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STATE INSTRUCTION NUMBER 20-03

To: Local Workforce Area Signatory Officials
Local Workforce Development Board Chairs
Local Workforce Development Directors

Subject: Eligible Training Provider List

Issuance Date: December 11, 2020

Effective Date: Immediately

Purpose: To provide guidance on the process by which organizations qualify as eligible providers of training under the Workforce Innovation and Opportunity Act (WIOA) and the roles and responsibilities of the State and Local Workforce Development Boards (LWDB) regarding the Eligible Training Provider List (ETPL).

References:

- Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §§ 116, 122, 188
- 20 CFR Part 680, Subparts C and D; 20 CFR § 677.230; 29 CFR Part 29, Subpart B
- Training and Employment Guidance Letters (TEGLs) 10-16, Ch. 1; 13-16; 3-18; 8-19
- Training and Employment Notices (TENs) 25-19; 6-20

Background: WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market, and to match employers with the skilled workers they need to compete in the global economy. The ETPL is compiled to provide participants a full array of training programs designed to meet their needs for job readiness or a career pathway, and to provide participants the information needed to make an informed customer choice concerning training providers and programs. WIOA requires states to develop procedures to determine eligibility for a variety of quality training providers and programs, and to establish, maintain, and disseminate an ETPL, including accompanying performance and cost information to LWDBs, members of the public, the Onestop delivery system and its program partners, and the secondary and postsecondary education systems. Only approved eligible training providers (ETPs) and programs listed on South Carolina's ETPL will be utilized for WIOA Individual Training Accounts (ITAs). The South Carolina ETPL is housed on the Palmetto Academic and Training hub (PATH) website, www.scpaath.org.

The Department of Employment and Workforce (DEW), as the state administrative entity responsible for the oversight of South Carolina's ETPL, will hereinafter be referred to as "the State."

Policy: An ETP is an entity that has met the eligibility requirements to receive funding through an ITA to provide training services to eligible individuals. All ETPs shall comply with the criteria, information requirements, and procedures established within this policy.

Eligible Training Provider Requirements

All training providers must meet the following requirements to be eligible for inclusion on the ETPL.

- Qualify as one of the following:
 - Institution of higher education that provides a program of training that leads to a recognized postsecondary credential
 - Entity that carries out apprenticeship programs, including Industry Recognized Apprenticeship Programs (IRAPs) and Registered Apprenticeship Programs (RAPs)
 - Public or private training provider, including community-based organizations, joint labor-management organizations, pre-apprenticeship programs, and joint labor-management organizations
 - Provider of adult education and literacy activities, if such activities are provided concurrently or in combination with other training services
 - LWDB if it meets the conditions of WIOA § 107(g)(1)
- Be a legal entity
- Be registered or licensed by the appropriate governing board or agency prior to applying for placement on the ETPL
- Provide an appropriate program of training services (see below for program requirements)
- Have the ability to do all of the following:
 - Offer programs that lead to recognized postsecondary credentials or certifications
 - Meet the needs of local employers and participants
 - Serve individuals with barriers to employment
- Have refund policies specifying when refunds for tuition and other costs associated with the training program will be allowed that are in writing and are published to ensure students are aware of how to request a refund
- Have a written grievance policy for students to file complaints within an organization against faculty, staff, or other employees that is published to ensure that students are aware of how to file a complaint

- Comply with all applicable non-discrimination and equal opportunity provisions as potential recipients of WIOA funds, in accordance with WIOA § 188

NOTE: No individual in the United States may be excluded from participating in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity funded under WIOA Title I for any of the following characteristics:

- Race,
- Color,
- Religion,
- Sex (including pregnancy, childbirth and related medical conditions, transgender status, and gender identity),
- National origin (including limited English proficiency),
- Age (individuals aged 40 years and older),
- Disability, or
- Political affiliation or belief.

Additionally no beneficiary of, applicant to, or participant in any WIOA Title I program may be discriminated against based on citizenship or participation in any program or activity funded under WIOA Title I.

Out-of-State Provider

A WIOA participant in South Carolina may choose a training provider located outside of the local workforce development area (LWDA) and/or outside of the state, including an online training program, in accordance with local policies and procedures. An out-of-state training provider must be included on that state's ETPL and South Carolina's ETPL. LWDA's are responsible for ensuring out-of-state providers offer quality training programs that meet local demand occupation requirements.

Training Program Requirements

A training provider must provide a program of training services (one or more courses or classes, or structured regiment) that leads to:

- An industry-recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the State or the Federal government, or a postsecondary credential;
- A secondary school diploma or its equivalent if such activities are provided in combination with other training services;
- Employment; or

- Measurable skill gains toward a recognized credential or employment.

Training programs may be delivered as stackable services and can be provided in-person, online, or in a blended approach. Certificates must recognize technical or industry/occupational skills for the specific industry/occupation rather than general skills related to safety, hygiene, etc., even if such general skills certificates are broadly required to qualify for entry-level employment or advancement in employment. Certificates awarded by the LWDB and work readiness certificate programs are not included. These types of certificates are not recognized industry-wide and do not document the measurable technical or industry/occupational skills necessary to gain employment or advancement within a specific industry/occupation.

Some training services are exempt from WIOA § 122 eligibility requirements and are not included on the ETPL, including: On-the-Job training (OJT), customized training, Incumbent Worker Training (IWT), internships, paid or unpaid work experiences, and transitional employment. Additionally, training services are exempt from the eligibility requirements when the LWDB provides training services through a pay-for performance contract or the LWDB determines and documents that:

- There are insufficient providers;
- There is a training services program that has demonstrated effectiveness offered in the local area by a community-based organization, or other private organization, to serve individuals with barriers to employment; and
- It would be most appropriate to award a contract to an institution of higher education or other eligible provider in order to train multiple individuals in in-demand industry sectors or occupations, and such contract does not limit customer choice.

For questions and additional information regarding program requirements, see TEGL 10-16, Change 1, and TEN 25-19.

Registered Apprenticeships

RAPs registered with the U.S. Department of Labor (DOL), Office of Apprenticeship (OA), are automatically eligible to be included on the ETPL. However, RAP sponsors must indicate their interest in being included on the ETPL. The State works with DOL to contact RAPs within the State in order to allow the RAP sponsors to indicate interest. RAPs are not subject to the same eligibility, performance, or reporting requirements as other providers since they go through a detailed application and vetting procedure with USDOL, and are monitored on a regular basis by USDOL. RAPs are exempt from WIOA performance and reporting-related requirements, including the requirements for annual ETP reporting, enabling these programs to be placed on the statewide ETPL with minimal burden. RAP providers, however, are encouraged to voluntarily report performance information in accordance with 20 CFR § 680.470(e).

For inclusion on the ETPL, RAP providers must provide the following information:

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

RAP sponsors that do not provide the RTI portion of the apprenticeship program may be required to provide additional information about their education provider, including the cost of the instruction.

LWDBs may not impose additional requirements on RAP sponsors. Additionally, it is not necessary for local areas to determine if a RAP is on their local in-demand occupation list. RAPs included on the ETPL are automatically considered to be an in-demand training if the program's selection process is open.

To include a RAP on the ETPL, RAP sponsors can obtain an application through PATH or request an application by emailing WorkforceSupport@dew.sc.gov. Any questions or concerns about the status of a RAP sponsor should also be emailed to Workforce Support.

Removal of RAPs from the ETPL

Once a RAP opts for inclusion on the ETPL, the RAP will remain on the ETPL until the program sponsor:

- Notifies the state that it no longer wants to be included on the list;
- Becomes deregistered under the National Apprenticeship Act;
- Is determined to have intentionally supplied inaccurate information; or
- Is determined to have substantially violated any provision of WIOA Title I or the WIOA regulations, including 29 CFR Part 38.

A RAP provider may request to be removed from the ETPL at any point by emailing WorkforceSupport@dew.sc.gov. As part of the State's review of the ETPL, the State verifies the continued status of a training program as a registered apprenticeship at least every two years.

Pre-apprenticeship Programs and IRAPs

Pre-apprenticeship programs and IRAPs do not have the same automatic ETP status under WIOA, and are required to go through the same vetting process and performance reporting requirements as all other training providers in the State. Pre-apprenticeship programs funded with WIOA funds must have at least one registered apprenticeship partner; such pre-

apprenticeship programs must possess or develop a strong record of enrolling their pre-apprenticeship graduates into a RAP. See TEGl 13-16 for additional information on pre-apprenticeship program requirements.

IRAPs are high-quality apprenticeship programs, wherein an individual obtains workplace-relevant knowledge and progressively advancing skills, which include a paid-work component and an educational or instructional component, and that results in an industry-recognized credential. An IRAP is developed or delivered by entities such as trade and industry groups, corporations, non-profit organizations, educational institutions, unions, and joint labor-management organizations. An IRAP is an apprenticeship program that has been recognized as a high-quality program by a Standards Recognition Entity (SRE) pursuant to 29 CFR § 29.22(a)(4)(i)-(x). See TEN 6-20 for additional information on IRAPs.

Initial Eligibility and Application Process for New Training Providers

Training providers seeking approval for initial eligibility on South Carolina's ETPL must apply online by submitting an application through the PATH website at www.scpaath.org. New training providers and programs will be continually added to the ETPL as they become eligible and approved. Once approved, initial eligibility status remains in effect for one year from the eligibility date. After the initial eligibility period expires, training providers and each program of training are subject to procedures for continued eligibility status, as described later in this guidance.

A training provider seeking to be approved as an ETP on the South Carolina ETPL must provide a completed ETPL application in PATH, which must include the following.

- Descriptions of each program of training services to be offered, including:
 - Program-specific performance information based on South Carolina's identified factor related to the WIOA performance indicators;
 - Identification of businesses that developed the training in partnership with the provider, if any;
 - Information on cost of attendance, including costs of tuition and fees;
 - Description of how the program of training services aligns with in-demand industry sectors and occupations, to the extent possible; and
- A signed Memorandum of Agreement (MOA) in which the provider agrees to share data with the State pertaining to training outcomes, including individual student coursework and other Personally Identifiable Information (PII) to match training and employment data and outcomes for all students, including WIOA-funded students and non-WIOA-funded students.

NOTE: Starting January 1, 2021, ETPs submitting new programs of training must provide the following program-specific performance information based on South Carolina's identified

factor related to the WIOA performance indicators from the previous program year (July 1st – June 30th) for each program of training via PATH:

- Number of students that participated in the program of training in the last completed program year,
- Number of students who exited the program of training in the last completed program year, and
- Number of students that obtained a credential in the last completed program year.

South Carolina is choosing to use PY2020 – PY2021 ETP program-specific performance data to establish a baseline for program minimum performance benchmarks for future initial eligibility requirements. After gathering the PY2020 – PY2021 baseline performance data, a public comment period will occur before establishing program minimum performance benchmarks.

The State will review the application content in PATH to ensure all required information has been submitted correctly and will make a content-only determination within 15 calendar days of the initial application. If an application is determined to be incomplete, the training provider will be notified and the application will remain open for a period of 60 calendar days from the date of receipt. If a provider fails to submit all required information or materials within this 60 day period, the State will delete the application. The training provider may resubmit an application at any time.

Upon content-only approval by the State, the application will be sent to all applicable LWDA's, as the LWDBs hold the final approval authority for each local area in which the provider is located or providing training services. A training provider, and at least one program of training, must be approved by a minimum of one LWDA in order to be published on the ETPL. The local approval process and timeline may differ between each LWDA. For example, some LWDA's may require presentation to the LWDB and other LWDBs may grant direct approval authority to the designated local administrative entity. LWDBs are required to have a local ETPL policy outlining the local approval criteria, process, and timeline, including a local appeals process for training providers.

Approved ETPL training providers are responsible for maintaining up-to-date information for the ETPL in PATH in order to continue receiving WIOA training referrals and funds. Failure to update program information may result in removal of the program from the ETPL. Any significant change to a program, including a change in the program's cost, may require re-evaluation for approval.

Continued Eligibility Application Process

After the initial eligibility period of one year, the training provider, with the exception of RAP sponsors, must submit an application for continued eligibility for each program of training, and resubmit an application every year thereafter. The continued eligibility application requirement ensures that training provider and program information is accurate and that performance reporting standards are met. The continued eligibility application is required for any program of training that has been previously approved for the ETPL. A system generated email notification will be sent to the provider's listed point of contact 60 days prior to the expiration of a program's approval status. ETPs must update point of contact information if there is a change.

A training provider seeking continued eligibility approval must provide all of the following in PATH:

- Any changes to provider or program information previously approved must be submitted, including a current program description, breakdown of tuition costs and fees, credentials to be attained, and contact information; and
- A signed MOA in which the provider agrees to share data with the State pertaining to training outcomes, including individual student coursework and other PII to match training and employment data and outcomes for all students, including WIOA-funded students and non-WIOA-funded students.

In making an eligibility determination, the State will consider the following:

- ETP performance on WIOA performance indicators;
- Quality of the program of training services including programs leading to a recognized postsecondary credential;
- Description of the accessibility of training services throughout the State, including rural areas, and through the use of technology;
- Degree to which training programs relate to in-demand industry sectors and occupations in the state;
- Documentation of compliance with all state licensure requirements and the current licensing status, as applicable;
- Evidence indicating the training program leads to an industry recognized certificate or credential, including any recognized post-secondary credentials;
- ETP's ability to provide trainings that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities;
- Information reported to state agencies on federal and state training programs other than WIOA Title I-B programs;
- Timeliness and accuracy of ETP's performance reports.

NOTE: South Carolina is choosing to use PY2020 – PY2021 ETP program-specific performance data to establish a baseline for program minimum performance benchmarks for future continued eligibility requirements. After gathering the PY2020 – PY2021 baseline performance data, a public comment period will occur before establishing program minimum performance benchmarks.

The State will review the application content in PATH to ensure all required information has been submitted correctly and will make a content-only determination within 15 calendar days of the application. The State will notify a provider if an application is determined to be incomplete and will keep the application open for a period of 60 calendar days from the date of receipt. If a provider fails to submit all required information or materials within this 60 day period, the State will delete the application. The training provider may resubmit an application for continued eligibility at any time once all required data has been submitted.

Approved ETPL training providers are responsible for maintaining up-to-date information for the ETPL in PATH in order to continue receiving WIOA training referrals and funds. Failure to update program information may result in removal of the program from the ETPL. Any significant change to a program, including a change in the program's cost, may require re-evaluation for approval.

Reporting Requirements

ETP performance reports are intended to provide critical information regarding participants' employment, earnings, and credential outcomes for programs of training on the ETPL. The purpose of these reports is to maximize informed customer choice by assisting WIOA participants, and members of the general public, in identifying effective training programs and providers. In order to generate an aggregate report via PATH, ETPs should submit the following information for all students engaged in approved programs of training listed on the ETPL, regardless of funding source, no later than September 15th of each Program Year (July 1st to June 30th):

- First and last name
- Social Security number*
- Driver's license number and state of issue*
- Date of birth*
- Gender
- Hispanic identification
- Veteran status
- Disability status
- Prior education identification
- Program credential preparation identification
- Post program certification preparation identification

- Program entry date
- Program start date
- Program expected exit date or program completion date
- Enrollment status
- Credential earned
- Program cost, including total costs accrued by each student, regardless of funding source, for tuition, fees and other related expenses, including but not limited to: books, tools, clothing, and equipment*
- WIOA participation status
- Race identification
- Student's identification number
- Student address

*Data points marked with asterisks, including related program expenses, are desired, but are not required. However, failure to provide all data points listed above could negatively impact performance results.

PATH student and program upload templates, instructions, and video tutorials can be found by visiting [https://scworks.org/employer/education-and-training/eligible-training-provider-list-e-\(etpl\)](https://scworks.org/employer/education-and-training/eligible-training-provider-list-e-(etpl)).

Role of the Local Workforce Development Board

The State only reviews the application for content in PATH to ensure all required information has been submitted correctly. The LWDB is the final approval authority for each LWDA in which the training provider is located or providing training services. LWDBs are required to have a local ETPL policy outlining the local approval criteria, process, and timeline, including a local appeals process. The LWDB ETPL policy must be published and accessible to applicant training providers. The LWDB shall notify the provider of the final determination in accordance with its local ETPL policy.

LWDBs may require, except with respect to a RAP, additional information from, and criteria for, training providers to become or remain eligible in that LWDA, including higher levels of performance than any established by the State.

Denial or Removal of a Training Provider or Program

A training provider must deliver results and provide accurate information in order to retain its status as an approved ETP under WIOA. The State or a LWDB can deny inclusion of, or remove, a training provider and/or its program(s) from the ETPL for reasons, including the following:

- The initial or continued application is not completed by an established due date or is missing required information;
- The training does not lead to a recognized post-secondary credential or an industry-recognized certificate or certification, a secondary school diploma or its equivalent, employment, or measurable skill gains toward such a credential or employment;
- The required student data is not submitted by the established due date;
- The training provider intentionally supplies inaccurate or falsified information;
- The training provider substantially violates any requirement under WIOA, its implementing regulations, or applicable State or local policies;
- The training provider loses its license or accreditation from its accrediting body;
- The provider or program fails to meet locally established minimum levels of performance; or
- The entity does not meet the WIOA definition of a provider of training.

In addition to the above, a LWDB may require additional criteria and information from local training providers to become or remain eligible in that area.

Programs of training that have been removed from or denied listing on the ETPL may be reinstated after one year by applying through the initial application process, unless due to willful submission of inaccurate information, repeated failures to submit required information, or a failure to cooperate with LWDB's. If removal was due to willful submission of inaccurate information, the program of training may be reinstated on the ETPL after two years by applying through the initial application process. Repeated failures to submit required information and a failure to cooperate with LWDB's will be considered a substantial violation of WIOA requirements. A "substantial violation" includes one or more violations in a short period of time or numerous minor violations over a longer period of time. A provider whose eligibility is terminated under these conditions must be terminated for not less than two years and is liable to repay training funds received during the period of noncompliance.

In the event that a training program is removed from the ETPL, the State and the LWDB will work together to ensure that any participants currently enrolled in that training program experience minimal disruption.

Appeals Process

A training provider that is denied inclusion or removed from the ETPL by a LWDB may file an appeal with the LWDB. A provider choosing to appeal must submit a written appeal to the denying LWDB in accordance with their local ETPL policy. If a training provider chooses to appeal the LWDB's final determination, a written appeal to the State must be submitted within 30 calendar days of the issuance of the LWDB's final appeal decision. The appeal must include the following information:

- A statement of the desire to appeal;
- A description of the program in question; and
- Detailed justification for gaining or retaining approval, including all supporting facts.

Appeals must be submitted by registered mail, clearly identified as “Dated Material,” and addressed to:

SC Department of Employment and Workforce
Attn: Workforce Support—ETPL Request to Appeal, Suite 515
P.O. Box 995
Columbia, SC 29202

If the 30th day falls on a weekend or holiday, the deadline will be extended to the next business day. The State will not consider any factual or legal grounds for relief that are not set forth in the original appeal filed with the LWDB.

A DEW program staff member designated by the Assistant Executive Director of Workforce Development will review the appeal and attempt to resolve the appeal informally within 15 days of the appeal file date. The appeal request will be referred to the State ETPL Committee if it is not successfully resolved within 15 calendar days of the appeal file date. The state ETPL Committee, comprised of two staff members from DEW’s Division of Workforce Development and one staff member from DEW’s Technical Services, Policies, and Reporting, will conduct a hearing and issue a written determination to the training provider. The State ETPL Committee’s determination must be mailed within 60 calendar days of the appeal file date.

A decision of the State ETPL Committee is not appealable to the Secretary of Labor.

Any and all alleged violations of discrimination under protected bases will be directed to the Office of Equal Opportunity for investigation. Any subsequent decision regarding the inclusion, or removal, of a training provider and/ or its program(s) from the ETPL will be made by the Equal Opportunity (EO) Officer.

If a training provider is found to have intentionally provided inaccurate information or substantially violated any WIOA requirements, then the provider must be removed from the ETPL, and the provider’s eligibility to receive funds will be terminated for a period of not less than two years.

For questions regarding the ETPL appeal process, contact WorkforceSupport@dew.sc.gov. Appeals may not be sent via this email address.

Action: Ensure that all appropriate staff receive and understand this policy.

Inquiries: Questions may be directed to PolnPro@dew.sc.gov.

A handwritten signature in cursive script that reads "Kevin Cummings".

Kevin Cummings, Director
Technical Services, Policies and Reporting