

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

ID/No:	WD 05-19, Change 1
Date:	January 12, 2021
Keyword:	ETP; WIOA
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Courtney Arbour, Director, Workforce Development Division

Subject: **Workforce Innovation and Opportunity Act, Eligible Training Provider Program, Eligibility Criteria, and Performance Expectations—Update**

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with updated information and guidance on the Eligible Training Provider (ETP) program, as governed by the Workforce Innovation and Opportunity Act (WIOA), specifically pertaining to the eligibility criteria for training providers.

RESCISSIONS:

WD Letter 05-19

BACKGROUND:

WIOA retains the requirement set forth in the Workforce Investment Act that the Texas Workforce Commission (TWC) must establish the eligibility criteria, information requirements, and procedures regarding the eligibility of training providers to receive WIOA funds.

On May 9, 2017, TWC's three-member Commission (Commission) approved the eligibility criteria and performance requirements for initial and continued eligibility.

On November 26, 2018, the Commission approved removing from the criteria the minimum performance standards for determining the initial and continued eligibility of training programs. Training providers will continue to submit performance data for research and informational purposes.

On December 15, 2020, the Commission adopted new Chapter 840, relating to WIOA ETPs.

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

NLF: Boards must be aware that because Registered Apprenticeship Programs (RAPs) undergo a detailed application and vetting process to become RAP sponsors with the US Department of Labor (DOL), they are not subject to the same application and performance requirements as other providers. TWC will automatically add to the statewide Eligible Training Providers List (ETPL) RAPs that:

- are registered with DOL’s Office of Apprenticeship Training; and
- notify TWC of the desire to be included on the statewide ETPL.

NLF: Boards must be aware that, in general, if a training provider is removed from the ETPL, enrolled students can remain in the training program until they complete their training or exit the program. Providers removed for substantial violations of WIOA requirements may be required to return funds provided for training in affected programs during the term of such violation.

Eligibility Criteria for Training Providers

NLF: Boards must be aware that criteria for determining the initial and continued eligibility of training providers currently does not include minimum performance standards.

NLF: Boards must be aware that training providers must meet the following evaluation criteria for initial and continued eligibility:

- A provider must be:
 - an institution of higher education providing a program that leads to a recognized postsecondary credential;
 - an entity that provides Registered Apprenticeship training; or
 - a public or private training provider, which may include community-based organizations, joint labor-management organizations, and providers of Adult Education and Literacy (AEL) activities under Title II, if AEL training services are provided concurrently or in combination with occupational skills training, on-the-job training, incumbent worker training, and other training cited under WIOA §680.350.
- A provider must be appropriately licensed, regulated, or accredited, or must be exempt from regulation under Texas Education Code, Chapter 132, with authorization in a Letter of Exemption from TWC Career Schools and Colleges.
- A provider’s training programs must align with one or more occupations included on the statewide target occupations list.

- A provider must demonstrate that it offers its training programs in partnership with businesses by providing:
 - a letter of support from an employer in Texas; or
 - evidence of the existence of an employer-based advisory committee.
- A provider must submit the required program and student information requested by TWC, as specified in the [ETP Reporting Requirements](#). However, some data may not be required from new training programs that have never had students.

NLF: Boards must be aware that WIOA requires training providers to submit program information to the state, including information for calculating a program’s performance outcomes. TWC uses the information from training providers to submit its mandatory ETP performance report to DOL and to meet the federal requirements for informed consumer choice.

LF: As stated in 20 CFR §680.430(e)(2), Boards may set additional criteria for performance and may require higher levels of performance than those required by TWC with respect to local training providers becoming or remaining eligible to offer WIOA-funded training services through Individual Training Accounts in their local workforce development areas (workforce areas). These additional and/or higher standards do not affect eligibility for the statewide ETPL. Once sufficient baseline data is gathered, the data will be analyzed and evaluated for purposes of proposing new state performance standards for Commission approval. TWC recommends that Boards not establish performance standards until that time. Boards that elect to set local Board performance standards must notify TWC by email at etp.helpdesk@twc.texas.gov.

NLF: Boards must document and report to TWC possible violations of WIOA requirements and of state or local laws and withdraw approval of a provider or take other appropriate action for a provider that intentionally committed other WIOA violations.

NLF: Boards must ensure that information on training providers that offer applicable training in workforce areas is made available to all customers, including WIOA participants, so that customers can make informed choices about training programs.

INQUIRIES:

Send inquiries regarding this WD Letter to wfpolicy.clarifications@twc.texas.gov.

ATTACHMENTS:

Attachment 1: Revisions to WD 05-19 Shown in Track Changes

REFERENCES:

- Workforce Innovation and Opportunity Act of 2014, §122, Identification of Eligible Providers of Training Services
- US Department of Labor Employment and Training Administration Training and Employment Guidance Letter No. 03-18, issued August 31, 2018, and titled “Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)”
- US Department of Labor Employment and Training Administration Training and Employment Guidance Letter No. 41-14, Change 1, issued November 24, 2015, and

titled “Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) Title I
Training Provider Eligibility Transition”
Texas Workforce Commission Chapter 802 Integrity of the Texas Workforce System
Rules
WD Letter 10-07, issued February 2, 2007, and titled “Adoption of Local Workforce
Development Board Policies in Open Meetings”