

Requirements for Training Providers, Program Eligibility, and the State Eligible Training Provider (ETP) List in the Workforce Innovation and Opportunity Act (WIOA) Section 122 and 20 CFR part 680

1. Providing Training under WIOA Title I and Types of Training.

- a. Providing Training Under WIOA Title I.** As listed in the table below, WIOA allows the use of multiple kinds of participant training.

Allowable types of training under WIOA Section 134(c)(3)(D) and 20 CFR 680.200¹
(a) Occupational skills training, including training for nontraditional employment;
(b) On-the-Job Training (OJT);
(c) Incumbent Worker Training (IWT);
(d) Programs that combine workplace training with related instruction, which may include cooperative education programs;
(e) Training programs operated by the private sector;
(f) Skill upgrading and retraining;
(g) Entrepreneurial training;
(h) Job readiness training provided in combination with the training services described in (a) through (g) of this chart or transitional jobs;
(i) Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services provided in any of clauses (a) through (g); and
(j) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

WIOA authorizes various funding mechanisms for allowable participant training. These mechanisms include direct contracts for services and individual training accounts (ITAs). An ITA is a payment agreement established by a local workforce development board (local board) on behalf of a participant with a training provider and may be used to pay for any allowable type of training, as long as the program of training service (also referred to as “program of study”) is on the state list of eligible training providers (ETP list). Direct contracts for training services with employers and the state or local workforce development area (local area) may be for OJT, IWT, and customized training. A state or local area, when it is determined most appropriate, may also establish a contract with an institution of higher education or other provider of training services for a

¹ See 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* (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3851) for additional details. Note that while not explicitly stated, the types of training in this list include apprenticeship and its component parts.

group of WIOA participants concurrently training in in-demand industry sectors or occupations, provided that the contract does not limit customer choice.

An ITA is the most commonly used training funding mechanism because it provides participants flexibility in purchasing training. A local board has the flexibility to determine how it will deliver training. As a result, it should develop WIOA policies and procedures that align with the use of its multiple kinds of participant training. Only ITAs require the use of an ETP from the ETP list.

As long as training services are chosen in a manner that achieves the goals outlined in the purpose section of this Training and Employment Guidance Letter (TEGL), select training services may also be provided using a contract between the provider and the local board. For these select training services, participants can receive the training from a program that is not on the ETP list. Training services that are exempt from the Section 122(a) through (f) eligibility requirements include:

- On-the-job training;² customized training; incumbent worker training, transitional employment;³ or
- Training provided under the circumstances described at WIOA Section 134(c)(3)(G)(ii) and 20 CFR 680.320, where the local board determines that:
 - There is an insufficient number of ETPs in the local area to accomplish the purposes of a system of ITAs;
 - 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;
 - 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 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.

For training programs that are exempt from the Section 122(a) through (f) eligibility requirements, the Governor may establish performance criteria those providers must meet to receive funds under the adult or dislocated worker programs. Local boards must collect this information, if required, and determine whether the providers meet the

² For more information and resources on work-based learning and training, see the Department’s work-based learning resource page at <https://ion.workforcegps.org/resources/2017/03/09/12/20/Work-Based Learning - Adult and Dislocated Worker Programs>.

³ Although “transitional employment” is listed here alongside other types of training, as described in 20 CFR § 680.190, “transitional employment” is a work experience, and therefore a career service rather than a training service. It is listed here in order to clarify that “transitional employment” services can be provided through a contract and are not subject to the eligibility requirements in Section 122(a) through (f).

Governor's performance criteria before entering into contracts with training providers that meet these criteria.

- b. Eligible Training Providers and Programs of Study.** The WIOA statute and the Final Rule distinguish between ETPs and programs of study, as one ETP may provide multiple programs of study for a variety of occupations. Each provider's programs of study are subject to the eligibility requirements in WIOA Section 122 and the regulations at 20 CFR part 680.
- c. Types of Entities Eligible to Apply to be Eligible Training Providers.** Only the entities listed below may apply for inclusion on the ETP list, and these are the only entities eligible to provide training for participants who enroll in a WIOA Title I-funded program of training services, except as discussed above in section 1a of this Attachment. Training provider entities eligible to apply for inclusion on the ETP list include:
- Institutions of higher education that provide a program that leads to a recognized postsecondary credential;
 - Apprenticeship programs, including Industry Recognized Apprenticeship Programs (IRAPs) and Registered Apprenticeship Programs (RAP) in accordance with the language below and in forthcoming guidance on RAPs and WIOA;
 - Other public or private providers that provide training, which may include community based organizations (CBOs) and joint labor-management organizations;
 - Eligible providers of adult education and literacy activities under WIOA Title II if such activities are provided in combination with training services described in 20 CFR § 680.350; and
 - Local boards, if they meet the conditions of WIOA Section 107(g)(1).

ETPs are subject to the equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA and implementing regulations at 29 CFR part 38.

Eligible Programs of Training Services (programs of study):

A program of study is defined as one or more courses or classes, or a structured regimen that provides job-driven training services and leads to a recognized post-secondary credential, as defined in WIOA Section 3(52), which includes an industry- recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the state involved or Federal Government, a postsecondary credential, secondary school diploma or its equivalent, employment, or measurable skill gains toward a recognized postsecondary or secondary school diploma or its equivalent credential or employment. These training services could be delivered in person, online, or in a blended approach.

Registered Apprenticeship Program (RAP) sponsors:

Registered Apprenticeship Programs are automatically eligible to be included on the ETP list and are exempt from state and local ETP eligibility requirements. The Governor must establish a mechanism for RAPs to be informed of their automatic eligibility and indicate

the program sponsor wishes to be included on the list. State workforce agencies must provide a process through which RAPs can opt in to the ETP list. State agencies must not add sponsors to the state ETP list without the sponsor submitting such a request either directly through the state or through the Department's Office of Apprenticeship (if registered under national program guidelines) using the process described by the Department's Office of Apprenticeship through guidance and technical assistance. To facilitate this process, the state ETP coordinator should work in conjunction with the state office of apprenticeship. States must have a process for adding RAPs that imposes minimal burden on the RAP, and states must describe the process in their state plan. This process may require that the RAP provide the following basic information:

- Occupations included within the RAP;
- The name and address of the RAP sponsor;
- The name and address(es) of the Related Technical Instruction provider(s) and the location(s) of instruction if different from the program sponsor's address⁴;
- The method and length of instruction; and
- The number of active apprentices.

For RAPs that opt for inclusion on the ETP list, states and local areas must add them without applying any additional eligibility requirements that they might otherwise apply to other types of training providers. Furthermore, states must maintain RAPs on the list until:

- The RAP program notifies the state agency it no longer wants to be included on the list;
- The program becomes deregistered under the National Apprenticeship Act;
- The program is determined to have intentionally supplied inaccurate information; or,
- A determination is made that the RAP substantially violated any provision of Title I of WIOA or the WIOA regulations, including 29 CFR part 38.

Similar to the RAP exemption from the eligibility requirements, RAPs also are exempt from ETP performance reporting requirements in WIOA Sections 116(d)(4) and 122, including any additional ETP reporting requirements that have been added by the state or local area. This also means that the states and local areas must not establish any RAP specific performance reporting requirements; however, RAPs may voluntarily report performance outcomes. States may require only the information necessary to verify the registration status for the RAP, in accordance with procedures established by the state in consultation with the state office of apprenticeship. Unlike RAPs, note that IRAPs are subject to the same requirements detailed in section 2 and Attachment II of this guidance.

⁴ If the provider of Related Technical Instruction is different from the program sponsor, cost of the instruction may be requested as a part of the state's process.

2. **ETP List Requirements and Responsibilities for States, Local Areas, and Eligible Training Providers.** In accordance with the WIOA statute and Final Rule, the state, local area, and training providers must complete a variety of ETP list development and maintenance requirements. Attachment II lists each of these responsibilities along with the entity responsible for the task.

In addition to the requirements listed in Attachment II, local areas and the state entity designated by the Governor to implement ETP requirements must work together to accomplish the identification of ETPs for the state list. As Attachment II shows, states must develop policies and procedures for adding training providers to the list, including developing eligibility policies that include the factors listed in the checklist in Attachment III, as well as maintaining the list of ETPs once they have been identified. State policies and procedures may provide for reciprocal or other agreements established with another state to permit eligible training providers in a state to accept ITAs provided by the other state.

One of the primary responsibilities of the state is to make eligibility determinations for training providers seeking inclusion on the ETP list, which includes:

- (1) Initial eligibility determinations that allow a training provider onto the ETP list for the first year, and
- (2) Continued eligibility determinations that allow the training providers to stay on the list until the next continued eligibility determination.

States must make continued eligibility determinations before the end of the first year of an ETP's initial eligibility, and at least every two years as a part of the required biennial review of the ETP list thereafter. States have discretion in how they implement eligibility procedures and timelines for biennial review. Some States may find it efficient to review the entire state list every 2 years, while others may have a system for reviewing each provider annually or on the anniversary of when that provider established continued eligibility under WIOA. The timeline for how initially eligible training providers are deemed as continually eligible and incorporated into the review system will vary from state to state. For more information on the initial and continued eligibility requirements and responsibilities, see Attachment II.

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

Although local boards may add some of their own restrictions and requirements in defining the list of ETPs for their local area, they may include only training providers on their list that are approved for the state ETP list. The Department encourages states to streamline the processes and policies for ETPs to reduce the number of local ETP lists and the degree to which they vary from the state list and one another. A local area that does not add restrictions and requirements must include all state ETPs on its local ETP list, while a local

area that adds eligibility restrictions may have a subset of the state list as depicted in Figure 1.

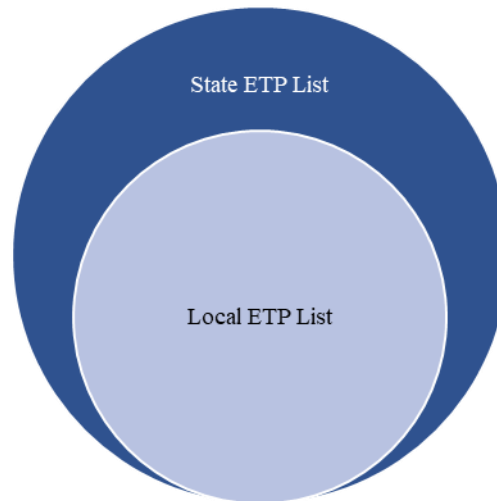


Figure 1. Providers on the local ETP must be on the state ETP

3. ETP Eligibility Requirements vs. ETP Performance Reporting Requirements.

- a. General.** As described in TEGL 03-18, *Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)*, WIOA contains two different sections that set forth requirements for states' reporting related to performance information for ETPs—one for determining eligibility of training providers (WIOA Section 122(b)) and their programs of study and the other for reporting on outcomes of individuals served by the program of study (WIOA Section 116(d)(4) and 116(d)(6)(B)).

This guidance focuses on the requirements described in WIOA Section 122(b), which identifies requirements and criteria that states must establish for use in determining the eligibility of training providers and programs of study and includes certain performance information. Many of the requirements for training provider eligibility mirror the requirements for ETP performance reporting set forth in WIOA Section 116(d)(4) and 116(d)(6)(B). TEGL 03-18 describes those ETP reporting requirements in detail.

WIOA Section 122 establishes requirements, including some requirements that serve more than one purpose (e.g., ETP eligibility, consumer information, performance accountability, etc.), relating to performance information.⁵ The performance of ETPs is a factor the states must use in determining both initial and continued eligibility of a provider to be included on a state's ETP list. For initial eligibility, among other factors, WIOA requires that state eligibility criteria include at least one factor related to the primary indicators of performance described in WIOA Section 116(b)(2)(A)(i)(I)-(IV). States are already reporting such data in their annual WIOA ETP Reports (ETA-9171),

⁵ See attachments II-IV for additional information on these requirements.

and the Department’s Employment and Training Administration (ETA) plans to make such data publicly available in a Training Provider Results website starting in PY 2020.⁶ In addition to informing customers, states use such data to review whether an institution should remain an eligible training provider. States determine what constitutes a “factor” for this purpose; for example, the state may consider performance indicators similar to the WIOA primary indicators of performance; academic research suggesting the selected training strategy is effective in improving similar performance indicators; or other data relating to the employment, earnings, or credential attainment of participants with the program or provider. See section 5 and Attachment III for additional information. Additionally, publicly available performance information of the training providers on the ETP list, which is one of the requirements described in Attachment II, facilitates informed customer choice.

The figure below demonstrates the basic flow of the data collection and reporting process for ETPs, and the various uses of the data.⁷

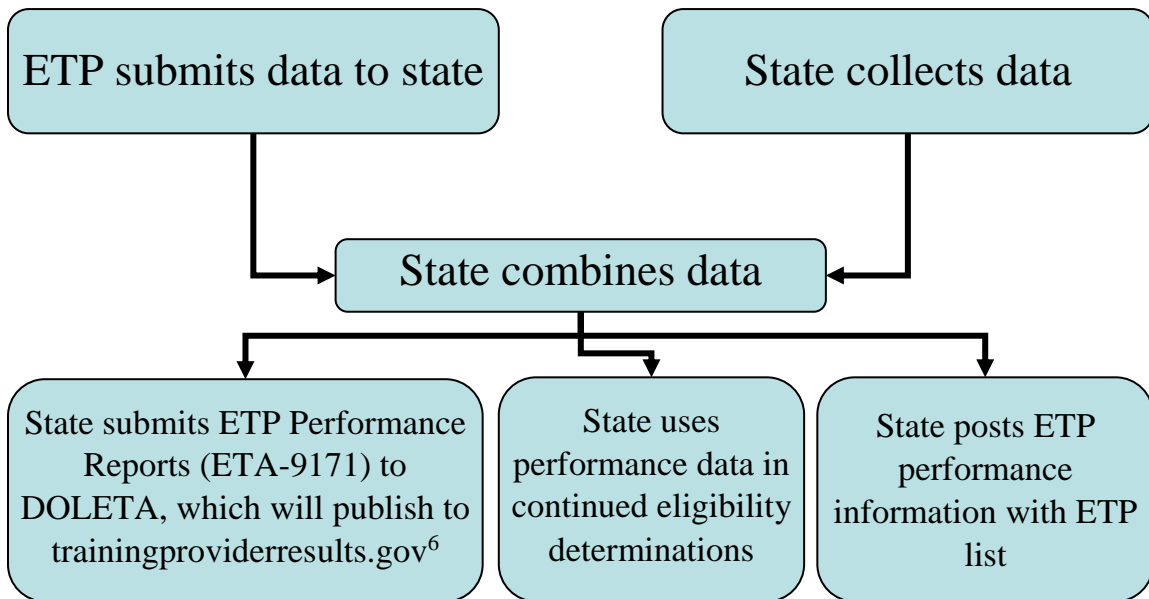


Figure 2. ETP Data Submission and Use Chart

- b. Waivers.** The Secretary of Labor has the authority under WIOA Section 189(i) to waive certain requirements of WIOA Title I, Subtitles A, B, and E, and Sections 8–10 of the Wagner-Peyser Act. This authority is limited in specific situations. For example, WIOA Section 189(i)(3)(A)(i) explicitly forbids the Department from waiving any provision

⁶ ETA will make available the training provider results on trainingproviderresults.gov, which will become an active website during PY 2020.

⁷ For additional information and guidance on data matching, see TEGL 7-16. *Data Matching to Facilitate WIOA Performance Reporting* (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6956).

concerning statutory or regulatory requirements relating to the eligibility of providers or participants, which includes training providers. The Department has issued waivers of certain non-eligibility requirements relating to the ETPs. For Program Years (PY) 2018-19, many states received a waiver of their obligation to collect and report ETP performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and (B), 122(d)(2)(A); 20 CFR 677.230(a)(4) and (5); and 20 CFR 680.430(b)(5). (Please note that as part of preparations for PY 2020-23 WIOA State Plans, states seeking such a waiver should be prepared to explain why such waivers are needed and the steps they have taken to collect and report data on all students to phase out the waiver. ETA will continue to consider all waivers that states submit, but will rigorously review all requests on a case-by-case basis.) However, this waiver does not waive the requirement to use such performance data in the determination of continued eligibility for those providers pursuant to 20 CFR 680.460(f)(1)(iii), as listed in Attachment II. States are responsible for determining the details of how they will decide continued ETP eligibility. States must consider all available data when calculating the performance indicators required as a part of continued eligibility. Additionally, states are required to collect information and report on WIOA participants who receive training from an ETP.

4. **Dissemination of ETP List and Consumer Information.** WIOA requires that the Governor or state agency disseminate the ETP list and accompanying performance and cost information through a variety of methods and to several stakeholders. Stakeholders include local boards in the state, members of the public, the one-stop delivery system and its program partners, and the state's secondary and postsecondary education systems via online methods such as websites, searchable databases, or other means the state uses to disseminate information to consumers. To facilitate the public and stakeholder access to such information, training provider outcomes information will also be published on TrainingProviderResults.gov after states submit PY 2019 data in October 2020. States should ensure that the data submitted for PY 2019 is adequately reviewed and ready for public display.

ETA will continue to maintain lists of state ETPs on www.careeronestop.org and encourages workforce agencies to also make this information available on state websites through a web service or other application programming interface.

Because the purpose of the ETP list is to support participants and their case managers with making informed choices regarding job-driven training providers, states must make the list easily available to partners, stakeholders, those participants interested in training, and those individuals in employment and training activities funded by WIOA. States must also present the information in a format that facilitates comparisons and is searchable, user-friendly, and easily understood by individuals seeking information on training outcomes. The state list must be accessible to individuals with disabilities. Additionally, states must display the state ETP list accompanied by appropriate information, including the required items listed in Attachment II, to assist participants in choosing job-driven employment and training activities. Local boards may supplement the criteria and information requirements established by the governor in order to support informed consumer choice and the achievement of local performance measures.

Accompanying information must not reveal personally identifiable information about an individual participant. In addition, disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) including the circumstances relating to prior written consent.

- 5. Challenges and Potential Solutions.** States should strive only to populate their ETP list with training programs that are successful and proven and remove those providers that fail to achieve positive results for training customers. In implementing the requirements described above and listed in the attachments to this guidance, states and local boards may encounter various challenges to ensuring the best providers get on and stay on the ETP list. Some of the more common challenges associated with these requirements are described in the table below, along with some potential solutions to those challenges. ETA will continue to identify challenges as they arise and provide technical assistance to address these challenges.

Challenge	Potential Solution
<p>How do states ensure that the training provider programs impart the skills and credentials needed to qualify individuals for in-demand industries and occupations?</p>	<p>States and local areas could regularly validate the programs on the ETP list with board members, community business leaders, and current labor market information for the state to ensure that the programs on the list meet the needs of business throughout the state and reflect training for in-demand fields and occupations. States could also include in their ETP eligibility process an assurance that the curriculums of the programs are built around competencies identified by the businesses in the state and local areas. States may also give priority to ETPs that have established relationships with employers that are looking to hire.</p>
<p>What can states and local areas do to help build a comprehensive and job-driven list of eligible training providers?</p>	<p>States and local areas should move beyond transactional exchanges limited to ITAs to build strategic relationships with education and training providers. State and local boards can include members or sub-committee representatives from community colleges and other providers, as well as regularly convene meetings or attend events to engage with education and training providers outside the workforce boards' standard meetings.</p>

Challenge	Potential Solution
How do states ensure RAP sponsors face minimal burden in getting added to the ETP list while still meeting the requirement they “opt-in” rather than having to “opt-out”?	Some states require a simple letter or e-mail request, with enough information that they are able to identify the sponsor using information from the state apprenticeship agency or the ETA Office of Apprenticeship, such as the information listed in Section 1c above.
How do states minimize the burden associated with ETP eligibility determinations throughout the year?	Some states have established policies and procedures to align the cycle of eligibility determinations so that all providers on the list or new applicants can be evaluated during the same time frame, rather than conducting these determination processes throughout the year.
How do states identify a “factor relating to performance” for use as one of the criteria in the state’s initial training provider eligibility assessments when the training provider’s program of study has not previously collected data on WIOA performance measures?	A state can identify a variety of measures/proxy data to meet this requirement such as: number of students who obtained employment, number of students who obtained a credential, similar state and federal performance measures, or measures that are similar to WIOA but consider different time frames.
How do states encourage training providers that are concerned about reporting requirements to add their programs to the state ETP list?	As discussed in TEGL 03-18, states have a variety of options to reduce the reporting burdens on training providers. These may include conducting wage matching for providers (for all individuals and not just participants, when possible) to collect employment and earnings outcomes and using information provided during the application process as much as possible.
How do states provide technical assistance to local areas on highly technical issues such as those presented by ETP performance data requirements?	Some states have worked with entities to develop tools that simplify the process of collecting and reporting required data for local areas or training providers. One example includes the Training Provider Outcomes Toolkit (TPOT) (http://documentation.dataatwork.org/tpot/), a collection of tools for securely collecting, connecting, analyzing, aggregating, and publishing data on wage and employment outcomes for education and training participants. The University of Chicago’s Center for Data Science and Public Policy led the development of TPOT in cooperation with ETA and state and local governments.

Challenge	Potential Solution
<p>How can states differentiate among providers and programs in making eligibility determinations and providing consumer information where comparisons may be made among non-comparable programs of study? For example, a six-week certificate training will likely have a higher completion rate than a multi-semester program of study at a community college in which a number of enrolled individuals may intend to complete only a portion of the program. When reporting and sharing data on all individuals in the ETP performance reporting and using those outcomes for eligibility determinations, how can states ensure they are taking into account the many factors that influence a performance outcome?</p>	<p>States may account for these differences in providers and programs when establishing their training provider eligibility criteria, including in setting the optional minimum performance thresholds or weighing other factors more heavily, such as cost of the program. Additionally, as stated in TEGL 3-18, performance reporting is required only for individuals enrolled in the program of study and is not required for individuals who elect to take an individual course that is a part of the program. To ensure that these individuals taking only a portion of a program of study are not inaccurately counted, some training providers have modified their systems to track differences in students enrolled in the full program of study versus those taking just a portion of the program as a way to determine who must be included in reports for improved accuracy of performance outcomes and reporting.</p>
<p>How do states ensure that ETP lists are disseminated properly and contain enough information to be useful to consumers?</p>	<p>Some states have made efforts to leverage search engine optimization strategies and behavioral insights to ensure that their ETP lists and corresponding performance and cost information are easily found by consumers on prominent web postings and page links. This allows users to find the link directly from the state's website or from an internet search engine. States have also established routine processes such as providing monthly updates to local boards that can be shared with American Job Center staff. Periodically asking training customers for feedback on the value and ease of use of the training provider information may provide insights for improving the display and dissemination of the ETP list.</p>