



## Policy and Procedure

<b>Title:</b>	Eligible Training Provider Policy	<b>Number:</b>	OP-17-01
<b>Effective Date:</b>	May 11, 2017	<b>Revised Date:</b>	August 22, 2018

### Purpose

This policy provides eligibility criteria for training providers and procedures for implementing the Eligible Training Provider (ETP) requirements in the Workforce Innovation and Opportunity Act (WIOA) of 2014. Additional information is provided on ETP program performance and reporting requirements. This policy is applicable to providers of occupational skills training services for adults, dislocated workers and other populations as defined by WIOA, Title 1-B.

### Reference

- Workforce Innovation and Opportunity Act of 2014; Section 122 WIOA Final Rule, 20 CFR Parts 680.400 – 500
- WIOA Labor Final Rules and Regulations Subpart D–Eligible Training Providers
- Code of Virginia, Section 23-276.2
- Virginia Board of Workforce Development Policy No. 404-01, Identification of Eligible Providers of Occupational Skills Training
- Virginia Board of Workforce Development Policy No. 404-02, Registered Apprenticeship Programs
- Virginia Board of Workforce Development VWL No. 16-06, 16-06 Change 1

### Background

WIOA seeks to promote a training environment that fosters customer choice, performance accountability and continuous improvement in the attainment of skills, credentials, certificates and diplomas that lead to employment in occupations in demand in the local economy and thereby; enhancing quality of life for customers. WIOA sets forth the requirements and general process 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 have met minimum state standards.

The requirements established by this policy for inclusion on the ETPL only applies to training services funded through the issuance of an Individual Training Account (ITA).

### Policy

The Shenandoah Valley Workforce Development Board (SVWDB) has the responsibility for receiving, reviewing and approving applications for training providers and their programs for LWDA 4. The SVWDB ensures that data elements related to initial application, continued eligibility and performance metrics for approved providers and programs are entered into the supported state system of record, VaWC. The SVWDB will use the eligibility criteria, information requirements and procedures for local workforce boards established by the Virginia Board of Workforce Development (VBWD) Policy No. 404-01, Policy No. 404-02, VWL No. 16-06 and VWL No. 16-06 Change 1 in order to assure that programs on the ETPL meet minimum quality standards and deliver industry-recognized skills and credentials to support eligible individuals in meeting their career and employment objectives.

Approval by SVWDB places the training provider and program on the state ETPL but does not guarantee that SVWDB will fund the approved training activity through the issuance of an ITA. That determination is further based on the relevance of training to occupations that are identified as in-demand in LWDA 4, the availability of local funds and the likelihood that training will support the individual in meeting their career objectives and employment.

### **Program of Training Services Defined**

A program of training services is defined as one or more courses or classes, or a structured regimen that leads to a recognized post-secondary credential, secondary school diploma or equivalent, employment, or measurable skills gains towards a credential or employment.

### **Program Eligibility**

There are five categories of providers who can apply to the SVWDB for consideration to be included on the ETPL:

1. A postsecondary educational institution that is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 and that provides a program that leads to certification or license or college certificate, associate degree or baccalaureate degree.
2. A postsecondary school that offers formal instructional programs with curricula designed primarily for students who have completed the requirements for a high school diploma or its equivalent. Such schools include programs of academic-vocational, vocational and continuing professional education that may lead to a certification or licensure. This category excludes vocational and adult basic education programs.
3. An entity that carries out related instruction under the National Apprenticeship Act that is recognized by the Virginia Department of Labor and Industry (DOLI).
4. A provider of a program of occupational training services that, under Section 23-276 .2 of the Code of Virginia, is exempt from the State Council for Higher Education for Virginia (SCHEV) certification as a postsecondary school in the Commonwealth such as a professional or occupational training program regulated by another state or federal governmental agency other than SCHEV, any school, institute, or course of instruction offered by any trade association or any nonprofit affiliation of a trade association on subjects related to the trade, business or profession represented by such association.
5. A provider of adult education and literacy as defined in Title II of the WIOA, if such activities if approved to the list and utilized, are provided in combination with other occupational skills training and defined in the WIOA.

Appendix A describes certain exceptions to the certification requirements of this policy. Appendix B provides a list of certifying agencies.

### **Other Considerations**

Training providers and programs operating in Virginia under all categories shall submit an application (Attachment A – Part 1 Training Provider Application and Attachment A – Part 2 Training Program Application).

Programs and providers under categories 1 and 2 must provide evidence as part of their application that they are certified to operate in Virginia and that they have program accreditation/approval from an applicable state agency in order to be considered for approval by the SVWDB.

Programs and providers under category 3 will be granted approval, if requested, following confirmation by the DOLI that the sponsoring employer and apprenticeship related instruction have been recognized by the state and are active and in good standing. SVWDB follows

eligibility criteria and procedures specific to Registered Apprenticeship programs as prescribed in VWDB Policy 404-02. The SVWDB will enter eligible Registered Apprenticeship program information into the VaWC once the application information is verified with the DOLI in writing. Registered Apprenticeship programs are not subject to state performance requirements.

### **Other Possible Providers May Include**

- A. Distance and Online Training Providers. WIOA funds may be used for programs that are conducted in a completely online format. Online providers must follow the same approval, renewal and reporting process as classroom-based instructional providers.
- B. Out of State Training Providers (In-Person Training). WIOA funds may be used for approved providers and programs from other states only if the provider and programs are listed on the host state's ETPL and the provider meets Virginia's state criteria established for eligibility and performance. An application for approval is not required in Virginia if there is an active reciprocity agreement in place. If SVWDB chooses to utilize an out-of-state training provider and pay for it with WIOA Title I funds, then the following criteria must be met:
  - a. The training provider program must be on the host state's approved training provider programs list; and documentation of this fact, including the eligible time period, must be maintained by the SVWDB.
  - b. The SVWDB must collect sufficient data and add the provider's program to the VaWC system so that the participant can be linked to the program for training service accountability.
  - c. If a WIOA participant is sent to an out-of-state training provider, a detailed case note must be entered into the VaWC system, explaining why the participant went to an out-of-state training program rather than an in-state training program.

Eligible training provider lists in other states can be located here:

[http://www.servicelocator.org/program\\_search.asp?prgcat=1&officeType\\_1=0&frd=true](http://www.servicelocator.org/program_search.asp?prgcat=1&officeType_1=0&frd=true)

### **Exceptions to the ITA and ETPL Requirements**

There are several exceptions to the required use of an ITA for training. In situations covered by these exceptions, a contract for services may be used to provide for training in lieu of the ETPL process. All SVWDB contracts for service under WIOA Title I are awarded using a procurement process in accordance with the Virginia Procurement Act and requirements established by the Department of Labor and the Virginia Community College System and as prescribed in the SVWDB Procurement and Inventory Policy. Exceptions to required use of an ITA for training are:

1. On-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience and transitional employment are not included in the eligible training provider list and therefore are not subject to the eligibility requirements.
2. Where SVWDB determines there is an insufficient number of eligible providers based on eligible provider and program applications to accomplish the purpose of an ITA.
3. Where SVWDB determines that a community-based organization (CBO) or nonprofit whose primary mission is to serve individuals with barriers to employment provides effective training services to accomplish the purpose of an ITA;
4. Contract training for multiple individuals in in-demand industry sectors or occupations as long as the contract does not limit the individual's consumer choice; and
5. Circumstances in which a pay-for-performance contract is appropriate. SVWDB has no pay-for-performance policy currently in force. The SVWDB remains open to pay-for-performance as a future option.

## **Application and Review Process**

Training providers applying to SVWDB for inclusion on the ETPL must apply using the Commonwealth ETP Application (Attachment A-Part 1 Training Provider Application). Training program applications must be submitted for each unique "program of training services" sought for approval using the Commonwealth ETP Application (Attachment A-Part 2 Training Program Application).

In order to be reviewed and considered, the application must include responses to all questions on the state-provided application, along with associated supporting documentation. As part of the initial application and annual renewal process, all training providers are required to provide and ensure ongoing physical and program access in accordance with WIOA Section 188 and the Americans with Disabilities Act.

In accordance with WIOA Labor Final Rules and Regulations Subpart D – Eligible Training Providers and VWL 06-06 and VWL 06-06 Change 1 guidance, initial training provider program applications must provide information addressing required program performance indicators, as described in WIOA section 116(b)(2)(A)(i)(I-IV) and Attachment B WIOA Periods for Reporting Outcomes:

1. The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;
2. The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;
3. The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program; and
4. The percentage of program participants who obtain a recognized post-secondary credential, or a secondary school diploma or its recognized equivalent during participation in or within one year after exit from the program.

If the training provider is not able to provide program performance information related to the factors listed above, they must submit a plan describing how they will work with SVWDB to collect and report on this information for continued eligibility.

The SVWDB reserves the right to deny approval of any training program application that is determined not to meet sufficient occupation demand in LWDA 4.

Training providers may submit application(s) to the SVWDB Operations and Workforce Coordinator at any time. The application is reviewed against requirements of this policy for compliance. ETP applicant information, program information and a staff Decision Brief are sent to the Board or Executive Committee for consideration.

The Board or Executive Committee approves or denies the request. If the Board elects to deny the training provider's program of Training Services and does not recommend it for inclusion on the ETPL, the Training provider will be notified in writing. A notice of denial will identify the specific program being denied and the reason(s) for denial. The notice will advise the applicant of the right to appeal the decision. The SVWDB will review the applicant's request for reconsideration as outlined in the Appeal Process of this policy.

In instances where training opportunities may be lost due to the timing of Board or Executive Committee approval of ETP applications, the Board grants the Chief Executive Officer authority to review and assure the ETP application(s) are compliant with VBWD Policy No. 404-01, 404-02

and VWL No. 16-06-1 and grant provisional approval of the training provider/program. The Board or Executive Committee will ratify the application(s) at the next meeting.

### **SVWDB Data Responsibility**

ETP applications are entered by SVWDB into the VaWC to ensure transparency and support informed customer choice in the evaluation and selection of training providers. ETP applications must be entered into the VaWC within fourteen (14) days of approval. This will include providers and programs that are denied WIOA approval.

The SVWDB will maintain all documentation received and reviewed for the minimum required retention period of three years, including applications, continued eligibility and performance information for all providers and programs entered into the VaWC, and records regarding ETP related complaints and actions taken on those complaints.

SVWDB will notify eligible training providers of the required tracking of program performance indicators to maintain program eligibility.

### **Continued Eligibility and Program Performance Reporting**

Annual renewal of SVWDB approved providers and programs is required. Starting July 1, 2017, following completion of a full year of eligibility, each training provider program will be reviewed by the SVWDB to determine continued program eligibility. As part of the continued eligibility process, eligible training providers will be required to annually certify program performance information for participants whose activities were funded through an ITA, verify physical and program access and provide an updated Non-discrimination policy and Anti-discrimination certification form. In the absence of performance data, the provider must develop a plan for collecting the required program performance information to remain on the ETPL and to be considered for continued eligibility.

To determine continued training provider program eligibility, the SVWDB will consider the State Eligible Training Provider Program Performance Quarterly Report, the program performance data submitted by the eligible training provider as per WIOA, and any additional factors required by state and federal policy that are determined to be appropriate by the SVWDB.

The data that is provided during the performance data collection period will be entered by the SVWDB into the VaWC. Providers of training who fail to provide the verification and performance information within 90 days of request will be removed from the state eligible training provider list.

Registered apprenticeship programs are not subject to the state performance requirements. Any apprenticeship program may remain on the ETPL as long as it remains registered and recognized in good standing by the Virginia Department of Labor and Industry.

### **State ETPL Performance Requirements:**

Beginning in the Program Year 2017 (beginning July 1, 2017), in order to remain on the ETPL, all eligible training providers and programs who receive funding through an ITA must annually provide information (starting with PY16) on the following four outcomes for WIOA Title I participants:

1. Training Completion Rate must meet or exceed 50%
2. Credential Attainment Rate must meet or exceed 65%
3. Entered Employment Rate
4. Post Training Earnings

Outcomes (1) and (2) will be used to evaluate continued inclusion on the ETPL. Detailed examples of performance outcome calculations can be found in VWL 16-06 under a. State ETPL Performance Requirements.

If a provider or program fails to meet the criteria established above, they will be removed from the state ETPL. A letter informing them of that removal will be issued by the SVWDB. Training providers who are removed from the state list may appeal.

### **Discretionary Grants Co-Enrollment**

In those cases where participants are co-enrolled in local formula and discretionary grants and receiving an ITA, the selection of the ITA training program shall be from the Eligible Training Provider and Programs List. The ITA portion of the training must be delivered by a provider program listed on the ETPL.

### **Appeal Process:**

The following applies to both providers whose initial program application is denied and those that are subsequently removed from the list for performance under Continued Eligibility and Program Performance above.

1. The provider shall have thirty (30) calendar days from the date the denial or removal notification was given to file a request for reconsideration to the Board. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the training program and location(s) denied or removed and must clearly state the reason for the appeal.
2. The Board shall review the request and issue a written decision that either upholds or reverses the original decision. Instances for a reversal may include, but shall not be limited to, an administrative oversight or instances where additional information submitted by the training provider changes the basis on which the original decision was issued.
3. If the Board upholds its original decision, the applicant is entitled to pursue a state-level appeal as outlined in VBWD Policy 404-01.

### **Accessibility and Non-Discrimination:**

Eligible training –providers must provide training services that are physically and programmatically accessible for individuals with barriers to employment, including individuals with disabilities. Training providers must have written policies and procedures in place to protect against discrimination on the basis of an individuals' race, color, religion, sex including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity),, national origin (including limited English proficiency), age, disability, political affiliation or belief.

### **Accuracy of Information:**

The SVWDB has the responsibility for maintaining the ETPL for the training providers and programs that are approved by the SVWDB and assumes final responsibility to ensure that the list of providers approved by SVWDB is accurate and is an honest reflection of the training opportunities available in the region.

1. ACCURACY OF INFORMATION – If the SVWDB determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information, the SVWDB may terminate the eligibility of the provider or program to receive WIOA funds for any program for a period of time that is not less than two (2) years.
2. NONCOMPLIANCE – If the SVWDB determines that an eligible provider substantially violates any requirement under the WIOA legislation, the SVWDB may terminate the eligibility of such provider or individual program to receive WIOA funds for the program involved or take such other action as the SVWDB determines to be appropriate.

3. REPAYMENT – A provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all WIOA funds received for the program during any period of noncompliance. The SVWDB will make reasonable efforts to collect funds. Administrative processes and guidance for associated disallowed costs are established to support SVWDB in those efforts.
4. CONSTRUCTION – These penalties shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

**Attachments:**

- Attachment A-Part 1: Eligible Training Provider Application
- Attachment A-Part 2: Eligible Training Program Application
- Attachment B: WIOA Periods for Reporting Outcomes

**Date approved by Board:**

**5/11/17**

---

**Signed by:**



---

**Jeff Stapel, Chair**

Revisions:  
August 22, 2018

## Appendix A: Training Providers/Program Exempt from Certification

§ 23-276.2 of the Code of Virginia allows the following exemptions from certification:

- Public institutions of higher education in Virginia
- Educational offerings or activities that meet the following:
  - A nursing education program or curriculum regulated by the Board of Nursing;
  - A professional or occupational training program regulated by another other state or federal government agency
  - Those courses or programs of instruction given by or approved by any professional body that are principally for continuing or professional education and for which no degree credit is awarded;
  - Those courses or programs offered through approved multistate compacts, including, but not limited to, the Southern Regional Education Board's Electronic Campus;
  - Those courses offered and delivered by a postsecondary school that is accredited by an entity recognized by the U.S. Department of Education for accrediting purposes, if such courses are provided, solely on a contractual basis for which no individual is charged tuition and for which there is no advertising for open enrollment;
  - Any school, institute or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects related to the trade, business or profession represented by such association;
  - Any public or private high school accredited or recognized by the Board of Education;
  - Tutorial instruction delivered and designed to supplement regular classes for students enrolled in any public or private school or to prepare an individual for an examination for professional practice or higher education;
  - Religious Institutions whose primary purpose is to provide religious or theological education.
- § 23-276.4 C of the Code of Virginia states that institutions of higher education are not required to obtain further certification if they (i) were formed, chartered or established in the Commonwealth; (ii) have maintained a main campus continuously in the Commonwealth for at least 20 calendar years under their current ownership; (iii) were continuously approved or authorized to confer or grant academic or professional degrees by the Council during those 20 years; and (iv) are fully accredited by an accrediting agency that is recognized by the United States Department of Education.
- Postsecondary institutions that do not meet the requirements of § 23-276.2 or § 23-276.4 (C) above are required to obtain certification in accordance with Appendix B.



## **Appendix B: List of Certifying State Agencies**

The following State agencies can provide approval for Occupational Skills Training programs (please note this is not an all-inclusive list):

- Criminal Justice Services Department
- Department of Health Professions (DHP)
- Department of Medical Assistance Services (DMAS)
- Department of Motor Vehicles
- Department of Professional and Occupational Regulation (DPOR)
  - Board for Barbers and Cosmetology
  - Board for Contractors
  - Fair Housing Board
  - Real Estate Board
  - Real Estate Appraisers Board
  - Tradesmen
  - Board for Waste Management Facility Operators
  - Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals
- State Council of Higher Education for Virginia (SCHEV)
- Virginia Board of Pharmacy
- Virginia Board of Nursing