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| WORKFORCE INVESTMENT BOARD of Tulare County WORKFORCE INVESTMENT ACT TITLE I-B ADULT AND DISLOCATED WORKER ACTIVITIES | DATE: June 17, 2014 |
| | SUBJECT: WIB Eligible Training Provider List (ETPL) Policy and Procedures |

WIB DIRECTIVE

TUL 14-04

TO: WIB Service Providers
WIB Eligible Training Providers
WIB Staff

SUBJECT: WORKFORCE INVESTMENT BOARD of TULARE COUNTY (WIB), ELIGIBLE TRAINING PROVIDER LIST (ETPL) POLICY AND PROCEDURES

EXECUTIVE SUMMARY

Purpose:

This directive publishes revised performance criteria and other state and WIB requirements for programs listed on the Eligible Training Provider List (ETPL). These criteria address both the initial and subsequent eligibility determinations.

Scope:

This directive provides information on the WIB ETPL policy and procedures. This directive can be found at <http://www.tularewib.org/LocalActiveDirectives.asp>

Effective Date:

This directive is effective immediately.

REFERENCES

- Workforce Investment Act (WIA) Section 122
- Title 20 Code of Federal Regulations (CFR) Section 663.500
- California Unemployment Insurance Code (CUIC) Section 14000-14530 “California Workforce Investment Act”
- CUIC Sections 1266-1274.20 “California Training Benefits Program”
- Senate Bill 118, Chapter 562, Statutes of 2013
- California Labor Code Section 4658.7(e)
- WSD13-10 “Eligible Training Provider List Policy and Procedures

- California Private Postsecondary Education Act of 2009
- Workforce Services Directive (WSD) WSD 13-13 “Contracts with Higher Education or Eligible Training Providers”
- WIA Directive (WIAD) WIAD04-4 “Recovery of WIA Tuition and Training Refunds”
- Workforce Services Information Notice (WSIN) WSIN 12-64 “Private Postsecondary Educational Entities Must Register with the Bureau of Private Postsecondary Education (BPPE)”
- WSIN 13-23 “Early Implementation of the California Workforce Services Network (CWSN) Phase 1B, Eligible Training Provider List Module”

LOCAL IMPOSED REQUIREMENTS

This directive contains local and State imposed requirements.

FILING INSTRUCTIONS

This Directive supersedes Directive TCWIBD-06-15. Retain this directive until further notice.

BACKGROUND

Section 122 of the WIA requires states to establish a list of providers who are eligible to receive WIA funds for training services provided to adults and dislocated workers and establish two separate procedures for the ETPL: initial eligibility and subsequent eligibility. The California Workforce Investment Board (State Board) has revised the existing policy and procedures governing the operation of the ETPL, by incorporating performance criteria to more clearly identify quality training programs and the desired outcomes for WIA clients enrolled in these program. This criteria will be used to fully implement the initial and subsequent eligibility policies required in WIA Section 122 (c) (5), Title 20 of the CFR Section 663.530 and the California Unemployment Insurance Code (CUIC). These policies and procedures contain state requirements that private postsecondary education providers receive Approval to Operate from the Bureau of Private Postsecondary Education (BPPE) prior to being listed on the ETPL. This approval ensures the provider satisfies the BPPE statutes and enables the provider to enroll WIA eligible students, as the spending of public resources, state or federal, is considered a form of student financial assistance.

The information contained in this establishes WIB procedures for soliciting and approving applications from interested training providers and forwarding information on locally-approved providers and their programs to the State for approval and inclusion on the ETPL.

POLICY AND PROCEDURES

With the exception of certain types of customized, cohort and on-the-job training programs listed on the ETPL are eligible to receive WIA funds to provide training services to adults and dislocated workers. In order to be listed on the ETPL, training providers must submit an application, through the CalJOBS website to the WIB to offer training programs. All new and existing training providers are required to register their institution and programs in CalJOBS.

Prior to approving private postsecondary training providers to list programs on the ETPL, WIB shall ensure the provider has received an “Approval to Operate” from the BPPE. This information can be obtained on the BPPE website under the Directory of Approved Institutions. Additionally, each

program to be approved must meet the minimum performance standard outlined in the Policies and Procedures Handbook (see attachment).

These procedures contain detailed information on initial and subsequent eligibility requirements and the roles and responsibilities of the WIB and the Employment Development Department (EDD) in maintaining the integrity ETPL and the quality of the training programs offered on it. It is important to note that initial and subsequent eligibility is based on the performance outcomes achieved by the entire cohort of students in that program. All providers are required to submit information on performance outcomes to determine eligibility for listing and to facilitate informed customer choice.

The [Provider Services Guide](#) provides detailed instructions and definitions to assist WIB and training providers in entering programs into the new CalJOBS ETPL Module. The new CalJOBS system includes data entry screens and is the mandatory method to be used by training providers and WIB for transmitting this data to the State. The EDD will accept applications for the ETPL from WIB on any working day of the year. Approved applications will appear on the list within 30 days of their submission by the WIB to the State. Providers will be able to make changes to their program information in the new system and transmit the updates to the local boards for review. The ETPL will be updated daily to incorporate changes that do not require verification; all other changes will be included within 30 days of their submission to the EDD.

The WIB have access to an updated statewide ETPL via the CalJOBS website on each working day of the year (excluding minimal periods required for system maintenance). The ETPL is available at www.caljobs.ca.gov “Job Seeker”, under “Education Services” from the CalJOBS home page.

An annual report on the implementation and outcomes of this policy will be prepared by EDD and State staff and submitted to the State Board for their review.

DENIAL, DELISTING AND APPEALS POLICY AND PROCEDURES

A. Denial of Listing and Delisting of Programs/Providers

1. Reasons for Initial Denial

- a. If the application from a provider is not complete or not submitted within required timeframes.
- b. If the applicant fails to meet the minimum criteria for initial listing specified in this procedure (refer to Section V. A. and B.).
- c. If the applicant intentionally supplied inaccurate information.
- d. If the provider has substantially violated any WIA requirement(s).

2. Reasons for Delisting

- a. The private postsecondary provider approved by BPPE has not complied with the BPPE Annual Performance Reporting requirement. [Title 5 California Code of Regulations Division 7.5](#)

- b. A WIA participant has not enrolled in the training program during the previous three (3) Program Years (July 1 through June 30). The WIB determination to retain a provider eligible for delisting under this criteria will be given priority over this provision.
- c. The school has lost its accreditation from WASC.
- d. The provider has not achieved the minimum performance criteria for subsequent eligibility for the program(s) listed on the ETPL.

B. Notice to Provider of Denial or Delisting from the ETPL

- 1. If the WIB denies a provider's application for listing on the ETPL, the WIB must, within 30 days of receipt of the application, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process.
- 2. If EDD denies a provider's program listing on the ETPL, EDD must within 30 days of receipt of the nomination from the WIB, inform the WIB that the nominated program was denied and the reason(s) for the denial. The WIB must inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process.

C. Penalties

- 1. If the EDD, in consultation with the WIB, determines that a provider intentionally supplied inaccurate information, the EDD or the WIB working with EDD shall terminate the eligibility of the provider; remove them from the ETPL; and deny their eligibility to receive any funds under WIA Section 133(b) for at least two (2) years.
- 2. If it is determined that an eligible provider substantially violates any WIA requirement(s), the EDD or the WIB working with the EDD shall terminate the eligibility of the provider to receive any funds for a period of time under WIA Section 122(f) for at least two (2) years, for or take other such action as deemed appropriate

D. Appeals to WIB

- 1. The WIB's written appeal process includes the following provisions
 - a. A provider wishing to appeal a decision by the WIB must submit an appeal to the WIB within 30 days of the issuance of the denial notice. The appeal must be in writing and include a statement of the desire to appeal; specification of the program in question; the reason(s) for the appeal (i.e. grounds); and the signature of the appropriate provider official.
 - b. The WIB will have an informal meeting between the WIB staff and the provider looking to appeal. The purpose of this meeting is to forestall the appeal process if there is an easy solution to the dispute.

- c. The WIB will give an opportunity for providers who appeal to have a hearing. The hearing officer shall be an impartial person. The hearing officer shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten (10) calendar days before the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to request documents relevant to the proceedings; and to have legal representation.
- d. The WIB must notify providers of its final decision within 60 days of receipt of the appeal. This period includes a hearing if requested by the provider.

E. Appeals to EDD

1. A provider may appeal to the EDD if it has exhausted the appeal process of the WIB and is dissatisfied with the WIB's final decision.
2. A provider wishing to appeal to the EDD must submit a written appeal within 30 days from either the issuance of a denial notice or the provider's notification of the WIB's final decision on an appeal. The request for appeal must include a statement of the desire to appeal; specification of the program in question; the reason(s) for the appeal (i.e. grounds); and the signature of the appropriate provider official. A provider appeal should be addressed to:

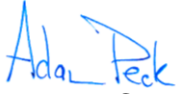
ETPL APPEAL
Workforce Services Division, MIC 50
P.O. Box 826880
Sacramento, CA 94280-0001
3. The EDD will promptly notify the appropriate the WIB when EDD receives a request for appeal and when a final decision has been rendered.
4. The EDD will administratively review an appeal, make a preliminary decision, and notify the provider. The EDD can either uphold or reverse the appealed decision, or EDD can refer the appeal to the California Unemployment Insurance Appeals Board (CUIAB). The EDD will also refer an appeal to the CUIAB if the provider requests a hearing in writing within 15 days of the issuance of the EDD's preliminary decision. The CUIAB will schedule a hearing with an administrative law judge whose decision will be issued within 60 days of the appeal being referred to the CUIAB or within 30 days of the closing of the record.
5. The administrative law judge shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten (10) calendar days before the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to present oral and written arguments; to request documents relevant to the proceedings; and to have legal representation. The decision of the CUIAB administrative law judge is the final administrative decision.

ACTION:

The information contained in this directive will be shared with each Tulare County Employment Connection One Stop facility and service providers. All will have access to the entire State ETPL.

INQUIRIES

Questions regarding this directive should be directed to Workforce Investment Board of Tulare County (559) 713-5200.



ADAM PECK
Executive Director
AP:DM:MR:CE

Attachment:

[WIA ETPL Policy and Procedures](#)