COLORADO
Department of
Labor and Employment

Workforce Development Programs
633 17th Street, Suite 700
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Category/Subject:	Eligible Training Providers for WIOA Title I Adult and Dislocated Worker Programs
Colorado Policy Guidance Letter#:	WIOA-2015-06, change 2 (prior #15-10-WIOA)
Revise/Replace PGL#:	WIOA-2015-06 (prior #15-10-WIOA)
Date:	January 28, 2016
Distribution:	CDLE Management/Finance, State/Local Workforce Directors & Staff, Partners

All revisions highlighted in yellow

I. REFERENCE(S):

- Workforce Innovation and Opportunity Act of 2014, Sections 122 and 134.
- TEGL 41-14, Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) Title I Training Provider Eligibility Transition
- TEGL 15-10, Increasing Credential, Degree, and Certificate Attainment by Participants of the Public Workforce System.
- PGL 01-15-WIA1, Individual Training Accounts.
- National Council for State Authorization Reciprocity Agreements.

II. PURPOSE:

This Policy Guidance Letter (PGL) provides new information, criteria, and procedures for Local Workforce Development Boards and local workforce areas to implement the Eligible Training Provider requirements in the transition from the Workforce Investment Act of 1998 to the Workforce Innovation and Opportunity Act of 2014.

The PGL requires a revised local eligible training provider policy be submitted to the appropriate Regional Liaison no later than June 30, 2016.

III. BACKGROUND:

The Workforce Investment Act (WIA) established the eligible training provider process as part of the overall strategy to ensure informed customer choice, performance accountability, and continuous improvement. The Workforce Innovation and Opportunity Act (WIOA) further advances these goals through the alignment of the six primary federal programs that support employment and training services – the Title I Adult, Dislocated Worker, and Youth Programs, Adult Education and Literacy programs, the Wagner-Peyser Employment Service, and Title I of the Rehabilitation Act programs.

Colorado's Eligible Training Provider List (ETPL) identifies training providers whose performance qualifies them to receive WIOA funds to train adults and dislocated workers through Individual Training Accounts (ITAs). The State ETPL and the related eligibility procedures ensure the accountability, quality, and labor-market relevance of programs of training services that receive funds through WIOA. WIOA outlines the responsibilities of the Governor, designated State agencies, and Local Workforce Boards in creating and maintaining a list of eligible training providers.

Beginning in Spring 2016, Colorado's ETPL will be administered in partnership with the Colorado Department of Higher Education and College In Colorado using a new online system. This new online platform will coincide with the implementation of WIOA to provide enhanced features and accessibility to our shared customers.

IV: POLICY/ACTION:

A. Definitions

Eligible Training Provider is a provider of training services who has met the eligibility requirements to receive WIOA Title I Adult and Dislocated Worker funds to provide training services to eligible individuals. Eligible training providers may also receive Title I Youth funds through ITAs under certain conditions, see Section B.

Program of training services is defined as one or more courses or classes, or a structured regimen, which lead to:

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

A **credential** is awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to obtain employment or advance within an occupation. These technical or occupational skills are generally based on standards developed or endorsed by employers. Certificates awarded by Local Workforce Boards are not included in this definition, nor are work readiness certificates because neither of them document "measurable technical or occupational skills necessary to gain employment or advance within an occupation."

A **pre-apprenticeship** is a program or set of strategies designed to prepare individuals to enter and succeed in a registered apprenticeship program and has a documented partnership with at least one, if not more, registered apprenticeship program(s).

A **program completer** is a participant who meets all requirements of the training program.

A **program exiter** is a participant who left the program during the previous twelve month period for any reason (including completers).

B. Training Providers Subject to ETPL Requirements

The following types of training providers are subject to the ETPL requirements in order to receive WIOA Title I Adult and Dislocated Worker funds to provide training services to eligible adult and dislocated worker individuals through ITAs.

1. Institutions of higher education that provide a program of training that leads to a recognized postsecondary credential;
2. Apprenticeship programs registered by the USDOL Office of Registered Apprenticeship;
3. Public or private training providers, including joint labor-management organizations, pre-apprenticeship programs, and occupational/technical training; and
4. Providers of adult education and literacy activities provided in combination with occupational skills training (i.e. the I-BEST model, not currently in Colorado).

ITAs are also allowable for WIOA Title I Youth funds to provide training to older, out-of-school youth (ages 18-24). Older youth may utilize the ETPL to enhance individual choice, but it is not required.

C. Initial Eligibility and Application Process

Beginning in Spring 2016, training providers that were not eligible providers under WIA may submit an application through the new website for initial program eligibility, which can be granted for one full fiscal year (through September 30, 2017). Training providers may apply for initial program eligibility on a rolling basis throughout the year. For example, a training provider that applies for initial program eligibility in August 2016 will have until September 30, 2017 to apply for continued program eligibility with no gap in eligibility.

All applications for the ETPL will be completed online. Training providers can apply for a program's inclusion on the ETPL in one or more local areas in Colorado with a single application. The specific local areas that are covered must be marked on the application, and performance data for all local areas must be provided.

1. The first step in the online application process for training providers will verify that the training provider is licensed, certified, or authorized by the Colorado Department of Higher Education, or the relevant state agency with oversight, to operate training programs in Colorado. If a provider is in compliance with the oversight agency, the provider can proceed to the next step in the application process. If a program is not in compliance with the oversight agency as required by state law, the provider will not be able to apply for inclusion on the ETPL until they meet the necessary requirements. Postsecondary institutions located outside Colorado that offer distance education may be authorized to operate programs in Colorado through the State Authorization Reciprocity Agreement (SARA) if the institution is approved by SARA in their home state. Colorado residents may use ITAs to physically attend training programs in other states if the program is on the other state's ETPL and a reciprocal agreement is established between CDLE and the other state agency responsible for the ETPL.

2. Training providers applying for initial program eligibility must provide the following through the online application:
    a. A description of each program of training services to be offered;
    b. Information on cost of attendance, including costs of tuition and fees;
    c. Whether the training program leads to an industry-recognized certificate or credential, including recognized post-secondary credentials;
    d. Whether the provider has developed the training in partnership with one or more businesses (and the names of the businesses);
    e. Which in-demand industry sectors and occupations best fit with the training program;
    f. A description of the prerequisites or skills and knowledge required prior to the commencement of training; and
    g. Social security numbers for all students residing in Colorado, regardless of funding source.

Social security numbers must be provided for all students in Colorado for the previous two fiscal years. Training providers that have not been in existence for at least two years will be required to provide student data only for the time period available. If the training provider has not previously collected social security numbers, this will be required going forward for eligibility. The online application system will provide a secure means to transmit this information.

Once the online application is submitted and the state has determined that the required information has been provided, the state will automatically notify each local workforce area to approve, deny, or request further information on each training program within 30 days of the receipt of a complete application. Local Workforce Boards may require supplemental information and may set additional eligibility criteria in local policy. If the Local Workforce Board has taken no action on a complete application after 30 days, the application will be automatically approved. In order to be responsive to customer demand, local boards have the discretion to establish their own policy or procedure to approve or deny applications within a shorter time period.

Registered apprenticeship programs are automatically eligible for the ETPL and are not subject to the eligibility criteria or application requirements. While registered apprenticeship programs are automatically eligible, not all registered apprenticeship sponsors may wish to be included on the list. Registered apprenticeship programs will automatically be included on the State list until they lose their registration or they indicate they do not wish to be included.

D. Additional Eligibility Criteria for Local Areas

The Local Workforce Boards may establish additional criteria for program eligibility within a local area through local policy. This may include setting minimum required levels of performance as criteria for training providers to become or remain eligible to provide services in that particular local area. Training providers should be aware that programs may be approved for some local areas and denied for others based on local criteria, and the approved local areas for each training provider will be listed as part of the ETPL.

E. Continued Eligibility

After the initial eligibility period of one full fiscal year, training providers must submit online applications through the website for continued program eligibility every two years. Applications for continued eligibility must be submitted online by October 1st for the year in which eligibility expires. For example, if a program's initial eligibility expires October 1, 2017, the training provider must apply for continued eligibility by October 1, 2017 and the continued eligibility will expire in two years on October 1, 2019. The continued eligibility application is required for any program that has previously been on the list. Dropping off the list for a period of time does not return a program to an initial eligibility status.

Applications for continued eligibility must show the training program is still authorized by the appropriate oversight agency to operate in Colorado and must include the following (in addition to updating the information provided for initial eligibility):

1. The total number of participants enrolled in the program;
2. The total number of participants completing the program;
3. The total number of participants exiting the program;
4. Information on recognized post-secondary credentials received by program participants;
5. Information on the program completion rate for such participants;

6. Description of how the provider will ensure access to training services throughout the State, including rural areas and through the use of technology;
7. Description of how the providers provide training services to individuals who are employed and/or individuals with barriers to employment;
8. Information reported to State agencies on Federal and State training programs other than programs within WIOA title I-B; and
9. Social security numbers for all participants in Colorado for the two previous years, regardless of funding source, which will be used to calculate the performance measures listed in **Attachment 1**.

If a training provider demonstrates that providing this required information is unduly burdensome or costly, and CDLE concurs that the provider has demonstrated extraordinary costs or undue burden, the provider may request technical assistance from CDLE to assist them in collecting and supplying the required information. Requests should be submitted in writing via email to Larry.Lemmons@state.co.us.

F. Transition of Eligible Training Providers under WIA

To ensure a smooth transition to WIOA, eligible training providers under WIA may continue to be eligible until the new system is available and the current ETPL will remain in place until that date.

Beginning in Spring 2016, we anticipate that current eligible training providers may begin applying for continued eligibility in the new system. **All eligible training providers under WIA must re-apply in the new system to remain eligible after the new system is available, under the continued eligibility procedures in Section E.** Current eligible providers are strongly advised to review the new requirements for continued eligibility, particularly the requirement that programs be authorized to operate in Colorado by their state oversight agency, so they can prepare immediately for the transition to WIOA.

We anticipate the new WIOA-compliant ETPL and online platform will launch with the newly entered data from training providers in Spring 2016, assuming no delays in the new system development.

During 2016, minimum performance targets will not be set as eligibility criteria for training programs to remain on the ETPL. Performance information for each program will be posted on the ETPL to help consumers make an informed decision. Once the transition from WIA to WIOA is completed, this policy will be revised to establish minimum performance targets for programs to remain on the ETPL.

G. Roles and Responsibilities

1. **Colorado Department of Labor and Employment (CDLE)**
   CDLE is responsible for:
   a. Establishing requirements for the ETPL system;
   b. Establishing eligibility criteria, information requirements, and procedures for training providers;
   c. Developing an approval process for training providers that have met minimum eligibility criteria by Local Workforce Boards; and
   d. Taking appropriate enforcement actions against providers that intentionally provide inaccurate information or that substantially violate the requirements of WIOA.

2. **Colorado Department of Higher Education (CDHE)**
   CDHE is responsible for:
   a. Hosting the ETPL through a web-based platform;
   b. Disseminating the State list, accompanied by performance and cost information for each program, to the public and the Local Workforce Boards throughout the State;
   c. Establishing the web application and tracking system for use by training providers, Local Workforce Boards, and CDLE;
   d. Receiving and reviewing training provider applications for minimum eligibility criteria and performance requirements;
   e. Posting locally-approved training programs to the State list in a timely manner; and
   f. Removing programs that do not meet required criteria or performance requirements.

3. **Local Workforce Boards**
   The Local Workforce Boards are responsible for:
   a. Establishing local policy that includes the following:
      i. Identification of in-demand sectors or occupations for the local area using relevant labor market information;
      ii. Priority consideration for programs that lead to recognized post-secondary credentials that are aligned with in-demand industry sectors or occupations in the local area;
      iii. Establishment of additional eligibility criteria for training programs to become or remain eligible in the local area (optional); and
      iv. Establishment of specified levels of performance as criteria for programs to become or remain eligible to provide services in the local area (optional).
      v. If a Local Board establishes minimum standards in local policy, the Local Board may direct the removal of a provider program from the eligible programs in that local area for failure to meet established criteria. See Section K. for the appeals process that a training provider must follow to appeal their program's removal from the ETPL.
   b. Following local procedures to review training program applications and to apply additional local criteria, if applicable, within 30 days of the receipt of a complete application from the state;
   c. Communicating to CDLE if there are insufficient numbers and types of providers of 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;

d. Ensuring the distribution and use of the ETPL throughout the local area and providing information to the customer to make an informed choice;
e. Notifying CDLE and CDHE when they wish to remove an eligible training provider from the list (see Section J. Conditions for Removal); and
f. Following the appeal process for training providers rejected as an Eligible Training Provider or later removed for cause.

H. Performance Requirements

The performance information required is outlined in **Attachment 1**. Social security numbers must be provided for all students in Colorado (who participated in the programs intended for the ETPL) for the previous two fiscal years (October 1 – September 30). The online application system will provide a secure means to transmit the data file. Training providers that have not been in existence for at least two years will be required to provide student data for the time period available. Social security numbers for all Colorado students will continue to be required going forward and will be used to calculate the performance measures. Performance information will be published online for each training provider on the ETPL. Programs with less than 10 students enrolled during a fiscal year will not be included in performance data to maintain confidentiality of the individual participants.

I. Exceptions to the ITA and the 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.

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. Local Workforce Boards are required to identify their criteria for selecting such contractors in local policy and any performance information required by the state will be specified in the specific policies for those types of training.
2. Where a Local Workforce Board determines there are an insufficient number of eligible providers in the local area to accomplish the purpose of an ITA. The local plan and local policy must describe how this determination was made and the process used for contracting for services.
3. If the Local Workforce Board determines that a community-based organization (CBO) or nonprofit whose primary mission is to serve individuals with barriers to employment provides effective training services. The Local Workforce Board must develop criteria in local policy to determine that the program is effective.
4. Training for multiple individuals in in-demand industry sectors or occupations, as long as the contract does not limit the individual's consumer choice.
5. Circumstances in which a pay-for-performance contract is appropriate, if the Local Workforce Board chooses to utilize this strategy.

Registered apprenticeship programs are not subject to the same application or performance reporting requirements as other providers because they go through a detailed application and vetting procedure to become a Registered Apprenticeship program sponsor with the United States Department of Labor (USDOL). Any apprenticeship program may remain on the ETPL as long as it remains registered by the USDOL Office of Registered Apprenticeship.

Any performance information required for ETPL exceptions, which include on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience, and transitional employment, will be specified in separate state and local policies for those types of training.

J. Conditions for Removal

The state may remove a program or programs from the list for failing to meet the established criteria or performance levels in this policy, or for not providing all required performance information for subsequent eligibility. Removal is also appropriate if the program has failed to attain or lost the accreditation required for professional licensure. Where a Local Workforce Board has established minimum performance standards, the Local Workforce Board may remove a provider program from the eligible programs in that local area for failure to meet established criteria.

The state must remove from the eligibility list any providers that willfully supply false performance information, misrepresent costs or services, or that substantially violate requirements of WIOA law or regulations. Providers deemed ineligible will be removed from the list for a period of not less than 2 years. Providers are liable to repay all adult and dislocated worker funds received during the period of non-compliance.

No training provider debarred by the Federal Government may be permitted to be placed or remain on the ETPL.

In the case of a training provider or a program of training services that is removed from the list while WIOA participants are enrolled, the participants may complete the program unless the provider or program has lost state licensing, certification, or authorization to operate by the appropriate state oversight agency.

K. Appeal Process

Training providers can choose to appeal the rejection of their program for inclusion in the ETPL or its subsequent termination of eligibility. For any appeal by a training provider, an appeal must be submitted in writing via email to Larry.Lemmons@state.co.us within 14 days after notification of the decision. The appeal must include the justification for the appeal in their request. The training provider also has the right to request a hearing to discuss their appeal.

An ETPL appeals board will be assembled consisting of a representative of CDHE management, a representative of CDLE management, and the local workforce area director. The appeals board will schedule a hearing if requested and make a decision within 60 days of appeal. This will be a final decision and the program will be unable to reapply through the ETPL eligibility process for one year from the date of final notification by the ETPL appeals board.

Local boards must also establish an appeals procedure for training providers to appeal a denial of eligibility from a particular local area based on locally-established criteria. The appeals procedure must be in local policy and must explain the appeals process for denial or termination of eligibility for a training provider.

V. IMPLEMENTATION DATE:

Effective upon the launch of the new ETPL system. Upon receipt of this PGL, it is required that local areas review/revise their local policies to ensure that they are in compliance with the new requirements. Local policies may include additional criteria and information requirements for determining eligibility of training providers in the local area. Local policies must establish an appeals procedure for training providers to appeal a local denial of eligibility. **The revised local eligible training provider policy must be submitted to the appropriate Regional Liaison by June 30, 2016.**

VI. INQUIRIES:

Please direct all inquiries to Larry Lemmons, Workforce Development Programs, Larry.Lemmons@state.co.us, (303) 318-8817.

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Elise Lowe-Vaughn, Director
Workforce Programs, Policy and Strategic Initiatives

ATTACHMENT(S):

1. **Required Performance Data**