

PERFORMANCE/SUBSEQUENT ELIGIBILITY POLICY

Effective Date: September 19, 2019

Background: Workforce Innovation and Opportunity Act of 2014, Sections 122, 194, and 437.

The Workforce Innovation and Opportunity Act of 2014, (WIOA) Section 122, requires training providers to submit an initial eligibility application to each local Workforce Development Board (hereinafter referred to as "WDB") where the training provider desires to provide training. The initial application must contain cost information and the required performance information (or an explanation as to why the training program's performance information is not available, i.e. the program is new). Training programs meeting the local WDB requirements are placed on the local WDB's training provider list. The local WDB's list, along with each provider's performance and cost information shall be submitted to WorkForce West Virginia for consideration for inclusion on the State List.

The Act also requires approved training providers to submit verifiable performance information, program costs and any additional information requested, for each program, to the local WDB on an annual basis (after the initial eligibility period). Programs meeting the local WDB's performance and other appropriate requirements shall be submitted to WorkForce West Virginia for review in order to remain on the State's eligible training program list. If the training provider has not substantially violated any requirement under the Act and the training program meets the minimum performance requirements established by the State, the training program will remain on the State list.

Policy:

I. General Provisions for Local and State Approval of an Eligible Training Provider

- A. Eligible providers of training services are those entities eligible to receive WIOA Title I funds to provide training services to eligible adults, dislocated workers and older youth. The Region VII WDB, in partnership with the State, identifies training providers whose performance qualifies them to be placed on the Eligible Training Provider List.
- B. In order to provide training services, a provider must belong to one of the following categories:
 - 1. Postsecondary educational institutions providing a program described in WIOA section 122;
 - 2. Entities that carry out programs under the National Apprenticeship Act (29 U.S.C. 50 *et seq*);

3. Other public or private providers of a program of training services described in WIOA section 122;
 4. Local Boards, if they meet the conditions of WIOA section 107; and
 5. Community-based organizations and other private organizations providing training.
- C. A “program of training services” is defined as training resulting in the attainment of:
1. A certificate, an associate degree, a baccalaureate degree; or
 2. The skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

II. General Provisions for Development of a State-Wide Eligible Training Provider List

- A. WorkForce West Virginia and the Region VII WDB utilize a State-wide database system, the Mid-Atlantic Career Consortium (MACC) to track eligible WIOA clients and programs. Once approved, training providers must annually re-submit the course information and applicable performance data into the MACC for continuing local and State approval.

All prices on the ITA must match those specified in the MACC. No training contract will be approved for an amount exceeding costs specified in MACC for tuition and fees.

- B. Vendors will remain approved training providers for Region VII for one year. Training providers are required annually each December to submit general course and performance information into the MACC. Failure to update this information will lead to a program being removed from the state and local list as an approved WIOA program.

III. General Provisions for Individual Training Accounts

- A. WIOA funding for training is limited to eligible WIOA participants who are either unable to obtain grant assistance from other sources to pay the costs of their training, or who require additional assistance to pay the costs of such training. Examples of other funding sources include Trade Adjustment Assistance, Pell Grants established under Title IV of the Higher Education Act of 1965, or other State or

community based grants the participant may be eligible to receive. The availability (or lack of availability) of all alternative funding sources must be documented in the participant's file.

- B. Individual Training Accounts (ITAs) are established on behalf of eligible individuals to finance training services. WIOA Title I adults and dislocated workers and older youth shall select training services only from the list of eligible Training Providers who best meet their needs in consultation with their WIOA Career Coach. This training shall not be approved by Region VII WDB prior to an individual's determination of eligibility.
- C. Training shall be directly linked to occupations that are in demand in the participant's local area (or in another area if the participant is willing to relocate). The Region VII WDB shall approve training services for only those occupations determined to have a high potential for sustained demand and/or growth in the local area.
- D. Evidence of coordination and/or collaboration to leverage training costs with other agencies prior to expending WIOA funds must be documented in the participant's file.

IV. General Provisions for Termination of a Training Program

- A. If a training program cannot be closely linked to a demand occupation, the Region VII Workforce Development Board may reject the program. This will be documented in the MACC. The program will not be listed on the regional training provider list and will not receive WIOA training dollars.
- B. After a program has been in place for more than one program year performance data must be submitted to the state and the WDB via the MACC. Failure to provide accurate performance information in the MACC will result in the WDB not approving the program for WIOA funding.
- C. If a Training Provider's program fails to meet the negotiated performance levels established by the U.S. Department of Labor, Workforce West Virginia and the Local Workforce Development Boards, the Region VII WDB will place the program on probation for a period of six months. After six months, the Training and Performance Committee will review the program and the documented performance. The committee will then recommend that either the probationary status be lifted or the program be removed from the WDB's approved training list.

V. General Provisions for Termination of a Training Provider

- A. If the Region VII Workforce Development Board, working with WorkForce West Virginia, determines that an eligible training provider substantially violates any requirement under the Act, the State agency shall recommend that the eligibility of the training provider to receive WIOA funds be revoked and/or may initiate other actions as deemed appropriate by the Region VII Workforce Development Board.
- B. Information used in determining whether or not a training provider will be terminated may be gathered from various sources, including:
 - 1. Monitoring Reports completed under the policies set forth by the Region VII WDB;
 - 2. Performance information submitted by the service provider;
 - 3. Information obtained through annual training provider course eligibility reviews.
- C. Enforcement of termination of an eligible training provider shall proceed as follows:
 - 1. The Region VII WDB will submit a recommendation to the state agency to remove the provider from the list.
 - 2. WorkForce West Virginia, upon receipt of the information accompanying the recommendation from the Region VII WDB, may recommend removal of the provider from the state list:
 - a. If the agency determines the provider failed to meet the levels of prescribed performance
 - b. If the provider has intentionally supplied inaccurate information or;
 - c. If the provider has violated any provision of Title I of the Act or regulation.
- D. WorkForce West Virginia shall determine what disciplinary action is most appropriate for those eligible training providers found to be in violation of any requirement under the Act. It may be deemed that:
 - 1. A terminated training provider will not be eligible to receive funds for any programs for a period of time, but not less than two (2) years.

2. A terminated training provider may be liable for repayment of all funds received for the program during any period of noncompliance.
 3. Action may be taken for any clients active in training to continue to receiving services from another service provider for the remainder of their training period.
- E. Any eligible training provider found to be in violation of any requirement under the Act, for which disciplinary action has been determined to be appropriate, may appeal the decision in the following manner:
1. Denial or removal by Region VII Workforce Development Board:
 - a. Submit a written request for a hearing to the local Workforce Development Board. This hearing – conducted by the local Board’s Training and Performance Committee – must take place within 30 days of receipt of the request by the local board;
 - b. The hearing shall include a rationale as to why the eligibility was terminated or denied and an appeal by the training provider as to why the decision should be reversed or a compromise should be established;
 - c. Within 10 working days after the training provider is notified of the results from the local hearing, the training provider may appeal the local board’s decision to WorkForce West Virginia. The training provider must submit the appeal using the WorkForce West Virginia Training Provider Appeal form available at each WorkForce West Virginia Career Center or from www.workforcewv.org. All supporting documentation must be submitted with the appeal form.
 2. Denial or removal by WorkForce West Virginia:
 - a. WorkForce West Virginia has 30 working days from receipt of the appeal form and supporting documentation to conduct an investigation, hold a hearing and issue a decision. The investigation may include, but is not limited to, on-site visits, informal conferences or conference calls to seek a resolution, and a formal hearing.
 - b. The State Workforce Investment Council will have 30 working days from the receipt of any appeal arising from WorkForce West Virginia’s decision to issue their decision. The decision of the State Workforce Investment Council is final. The State

Workforce Investment Council's Chairperson, Vice-Chairperson and the legal counsel for State will conduct the appeal review.

Summary: Current WIOA training providers, including programs eligible to receive funds under Title IV of the Higher Education Act of 1965, and programs under the National Apprenticeship Act, and training providers who desire to submit an initial application, must submit program performance and cost information to each local WDB with which the provider desires to be listed.

Each local WDB reviews the information to determine if the program meets the required performance established by the Local WDB and the State. If the WDB determines the program meets those requirements, the WDB will send a copy of the application to the State for inclusion on the State training provider list. The State will review each initial and renewal application to ensure that, at the minimum, the State performance levels and requirements are met. Programs approved will be added to the State training provider list. **Only those programs included on the State list will be eligible to receive WIOA referrals.**

A training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider. If the provider's programs do not meet the established performance levels, the programs will be removed from the eligible provider list.

The Act requires the State to verify performance information. The State will conditionally approve programs based on the performance information submitted by the training provider, but if after verification of the performance data submitted by the provider, it is determined the program did not meet the required performance measures, the program will be removed from both the approved state training list and the approved local training program list.

If it is determined that a provider or an agent of the provider intentionally supplied inaccurate information on either the initial or the renewal application, the provider shall be ineligible to receive WIOA training funds for any program, for a period of time, of not less than two years.

Region VII WDB has established an appeal process that includes a State level appeal.

Action: The Region VII Workforce Development Board will advise all Region VII Eligible Training Providers and those Training Providers to desire approval as an Eligible Training Provider to follow the procedures outlined in this policy. Region VII WDB will make available the WIOA Training Provider Application and WIOA Training Renewal Application to all providers interested in establishing eligibility.

Equal Opportunity and Grievances: The Region VII Workforce Development Board prohibits discrimination in all aspects of the administration, management, and operation of Workforce Innovation and Opportunity Act programs and activities. Services offered at the Region VII WorkForce WV Career Centers will be provided universally without regard to race, color, religion, sex, national origin, age, disability, or political affiliation or belief. Individuals may file a complaint or grievance by following the Region VII Workforce Development Board Grievance Procedure Policy, a copy of which will be provided upon request.

Questions: Questions concerning this policy should be directed to the WDB Staff by calling (304) 530-5258.

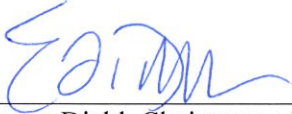
Expiration Date: Effective until rescinded or modified in writing by the Region VII Workforce Development Board.



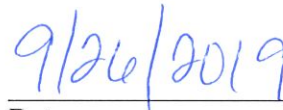
T.J. Van Meter, Executive Director



Date



Layne Diehl, Chairperson Region VII WDB



Date