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# ETPL Policies and Procedures

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## PURPOSE

The purpose of this policy is to provide guidance and establish the procedures applicable to training providers and programs listed on the State and local Eligible Training Provider List (ETPL) under the Workforce Innovation and Opportunity Act. The policy applies to the Pacific Gateway Workforce Innovation Network (Pacific Gateway) and its subrecipients.

## BACKGROUND

WIOA Section 122 requires states to establish and maintain a list of training providers who are eligible to receive WIOA Title I, subtitle B funds for training services. An America's Job Center of California (AJCC) may issue an Individual Training Account (ITA) to a WIOA Title I, subtitle B eligible individual (out-of-school youth age 16-24, adult or dislocated worker) to fund training services.

The Employment Development Department (EDD) is the entity responsible for publishing, disseminating, and maintaining the comprehensive California (CA) ETPL with performance and cost information. In addition, the EDD is responsible for ensuring programs meet the eligibility criteria and performance levels, removing programs that do not meet the program criteria or performance levels, and taking enforcement actions against providers that intentionally provide inaccurate information or substantially violate the requirements of WIOA.

Local Boards are responsible for carrying out the procedures outlined in the Workforce Services Directive, ETPL Policy and Procedures ([WSD21-03](#)); working with the State to ensure there are sufficient numbers and types of providers of training services with expertise in assisting individuals with disabilities, and adults in need of adult education and literacy activities; developing and maintaining a local ETPL; and ensuring the dissemination of the CA and local ETPL, including in formats accessible to individuals with disabilities.

The State and Local Board ETPL policies should align with the three policy objectives outlined in the California Unified Strategic Workforce Development Plan:

1. **Fostering demand-driven skills attainment** – Workforce and education programs need to align program content with the State's industry sector needs so as to provide California's employers and businesses with the skilled workforce necessary to compete in the global economy.
2. **Enabling upward mobility for all Californians** – Workforce and education programs need to be accessible for all Californians, especially populations with barriers to employment, and ensure that everyone has access to a marketable set of skills and is able to access the level of education necessary to get a good job that ensures both long-term economic self-sufficiency and economic security.

3. **Aligning, coordinating, and integrating programs and services** – Workforce and education programs must economize limited resources to achieve scale and impact while also providing the right services based on each customer’s particular and potentially unique needs, including any needs for skills development.

## **POLICIES AND PROCEDURES**

This policy establishes the types of allowable training services, consumer choice, the difference between the State and local ETPL, the eligibility criteria and procedures for initial and continued eligibility for Eligible Training Providers (ETP) and programs, and the roles and responsibilities of the Pacific Gateway Workforce Development Board (PGWDB).

### **A. Allowable Types of Training Services**

The following are the allowable types of training for the Workforce Innovation and Opportunity Act (WIOA) Title I program:

- a. Occupational skills training, including 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) above.
- 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 with the training services described in (a) through (g) above.
- j. Customized training conducted with a commitment by an employer, or group of employers, to employ an individual upon successful completion of the training.

While all of the above are allowable training services under WIOA, service types b, c, and j are not required to be on the ETPL.

### **B. State and Local ETPLs**

The PGWDB and the EDD are responsible for working together to identify ETPs for the State ETPL. The State ETPL creates a pool of ETPs that the PGWDB can utilize to establish their local ETPL. In California, the State ETPL is called the California (CA) ETPL.

The PGWDB is responsible for maintaining a local list of training providers and programs. The PGWDB may add additional local requirements for providers and/or programs (except for apprenticeship programs) to be eligible on the local ETPL. The PGWDB must include all CA ETPL approved apprenticeship programs on their local ETPL. Adding additional local requirements may result in providers on the CA ETPL but may not be eligible for inclusion on the local ETPL. While additional requirements may be added for the local ETPL, the PGWDB may only include training providers on their list that are approved for the CA ETPL.

If the PGWDB is reviewing provider and/or program applications for inclusion on the ETPL, PGWDB must conduct the State eligibility review first and then determine eligibility for inclusion on their local ETPL. When conducting the State eligibility review, the PGWDB must use only the State’s requirements, not PGWDB’s additional requirements.

C. Consumer Choice

Training services must be provided to maximize informed consumer choice in selecting an eligible provider and program. Pacific Gateway must make the local ETPL available to customers. Information identifying ETPs for OJT, customized training, and IWT must also be made available.

After consultation with a career specialist, an individual determined eligible for training services may select an ETP from the local ETPL. Unless the program has exhausted training funds for the program year, Pacific Gateway must refer the individual to the selected provider and establish an Individual Training Account (ITA) to fund training. A referral may be carried out by providing an ITA Scholarship to the individual to obtain training. The cost of the ITA is paid out of the applicable WIOA program or special project. For further guidance on ITAs, reference PGWDB's policy ITA ([P-WIOA-ITA-1.B](#)).

All participants shall be made aware of the PGWDB's grievance and complaint procedures and have the right to appeal if they are denied training. Participants may file a grievance/complaint according to the procedures outlined in the PGWDB's policy, Grievance and Complaint Procedures ([P-WIOA-GCP-2.A](#)).

D. Recovery of WIOA and Non-WIOA Training Funds

Pacific Gateway is responsible for determining if a refund is due for the early termination of a participant's training. Pacific Gateway shall reference the PGWDB's policy, Recovery of WIOA Tuition and Training Refunds ([P-WIOA-RTTR-1.A](#)), for guidance on recovering tuition and training refunds.

E. Local ETPL Eligibility Requirements and Initial and Continued Eligibility Reviews

The local ETPL should support the creation of a list that ensures provider performance, job-driven training, informed consumer choice, continuous improvement, and cost-effective investment of public funds. Additional eligibility requirements for providers and/or programs to be listed on the local ETPL include, but may change based on consumer choice, provider performance, and labor market demands.

- The training provider must have an Educational Agreement on file with PGWDB
- The training site must be located within 50 miles of the AJCC site(s)
- The training program may not exceed \$15,000

Since PGWDB has additional local ETPL eligibility requirements, the PGWDB's ETPL Coordinator must review all CA ETPL approved distance education programs and all in-state CA ETPL approved programs located in the Regional Planning Unit for inclusion on the local ETPL.

It should be noted that Apprenticeship programs are not subject to the program initial eligibility criteria.

Continued eligibility review for the CA ETPL must be completed annually and review for the local ETPL must be completed at least once every two years. The PGWDB should conduct an annual review of each training provider and program listed on the local ETPL.

To ensure that training leads to high-quality jobs and protects investments in training, training programs included on the local ETPL must lead to at least one of the following:

1. Credentials and/or certificates valued by employers; or
2. Training-related employment as a result of gaining measurable technical skills for a specific occupation.

Training providers who are deemed exempt per California Education Code (CEC) Section 9487 and are not regionally accredited by an accrediting institution, PGWDB must:

1. Verify the instructor's credentials or experience.
2. Ensure the financial stability of the training provider.
3. Conduct an annual inspection of the schools or training programs.
4. Ensure actual instruction is taking place.
5. Ensure instructional equipment and instruction meet current industry standards.

F. Denial of a Training Provider/Program on the CA on Local ETPL

ssA copy of the written notification provided to the provider must be uploaded to the documents section of the Provider Profile in CalJOBS within 10 business days of issuance.

If PGWDB nominates a provider/program to the State for review, but upon review, the State ETPL Coordinator denies the training provider/program listing on the CA ETPL, the EDD must inform the PGWDB of the denial and the reason(s) for the denial within 30 days of receipt of the nomination. The PGWDB must in turn inform the training provider in writing with the reason(s) for the denial and information on the PGWDB appeal process within 30 days of receipt of the EDD's decision. A copy of the written notification provided to the provider must be uploaded to the document section of the Provider Profile in CalJOBS within 10 business days of issuance.

If the training provider is able to rectify the issue that caused the denial, PGWDB can review the information and resubmit to the State ETPL Coordinator for review.

The training provider's request to be on the CA ETPL must be denied if the training provider fails to provide complete information, intentionally provides inaccurate information, or has substantially violated any WIOA requirement(s). If the EDD, in consultation with the PGWDB, determines a training provider intentionally supplied inaccurate information or violated any WIOA requirement(s), the EDD or the PGWDB shall deny the training provider's application for the CA ETPL, and the training provider is not allowed to be reconsidered for inclusion on the CA ETPL for at least two years.

If approved for inclusion on the CA ETPL, but the PGWDB's ETPL Coordinator determines the training provider/program does not meet their local ETPL requirements, the PGWDB must inform the training provider in writing with the reason(s) for the denial, and information on PGWDB's appeal process within 30 days of receipt of the application. A copy of the written notification provided to the provider must be uploaded to the documents section of the Provider Profile in CalJOBS within 10 business days of issuance.

G. Delisting of Training Provider/Program from the CA and Local ETPL

The PGWDB or the EDD will remove a training provider or program from the CA and local ETPL at any time for the items below:

1. The training provider will be immediately removed from the CA and local ETPL for any of the following reasons until they meet continued eligibility. A provider who has been removed from the list for any of the following reasons is liable to repay all Adult and Dislocated Worker training funds received during the period of noncompliance:
  - a. The training provider has lost its accreditation or its approval to operate from its regulating agency.
  - b. A private postsecondary training provider no longer meets the exempt criteria per CEC, Section 94874 or the provider's Verification of Exemption by BPPE (if required by the EDD) expired or is revoked, and the provider does not have a new Verification

- of Exemption, or BPPE Approval to Operate.
- c. The nonprofit Community Based Organization no longer qualifies under Section 501(c)(3) of the Federal Internal Revenue Code.
  - d. The apprenticeship program is no longer registered with the DOL under the National Apprenticeship Act or is no longer approved by DIR DAS. The State ETPL Coordinator is responsible for removing apprenticeship programs.
  - e. The pre-apprenticeship program no longer has a Letter of Commitment from a DOL registered or DIR DAS approved apprenticeship program, or no longer leads to an industry-recognized postsecondary credential.
  - f. It is determined the provider sub-contracted instruction of the program to another entity without approval from WASC or BPPE.
  - g. The provider is not in compliance with WIOA Section 188.
2. A training provider will be immediately removed from the CA and local ETPL for a period of no less than two years for any of the reasons listed in this section. A provider who has been removed from the list for any of the following reasons is liable to repay all Adult and Dislocated Worker training funds received during the period of noncompliance:
- a. The State identifies the Local Board and training provider are participating in pay-to-play activities (commonly known as kickbacks) that include, but are not limited to: the Local Board received monetary or gift exchanges for (or in the hope for) referrals to a specific training provider, and/or exchanges of money or gifts to have the training provider listed on ETPL. As part of the annual on-site monitoring of Local Boards, if it is determined the Local Board is engaging in pay-to-play activities, a corrective action is required, and failure to take timely action to be in compliance may result in decertification of the Local Board involved.
  - b. It is determined the training provider falsely reported information.
  - c. The training provider substantially violated a provision of Title I of WIOA, or its implementing regulations.
  - d. The training provider's top-level leadership (e.g. owner, CEO, Director, etc.) is convicted of violating any federal or State law associated to the operation of the institution.
3. The EDD, in coordination with the PGWDB, can remove a provider for any of the following reasons. Reactivation to the list is at the discretion of the State ETPL Coordinator and the PGWDB:
- a. It is determined the provider is not serving or providing value to WIOA participants and is listed on the CA ETPL solely for other purposes, such as the utilization of Workers' Compensation Supplemental Job Displacement Benefit vouchers.
  - b. The provider has not served at least one Title I, subtitle B enrollment during the previous two program years. See "Training Provider Continued Eligibility Criteria" for requirements to be reinstated to the ETPL.
  - c. The provider's CalJOBS profile and/or program information is inaccurate or incomplete.
  - d. The training provider has not demonstrated a good faith effort in providing the ETP Report data to the EDD.
  - e. The provider no longer wishes to be listed on the CA ETPL.
4. In an effort to safeguard WIOA funds, the training provider will be suspended from the CA and local ETPL if the training provider is under any federal, State, or local investigation. During the period of suspension, no new enrollments may occur, but the training provider can continue to serve existing WIOA-funded enrollments. Once the investigation is complete, a review of the findings by the State will determine if the provider can be reinstated to the CA and local ETPL.

If a training provider/program is removed from the CA ETPL, the EDD must inform the PGWDB of the denial and the reason(s) for the delisting within 30 days of the removal. The PGWDB must in turn inform the training provider in writing with the reason(s) for the delisting and provide information on the PGWDB's appeal process within 30 days of receipt of the EDD's decision. A copy of the written notification provided to the provider must be uploaded to the document section of the Provider Profile in CalJOBS within 10 business days of issuance.

All training provider/programs removed from the CA ETPL must be removed from the local ETPL immediately upon notification from the EDD, as any new enrollments into a training program not eligible to be on the CA ETPL will result in disallowed costs.

It is the responsibility of the EDD and the PGWDB to work together to ensure any participants currently enrolled in a training program removed under items 1 and 2 experience minimal disruption. If the training provider or program is removed due to items 1, 3, or 4, any participants already enrolled (attended at least one day of instruction) can continue participation in the program until the training is complete, but no new enrollments may occur.

If a training provider goes out of business, Pacific Gateway is required to work with the impacted participants and provide comparable training opportunities. If the training provider is a Bureau of Private Postsecondary Education (BPPE) approved provider, Pacific Gateway must coordinate assistance through BPPE's [Office of Student Assistant Relief](#).

#### H. Placing Delisted Training Providers/Programs Back on the CA and Local ETPL

Training Providers must submit requests to be placed back on the CA ETPL to the PGWDB (unless the provider is a Distance Education or apprenticeship program). The training provider and program(s) must meet all criteria to be placed back on the CA ETPL.

If the training provider is removed for item 2 of the Delisting Training Providers/Programs section of this policy, two years must have passed from the time of their removal before they can be placed back onto the CA and local ETPL.

If the training provider is removed for item 3(b) of the Delisting Training Providers/Programs section, the provider must wait 6 months from the date of removal before submitting an ETPL application for reinstatement.

#### I. Appeal Process

The training provider must appeal to the PGWDB in writing within 30 days of the issuance of the denial or delisting notice. The appeal must include a statement of the desire to appeal, specification of the training program(s) in question, the reason(s) for the appeal (i.e. grounds), documentation supporting the grounds for the appeal, and the signature of the appropriate training provider official.

An initial informal meeting between PGWDB staff and the training provider may occur within 14 days of the receipt of the written appeal. The purpose of this meeting is to identify if there is a simple solution to resolve the dispute.

The training provider may request a hearing if the PGWDB and training provider cannot resolve the dispute. The PGWDB shall select an impartial hearing officer. The hearing officer shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten calendar days in advance of the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath, to call and question witnesses, request documents relevant to the proceedings, and have legal representation.

The hearing officer's final decisions must be made within 60 days of receipt of the appeal, and the training provider and the Local Board notified in writing of the final decision.

A copy of the final decision must be emailed to the State ETPL Coordinator at [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov) and the Local ETPL Coordinator must upload the final decision to the Provider Profile section of CalJOBS.

Distance Education and Apprenticeship programs can appeal directly to the EDD. All other training providers may appeal to the EDD only if the local appeal process has been exhausted, and the provider is dissatisfied with PGWDB's final decision.

A training provider wishing to appeal PGWDB's decision must submit a written appeal to the EDD within 30 days from the date of the Local Board's final decision. The request for appeal must include a statement of the desire to appeal, specification of the training program in question, the reason(s) for the appeal (i.e. grounds), PGWDB's final decision document, and the signature of the appropriate training provider official. The appeal should be sent to [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov).

#### J. Training Documentation

Pacific Gateway must regularly verify and document in CalJOBS the participant's attendance throughout the training program. Pacific Gateway staff should check monthly with the training provider to ensure participants are still actively engaged in training. If Pacific Gateway staff is not able to check monthly, Pacific Gateway should check quarterly.

Pacific Gateway must keep all training provider and program eligibility documents (either physical or electronic) for five (5) years from the date of submission of the final expenditure report. Upon request and reasonableness, training documentation must be provided to EDD within five business days,

Training providers are required to maintain sufficient training records and make the records available for monitoring or audit by either PGWDB and/or the State.

#### K. ETPL Coordinator Responsibilities

PGWDB's ETPL Coordinator is, at minimum, responsible for the following:

1. Provide technical assistance on the application process, compliance requirements, and reporting documents to training providers with programs located within the PGWDB area seeking to be listed on the CA and local ETPL;
2. Review and approve or deny providers and programs for initial and continued eligibility in a timely manner;
  - o The review must include eligibility for the CA and local ETPL and comply with requirements outlined in this policy and the Workforce Services Directive, WSD21-01.
3. Notify training providers if their program(s) are removed from the CA and/or local ETPL;
4. Maintain the local ETPL and communicate with the State ETPL Coordinator for guidance;
5. Ensure all Pacific Gateway staff have access to the most recent version of the CA and local ETPLs; and
6. Maintain regular contact with training providers to track and collect attendance records, measurable skills gain (MSG), credential records, completion certificates, and other necessary training documentation.

For additional guidance on the CA ETPL application process, initial and continued eligibility criteria for training providers and programs, CA ETPL performance reporting and documentation, ETPL

definitions, and resources in implementing the CA ETPL, refer to Workforce Services Directive, ETPL Policy and Procedures ([WSD21-03](#)).

## REFERENCES

- WIOA (Public Law 113-128) Sections 3, 116, 122, 123, 129, 134 and 404
- Title 20 Code of Federal Regulations (CFR) Part 677: “Performance Accountability Under Title I of the Workforce Innovation and Opportunity Act” (Uniform Guidance), Sections 677.150 and 677.230
- Title 20 CFR Part 680: “Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act” (DOL Exceptions), Sections 680.200, 680.210, 680.230, 680.300, 680.310, 680.320, 680.330, 680.340, 680.350, 680.410, 680.420, 680.430, 680.450, 680.460, 680.470, 680.480, 680.490, 680.500, 680.520 and 680.530
- Title 20 CFR Part 681: “Youth Activities Under Title I of the Workforce Innovation and Opportunity Act” (DOL Exceptions), Sections 681.480 and 681.540
- Title 34 CFR Part 600: “Definitions” (Department of Education), Section 600.2
- Technical and Employment Guidance Letter (TEGL) 8-19, Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs (January 2, 2020)
- TEGL 3-18, Subject: Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA) (August 31, 2018)
- TEGL 19-16, Subject: Guidance on Services provided through the Adult and Dislocated Worker Programs under the WIOA and the Wagner-Peyser Act Employment Services, as amended by title III of WIOA, and for Implementation of the WIOA Final Rules (March 1, 2017)
- TEGL 13-16, Subject: Guidance on Registered Apprenticeship Provisions and Opportunities in the WIOA (January 12, 2017)
- Workforce Services Directive WSD21-03, Subject: ETPL Policy and Procedures (November 10, 2021)
- Pacific Gateway Individual Training Accounts Policy P-WIOA-ITA-1.B (December 1, 2022)
- Pacific Gateway Grievance and Complaint Procedures Policy P-WIOA-GCP-2.A (November 13, 2018)
- Pacific Gateway Recovery of WIOA Tuition and Training Refunds Policy P-WIOA-RTTR-1.A (December 1, 2022)

## INQUIRIES

For questions or assistance related to this policy, please contact Pacific Gateway Workforce Innovation Network Board staff at (562) 570-3748.