have more than one program of study appearing on the ETPL. Therefore, as outlined in TEGL 03-18, providers "must submit data to the State for all of their approved programs in a manner that allows the State to generate and report separate records for each program of study." Further, this policy applies to all programs of study on the ETPL, including those programs that did not serve WIOA participants during the reporting period. In other words, if a program of study appears on the ETPL during a given reporting period, providers will be required to submit data for that program of study, whether or not WIOA participants made use of that program of study.

The State will collect performance data from eligible training providers on an annual basis. Under 20 CFR 680.460, ETPs are required to report the data requested by the State as a criterion of continued eligibility on North Carolina's ETPL. To make this process as easy as possible for providers, North Carolina will be offering a downloadable MS Excel spreadsheet that will enable easy data uploading. The spreadsheet is formatted with tabs for each of a provider's approved programs of study. The provider need only complete the Excel tab for each program, and that will provide the State all of the necessary information to complete its required reporting. The required data elements on the MS Excel spreadsheet are as follows:

- **SSN** – the participant's nine-digit Social Security Number²
- **Start Date** – the participant's enrollment date in the approved program of study
- **Status** – the participant's status in the approved program of study; options include Enrolled, Completed, Withdrew, or Transferred
- **Exit Date** – the date the participant left the approved program of study (those with a status of Completed, Withdrew, or Transferred)
- **Credential** – a Yes/No/Unknown response on whether the participant attained the credential tied to the approved program of study

C. Performance Data for Initial and Continued Eligibility and Program Quality

² If providers are unable to provide SSN data for its programs, please contact the ETP Coordinator for data submission instructions.

For training providers applying for initial or continued eligibility, one of the required factors that the State must consider is performance. This is essential, ensuring that North Carolina maintains a list of high-quality training providers, and enables participants to make informed decisions on the types of training that will lead to their individual success.

For North Carolina, the performance metrics being used to evaluate a provider's performance include:

- Employment Q2: the percentage of all program participants who are in unsubsidized employment during the second quarter after exit from the program
- Employment Q4: the percentage of all program participants who are in unsubsidized employment during the fourth quarter after exit from the program
- Credential Attainment: the percentage of program participants who obtain a recognized postsecondary credential or a secondary school diploma or its recognized equivalent

Note: The State acknowledges that obtaining timely and accurate information regarding employment is difficult and may represent an undue burden on training providers. The State will work with providers, individually, to develop a corrective action plan to address data collection. Providers and programs will maintain eligibility throughout the corrective action process.

The minimum levels of performance required will be noted in both the initial and continued eligibility applications.

In addition to the performance metrics noted above, in an effort to maintain the highest quality list of training providers, North Carolina may also consider these additional factors:

- The degree in which the training program relates to in-demand industry sectors and occupations
- Length and cost
- Training delivery method including reasonable access for:
 - individuals who are employed
 - individuals with barriers to employment and
 - how easily accessed the program is in rural areas
- Credentials:
 - is the credential highly valued by employers/industries?
 - are they required for specific occupations?
- Training program completion rates
- Participant outcome information including the percentage of participants who entered unsubsidized employment in an occupation directly related to the program of training.

D. Insufficient Performance Data

In the event the training provider does not have the required performance data, it must 1) show good cause as to why the data is unavailable and 2) provide alternative information that demonstrates compliance with State eligibility criteria. "Good cause" should include:

- The training program is new and data on past performance is not available;

- Only partial performance data is available;
- Collection of data will cause excessive costs and/or hardship for the training provider during the initial eligibility; and/or
- Other reasonable circumstances that may cause data to be unavailable.

If the required and alternate information cannot be provided, DWS ETP staff will provide technical assistance to allow the provider an opportunity to demonstrate its ability to meet eligibility criteria. DWS ETP staff will assist the provider in developing a plan of action with an appropriate timeline to be determined on an individual basis. If the provider is unresponsive or unable to meet the requirements set forth by the agreement, the provider may be ruled ineligible.

E. Alternate Performance Information

Until the performance data for each accountability measure is available, the State may consider alternate factors related to performance for that accountability measure if the information is substantially similar to the information otherwise required. In considering alternate factors related to performance, the State may set minimal performance criteria, use existing available data, or develop other proxies as appropriate. Once training providers have two years of performance outcomes using the WIOA performance indicators specified in section 116, the providers will be expected to supply the originally required information.

Supplemental data may include documentation on self-employment and self-reported earnings, a copy of a W-2 form or pay stub that documents employment during the time period in the measure.

Part VI – Notice of Ineligibility, Suspension, Termination of Eligible Training Providers, and Complaints from Participants against Training Providers

A. Complaints from Participants

If a participant wishes to file a complaint against a Training Provider, DWS staff and/or Local Area WDB staff must refer to NCWorks Commission Policy Statement Number CPS 08-2021.

DWS ETP Program Coordinator and staff, DWS Ombudsman, and the Local Area WDB will work transparently through the investigation process to ensure:

- a safe process is provided for the complainant.
- a thorough and efficient investigation into the allegations has been performed to determine the appropriate action.

B. Initial Eligibility Denials

A training provider may be denied initial eligibility for the following reasons:

- The application is not complete, or information was not provided in a timely manner;
- The training provider does not meet the WIOA definition of an eligible training entity;
- The training program does not meet the WIOA definition of an eligible training service;

- The training program does not result in a WIOA recognized credential;
- Performance data is not included with the application.
- The training program does not support in-demand occupations and/or sectors identified through labor market analysis;
- The training provider is not in compliance with the WIOA statute, regulations, or any agreement executed under WIOA law;
- The State or Local Area WDB determines that the training provider intentionally supplied inaccurate information.

C. Reapplication

When a training provider or program is denied for any reason other than lack of documentation or information, the provider must wait six months to reapply.

D. Denial Notice

Within 10 business days after the State determines that a training provider's application does not meet the eligibility criteria, the State shall issue a denial notice to the training provider.

The notice shall be emailed to the training provider at the email address listed on the application and to the attention of the contact person identified on the application. The notice shall clearly:

- display the "date emailed";
- identify the program that was denied or terminated;
- state specific reason(s) for the action; and
- state the training provider has the right to appeal within 30 calendar days of the date the notice is emailed.

E. Suspension/Removal

A training program may be removed from the ETPL for the following reasons:

- The State determines that the training provider supplied inaccurate information;
- The training program no longer meets the WIOA definition of occupational skills training;
- The program does not meet minimum performance standards once established. If there are not students enrolled in the training program during the past year, there will be no performance data to review for continued eligibility. The State must examine the demand for the related occupation to determine if there is still a demand for it and decide whether to keep the program on the ETPL for another year.

A training provider may be removed from the ETPL for the following reasons:

- Intentionally supplying inaccurate or false information;
- Substantially violating a provision of WIOA Title I or its implementing regulations;
- Failure to meet required performance outcomes;
- Failure to abide by the equal opportunity and nondiscrimination requirements under

- WIOA Section 188;
- Failure to comply with monitoring and audits;
- Failure to maintain required licenses and accreditation requirements;

- Failure to comply with all applicable provisions in the ETPL contract and/or policy;
or
- Other just cause.

F. Notification and Termination Letter

Within 10 days after the State determines that a training provider is in violation of any of the reasons indicated above, a notice of violation or finding shall be issued by the State, requiring the development of a corrective action plan. The letter should include a detailed description of the violation or finding, an invitation to work collaboratively to develop a mutually agreed upon corrective action plan, and a specific timeframe of 14 days to respond to the notification. If the training provider fails to respond, a termination letter will then be issued.

The termination notice shall be mailed to the training provider at the address listed on the application and to the attention of the contact person identified on the application.

The notice shall clearly:

- display the "date mailed";
- identify the violation or finding;
- state specific reason(s) for the action; and
- state the training provider has the right to appeal within 30 calendar days of the date indicated on the notice. When a training program is removed from the State ETPL, WIOA participants currently enrolled in the program may complete their training as outlined in their WIOA Individual Employment Plan (IEP) unless the program or provider has lost state licensing, certification, or authorization to operate by the appropriate state oversight agency.

Note: The State reserves the right to terminate a provider based on prior violation history if violations reoccur. The State will bypass the Corrective Action Plan (CAP) process and send a termination letter to the training provider if the evidence gathered during the investigation does prove gross negligence on behalf of the training provider occurred. The training provider will have 30 days from the date of the termination letter to appeal. A due process hearing will be set up for a final ruling on whether the training provider will be allowed to remain on the State ETPL.

G. Corrective Action Plan (CAP)

The State and the Eligible Training Provider must develop a mutually agreed upon CAP, if the provider is:

- found in violation of their contract, or
- if the provider is requesting technical assistance to become compliant.

1. Prior to Plan Development:

If the provider is found in violation of the contract, the State must identify the finding and how it was acquired. Examples include, but are not limited to, Local Area WDB's monitoring report, State's compliance and monitoring report, continuing eligibility review, and information reported through an anonymous tip or random review; i.e., secret

shopper, Secretary of State website check, or other means that provides evidence of potential non-compliance with ETPL contract provisions or ETPL policy.

Identify which law or provision is being violated. Gather supporting documents and/or conduct interviews (if necessary) to determine if the finding or allegation of wrongdoing is factually based. This will determine whether the provider can continue to receive referrals during the CAP process or not.

2. Notification Letter:

The State will send a letter via mail within 10 business days of determining a violation has occurred. The letter should include what the violation or allegation is, an invitation to develop a corrective action plan, and specific timeframe of 14 days to respond to the notification. If the training provider chooses not to respond to the letter, it is confirming its decision to withdraw participation from the ETPL.

3. Development of CAP:

The training provider, along with assistance from the State, must develop a corrective action plan. The CAP will serve as a reapplication and should contain the following:

- Details of discussion; date, time, method of communication (phone, in-person meeting, online meeting, etc.), persons involved in discussion, and relevant details;
- Description of circumstances;
- Description of steps that will be taken to rectify the situation, including procedural changes to prevent reoccurrence;
- Appropriate timeframe to achieve completion/resolution:
 - Depending on severity of issue, time frames will vary
 - An evaluation of progress must be periodically conducted. The State will determine the date(s) of progress evaluation, based on the severity of the issue and the complexity of the actions necessary to achieve completion/resolution.

4. Repayment of Program Funds

A provider of training services whose eligibility is terminated due to the termination causes displayed above, shall be liable for the repayment of funds of all adult, dislocated worker, and youth funds received under Title I-B of WIOA during the period of noncompliance. [Ref. Act Sec 122(f)(1)(c)] No repayment funds should be collected from the training provider until the opportunity to appeal is over, which is 90 days from the date of the initial denial notice.

H. Appeal Hearing Process

Following issuance of a denial of eligibility, determination of suspension, or termination of eligibility, the training provider will have 30 days in which to submit an appeal to the DWS. Within 30 days of the receipt of the appeal, the training provider will be notified of the date, time, and place where a due process hearing will be conducted. After that hearing, a final decision will be issued within 30 days.

The Appeals Hearing Panel will consist of staff who serve a one-year rotating term and shall be represented in the following manner:

1. One DWS Management representative
2. One Local Area WDB Director
3. One Regional Director

All appeals must be forwarded, in writing, to the following address:

**NC Division of Workforce Solutions
Attn: ETP Program Coordinator
4316 Mail Service Center
Raleigh, NC 27699-4316**