

TRAINING PROVIDER ELIGIBILITY AND APPEALS

Workforce Innovation and Opportunity Act Policies and Procedures

EFFECTIVE DATE: 07.14.2009

POLICY #: P209

I. PURPOSE:

This policy sets the process by which the Workforce Development Council (WDC) of Seattle-King County will 1) Determine initial eligibility for the Eligible Training Provider List (ETPL); 2) Deny Program Eligibility; 3) Remove a training program; and 4) Outline the appeals procedure.

II. BACKGROUND:

The Governor's procedure for determining training provider eligibility sets forth Washington State's policy for determining the eligibility of training providers and their programs to receive Workforce Innovation and Opportunity Act (WIOA)(P.L. 105-220) Title I-B Individual Training Accounts, and to train dislocated workers receiving additional unemployment insurance benefits under the state's Training Benefits Program. The Washington State Eligible Training Provider list can be accessed at: www.careerbridge.wa.gov

Local Workforce Development Councils are required to use the procedure.

III. POLICY:

Determination of Initial Eligibility

The following procedures pertain to training providers requesting to have a program listed for the first time.

A training provider who wishes to have one or more of its programs of training placed on the state ETPL will submit an application to WTECB. A training provider may apply on-line by going to: www.careerbridge.wa.gov, click on "For Training Providers". All applicants are required to download, sign, and return an assurances form to WTECB certifying that the school:

1. is a legal entity, registered to do business in Washington State
2. is eligible to receive Federal funds
3. does not discriminate against nor deny employment or services to any person on the grounds of race, color, religion, sex, national origin, age, handicap, citizenship, political affiliation or belief complies with the 1990 Americans with Disabilities Act (ADA)
4. has demonstrated effectiveness in operating occupational classroom training program(s) including provision of placement assistance
5. agrees that provider facilities, classroom instruction, relevant financial records, and attendance records may be reviewed during the period of performance of any voucher by state, federal and/or local monitors or auditors to ensure compliance with funding requirements

As part of the ETPL application process, training providers who are not community and technical colleges or apprenticeship programs must sign and return to WTECB a second portion of the assurances form, assuring that a school representative reviewed the data reporting requirements posted with application instructions at: www.wtb.wa.gov/etp/etpdatareporting and that the school agrees to provide WTECB required student records for all students trained in each of the programs identified in the ETPL application and in subsequent applications to place additional programs on the list. In addition, the training provider must agree to the posting of performance outcomes and cost information, for each of their programs on the ETPL, on the state's Job Training Results website. WTECB will not consider the school's ETPL application to be complete until it receives the signed assurance form.

The following procedures pertain to training providers requesting to have a program listed for the first time and to training providers with programs already on the ETPL who are applying to add a program.

The WDC may request WTECB to add additional ETPL application requirements for schools whose training facilities are located in King County. In such cases, the training provider, in the process of applying to the ETPL on-line, is required to download the WDC instructions and submit the additional information to the WDC.

WTECB will not process an ETPL application from a private vocational school if the training program on the application is not licensed and licensing is required.

Until WTECB completes its annual program performance review, WTECB will inform the training provider that the training program meets the state's requirements for ETPL "interim eligibility" status if: the training provider's ETPL application is complete, ETPL assurances requirements are met, and other related state requirements are met; and the program meets initial eligibility requirements.

Initial eligibility is met in either one of two ways:

1. Initial eligibility is automatically met if the training provider is:
 - a public community or technical college or public four-year college or university
 - a registered apprenticeship program
 - a private vocational school licensed by WTECB or by the Department of Licensing, or approved by the Higher Education Coordinating Board
 - an educational institution eligible to receive federal funds under Title IV of the Higher Education Act of 1965.
2. For all "other" training providers not listed above, initial eligibility for "interim eligibility" status shall be decided by the WDC following a general review of the training provider's institutional qualifications.

An authorized signatory must certify that the applicant training provider and/or its principals is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting or receiving any Federal and/or state department or agency funds. See Form 1.

Criteria under review includes: type of organization, financial information, a description of each program, the proposed curriculum, the instructor's resume or other documentation of their qualifications to provide instruction in the program area, job placement rates, demonstration of a

strong connection to the labor market, a description of the work skills, types of wages, certification in growth and demand sectors. Refusal or failure to provide financial information within the requested timeframe may result in an automatic denial of “interim eligibility” status. See Form 2.

For programs that have never before operated a demonstration of a strong connection to the labor market is required. Acceptable indicators are a letter of commitment to place graduates in internships or apprenticeships, hiring contracts with established business or two or more letters of support specific to your program from potential employers of program graduates.

An authorized signatory must certify that the training provider understands that acceptance and placement on the Local Workforce Development Council and the States Eligible Training Provider Program list does not guarantee that any approved person will enroll in the training provider’s courses or business.

The WDC staff will review requests for inclusion to the Eligible Training Provider Program list. Once all the requested information is submitted, the WDC will recommend whether a training provider and its training programs meet initial eligibility requirements.

Denial of Program Eligibility for First-Time Listing on the State WIOA Eligible Training Provider List

A. Reasons for Denial

- I. The WTECB, in coordination with the WDC, shall deny eligibility if an applicant fails to meet the minimum criteria for initial eligibility as specified above.
 - II. The WDC shall deny ETPL eligibility if the applicant intentionally supplied inaccurate information and shall deny ETP eligibility to a provider who has substantially violated any WIOA requirements. Penalties are described in WIOA Sec.122(f)(1) and (2).
 - III. After conferring with WTECB’s Private Career School Licensing unit, WTECB, in consultation with the WDC, shall deny ETPL eligibility to any private career school required by Washington state law to be licensed to operate in the state and which is not licensed.
- B. If the WTECB/WDC denies eligibility for first-time listing of a provider’s program on the ETPL, the WTECB/WDC must, within 30 calendar days of this decision, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process. A copy of this notice must be sent to WTECB.

Removal of a Program

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

- I. The WTECB, in consultation with the WDC, shall remove a program (or programs) from the ETPL if the provider fails to supply WTECB with available participant data required for the performance review within due dates established by WTECB. Training providers who are unwilling to supply required and available participant data shall be informed by WTECB that their program(s) of training will be removed from the state ETPL.

- II. The WTECB, in consultation with the WDC, shall remove a program if it is determined that the applicant intentionally supplied inaccurate information and shall deny ETPL eligibility to a provider who has substantially violated any WIOA requirements.
- III. If state or local required performance levels are not met, the program shall be removed.
- IV. The WTECB, in consultation with the WDC, shall remove a program (or programs) from the ETPL if the provider is unwilling to have its cost information and performance information pertaining to completion, employment rate and earnings posted on www.careerbridge.wa.gov, the State's WIOA consumer report website.

At the point when WTECB, in consultation with the WDC, determines that a program will be removed from the ETPL, WTECB shall, within 30 calendar days of this decision, inform the provider in writing and include the reason(s) for the removal and complete information on the appeals process. The WTECB will send a copy of this notice to the WDC.

The WTECB shall remove a program that was determined to be no longer eligible no earlier than the 31st calendar day from the issuance of the denial notice. If a training provider chooses to appeal, a training program that is subject to removal shall remain on the state ETPL until the appeal is concluded.

Appeals [WIOA Sec.122(g)]

- I. A provider wishing to appeal a decision by a WDC must submit a written appeal to the WDC within 30 calendar days of the issuance of the denial notice. The appeal must include a statement of the desire to appeal, specification of the program in question, the reason for the appeal and the signature of the training provider.

Note: If the appeal is limited solely to the issue of a program of training not meeting state required performance levels, the WDC will expedite the appeal process by referring the appeal directly to WTECB.

- II. Informal resolution between the WDC staff and the appealing provider should be attempted before filing a grievance. This meeting is an opportunity for the WDC to explain to the training provider why a training program is not eligible to be on the ETPL and the opportunity for the training provider to document specific factors (e.g. conflict of interest, nepotism, procedural non-adherence, etc.) which put the aggrieved at a competitive disadvantage. If there is not a resolution of the complaint, the complainant has a right to file a grievance by sending a written request for a hearing to:

Workforce Development Council of Seattle-King County
2003 Western Avenue Suite 250
Seattle, WA 98121-2162

- III. After a written request of a formal hearing is received, the complainant will be given written notice of the date, time, place, and manner in which the proceeding will be conducted at least 10 calendar days before the scheduled hearing. Hearing committee members will include a WDC partner, a management team member, and the ETPL planner. Both parties shall have the

opportunity to request documents relevant to the issue (s).

- IV. The WDC will notify the provider of its final decision on an appeal within 90 calendar days of receipt of the appeal. This period includes a hearing if requested by the provider. In addition, the WDC must notify WTECB of its decision. The WDC's written notification of its final decision must state that the provider has the right to request an appeal to WTECB.

Procedures for Appeals to WTECB [WIOA Sec.122 (g)]

This procedure applies: (1) to a provider whose appeal was directly referred to WTECB by the WDC; and (2) to a provider who has exhausted the appeal process of a WDC and is dissatisfied with the WDC's final decision.

- A. A provider wishing to appeal to WTECB must submit a written appeal request to WTECB within 30 calendar days of the issuance by the WDC of its final decision on an appeal. The request for appeal must be in writing and include a statement of the desire to appeal, specification of the program in question, the reason for the appeal and the signature of the appropriate provider official.
- B. WTECB will conduct a review within 30 calendar days from the date of receipt of the review request. WTECB will determine: (1) whether the WDC followed its appeal procedure; and (2) whether the WDC's decision was reasonable, fair, and in keeping with the intent of WIOA. In appeal cases where the training program met state required performance levels but did not meet the WDC's performance standards, WTECB will establish whether the WDC correctly followed its local performance procedures including, where applicable, its procedures for reviewing and accepting supplemental data provided by the appealing training provider. In an appeal challenging WTECB's process for determining state required performance levels, WTECB will review whether it followed consistent procedures when applying its standards. The decision rendered by WTECB, on behalf of the Governor, shall be final.

IV. REFERENCES:

- WIOA Section 116(c)(4)
- WIOA Section 122
- 20 CFR 680.400-530
- Training and Employment Guidance Letter (TEGL) 41-14