

**GREATER MEMPHIS LOCAL WORKFORCE DEVELOPMENT BOARD (GMLWDB)**

**GREATER MEMPHIS LOCAL WORKFORCE DEVELOPMENT AREA**

<b>EFFECTIVE DATE:</b>	June 22, 2020
<b>DURATION:</b>	Indefinite
<b>POLICY:</b>	Eligible Training Provider (ETPL)
<b>PURPOSE:</b>	To provide comprehensive guidance that ensures compliance for the Eligible Training Provider process, application process, training provider eligibility, the appeal process and reporting requirements based on the Workforce Innovation and Opportunity Act (WIOA).

**I. PURPOSE**

In order to maximize customer choice and assure that all significant population groups are served, an Eligible Training Provider process must assure that significant numbers of competent Eligible Training Providers (ETPs), offering a wide variety of training programs and occupational choices, are available to customers. Eligible participants who need training use the Eligible Training Provider List (ETPL) to make an informed choice. In this way, the ETPL helps to provide consumer choice, while also supporting increased performance accountability. Only those programs that are approved/listed on the State's ETPL are eligible for referral and enrollment of a Workforce Innovation and Opportunity Act (WIOA) customer.

**II. BACKGROUND**

In accordance with WIOA sec. 122, this guidance explains the requirements and timelines for determining appropriate training providers; that are qualified to receive WIOA Title I-B training funds and for publicly disseminating the eligible training provider list to ensure core principles are met through customer choice, job-driven training, provider performance, and continued improvement. Only the programs approved and listed on the States ETPL and approved by the Greater Memphis Local Workforce Development Board (GMLWDB) Committee are eligible for referrals and enrollments.

### **III. ELIGIBLE TRAINING PROVIDER PROCESS**

#### **A. How to become an Eligible Training Provider (ETP)**

Pursuant to WIOA, section 122[d] [1] and [d] [3], Eligible Training Providers must submit eligibility criteria to the Greater Memphis Local Workforce Development Board (GMLWDB). The criteria must include:

1. The Program of Training Services
  - a. Training services should consist of one (1) or more courses/classes that upon successful completion leads to:
    - i. A nationally recognized credential and/or certification.
    - ii. An Associate/Baccalaureate Degree
    - iii. Competency or Skill recognized by employers
    - iv. A training regimen that leads to competitive integrated employment for individuals with disabilities and provides additional occupational skills generally recognized by employers
    - v. Information that addresses the alignment of the training services (i.e. in-demand industry sectors and occupations associated with the training)
    - vi. Cost information (i.e. books, uniforms, certifications, testing fees, etc.)
    - vii. Annually met performance levels (i.e. credentials, certifications, training-related employment, etc.) Entrance testing and the acceptable performance level
2. Participants must have the opportunity to select any of the approved ETPs and Title I programs on the Eligible Training Provider List (ETPL). WIOA Section 122 [d].
3. Identical programs offered in different local locations by the same provider will be considered one program and will not require a separate application unless the provider uses a different location as a unique program.
  - a. While participants have the opportunity to select from the complete ETPL. The GMLWDB policy determines the funding amount for each program; not to exceed four thousand dollars (\$4,000.00) for an Individual Training Account (ITA) / Occupational Skills Training (OST).
  - b. GMLWDB may choose not to disburse Title I funding for certain categories of training programs based on, but not limited to:
  - c. A training program that creates a financial barrier to the participant (i.e. tuition that exceeds the allotted amount for an Individual Training Account).
  - d. High Tuition Cost in comparison to comparable programs
  - e. Lack of occupational demand for the GMLWDA.
  - f. Lack of livable wage upon completion of the Program
  - g. Programs not associated with an Authorizing Agency (i.e. Tennessee Higher Education Commission (THEC), U.S. Department of Labor (DOL); Office of Apprenticeships, or other State governing or authorizing body)

#### **B. Training Provider Eligibility**

1. Pursuant to TEGl 41-14, to be eligible to receive funds, the training provider must meet at least one (1) of the following requirements:
  - a. A post-secondary educational institution that is eligible to receive Federal funds under Title IV of the Higher Education Act of 1965 and provides a program that leads to an associate degree, baccalaureate degree, credential, or nationally recognized certification.
  - b. An entity that carries out programs under the National Apprenticeship Act of August 16, 1937; 50 Stat. 664, Chapter 663; 29 U.S.C 50 et.seq.
  - c. Another public or private provider of a program for the public or specialized training

for participant populations that face multiple barriers to employment such as the Division of Rehabilitation Services, the TN Department of Human Services. These populations include the following categories: low-income individuals with barriers to employment and people with disabilities.

- d. LWDBs if they meet the conditions of WIOA Section 107(g)(1).
- e. Another public or private provider with demonstrated effectiveness providing training to a population that faces multiple barriers to employment. These populations include:
  - i. Displaced Homemakers
  - ii. Low-Income Individuals
  - iii. Indians, Alaskan & Hawaiian Natives as defined in WIOA Section 166(b)
  - iv. Individuals with disabilities, including youth with disabilities
  - v. Older Individuals
  - vi. Ex-Offenders
  - vii. Homeless Individuals
  - viii. Youth who are in or have aged out
  - ix. Individuals who are English language learners, including individuals who have low levels of literacy and individuals facing substantial cultural barriers
  - x. Eligible migrant farmworkers, as defined in WIOA Section 167(i), and services to other low-income individuals

### **C. ETPL Exceptions**

1. **ETPL Application Procedure for Prospective Eligible Training Providers; this excludes Registered Apprenticeship Programs.**
  - a. Applications for initial eligibility will be initiated by the prospective Training Provider by completing the New Provider Application online; [www.Jobs4TN.gov](http://www.Jobs4TN.gov) (WIOA section 122[b][4][C-E]).
  - b. The GMLWDB will review the online application through the statewide Registration Notification and verify the completeness of the application.
  - c. The GMLWDB will verify that all training providers and programs are in compliance with all Tennessee regulations pertaining to training authorization (i.e. Tennessee Higher Education Commission, TN Board of Regents, or other states governing body).
  - d. The GMLWDB is required to verify all data submitted in Jobs4TN and the registration of the authorizing body; is correct before submitting the application for consideration to the Career Services Board.
  - e. If the application is not complete, the GMLWDB will notify the training provider within fifteen (15) business days of receiving the application of the necessary changes.
    - i. If the application is complete and in compliance, the training provider and GMLWDB will schedule an on-site visit within five (5) days. During the on-site visit, the provider will submit all documentation needed for the next GMLWDB committee meeting i.e. curriculum, the credentials earned, current performance status, etc.
    - ii. WIOA participants cannot attend new training provider programs until they are approved by the GMLWDB and the State is notified of the approval.
  - f. GMLWDB will ensure that all local eligibility criteria are met before a vote is decided by the Career Services Committee.
    - i. Any supplemental information needed for committee decisions; must be submitted by the training provider
    - ii. The ETPL Coordinator will conduct the formal presentation on behalf of the training provider i.e. curriculum, current or previous performance status, authorizing agent, etc.

- iii. The Committee will vote on the ETP application and determine an approval/denial within 5 days
- g. The ETP will receive a decision on the application via USPS certified mail within fifteen (15) business days of the decision. (Any denials must be appealed)

**D. Out of State Providers; Excluding Apprenticeship Programs**

- a. Eligible Training Providers that are headquartered outside of Tennessee and do not have in-state training facilities may apply to any LWDB where they wish to provide services. Applications must include all information required by the GMLWDB.
  - 1. When training providers do not have a permanent training structure in Tennessee; providers will be serviced as; an out-of-state training providers

**a. Out-of-Area Providers; Excluding Apprenticeship Programs**

- a. If an Eligible Training Provider has a physical presence in the State of Tennessee, the ETPL application must be submitted to the LWDB; covering the area where the training provider is headquartered or has a main campus.
- b. Any LWDB can approve a satellite site for a training program; as long as the Training Provider and the program(s) are approved by the LWDB; in which the provider is headquartered.

**b. Making Changes to Program Information**

- a. Any revisions for approved and existing program curriculums; must be approved by the authorizing agent and the GMLWDB.
- b. The proper forms must be submitted to the authorizing agent and the GMLWDB All changes submitted by the eligible training provider (ETP) are subject to review by GMLWDB and the State.
- c. Any changes to the length and cost of the program; that are beyond twenty-five percent (25%) of the original cost of the program; will be submitted to the GMLWDB for approval as a new program.
  - 1. It is the responsibility of the ETP to ensure all information displayed on the training provider list is accurate. Providers with inaccurate information on the eligible training provider list; as discovered through the State's Annual Data Validation review and/or Data Accuracy Report are subject to removal from the ETPL; for a set suspension period or until corrections are made.

**c. Removing Programs from the ETPL**

- a. Any time after the initial program approval by the GMLWDB, the Eligible Training Provider and Registered Apprenticeship Programs can request to have a program(s) removed from the eligible training provider list.
- b. If a program(s) is removed from the ETPL, excluding Registered Apprenticeship programs, the ETP is still required to submit performance reports until the last WIOA training participant withdraws or completes the program. Reports also include the monthly reports required for the GMLWDB.
- c. Failure to submit required performance reports to the State will subject the eligible training provider to penalties.

- d. If a program is temporarily or permanently not offered after the initial approval; the program must be removed from the ETPL within thirty (30) days of the institution's decision.

**d. Appeal of Local Workforce Development Board Denial**

Please see ATTACHMENT A for the process when filing an appeal locally and with the State.

**E. Accuracy of Information & Monitoring**

**1. Data Validation**

- a. To ensure the accuracy and validity of the information supplied by the ETP, the GMLWDB conducts visits at least once a year for all eligible training providers. Additional visits will take place when the American Job Center (AJC) staff and/or participants submit complaints. Visits will also take place when eligible training providers receive a Corrective Action Plan (CAP).
- b. During data validation visits, the GMLWDB audits ETP files via the local board checklist (Please see ATTACHMENT B) to verify previously enrolled participants, programs, and provider information.
- c. Eligible training providers must meet the minimum threshold of enrollment of fifteen (15) WIOA participants within a one (1) year period.
- d. When performing the annual monitoring, the GMLWDB (Program & Integrity Department) will notify the ETP via fifteen (15) days prior to the visit. Notification excludes complaints and CAPs.
- e. The GMLWDB has the right to audit files from the ETP; covering the three (3) most recent program years.
- f. Each participant's file must include the documents from the local board checklist (Please see ATTACHMENT B).
- g. ETPs must also provide program name, cost, program length, and credentials offered for each program. Fiscal documents are also required during annual visits.
- h. If the GMLWDB discovers evidence of intentionally misleading performance information by the Authorizing Agent, the ETP will be removed from the ETPL for a minimum of one (1) year. The GMLWDB will notify the State and Authorizing Agent within ten (10) days of all Audit findings.

**b. Eligible Training Provider Penalties**

**The GMLWDB may remove an ETP for the following reasons:**

- a. If an ETP fails to notify the GMLWDB of any program changes, including but not limited to costs, location(s) of training, and/or change in the Authorizing Agent status, Jobs4TN (VOS).
- b. An ETP has lost accreditation per WIOA section 122[b](1)[E]; where it is determined the program does not meet the minimum criteria. This includes

- losing accreditation after an appeal process.
- c. If it determined the eligible training provider; provided inaccurate information for the enrolled participant(s) in a program(s)
- d. The eligible training provider has substantially violated any WIOA requirements.

**The State may remove a program or ETP; at the request of the GMLWDB for any of the following reasons:**

- a. Unethical/Illegal billing information i.e. falsifying attendance records for payment, coordinating Title I funds and other sources of funding for business gain, falsification of Needs Assessment forms, etc.
- b. Violations of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973; or the Discrimination Act of 1975.
- c. Lack of qualified training personnel or building infrastructure.
- d. The ETP may be removed at the request of the institution. If an ETP requests removal for a particular program or for the institution as a whole, it can be reactivated on the ETPL within one (1) year assuming the provider was in good standing and no changes occurred in the program demographics during the removal period.
  - 1. If an ETP whose self - requested removal is off the ETPL for a time greater than one (1) year, the Training Provider must reapply for placement on the ETPL through the GMLWDB

**c. Suspension from the Eligible Training Provider List**

- A.** An eligible training provider may be suspended from the ETPL for any of the following actions:
  - a. Failure to submit monthly reports to GMLWDB and performance reports or the exemption claim sheet by the State's deadlines.
  - b. Failure to keep the eligible training provider and program demographics current as displayed on the ETPL.
  - c. Failure to respond to an LWDB request for a data validation visit
  - d. Poor performance during a data validation visit.
  - e. Failure to submit corrections needed following annual visits, monthly reports, etc.
  - f. Failure to comply with State requests for required information.
- B.** During any Local, State, or Federal investigation against the ETP and/or personnel at the institution, the ETP may be removed from the ETPL until a resolution is rendered.

**d. Continued Eligibility for Institutions and Training Providers**

For an institution's on-site training provider's program of training services to continue to be eligible, the program's status must be renewed, at a minimum, every 12 months based on the

date the program of training services was last approved. Program renewals may or may not occur concurrently with an institution's or provider's renewal.

The institutional or provider renewal is an update of basic provider information and general performance data. Eligible training providers must renew their status by providing updated contact and State licensure and other accreditation requirements in an accurate and timely manner.

As part of the renewal process, data in the Jobs4TN Case Management System/ VOS will report the following information as it pertains to the institution's or provider's program of training services under WIOA section 116(d)(4) and the required elements from the ETA-9171 Report.

Providers must show:

- a. The total number of participants served
- b. The total number of participants who completed the program
- c. Total number of individuals exited, completed, withdrew or transferred out of the program
- d. Total number of exiters employed 2<sup>nd</sup> quarter after exit
- e. Total number of exiters employed in the 4<sup>th</sup> quarter after exit
- f. Median earnings of exiters in the 2<sup>nd</sup> quarter after exit
- g. Total number of exiters who obtained a credential during participation or within one (1) year after exit
- h. Average earnings in the 2<sup>nd</sup> quarter after exit
- t. Average earnings in the 4<sup>th</sup> quarter after exit

For Subsequent Eligibility, the Training Provider must have:

- j. WIOA student completion rate
- k. Student completion rates for each program
- l. WIOA student placement rate for each program
- m. Student placement rates for each program

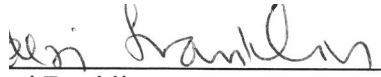
Please note Attachment C, outlining the current performance required. The attachment will be subject to annual negotiated target/minimum performance rates per the State of Tennessee Department of Labor and Workforce Development.

**e. Financial Reimbursement**

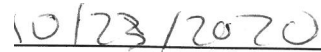
- A. An eligible training provider whose eligibility is terminated, as a result of the reasons specified above, shall be liable for repayment of all funds received during any period of noncompliance. WIOA section 122[f][1][C].

**INQUIRIES**

Please contact Amber Covington, [acovington@memphischamber.com](mailto:acovington@memphischamber.com), with any questions or concerns regarding this policy.



Desi Franklin  
Chair  
Workforce Midsouth, Inc. Board



Adopted Date

***The Greater Memphis Local Workforce Development Board is a proud partner of the American Job Center network. This agency is a recipient of taxpayer funding and serves Shelby County, Fayette and Tipton, and Lauderdale Counties. The Career Center System is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. TTY: 1-800-848-0299***



## ATTACHMENT A

In accordance with CFR 683.630(b), WIOA section 122 [c] [1]. The Local Workforce Development Board must respond thirty (30) days from the date of determination from the Board of Directors meeting. The training provider will be notified in writing, including the detailed reason(s) for the denial and complete information on the appeal process.

The Local Workforce Development Board (LWDB) for Greater Memphis; on behalf of the governments of Shelby, Fayette, Tipton, and Lauderdale counties, provides Equal Opportunity and training services regardless of race, sex, religion, age, disability, gender, political affiliation or belief, color, creed or national origin.

### **Appeal Process to the Local Workforce Development Board**

- I. This procedure applies to appeals by the Training Provider to the LWDB based on the denial of the application for the initial listing on The Eligible Training Provider List (ETPL).
  - a. The training provider wishing to appeal a decision by the LWDB must submit an appeal to the LWDB within thirty (30) days of the date of the issuance of the denial letter (certified letter date).

Greater Memphis Local Workforce Development Board  
Attn: Executive Director  
100 Peabody Pl, Ste. 1000  
Memphis, TN 38103
  - b. The appeal must be in writing; with a statement of the desire to appeal including:
    - i. The specific program(s) in question
    - ii. The grounds for the denial
    - iii. Signature of the appropriate provider official who will represent the appeal
  - c. The LWDB will grant the training provider the opportunity to address the appeal either in writing or through an appeal hearing.
    - i. The local appeal hearing or review of the denial appeal will take place within ten (10) business days from the LWDB.
    - ii. The LWDB will notify the provider of the final decision made by the LWDB on an appeal within thirty (30) days of receipt of the appeal.
    - iii. In the event, the provider is not satisfied with the outcome of the local decision, information is included for the Appeal to the State.

## Appeal Process to the State

- II. This process applies to Training Providers who have exhausted the appeal process with the LWDB and are dissatisfied with the outcome of the local appeal.
- a. The training provider wishing to appeal the LWDB's final decision to the State; must submit an appeal request to the State within thirty (30) days from the LWDB's notification of the final decision on the appeal.
    1. TN Department of Labor & Workforce Development  
Grants Program Manager - Eligible Training Provider  
List Division of Workforce Services  
220 French Landing Drive  
Nashville, TN 37243
  - b. The appeal must be in writing; with a statement of the desire to appeal including:
    - i. The specific program(s) in question
    - ii. The grounds for the denial
    - iii. Signature of the appropriate provider official who will represent the appeal
  - c. The State will notify the appropriate LWDB when the appeal is received. When the State makes a final decision; the LWDB will also be notified of the decision.
  - d. The State will afford the opportunity for the provider to have a hearing
    - i. The Hearing Officer will notify both parties of the date, time, and place of the hearing within ten (10) calendar days before the scheduled hearing. Both parties will have the opportunity to:
      1. Present oral and written testimony under oath
      2. Call and question witnesses
      3. Present oral and written arguments
      4. Request documents relevant to the issue(s)
      5. To be represented i.e. attorney, etc.
  - e. The State appeals committee, chaired by the hearing officer, will review the appeal, make a preliminary decision, and notify the provider and the LWDB. The State Committee may either uphold or reverse the LWDB decision.
  - f. The State appeals committee will render a decision within sixty (60) days from receiving the training provider's initial state-appeal request.

**GREATER MEMPHIS LOCAL WORKFORCE DEVELOPMENT BOARD  
ETPL PROVIDER FILE REVIEW CHECKLIST**

**Please place a copy of all the following documents in a folder for each student receiving WIOA funds...**

**STUDENT IDENTIFICATION**

- State issued ID;  State-issued Driver's License
- PassPort

**ATTENDANCE SHEETS**

- Program attendance sheets
- Clinical attendance sheets if applicable (Facility name and location)
- Program withdrawal documents if applicable

**PROGRAM**

- Program Name/Program Cost and Length
- Program Scholarships
- Student's Financials (Pell grant, Loans, In-house scholarships)
- School Application Noucher from GMLWDB
- School Acceptance Letter;  School Grievance Policy and Reimbursement Policy

**COMPLETION**

- Certificate of Completion
- Credentials/License (if applicable)
- Statement from Provider concerning credentials

*The Greater Memphis Local Workforce Development Board. is a proud partner of the American Job Center network. This agency is a recipient of taxpayer funding and serves Shelby County, Fayette and Tipton, and Lauderdale Counties. The Career Center System is an Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. TTY: 1-800-848-0299*

## **ATTACHMENT C**

### **Subsequent Eligibility**

The Training Provider must have:

- a. WIOA student completion rate for each program must be greater than or equal to 40%
- b. All student completion rates for each program must be greater than or equal to 70%
- c. WIOA student placement rate for each program must be greater than or equal to 40%
- d. All student placement rates for each program must be greater than or equal to 70%

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