

# **SOUTHWESTERN AREA WORKFORCE DEVELOPMENT BOARD**

## **Eligible Training Provider List Policy 17-11.1**

### **Effective Date**

April 10, 2025

### **Applicability**

This applies to the Southwestern Area Workforce Development Board (SAWDB), which provides Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker, out-of-school youth employment, and training services.

### **Purpose**

This guidance provides new information, criteria, and procedures updated with the passage of America's Job Center New Mexico Policy Issuance 24-001, effective August 22, 2024. SAWDB Policy #24-001 aims to inform the local workforce development boards, local administrative entities, and workforce system partners of changes to the Eligible Training Provider system. This new Policy replaces the previous SAWDB 17-11 Eligible Training Provider List.

### **References**

- A. Workforce Innovation and Opportunity Act of 2014, Sections 116, 122, and 134, effective July 1, 2015
- B. BWorkforce Innovation and Opportunity Act, final rule published August 19, 2016, 20 CFR Parts §677.230, §679.370-380, §680.400-530, §683.630
- C. Training and Employment Guidance Letter (TEGL) 41-14 and Change 1 for WIOA Title I Training Provider Eligibility Transition
- D. Department of Labor, 29 CFR Part 38, WIOA Section 188, Implementation of the Nondiscrimination and Equal Opportunity Provisions, final rule published December 2, 2016
- E. TEGL 19-16.
- F. TEGL 03-18.
- G. TEGL 08-19.
- H. TEGL 13-16, Change 1
- I. TEGL 08-19, Change 1

### **Background**

The workforce development system established under WIOA emphasizes informed consumer choice, job-driven training, provider performance, and continuous improvement. The quality and selection of providers and programs of training services are vital to achieving these core principles. As required by WIOA Sec. 122, states, in partnership with Local Boards, must identify eligible training providers (ETPs) and programs that are qualified to receive WIOA title I-B funds to train adults, dislocated workers, and out-of-school youth ages 16 through 24\*, including those with disabilities. The approved state list of eligible training providers and programs serves as an essential tool for

participants seeking training to identify appropriate providers and programs, and relevant information, such as cost and program outcomes. WIOA Sec. 122 (c) specifies that states must establish an application procedure for training providers and programs to maintain their eligibility and the eligibility of their programs.

New Mexico's Eligible Training Provider List (ETPL) is a key resource for participants seeking training under the Workforce Innovation and Opportunity Act (WIOA). It helps participants identify approved training providers and programs, including details on costs and outcomes. WIOA requires states to have a process for maintaining the eligibility of training providers and their programs. Once eligible for training services, WIOA participants can choose a program from the ETPL with guidance from a career advisor. Training costs are often covered through Individual Training Accounts (ITAs), depending on local policies. To be approved for the ETPL, training programs must meet state and local standards, result in a recognized credential or skill progression, and align with in-demand sectors in New Mexico. The state partners with local workforce development boards to maintain and improve the ETPL, ensuring it showcases high-quality, effective programs. Recent updates to the process streamline provider applications, clarify performance standards, and encourage collaboration between local boards and education/training providers. These changes aim to ensure that participants have access to informed, high-quality training options.

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

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

Eligible training providers include:

- A. Local Boards, if they meet the conditions of WIOA sec. 107(g)(1); and
- B. Apprenticeship programs, including Industry Recognized Apprenticeship Programs (IRAPs) and Registered Apprenticeship Programs (RAPs);
- C. Other public or private providers of training, which may include community-based organizations (CBOs) and joint labor-management organizations; and
- D. Eligible providers of adult education and literacy activities under Title II, if such activities are combined with occupational skills training.
- E. Institutions of higher education that provide a program or programs that lead to recognized postsecondary credentials.

Eligible training providers are subject to equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA. The types of eligible training providers for WIOA are substantively the same as those under WIA. The requirements to become an eligible provider of training services apply to all organizations providing WIOA Title I-B-funded training to adults and dislocated workers, **as well as out-of-school youth ages 16 through 24\***, except for Registered Apprenticeship programs.

Note: Please see the separate section on Registered Apprenticeship programs, as many of the ETPL requirements regarding these types of programs are different.

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

A program of training services 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,

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secondary school diploma or its equivalent, employment, or measurable skill gains toward such a credential or employment. These training services could be delivered in person, online, or in a blended approach.

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

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

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

### **Roles and Responsibilities**

America's Job Center New Mexico, State Administrative Entity (SAE), is responsible for the following:

- A. Establishing requirements for the Eligible Training Provider List system, to include:
    - a. Hosting the ETPL through a web-based platform
    - b. Establish the web application and tracking system for training providers and local workforce development boards.
    - c. Establishing ETPL eligibility criteria, application, and approval procedures.
    - d. Facilitating the acquisition of performance data information for public institutions managed through a partnership with the New Mexico Department of Higher Education.
    - e. Review, monitor, and approve training provider applications for minimal eligibility criteria and performance requirements.
    - f. Verifying the initial minimum eligibility of out-of-state programs and training services, including review of applications or renewal, and the review of the overall effectiveness of providers and programs to determine initial and continued eligibility based on ETP criteria.
    - g. Notify LWDBs when out-of-state programs and their providers are approved for utilization.
    - h. Informing and supporting the appeals process for out-of-state training providers deemed ineligible as an Eligible Training Provider.
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- i. Taking appropriate enforcement actions against providers and programs that intentionally provide inaccurate information or that substantially violate the requirements of WIOA.
  - j. Disseminating the State ETPL along with performance and cost information for each provider, for use by the public and the local workforce development boards.
  - k. Facilitating data matches between ETP records and Unemployment Insurance wage data to provide a mechanism for ETP annual performance reporting and compliance with DOL performance guidance.
  - l. Establishing a mechanism for adding Registered Apprenticeship programs to the ETPL and verifying registered status at least every two years.
  - m. Convening WIOA Core Partners, Registered Apprenticeship, and local workforce development boards as necessary to coordinate ETPL requirements.
  - n. Establishing an appeals procedure for providers to appeal a denial of eligibility.
  - o. Monitor LWDBs to ensure compliance with ETPL policies and procedures and streamlined practices.
  - p. Develop, maintain, and disseminate the ETPL, including the list of training providers and their programs of study
  - q. Establish a minimally burdensome mechanism for adding Registered Apprenticeship Programs (RAPs) to the list and verifying registration status at least every two years
  - r. Review and finalize the approval of providers and programs recommended by the LWDBs.
  - s. Determine whether training providers submitted accurate information for the eligibility criteria and performance levels, and take enforcement actions as needed if the provider intentionally submitted inaccurate information or substantially violated WIOA requirements.
  - t. Ensure that established performance levels for initial and/or continued eligibility are met, including verifying the accuracy of the information.
  - u. Establish procedures for removing a provider from the ETPL.
  - v. Establish a procedure by which a provider can demonstrate that providing state-required additional performance and cost information would be unduly burdensome or costly.
  - w. Establish initial eligibility criteria for new training providers and set minimum performance levels for all training providers to remain eligible.
  - x. Making decisions on training provider appeals to NM SAE, after a training provider receives an unsatisfactory appeal decision at the local level, which includes an opportunity for a hearing and a timely decision.
  - y. Ensure training providers' applications and programs approved by LWDBs are reviewed and approved and placed on the ETPL in a timely manner.
  - z. Maintain and publish a directory of ETPL Coordinators.
  - aa. Facilitate direct communication between LWDBs and institutions interested in inclusion on the New Mexico ETPL.
  - bb. Provide training and technical assistance to ETPL Coordinators. The state's ETPL Administrator will provide resources and technical assistance to ETPL Coordinators and Training Providers on application processes, compliance requirements, and reporting documents.
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### **Providers and Programs Related to the State Administrative Entity Special Projects**

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

#### **LWDB is Responsible for Carrying Out the Following Procedures Assigned by the State**

- A. The SAWDB shall use the NMJobs Online System to accept ETP virtual applications from providers to be on the ETPL. LWDBs may authorize qualified LWDB staff members (ETPL Coordinators) to act on their behalf in making determinations for initial and/or continued eligibility of providers and their program(s).  
Reviewing training provider applications within 30 working days of receipt of the application. Thoroughly research the in-state training provider and programs applying to be on the ETPL and review the accuracy of eligibility and performance information for initial applications and applications for continued ETPL approval before submission to the State for final approval.
  - B. Notify in-state providers/programs of the determination if approved or denied. Review and approve program changes.
  - C. Provide performance training requirements to ETPs.
  - D. Review performance data uploaded for accuracy.
  - E. Provide ETPL training to workforce staff, partners, and board members.
  - F. Review and approval of non-ITA programs.
  - G. Approve programs that use technology-based or remote learning to ensure access to training services throughout the state, including rural areas.
  - H. LWDBs should conduct outreach to their local and regional employers and education and training providers to ensure that clients residing within the counties covered by the local area have an ample selection of training programs that provide credentials, certificates, and/or skills valued by employers within the target industry sectors identified in the State Plan and the Local or Regional Plan.
  - I. LWDBs should provide ITAs for training programs that support the client's career pathway in growing, in-demand occupations and/or target industry sectors identified in the local plan.
  - J. Ensure that there are sufficient numbers and types of providers of training services (including eligible providers with expertise in assisting individuals with disabilities and eligible providers with expertise in assisting adults in need of adult education and literacy activities) serving the local area and providing services in a manner that maximizes consumer choice and leads to competitive integrated employment for individuals with disabilities.
  - K. Monitor training providers and their programs for compliance and performance.
  - L. Establish relationships with the ETPs in the local area to provide technical assistance, collect performance information as required by the State, and determine whether the providers meet the required performance criteria.
  - M. Recommend that the state remove ETPs that fail to meet performance standards
  - N. Ensure that the state's ETPL is disseminated publicly through the local one-stop system, including in formats accessible to individuals with disabilities.
  - O. Identify in-demand occupations for the local area using relevant labor market information. Each LWDB must establish, maintain, review, and update annually a program of existing or emerging occupations that are determined to:
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- a. Be part of a sector of the economy that has a high potential for sustained demand or growth in the local area.
  - b. Target industry clusters within the local area.
  - c. Support economic growth priorities; and
  - d. Address industry-specific shortages.
- P. The LWDB staff and/or the Service Provider must accurately assess WIOA customers' career interests and assist them in the selection of training programs that are directly linked to said interests and employment opportunities in their local area.

**The SAWDB May Not:**

- a. Require additional criteria and information from local providers for the purpose of the ETPL; or set higher levels of performance than those required by the state criteria.
- b. Require additional criteria and information from local RAP providers to become or remain eligible in that local area; or set higher levels of performance than those required by the State as criteria for local programs to become or remain eligible to provide services in that local area.

**Training Providers**

**In-State Training Providers**

A provider must submit a virtual application by creating a provider account on NMJobs. Typically, one representative is designated to manage the account. The provider must provide the required information and agree to the NMJobs ETPL module assurances. Local ETPL coordinators will review and approve providers based on state eligibility requirements. Providers are encouraged to apply at least 60 days in advance to ensure sufficient time for eligibility decisions. Incomplete applications may not be approved. After account approval, the provider submits program offerings via the virtual application on Jobs.state.nm.us. ETPL Coordinators assist providers with registration and other related processes.

**Out-of-State Training Providers**

A jobseeker can choose a training provider outside their local area or state, including online programs, if the training is listed on New Mexico's Eligible Training Provider List (ETPL). Out-of-state providers must register in NMJobs and meet eligibility requirements. Out-of-area or out-of-state providers may be appropriate when local providers cannot meet demand, when they are closer than local options (e.g., in rural areas), or when deemed appropriate by the Local Board. These out-of-state providers must meet the same standards as in-state providers, and the State ETP Administrator ensures their programs align with local job market needs. Local Workforce Development Boards should carefully consider referrals to out-of-state providers when comparable options are available locally.

**Training Provider Eligibility Criteria**

**Licensing Requirements**

Training providers or programs may apply for initial eligibility at any time. All applications for the ETPL will be completed using the America's Job Center Online System (NMJobs). The online application process for training providers starts with verifying the training provider's license, certificate, or authorization by the New Mexico Department of Higher Education, or the relevant state agency or oversight agency, to operate training programs. If a provider complies with the

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oversight agency, the provider can proceed to the next step in the application process. The ETPL application requires all entities to provide the name(s) of the organization(s) that accredit, license, register, and/or approve the entity as an educational or training provider. All types of training providers' supporting documentation pertaining to licenses, registrations, approval, or accreditation will be uploaded to NMJobs. If a provider is not in compliance with the oversight agency, the provider will not be able to apply for inclusion on the ETPL until they meet the necessary requirements.

#### **Additional Eligibility Requirements**

- a. Training providers must have refund policies specifying when refunds for tuition and other costs associated with the training program will be allowed. Refund policies must be written and published so students know how to request a refund.
- b. Training providers must have a grievance policy providing due process for students to file complaints against faculty, staff, or other institution employees. Grievance policies must be written and published so that students are aware of how to file a complaint.
- c. Training providers must offer training programs that are related to in-demand occupations in the state, align with industry sector strategies and career pathways, and job-driven training programs.
- d. Training providers must have the ability to offer programs that lead to an industry-recognized credential, national or state certificate, or degree, including all industry-appropriate competencies, licensing and/or certification requirements, or employment in a specific occupation after receiving measurable technical skills.
- e. Training providers must ensure their ability to provide training programs that are physically and programmatically accessible for individuals with barriers to employment, including individuals with disabilities.
- f. Training providers suspended or debarred by any state or the federal government are not eligible to be included on the ETPL during the debarment period.

#### **Initial Eligibility Criteria**

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

Training providers or programs applying for initial eligibility must provide the following information. The approval of a provider's program(s) for the initial eligibility period of 12 months is based on:

- A. Successful submission by the provider of the following information for each program submitted:
  - a. Describe each program of training services to be offered.
  - b. Provide information on the cost of attendance, including tuition and fees.
  - c. Identify the type of industry-recognized certificate or credential, including recognized post-secondary credentials.
  - d. Indication of whether the provider has developed the training in partnership with a business (and the name of the business).
  - e. Information that addresses alignment of the training services with in-demand industry sectors and occupations.

- f. Outline of the prerequisites or skills and knowledge required prior to the commencement of training.
  - g. The purpose, duration, and objectives of the program to be offered
  - h. Student costs, including tuition and an itemized listing of all the mandatory fees, as well as refund and financial aid policies
  - i. Name of the person to contact
  - j. Prerequisites and other requirements of the training programs
  - k. Website link to a detailed description of the training programs
  - l. Background check requirements for all licensing and background restrictions for working in the occupation
- B. Required performance data including information about the program performance outcomes addressing a factor related to the WIOA performance indicators (employment 2nd and 4th quarter after exit, median earnings 2nd quarter after exit, credential attainment) Please reference Attachment III: Training Program Initial Eligibility Performance Requirement Scenarios, which provides a matrix of different scenarios depending on the duration for which the provider(s) program(s) has been offered to the students.

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

Any of the Following May Be Used:

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

Example: New Mexico Technology Center is applying for placement on the ETPL but has never collected data on WIOA performance indicators: (employment 2nd and 4th Quarter after exit, median earnings 2nd Quarter after exit, credential attainment). The school does have a Consumer Information Brochure that lists the New Mexico Technology Center is required to report enrollment, completion, placement, retention, and transfer rates for the institution. This information may be substituted in lieu of the specific WIOA performance indicators for initial eligibility only.

- C. Local Boards may add additional requirements for the providers, except RAPs, that result in providers on the state ETPL not being eligible for inclusion on the local ETPL. If the local board is reviewing provider applications for inclusion on the state ETPL, it must do so using only the state's requirements and not the local area's additional requirements.

Examples of additional information LWDBs may request include:

- a. Information on training programs linked to in-demand occupations in the local area,
  - b. Performance and cost information for the local outlet/site of multi-site providers
  - c. Information that demonstrates whether local providers are responsive to local program requirements, and
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- d. Other appropriate information related to the objectives of WIOA
- D. During the initial eligibility assessment, SAWDB is responsible for the following:
  - a. The ETPL Coordinator must review and recommend a training program within 30 days of the completed application date,
  - b. Contact the provider applicant to ensure that information missing from the application is made available prior to any eligibility determination,
  - c. Ensure training providers submit for consideration the performance and cost information for each course offering
  - d. Ensure training providers are following requirements for licenses, certifications, registrations, or exemptions, when applicable, from the appropriate State and/or federal oversight agency
  - e. Evaluate the experience and reputation of the training provider and the schedule of offerings,
  - f. Considering other information that may be locally relevant in deciding eligibility (i.e., whether the training provider is in partnership with a business

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

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

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

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

### **Performance Standards for Continued Eligibility Criteria**

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

- B. Total number of participants completing the program.
- C. Total number of participants exiting the program.
- D. Information regarding the completion rate of participants.
- E. Information on recognized post-secondary credentials received by program participants.
- F. Employment Rate (2nd Quarter)—the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program
- G. Employment Rate (4th Quarter)—the percentage of the program participants who are in unsubsidized employment during the fourth quarter after exit from the program
- H. Median Earnings—the median earnings of the program participants who are in unsubsidized employment during the second quarter after exit; and
- I. Credential Attainment—the percentage of the program participants who obtain a recognized post-secondary credential, or a secondary school diploma, or its recognized equivalent during participation or within one year after exit from the program
- J. Description of how the provider will ensure access to training services throughout the State, including rural areas, and through the use of technology.
- K. Describe how the providers provide training services to employed and/or individuals with barriers to employment.
- L. Information reported to State agencies on Federal and State training programs other than programs within WIOA title 1B, including partner programs (i.e., Adult basic education and literacy, Division of Vocational Rehabilitation, etc.) that are used to provide additional information about overall effectiveness, quality, and utilization of programs.

### **Performance Requirements**

Performance data must be updated and in the correct format before approval for continued eligibility. ETPL Coordinators are responsible for ensuring that providers are fully versed in and understand the performance standards and requirements for eligibility.

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

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

- A. Program Completion Rate—57.28% of the participants entering the program must complete the program.
  - B. Credential Attainment Rate—56.0% of total participants completing a program offering a recognized postsecondary credential must earn the credential.
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### **Modification of Approved Programs**

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

- A. The state and LWDB must be notified in writing of a change in price, along with the reason for the change.
- B. Notice of a change in ownership or form of control, which may include, but is not limited to:
  - a. The sale of the institution, the merger of two or more institutions, the division of one institution into two or more institutions, or a conversion of the institution from a for-profit institution to a non-profit institution to a for-profit institution.
- C. Notice of offering a program at a new location.
- D. Notice of deleting or suspending a program. The institution shall also detail its teach-out plan or how the students will be advised regarding other options.
- E. Notice of an action or review by the institution's accrediting body concerning the institution's accreditation/authorization status, such as loss of accreditation or any sanction relative to the institution's accreditation.

Changes must be reported within five business days. Additionally, all training organizations should notify the ETPL Coordinator of a change in the manager of the provider's account in NMJobs.

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

The distinction between denying an application and removing a provider and/or program is critical for local coordination and the state administration of the ETPL.

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

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

Additionally:

- A. The SAWDB, in coordination with NM SAE, must deny eligibility if an applicant fails to meet the minimum criteria for eligibility as specified in this policy.

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

- A. Failure of the provider to supply required data or intentionally supplying inaccurate information.
  - B. The SAWDB, in consultation with NM SAE, shall remove a program (or programs) from the ETPL if the provider fails to supply the participant data required for the performance review within the due dates established by this policy.
  - C. Unwillingness to supply required and available participant data. SAWDB should notify the provider, in writing, that their training program(s) will be removed from the state ETPL. Removals for this reason are not subject to formal appeal.
  - D. The SAWDB, in consultation with NM SAE, must remove a program if it is determined that the application intentionally supplied inaccurate information. It shall deny ETPL eligibility to a
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provider substantially violating any WIOA requirements. SAWDB should notify the provider in writing that their program(s) have been removed from the ETPL. Removal for this reason is not subject to formal appeal.

- E. The SAWDB shall remove a program of study (or programs) from the ETPL if the provider is unwilling to provide program costs and performance information about student completion rates, employment rates, and earnings for publication on NMJobs. In writing, SAWDB shall notify the provider that their training program(s) have been removed from the state ETPL. Removal for this reason is not subject to appeal.
- F. The SAWDB, in consultation with NM SAE, shall remove a program of study (or programs) from the ETPL if the provider is operating in violation of state laws and regulations. In writing, the SAWDB shall notify the provider that their training program(s) have been removed from the state ETPL. Removal of this reason is not subject to appeal.
- G. If state and local required performance levels are not met, the program shall be removed.

#### **Removal of a Provider from New Mexico's ETPL**

Providers on the ETPL determined to have intentionally supplied inaccurate information or substantially violated any provision of this policy and/or WIOA associated regulations must be removed from the ETPL. A provider whose eligibility is terminated under these conditions must be terminated for at least two years and is liable to repay all training funds (adult, dislocated worker, and youth) received during noncompliance. The repayment of funds will follow SAWDB policy and procedures. The intentional provision of inaccurate information includes, but is not limited to:

- A. False claims about business partnerships,
- B. The provision of false information concerning licensure, registration, or accreditation to operate in New Mexico,
- C. Charging a higher rate of training costs for WIOA participants than for self-pay individuals or those whose training is paid by other payment methods: or
- D. Misleading or false information regarding the training providers' ability to financially operate and sustain the training programs offered.

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

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

A training provider removed from the list for the above reasons may reapply for continued eligibility when they demonstrate that they meet all the requirements.

If a training provider or a program of training services is removed from the list while WIOA participants are enrolled, the participants may complete the program unless the provider or program has lost state licensing, certification, or authorization to operate by the appropriate state oversight agency.

SAWDB shall inform NM SAE in writing of its recommendation to remove an eligible training provider/program and include the reason(s) for removal.

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### **SAWDB Notification to Deny or Remove Providers**

If a provider is removed or denied from the ETPL, SAWDB must inform the provider in writing within 30 days of the decision. The letter must include the reasons for denial and information on the state's appeal process.

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

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

### **Complaints Against Providers**

The SAWDB has developed a process to track complaints related to ETPL training providers. At our discretion, these records can be used to determine continued eligibility. All complaints related to the ETP must be forwarded to NM SAE.

### **Appeals Process**

Training providers can appeal the rejection of their program for inclusion on the ETPL or the subsequent termination of eligibility. An appeal must be submitted in writing via email to the Administrator, NMETP.Administrator@dws.nm.gov, within 14 days after notification of the decision to remove. The appeal must include the justification for the appeal in the request. The training provider also has the right to request a hearing to discuss their appeal. The State Administrative Entity will assemble an ETP appeals board. The appeals board will schedule a hearing and decide within 60 days of the appeal. This will be a final decision and, if the removal is upheld, the program will be prohibited from applying for one year from the date of the final judgment or for two years if the removal was for the submittal of false information.

### **Registered Apprenticeship Programs (RAPs) and the ETPL**

RAPs are automatically eligible to be included on the ETPL and are exempt from the state and local eligibility requirements. Due to rigorous assessments, RAPs have passed as part of the registration process with the U.S. Department of Labor's Office of Apprenticeship (DOLETA/OA); additional information and performance requirements may not be required or requested of RAPs. If openings for new apprenticeships exist in the local area, the RA sponsor's programs will automatically be considered an in-demand training and included and maintained on the ETPL as a statewide in-demand occupation for as long as the openings remain unfilled. The state will contact new apprenticeship programs to inform them of their automatic eligibility for the state's ETPL.

RAPs that opt out of the inclusion on the ETPL may request the state's ETPL Administrator add them to the ETPL with the provision of only the following basic information:

- A. Occupations included within the RAP
  - B. The name and address of the RAP sponsor,
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- C. The name and address of the related Technical Instruction (RTI) provider(s) and the location(s) of instruction if different from the program sponsor's address,
- D. The method and length of instruction,
- E. The number of active apprentices,
- F. The total cost of the program,
- G. The appropriate NAICS and SOC codes, as currently required by the ETPL information system

RAPs will remain on the ETPL until:

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

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

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

Select training services are unsuitable for the ETPL but may be provided using a contract between the provider and the LWDB, provided the training services are chosen to emphasize informed customer choice, performance accountability, and continuous improvement. For these select training services, participants can receive training from a program not on the ETPL.

Training services that are exempt from the ETPL eligibility requirements include:

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

### **Attachments**

The following attachments contain helpful information to assist local boards in the eligibility process:

- A. Attachment I Definitions
  - B. Attachment II Training Program Approval Workflow
  - C. Attachment III Training Program Initial Eligibility Performance Requirement Scenario
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**Inquiries**

Questions related to this policy should be directed to the Administrative Entity's Southwestern Area ETPL Coordinator, Jaymi Simms, at [ETPL@EmployNM.com](mailto:ETPL@EmployNM.com), or (575) 744-4857.

**Attested**

This policy was reviewed and approved by the SAWDB on April 10, 2025.

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SAWDB Chair