



## Operational Policy No. OP – 423, Change 2

**Subject: WIOA Eligible Training Provider Certification System (New)**

**Effective: PY24 - November 18, 2024**

### BACKGROUND:

The workforce development system, established under WIOA, emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services is vital to achieving these core principles. As required by WIOA Sec. 122, states, in partnership with Local Boards, must identify eligible training providers (ETPs) and programs that are qualified to receive WIOA title I-B funds to train adults, dislocated workers **and out-of-school youth ages 16 through 24\***, including those with disabilities. The approved State list of eligible training providers and programs serves as an important tool for participants seeking training to identify appropriate providers and programs, and relevant information, such as cost and program outcomes. WIOA Sec. 122 (c) specifies that states must establish an application procedure for training providers and programs to maintain their eligibility and the eligibility of their programs.

***\*Although youth programs are not specifically mentioned in the federal guidance, the State Administrative Entity (SAE) requires youth providers and programs who both serve WIOA program participants AND confer an industry recognized certificate or license to be registered and approved on the ETP system.***

### PURPOSE:

This policy reflects the new information, criteria, and procedures that have been updated with the passage of New Mexico Department of Workforce Solutions Policy Issuance #24-001 with an effective date of August 22, 2024. NMDWS Policy #24-001 aims to inform the local workforce development boards, local administrative entities and workforce system partners of changes to the Eligible Training Provider system. This policy replaces, in its entirety, the previous WCCNM Operational Policy OP-423, Change 1, Subject: WIOA Eligible Training Provider Certification System.

### REFERENCE(S):

- Workforce Innovation and Opportunity Act of 2014, Sections 116, 122, and 134, effective July 1, 2015
- Workforce Innovation and Opportunity Act, final rule published August 19, 2016, 20 CFR Parts §677.230, §679.370-380, §680.400-530, §683.630
- Training and Employment Guidance Letter (TEGL) 41-14 and Change 1 for WIOA Title I Training Provider Eligibility Transition
- Department of Labor, 29 CFR Part 38, WIOA Section 188,



Implementation of the Nondiscrimination and Equal Opportunity Provisions, final rule published December 2, 2016

- NMDWS Issuance: #DWS 24-001
- TEGL 19-16 Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules
- TEGL 03-18 Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)
- TEGL 08-19 Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs
- TEGL 13-16, Change 1, Guidance on Registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act (WIOA)
- TEGL 08-19, Change 1, Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs

## **POLICY:**

### **Eligible Providers of Training Services**

Only providers that the State determines to be eligible, as required in WIOA sec. 122, may receive training funds under WIOA title I-B to provide training for participants enrolled in a WIOA-funded program of training services.

Eligible training providers include:

- Institutions of higher education that provide a program or programs that lead to recognized postsecondary credentials Apprenticeship programs including Industry Recognized Apprenticeship Programs (IRAPs) and Registered Apprenticeship Programs (RAP)
- Other public or private providers of training, which may include joint labor-management organizations and eligible providers of adult education and literacy activities under title II if such activities are provided in combination with occupational skills training;
- Local Boards, if they meet the conditions of WIOA sec. 107(g)(1); and
- Community Based Organizations (CBOs) or private organizations of demonstrated effectiveness that provide training under contract with the Local Board.





Eligible training providers are subject to the equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA. The requirements to become an eligible provider of training services apply to all organizations providing WIOA title I-B- funded training to adults and dislocated workers, **and out-of- school youth ages 16 through 24\***, with the specific exception of Registered Apprenticeship programs.

### **Eligible Programs of Training Services**

A program of training services is defined as one or more courses or classes, or a structured regimen that leads to a recognized post-secondary credential, secondary school diploma or its equivalent, employment, or measurable skill gains toward such a credential or employment. These training services could be delivered in person, on-line, or in a blended approach.

Not all allowable types of training services are subject to the requirements of the eligible training provider provisions in WIOA title I-B. Training services *exempt* from the Section 122 eligibility requirements include:

- On-the-job training; customized training; incumbent worker training; transitional employment; or
- The circumstances described at WIOA sec. 134(c)(3)(G)(ii), where the Local Board determines that:
  - There are insufficient providers, or
  - There is a training services program with demonstrated effectiveness offered in the local area by a community-based organization or other private organization to serve individuals with barriers to employment, or
  - It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services to facilitate the training of multiple individuals in in-demand industry sectors or occupations, and such contract does not limit customer choice; or
  - When the Local Board provides training services through a pay-for-performance contract.

Providers and programs that meet eligible training provider criteria and are certified on the State ETP List are considered eligible to receive Individual Training Account funds for the provision of training services of WIOA enrolled participants.



## Roles and Responsibilities

### **The Department of Workforce Solutions, State Administrative Entity (SAE) Responsibilities:**

The state is required to develop and operate the ETPL in partnership with the WCCNM. The WCCNM accepts applications for training programs, determine if training offerings are for in-demand occupations, assist training providers that wish to be placed on the ETPL by providing information and technical assistance on the application process, and make recommendations to the State ETPL Administrator for approving or denying the providers and their programs for initial and continued eligibility.

The State ETP Administrator has final authority on approval/denial of ETPL providers, and will maintain the ETPL on the Jobs.state.nm.us site, review WCCNM's procedures for the provision of initial and continued eligibility and provide additional review of training providers and their programs.

- Establishing requirements for the Eligible Training Provider List system, to include:
  - hosting the ETPL through a web-based platform; and
  - establishing the web application and tracking system for use by training providers and local workforce development boards.
- Establishing ETPL eligibility criteria, and application and approval procedures.
- Facilitating the acquisition of performance data information for public institutions managed through a partnership with the New Mexico Department of Higher Education.
- Reviewing, monitoring and executing approval of training provider applications, for minimal eligibility criteria and performance requirements.
- Verifying the initial minimum eligibility of **out-of-state** program and training services; including review of applications or renewal; as well as the review of overall effectiveness of providers and programs to determine initial and continued eligibility based on ETP criteria.
- Notification to LWDBs when **out-of-state** programs and their providers are approved for utilization.
- Informing and supporting the appeals process for **out-of-state** training providers deemed ineligible as an Eligible Training Provider.
- Disseminating the State ETPL along with performance and cost information for each provider, for use by the public and the local workforce development boards.
- Facilitating data matches between ETP records and Unemployment Insurance wage data to assist in providing a mechanism for ETP annual performance reporting and compliance with DOL performance guidance.





- Convening WIOA Core Partners, Registered Apprenticeship and local workforce development boards as necessary to coordinate ETPL requirements.
- Establishing an appeals procedure for providers to appeal a denial of eligibility.
- Monitor LWDBs to ensure compliance with the ETPL policy and procedures and streamlined practices.
- Develop, maintain, and disseminate the ETPL, including the list of training providers and their programs of study.
- Establish a minimally burdensome mechanism for adding Registered Apprenticeship Programs (RAPs) to the list and verifying registration status at least every two years.
- Review and finalize the approval of providers and programs recommended by the LWDBs.
- Determine whether training providers submitted accurate information for the eligibility criteria and performance levels and take enforcement actions as needed if the provider intentionally submitted inaccurate information or substantially violated WIOA requirements.
- Ensure that established performance levels for initial and/or continued eligibility are met, including verifying the accuracy of the information.
- Establish procedures for removing a provider from the ETPL.
- Establish a procedure by which a provider can demonstrate that providing state-required additional performance and cost information would be unduly burdensome or costly.
- Establish initial eligibility criteria for new training providers and set minimum levels of performance for all training providers to remain eligible.
- Make decisions on training provider appeals to NM SAE, after a training provider receives an unsatisfactory appeal decision at the local level, which includes an opportunity for a hearing and a timely decision.
- Ensure training providers' applications and programs approved by LWDBs are reviewed, and those approved are placed on the ETPL in a timely manner.
- Maintain and publish a directory of ETPL Coordinators.
- Facilitate direct communication between LWDBs and institutions interested in inclusion on the New Mexico ETPL.
- Provide training and technical assistance to ETPL Coordinators. Resources and technical assistance will be provided by the state's ETPL Administrator to ETPL Coordinators and Training Providers on application processes, compliance requirements, and reporting documents

*Providers and Programs Related to SAE Special Projects:*

The State Eligible Training Provider Administrator may review and approve without Local Workforce Development Board review and recommendation.





**Local Workforce Development Boards Responsibilities:**

- Utilizing the NM Workforce Connection Online System for accepting ETP virtual applications from providers to be on the ETPL. WCCNM may authorize qualified staff members (ETPL Coordinators) to act on their behalf in making determinations for initial and/or continued eligibility of providers and their program(s).
- Reviewing training provider applications within 30 working days of the receipt of application.
- Reviewing applications to recommend approval or renewal, the overall effectiveness of providers and programs to determine initial and continued eligibility for ETPL approval prior to submission to the State for final approval.
- Notifying providers/programs of determination, if approved or denied.
- Responsible for the review and approval of program changes.
- Provide Performance training requirements to ETPs
- Review performance data upload for accuracy.
- Provide ETPL training to workforce staff, partners and board members.
- Review and approval of non-ITA programs.
- Ensure access to training services throughout the state, including rural areas, by approving programs that use technology based or remote learning.
- Conduct outreach to their local and regional employers and education and training providers to ensure that clients residing within the counties covered by the local area have an ample selection of training programs that provide credentials, certificates and/or skills that are valued by employers within target industry sectors identified in the State Plan and the Local or Regional Plan.
- Provide ITAs for training programs that support a career pathway for the client in growing, in-demand occupations, and/or target industry sectors identified in the local plan.
- Working with the State to ensure there are sufficient 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 local area and providing services in a manner that maximizes consumer choice and leads to competitive integrated employment for individuals with disabilities.
- Monitor training providers and their programs for compliance and performance.
- Establish relationships with the ETPs in the local area to provide technical assistance, collect performance information as required by the State and determine whether the providers meet the required performance criteria.
- Recommend that the state remove ETPs that fail to meet performance standards.





- Ensure that the state's ETPL is disseminated publicly through the local one-stop system, including in formats accessible to individuals with disabilities.
- Identify in-demand occupations for the local area using relevant labor market information. WCCNM must establish, maintain, review and update annually a program of existing or emerging occupations that are determined to:
  - a. be part of a sector of the economy that has a high potential for sustained demand or growth in the local area,
  - b. target industry clusters within the local area,
  - c. supports economic growth priorities; and
  - d. address industry-specific shortages.
- WCCNM staff and/or the Service Provider must accurately assess WIOA customers' career interests and assist them in the selection of training programs that are directly linked to said interests and employment opportunities in their local area.

**WCCNM may not require:**

- Additional criteria and information from local providers; or set higher levels of performance than those required by the State criteria.
- Regarding Registered Apprenticeship programs (RAPs), WCCNM may not require additional criteria and information from local providers to become or remain eligible in that local area; or set higher levels of performance than those required by the State as criteria for local programs to become or remain eligible to provide services in that local area.

**Training Providers**

**In-State Training Providers**

A training provider who wishes to have a program approved will be required to submit a virtual application for approval as a provider by signing up for a provider account in NMWCOS. Most providers designate one individual representative to serve as the manager for this account. The training provider shall provide all required information and agree to the assurances in the NMWCOS ETPL module. The state's local ETPL coordinators must review and approve providers for the New Mexico ETPL if the provider meets state eligibility requirements.

Training providers are encouraged to apply at least 60 days in advance of initial program offerings to allow sufficient time for Local and State eligibility decisions. Incomplete program or provider applications, including incomplete requests for an ETP username, may not be approved.





Once the provider account is approved by the local ETP Coordinator, the training provider, shall submit program offerings via the virtual application module on Jobs.state.nm.us. It is the ETPL Coordinator's role to provide assistance and guidance to training providers who register or wish to register in NMWCOS.

### **Out-of-State Training Providers**

A jobseeker may choose a training provider and program located outside the local area or the State, including an online training program, in accordance with local policies and procedures, provided the training program is on New Mexico's ETPL. Out of State training providers must register in NMWCOS and meet the same information requirements for initial and subsequent eligibility specified in this guide. The following examples are provided to show when an out-of-area or out-of- state provider and program may be appropriate:

- When there are an insufficient number of eligible providers of a program of training services to meet the local area's demand,
- When the out-of-area or out-of-state training provider is located closer than providers with similar programs within the local area (such as in rural areas), or
- When other factors are deemed appropriate by the Local Board.

Training providers outside of New Mexico must follow the same process for inclusion on New Mexico's ETPL as providers within the State. The State ETP Administrator is responsible for ensuring out-of-state providers offer quality training programs that meet local in-demand occupation requirements. WCCNM will also exercise prudence in referring a client to an out-of-state or out-of-local-area program offering where another comparable training provider or program is available within the state and/or local area.

### **Training Provider Initial Eligibility Criteria**

#### ***Licensing Requirements***

Training providers or programs may apply for initial eligibility at any time. All applications for the ETPL will be completed using the Workforce Connection Online System (WCOS). Training providers must be in compliance with State and Federal laws by having a current license, certification, registration, approval or exemption from the New Mexico Department of Higher education or an appropriate State and/or federal oversight agency prior to applying for approval on the ETPL. The ETPL application requires all entities to provide the name(s) of the organization(s) that accredit, license, register, and/or approve the entity as an educational or training provider.

#### ***Additional Eligibility Requirements***

- Training providers are required to have refund policies specifying when refunds for tuition and other costs associated with the training program will be allowed. Refund





policies must be written and published so that students are aware of how to request a refund.

- Training providers must have a grievance policy which provides for due process for students to file complaints with an organization against faculty, staff, or other institution employees. Grievance policies must be written and published so that students are aware of how to file a complaint.
- Training providers must offer training programs that are related to: in-demand occupations in the state, align with industry sector strategies and career pathways, and Job driven training programs.
- Training providers must have the ability to: offer programs that lead to an industry-recognized credential, national or state certificate, or degree, including all industry appropriate competencies, licensing and/or certification requirements, or employment in a specific occupation after receiving measurable technical skills.
- Training providers must assure their ability to provide training programs that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities.
- Training providers that have been suspended or debarred by any state or the federal government are not eligible to be included on the ETPL during the debarment period.

### ***Eligibility Criteria for Provider's Programs***

Once a provider is approved, the provider can submit program offerings for consideration for inclusion on the ETPL. In accordance with the state's procedures, all approved providers must submit specific detailed information pertaining to each individual program's application.

Approval of a provider's program(s) for the initial eligibility period of 12 months is based on:

1. Successful submission by the provider of the following information for each program submitted:
  - a. Information addressing the alignment of training with target industry sectors and in-demand occupations,
  - b. A description of each training program to be offered,
  - c. The purpose, duration, and objectives of the program offered by the institution,
  - d. Student costs, including tuition, and an itemized listing of all the mandatory fees, as well as well as refund and financial aid policies,
  - e. Name of the person to contact for information,





- f. Prerequisites and other requirements of the training program(s),
- g. Website link to a detailed description of the training program(s),
- h. Background check requirements for licensing and background restrictions for working in the occupation,
- i. The type of industry-recognized certificate or credential, including recognized post-secondary credentials clients receive through the program,
- j. Whether the provider has developed the training in partnership with a business (and the name of the business), and
- k. The prerequisites or skills and knowledge required for training.

2. Required performance data including information about the program performance outcomes addressing a factor related to the WIOA performance indicators (employment 2nd and 4th quarter after exit, median earnings 2nd quarter after exit, credential attainment). Please reference **DWS-24-001 Attachment II: Training Program Initial Eligibility Performance Requirement Scenarios**, which provides a matrix of different scenarios depending on the duration for which the provider/provider's program(s) has been offered to students.

**Special Note:** How does New Mexico identify a "factor" relating to performance for use as one of the criteria in the initial eligibility assessment if the provider has not previously collected program data on WIOA performance measures. The state has identified a variety of measures/proxy data to meet this requirement.

***Any of the following may be used:***

- The training institutions general retention, completion, or placement rates,
- Number of students who obtained employment,
- Number of students who obtained a credential or degree,
- An internal or outside research narrative describing how the selected training program is effective in improving students' employability or earning potential

3. WCCNM may add additional requirements for providers, except RAPs, that results in providers that are on the state ETP list that may not be eligible for inclusion on the local ETP list. If WCCNM is reviewing provider applications for inclusion on the state ETP list, it must do so using only the state's requirements and not the WCCNM's additional requirements.

During the initial eligibility assessment, WCCNM is responsible for the following:





- The ETPL Coordinator must review and recommend a training program within 30 days of the completed application date,
- Contact the provider applicant to ensure that information missing from the application is made available prior to any eligibility determination,
- Ensure training providers submit for consideration the performance and cost information for each course offering,
- Ensure training providers are in compliance with requirements for licenses, certifications, registrations, or exemptions, when applicable, from the appropriate State and/or federal oversight agency,
- Evaluate the experience and reputation of the training provider and the schedule of offerings,
- Considering other information that may be locally relevant in making a determination of eligibility (i.e., whether the training provider is in partnership with a business)

After reviewing the criteria above, the ETPL Coordinator will recommend approval or denial of the training program(s) to the state's ETPL Administrator. The local area must enter the factors on which their recommendation is based, such as local criteria including sector strategies and demand for training in the case note section of the application. NM SAE will review applications for the New Mexico ETPL within 30 days of receipt from WCCNM. The online application will then be approved by the state's ETPL Administrator, provided the requirements established in this guide have been met. The state's ETPL Administrator will follow up with the ETPL Coordinator in the event required information is missing or issues are identified. If approved by the State, each program will remain on the ETPL for only 12 months. If the program does not receive approval from the state, it does not appear on the public ETPL disseminated by NM SAE. Training providers are notified of the outcome of their request to be added to the approved provider program by email.

### ***Continued Eligibility Criteria for Provider's Programs***

Before an approved program has reached the end of the 12-month period of initial eligibility, the training provider must supply updated performance information covering the period of initial eligibility. LWDBs must review the information provided and make a determination to renew the training provider for an extended period of ETPL eligibility or remove it from the ETPL. To remain on the ETPL as an approved program, the performance must meet the requirements outlined below. If approved, the program is retained on the ETPL for 24 months from the date the training provider/offering is renewed. After 24 months, the program will be assessed again. This process is called continued eligibility.





ETPL Coordinators will find a list of programs that have received Eligibility Expiration Notifications and a list of Pending Subsequent Programs in the WCOS reports menu. These lists should be used for outreach to providers in each local area to ensure program performance data is submitted and updated in a timely manner. The state's EPTL Administrator will also monitor the list of Eligibility Expiration Notification recipients to assist the ETPL Coordinators with timely outreach.

### ***Performance Standards***

Approved providers, with the exception of RAPs, are required to submit performance reports after the 12-month initial eligibility and every 24 months for continued eligibility. The data must be student-level data, separated by training program and will apply to both WIOA and non-WIOA student populations. Training providers or programs applying for continued eligibility shall provide the following information in addition to the criteria listed under the Initial Eligibility Criteria section of this policy.

- Total number of participants enrolled in the program
- Total number of participants completing the program
- Total number of participants exiting the program
- Completion rates of participants
- The types of recognized post-secondary credentials received by program participants
- Employment Rate (2nd Quarter) – the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program
- Employment Rate (4th Quarter) – the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program
- Median Earnings – the median earnings of program participants who are in unsubsidized employment during the second quarter after exit; and
- Credential Attainment – the percentage of program participants who obtain a recognized post-secondary credential, or a secondary school diploma or its recognized equivalent during participation or within one year after exit from the program.
- A description of how the provider will ensure access to training services throughout the State, including rural areas and through the use of technology.





- A description of how the training services will be provided to individuals who are employed and/or individuals with barriers to employment.
- Information reported to State agencies on Federal and State training programs other than programs within WIOA title 1B, including partner programs, (i.e. Adult basic education and literacy, Division of Vocational Rehabilitation, etc.) that are used to provide additional information about overall effectiveness, quality and utilization of programs.

Performance data must be updated and in the correct format prior to approval for continued eligibility. It is the responsibility of ETPL Coordinators to ensure that providers are fully versed in and understand the performance standards and requirements for eligibility.

To support this effort, the NMDWS will also work to acquire performance information already in existence at other state agencies. NMDWS shall collect the required information, determine performance outcomes, and make the performance data available through the WCOS, for each training provider on the ETPL. Programs with fewer than 10 students enrolled will not be included in performance data.

New Mexico has established benchmarks for program-specific data for both initial and continued eligibility determinations. At least one of the following minimum standards must be met:

1. Program Completion Rate – 57.28% of the participants entering a program must complete the program.
2. Credential Attainment Rate – 56.0% of total participants completing a program offering a recognized postsecondary credential must earn the credential.

### **Modification of Approved Programs**

ETPL providers must keep information current in NMWCOS to continue to receive training referrals. Failure to report changes to the program information promptly may result in the removal of the program from the ETPL. Changes required to be reported include:

- The state and WCCNM must be notified in writing of a change in price along with the reason for the change
- Notice of a change in ownership or form of control, which may include, but is not limited to:
  - the sale of the institution, the merger of two or more institutions, the division of one institution into two or more institutions, or a conversion of the institution from a for-profit institution to a non-profit or a non-profit institution to a for-profit,
- Notice of offering a program at a new location,
- Notice of deleting or suspending a program. The institution shall also detail it's teach-out plan or how the students will be advised regarding other options,





- Notice of an action or review by the institution's accrediting body concerning the institution's accreditation/authorization status, such as loss of accreditation or any sanction relative to the institution's accreditation.

Changes must be reported within 5 business days. Additionally, all training organizations should provide notice to the ETPL Coordinator of a change in the manager of the provider's account in NMWCOS.

### **Denial of Application and Removal of a Program**

The distinction between the denial of an application and the removal of a provider and/or program is critical for location coordination and the state administration of the ETPL.

WCCNM may recommend for State removal or denial of an application, providers or programs, for a period of not less than 2 years, for the following reasons.

**Denial** of an initial application means the program cannot reapply for a period of six (6) months and may occur for the following reasons:

- The applicant fails to provide a complete application
- The applicant intentionally supplied inaccurate information
- Instances of suspected or actual fraud

Additionally, WCCNM in coordination with the NM SAW, must deny eligibility if an applicant fails to meet the minimum criteria for edibility as specified in the policy.

**Removal** of a program means the provider may reapply for approval of said program as soon as the identified violations or issues are rectified. WCCNM, in coordination with the NM SAE, may remove a previously approved program or programs for the following reasons:

- Failure of the provider to supply required data, or intentionally supplying inaccurate information.
- If the provider fails to supply the participant data required for the performance review within due dates established by this policy.
- Unwillingness to supply required and available participant data. Removals for this reason are not subject to formal appeal.
- If it is determined that the applicant intentionally supplied inaccurate information and shall deny ETPL eligibility to a provider who has substantially violated any WIOA requirements. Removal for this reason is not subject to formal appeal.
- Programs(s) are subject to removal if the provider is unwilling to provide program costs, and performance information about student completion rates, employment rates and earnings for publication on NMWCOS. Removal for this





reason is not subject to formal appeal.

- If the provider is operating in violation of state laws and regulations. Removal for this reason is not subject to appeal.
- If state and local required performance levels are not met, the program shall be removed.

Providers on the ETPL who are determined to have intentionally supplied inaccurate information or to have substantially violated any provision of this policy and/or WIOA and associated regulations must be removed from the ETPL. A Provider whose eligibility is terminated under these conditions must be terminated for a minimum of two (2) years and is liable to replay all training funds (adult, dislocated worker, and youth) received during the period of noncompliance.

The intentional provision of inaccurate information includes, but is not limited to:

- False claims about business partnerships,
- The provision of false information concerning the authorization or ability provide a program beyond secondary education,
- The provision of false information concerning licensure, registration, or accreditation to operate in New Mexico,
- Charging a higher rate of training costs for WIOA participants than for self-pay individuals or those whose training is paid by other payment methods; or
- Misleading or false information regarding the training provider's ability to financially operate and sustain the training programs offered.

Additionally, a training provider will be removed from the ETPL for the following:

- The training organization has been debarred from business with the Federal government,
- Lost accreditation or license to provide training,
- Reports/complaints about violations of the nondiscrimination and equal opportunity provisions agreed to in the initial ETP application.

A training provider that is removed from the list for the reasons stated above may re-apply for continued eligibility when they can demonstrate that they meet all the requirements.

If a training provider or a program of training services 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.





WCCNM shall inform the State in writing of their request for removal of an eligible training provider/program and include the reason(s) for removal.

### **WCCNM Notification to Denied or Removed Providers**

WCCNM shall inform the training provider in writing; include the reason(s) for the removal; and provide information on the appeal process within 30 days of the decision.

If NM SAE denies a provider's program after a recommendation for approval from WCCNM, NM SAE must, within 30 days of the decision, inform WCCNM of the denial and the reason(s) for the denial. WCCNM must in turn inform the provider in writing and include the reason(s) for the denial as well as information on the state's appeal process.

At the point when WCCNM determines that a program will be removed from the ETPL due to not meeting minimum performance standards, WCCNM shall inform the provider and detail the reason(s) for the removal as well as information on the appeals process, if applicable, prior to the denial to confirm that the provider understands the performance requirements. WCCNM must send a copy of this notice to the NM SAE.

Programs deemed ineligible will remain on the ETPL for at least 30 calendar days before they are removed, if subject to a formal appeal. If a training provider chooses to appeal, a training program that is subject to removal shall remain on the ETPL until the appeal is concluded.

### **Complaints Against Providers**

WCCNM will develop a process for tracking participant complaints related to ETPL training providers. At the discretion of the WCCNM Board, these records can be used in determining continued eligibility. All complaints related to the ETP must be forwarded to NM SAE.

### **Appeals Process**

Training providers can appeal the rejection of their program for inclusion on the ETPL or the subsequent termination of eligibility. An appeal must be submitted in writing via email to the Department of Workforce Solutions, ETP Administrator within 14 days after notification of the decision to remove. The appeal must include the justification for the appeal. The training provider also has the right to request a hearing to discuss their appeal. If a hearing is requested, an appeals committee will be assembled by the State Administrative Entity. The appeals board will schedule a hearing and make a decision within 60 days of appeal. This will be a final decision and, if the removal is upheld, the program will be prohibited from reapplying for one (1) year from the date of the final decision or for two (2) years if the removal was for the submittal of false information.

NMDWS Administrator: [NMETP.Administrator@dws.nm.gov](mailto:NMETP.Administrator@dws.nm.gov)





### **Registered Apprenticeship and the ETPL**

RAPs are automatically eligible to be included on the ETPL and are exempt from state and local eligibility requirements. RAPs are not subject to the same application and performance information requirements or to a period of initial eligibility or initial eligibility procedures 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's Office of Apprenticeship (DOLETA/OA). If openings for new apprenticeships exist in the local area, the RA sponsor's programs will automatically be considered an in-demand training and will be included and maintained on the ETPL as a statewide in-demand occupation for as long as the openings remain unfilled.

The state will reach out to new apprenticeship programs to inform them of their automatic eligibility on the state's ETPL. RAPs that opt for inclusion on the ETPL may request the state's ETPL Administrator add them to the ETPL with the provision of only the following basic information:

- Occupations included within the Registered Apprenticeship program;
- The name and address of the Registered Apprenticeship program sponsor;
- The name and address of the Related Technical Instruction provider, and the location of instruction if different from the program sponsor's address;
- The method and length of instruction; and,
- The number of active apprentices,
- The total cost of the program,
- The appropriate NAICS and SOC codes, as currently required by the ETPL information system.

RAPs will remain on the ETPL until:

- The RAP notifies the NM SAE that it no longer wants to be included on the ETPL,
- The program is removed from the DOLETA/OA registered apprenticeship list,
- The program is determined to have intentionally supplied inaccurate information; or
- A determination is made that the RAP substantially violated any provision of WIOA Title I or associated regulations including 29 CFR Part 38

Registered Apprenticeship programs may request removal from ETPL system. An RA program whose eligibility is terminated, for a period not less than 2 years, if they intentionally supplied inaccurate information, or substantially violated any provisions of WIOA law or regulation, is liable to repay all youth, adult, and dislocated worker training for non-compliance.





\*Note: Pre-apprenticeship programs do not have the same automatic ETP status under WIOA Title I-B as Registered Apprenticeship Programs.

### **Training Exempt from ETPL Application Requirements**

Select training services are not suitable for the ETPL but may be provided using a contract between the provider and the LWDB provided the training services are chosen in a manner that emphasizes informed customer choice, performance accountability, and continuous improvement. For these select training services, participants can receive training from a program that is not on the ETPL. Training services that are exempt from the ETPL eligibility requirements include:

1. Work-based training, including on-the-job training, customized training, incumbent worker training, and transitional jobs, or
2. Training provided under the circumstances described at WIOA Section 134(c)(3)(G)(ii) and 20 CFR 680.320, where the LWDB determines that:
  - a. There is an insufficient number of ETPs in the local area to accomplish the purposes of a system of ITAs,
  - b. There is a training services program with demonstrated effectiveness offered in the local area by a community-based organization or other private organization to service individuals with barriers to employment,
  - c. It would be most appropriate to award a contract to an institution of higher education or other provider of training services to facilitate the training of multiple individuals in one or more in-demand occupation or target industry sector, and such contract does not limit customer choice; or
  - d. When the LWDB provides training services through a pay-for-performance contract.

### **APPLICABILITY:**

Chief elected officials (CEOs), Local Workforce Development Boards (local boards), WCCNM AE/FA, WIOA Adult & Dislocated Worker & Youth Service Providers, WIOA Sub-recipients and Workforce System Partners.

### **INQUIRIES:**


WCCNM ETPL Coordinator, Nicole Giddings:

[centralregionETPL@mrcog-nm.gov](mailto:centralregionETPL@mrcog-nm.gov) 505-724-3640





This Policy has been approved by the Workforce Connection of Central New Mexico Board and replaces any policy previously in effect.

  
\_\_\_\_\_  
Stacy Sacco, Board Chair

11/18/24  
\_\_\_\_\_  
Date