

WIA TITLE I-B AND ARRA PROGRAM MANAGEMENT POLICIES AND PROCEDURES

MEMORANDUM #09-10

To: All WIA Title I-B and ARRA Adult and Dislocated Worker Program Subrecipients

Subject: Eligible Training Provider List Eligibility and Appeals

Supersedes: Eligible Training Providers List Eligibility and Appeals #01-10

Effective Date: July 01, 2009

A. BACKGROUND

The process for approving a request for inclusion on the Eligible Training Provider List (ETPL) for Adult and Dislocated Worker Programs under Title I-B of the Workforce Investment Act (WIA), the American Recovery and Reinvestment Act (ARRA), and State Training Benefits is described in Washington State Provisions Policy #3635 entitled *Governor's Procedure's for Determining Training Provider Eligibility*.

Application is made through an on-line application process. The application is no longer divided into Parts A and B as indicated in the above policy, however. All information previously obtained in Parts A and B is currently obtained in a single step, on-line format.

According to the Governor's procedures and WIA requirements, when an applicant is deemed to fall into the "other" category; that is, a small institution, serving a unique industry, and/or does not receive federal funds under Title IV of the Higher Education Act of 1965; the local WDC is to decide the "interim eligibility" status following a general review of the training provider's qualifications.

B. POLICY

This policy describes the process by which Workforce Development Council Snohomish County (WDCSC) will determine initial eligibility for the ETPL, remove a training program from the list, and provide a means for appeals. The procedures described

herein shall be used to determine eligibility from July 1, 2009 through June 30, 2010 and may be extended as approved by WDCSC.

Determination of Interim Eligibility

A training provider that wishes to have one or more of its training programs added to the ETPL must submit an application to the Workforce Training and Education Coordinating Board (WTECB) using the on-line application located on the WTECB's Internet homepage, www.wtb.wa.gov/etp/. WTECB will notify WDCSC of the school's licensure status if licensing is required. Training providers should be in contact with WDCSC at this point to ensure the application is processed in a timely manner.

WTECB will use participant data supplied in the application to conduct a cross-match of administrative records (e.g., participant records and unemployment insurance wage records) to determine whether a training program meets the required State performance levels. Once WTECB completes its eligibility determination, WTECB will inform WDCSC that the training program meets the State's requirements for "interim eligibility" status as long as:

- a. The application requirements were met,
- b. WTECB determines that the training provider is licensed in Washington when licensing is required; and
- c. The program meets initial eligibility requirements for "interim eligibility" status.
- d. Recommend that a copy of eligible application be submitted to WDCSC ETPL Manager

Initial eligibility is met if the training provider is a public community or technical college or public university; registered apprenticeship program; private vocational school licensed by WTECB or by the Department of Licensing or approved by the Higher Education Coordinating Board; or an educational institution eligible to receive federal funds under Title IV of the Higher Education Act of 1965. For all training providers not listed above, initial "interim eligibility" status shall be decided by WDCSC following a review of the training provider's institutional qualifications submitted on the attached form. These criteria to be reviewed shall include: type of organizations, length of time in operation, financial information, a description of each program for which the institution seeks approval, and the proposed curriculum and instructor's résumé or other documentation of qualifications to provide instruction in the training area. For newly created training programs, a demonstration of a strong connection to the labor market is required. Acceptable indicators of such connection include, but are not limited to: an employer letter of commitment to place graduates in internships or apprenticeships, hiring contracts with established business, or two or more letters of support specific to the training program from potential employers of program graduates. An authorized signatory must certify that the training provider understands that acceptance and placement on WDCSC and State Eligible Training Provider List does not guarantee that any approved person will enroll in the training provider's courses. The WDCSC Management Team will review requests for inclusion and make recommendations to the

Executive Committee. If approved, WDCSC will notify the WTECB of each training provider's "interim eligibility" status.

WDCSC, shall approve or deny interim eligibility for listing on the ETPL at its sole discretion. The following conditions will result in automatic denial:

- a. The applicant fails to meet the minimum criteria for interim eligibility as specified above;
- b. The applicant intentionally supplied inaccurate information or substantially violated a WIA requirement. Penalties are described in WIA Sections 122(f)(1) and (2); or
- c. The applicant is required by Washington State law to be licensed to operate in the State and is not so licensed.

In instances where WDCSC denies eligibility for initial interim eligibility listing of a provider's program on the ETPL, WDCSC will, within 30 calendar days of the 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 will be sent to the WTECB.

Removal from the ETPL

WDCSC may remove a training institution that it placed on the ETPL utilizing the interim eligibility procedures described above. WDCSC may exercise this option at its sole discretion which includes, but is not limited to the following:

- a. WDCSC, in consultation with WTECB, shall remove a program (or programs) from the ETPL if the provider fails to supply WTECB with participant data required for performance review within due dates established by WTECB. Training providers who are unwilling to supply required participant data (or are unwilling to sign a statement of commitment to begin collecting and supplying the required participant data) shall be informed by the WDCSC that its program(s) of training will be removed from the ETPL.
- b. WDCSC shall remove a program if it is determined that the applicant intentionally supplied inaccurate information and shall remove ETPL interim eligibility to a provider who has substantially violated any WIA and/or ARRA requirements.
- c. WDCSC shall remove a program that does not meet required State performance levels.

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

WDCSC 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 WDCSC's decision, the training program subject to removal shall remain on the ETPL until the appeal is concluded.

Appeals to WDCSC [WIA Sec. 122(g)]

A provider wishing to appeal a decision by WDCSC must submit a written appeal to WDCSC 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.

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

Informal resolution between the WDCSC staff and the appealing provider should be attempted before filing a grievance. This meeting is an opportunity for WDCSC to explain to the training provider why a training program has not been determined to meet or maintain interim eligibility requirements for inclusion on the ETPL. It also provides an 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 no resolution of the complaint, the complainant has a right to file a grievance by sending a written request for a hearing to:

ETPL Manager
Workforce Development Council Snohomish County
728 134th Street SW, Suite 128
Everett, Washington 98204

After a written request for 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 WDCSC partner, a Management Team member, and the ETPL Manager. Both parties shall have the opportunity to request documents relevant to the issue(s).

WDCSC will notify the provider of its final decision within 90 calendar days of receipt of the appeal. This period includes a formal hearing if requested by the provider. WDCSC will notify WTECB of its decision. WDCSC's written notification of its final decision will state that the provider has the right to request an appeal to WTECB.

Appeals to WTECB

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

A provider wishing to appeal to WTECB must submit a written appeal request to WTECB within 30 calendar days of the issuance by WDCSC of its final decision. 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.

WTECB will conduct a review within 30 calendar days from the date of receipt of the review request. WTECB will determine: (1) whether WDCSC followed its appeal procedure and (2) whether WDCSC's decision was reasonable, fair, and in keeping with the intent of WIA and ARRA. 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.

References

Workforce Investment Act (P.L. 105-220) Title I, Section 122
20 CFR Part 652 *et al* – 663 Subpart E (663.500 through 663.590)
20 CFR Part 652 *et al* – pages 49334 through 49342
Washington State WIA Policy 3635



Eligible Training Provider List Interim Eligibility Application Form

This application is for the purpose of determining a training provider's institutional qualifications and obtains documentation that demonstrates a minimum level of administrative and fiscal status in order to receive interim eligibility of a specific training program for inclusion on the Eligible Training Provider List (ETPL). All applicants must complete the questionnaire and substantiate the following documentation of qualifications. Failure to satisfactorily substantiate the following documentation or provide accurate information could result in denial of initial ETPL eligibility.

General Training Entity Information:

1. Business Name: _____.
2. Do you currently have a course(s) that has received an interim eligibility determination for the ETPL from Workforce Development Council Snohomish County? _____. If yes, please go to 7.
3. Accredited? _____. By whom? _____.
4. Length of time in operation: _____.
5. Have you ever been suspended or otherwise disciplined or prevented from providing training services? _____.
(If so, provide written explanation)
6. Do you have any grievances or outstanding judgments against you filed by former students or associates? _____.
(If so, provide written explanation)

Specific Training Course Information:

7. Course title: _____.
8. Anticipated length of training _____.

Required Documentation:

9. Legal Entity (Proof of Incorporation, 501(c)(3), etc)
10. Financial Information: (Bank branch plus annual budget document or recent copy of audit)
11. Written program description
12. Instructor qualifications or résumé

Submission of Information:

Include a cover letter identifying your organization and signed by an individual authorized to represent your organization, to act on behalf of it, and to legally bind it in all matters substantiating and related to the above listed questions and the required documentation. Send this information to:

ETPL Manager
Workforce Development Council Snohomish County
728 134th Street SW, Suite 128
Everett, Washington 98204