

Region VII Workforce Investment Board P.O. Box 849 Petersburg, WV 26847	Performance/Subsequent Eligibility
	Date: March 18, 2010

Region VII Guidance Policy Letter No. 02-10

To: All Local Training Providers

Cc: All One-Stop Career Centers  
All Region VII WIB Staff  
All Region VII WIB members  
All Region VII LEOs

From: Region VII Workforce Investment Board

Subject: Performance Requirements for Initial Eligibility and Subsequent Eligibility

PURPOSE: To inform Local Training Providers of policy and guidelines regarding Performance Requirements and Subsequent Eligibility.

REFERENCE: Sections 122(c)(2)(5) & (6), 122(d)(1)(A)(i), 122(d)(1)(A)(ii), 122(d)(2), 122(f), and 20 CFR Part 663 Subpart B Sections 663.515(b) & (c) and 663.535(c).  
WorkForce West Virginia Policy Letter No. 17-01.

**BACKGROUND:**

The Workforce Investment Act of 1998, (WIA) Section 122, requires training providers to submit an initial eligibility application to each local Workforce Investment Board (hereinafter referred to as "WIB") where the training provider desires to provide training. The initial application must contain cost information and the required performance information (or an explanation as to why the training program's performance information is not available, i.e. the program is new). Training programs meeting the local WIB requirements are placed on the local WIB's training provider list. The local WIB's list, along with each provider's performance and cost information shall be submitted to WorkForce West Virginia for consideration for inclusion on the State List.

The Act also requires approved training providers to submit verifiable performance information, program costs and any additional information requested, for each program, to the local WIB on an annual basis (after the initial eligibility period). Programs meeting the local WIB's performance and other appropriate requirements shall be submitted to WorkForce West Virginia for review in order to remain on the State's eligible training program list. If the training provider has not substantially violated any requirement under the Act

and the training program meets the minimum performance requirements established by the State, the training program will remain on the State list.

**POLICY:**

**I. General Provisions for Local and State Approval of an Eligible Training Provider**

- A. Eligible providers of training services are those entities eligible to receive WIA Title I funds to provide training services to eligible adults, dislocated workers and older youth. The Region VII WIB, in partnership with the State, identifies training providers whose performance qualifies them to be placed on the Eligible Training Provider List.
- B. In order to provide training services, a provider must belong to one of the following categories:
  - 1. Postsecondary educational institutions providing a program described in WIA section 122(a)(2)(A)(ii);
  - 2. Entities that carry out programs under the National Apprenticeship Act (29 U.S.C. 50 *et seq*);
  - 3. Other public or private providers of a program of training services described in WIA section 122(a)(2)(C);
  - 4. Local Boards, if they meet the conditions of WIA section 117(f)(1); and
  - 5. Community-based organizations and other private organizations providing training under WIA Final Rule Section 663.430.
- C. A “program of training services” is defined as training resulting in the attainment of:
  - 1. A certificate, an associate degree, a baccalaureate degree; or
  - 2. The skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

**II. General Provisions for Development of a State-Wide Eligible Training Provider List**

- A. WorkForce West Virginia and the Region VII WIB utilize a State-wide database system, the Mid-Atlantic Career Consortium (MACC) to track eligible WIA clients and programs. Once approved, training providers must annually re-submit the course information and applicable performance data into the MACC for continuing local and State approval.

All prices on the ITA must match those specified in the MACC. No training contract will be approved for an amount exceeding costs specified in MACC for tuition and fees.

- B. Vendors will remain approved training providers for Region VII for one year. Training providers are required annually each December to submit general course and performance information into the MACC. Failure to update this information will lead to a program being removed from the state and local list as an approved WIA program.

### **III. General Provisions for Individual Training Accounts**

- A. WIA funding for training is limited to eligible WIA participants who are either unable to obtain grant assistance from other sources to pay the costs of their training, or who require additional assistance to pay the costs of such training. Examples of other funding sources include Trade Adjustment Assistance, Pell Grants established under Title IV of the Higher Education Act of 1965, or other State or community based grants the participant may be eligible to receive. The availability (or lack of availability) of all alternative funding sources must be documented in the participant's file pursuant to WIA Final Regulations 663.400.
- B. Individual Training Accounts (ITAs) are established on behalf of eligible individuals to finance training services. WIA Title I adults and dislocated workers and older youth shall select training services only from the list of eligible Training Providers who best meet their needs in consultation with their case manager. This training shall not be approved by Region VII WIB prior to an individual's determination of eligibility, WIA Final Regulations 663.410.
- C. Training shall be directly linked to occupations that are in demand in the participant's local area (or in another area if the participant is willing to relocate). The Region VII WIB shall approve training services for only those occupations determined to have a high potential for sustained demand and/or growth in the local area, WIA Section 134(d)(4)(G)(iii), Region VII WIB Guidance Policy Letter 07-08.
- D. Evidence of coordination and/or collaboration to leverage training costs with other agencies prior to expending WIA funds must be documented in the participant's file, WIA Section 134(d)(4)(B).

### **IV. General Provisions for Termination of a Training Program**

- A. If a training program cannot be closely linked to a demand occupation, the Region VII Workforce Investment Board may reject the program. This will be documented in the MACC. The program will not be listed on the regional training provider list and will not receive LWIA training dollars,

WIA Section 134(d)(4)(G)(iii), Region VII WIB Guidance Policy Letter 07-08.

- B. After a program has been in place for more than one program year performance data must be submitted to the state and the LWIB via the MACC. Failure to provide accurate performance information in the MACC will result in the LWIB not approving the program for LWIA funding, WIA Final Regulations 663.540.
- C. If a Training Provider's program fails to meet the negotiated performance levels established by the U.S. Department of Labor, Workforce West Virginia and the Local Workforce Investment Boards, the Region VII WIB will place the program on probation for a period of six months. After six months, the Training and Performance Committee will review the program and the documented performance. The committee will then recommend that either the probationary status be lifted or the program be removed from the LWIB's approved training list.

**V. General Provisions for Termination of a Training Provider**

- A. If the Region VII Workforce Investment Board, working with WorkForce West Virginia, determines that an eligible training provider substantially violates any requirement under the Act, the State agency shall recommend that the eligibility of the training provider to receive WIA funds be revoked and/or may initiate other actions as deemed appropriate by the Region VII Workforce Investment Board, WIA Final Regulations 663.565 and Section 122.
- B. Information used in determining whether or not a training provider will be terminated may be gathered from various sources, including:
  - 1. Monitoring Reports completed under the policies set forth by the Region VII WIB;
  - 2. Performance information submitted by the service provider under WIA Final Regulations 663.540;
  - 3. Information obtained through annual training provider course eligibility reviews.
- C. Enforcement of termination of an eligible training provider shall proceed as follows:
  - 1. The Region VII WIB will submit a recommendation to the state agency to remove the provider from the list, WIA Final Regulations 663.565(b)(1).

2. WorkForce West Virginia, upon receipt of the information accompanying the recommendation from the Region VII WIB, may recommend removal of the provider from the state list:
  - a. If the agency determines the provider failed to meet the levels of prescribed performance, WIA Final Regulations 663.565(b)(2).
  - b. If the provider has intentionally supplied inaccurate information, WIA Final Regulations 663.565(b)(3), or;
  - c. If the provider has violated any provision of Title I of the Act or regulation 663.565(b)(3).
  
- D. WorkForce West Virginia shall determine what disciplinary action is most appropriate for those eligible training providers found to be in violation of any requirement under the Act. It may be deemed that:
  1. A terminated training provider will not eligible to receive funds for any programs for a period of time, but not less than two (2) years, WIA Final Regulations Section 122(f)(1) and 663.656(b)(3).
  2. A terminated training provider may be liable for repayment of all funds received for the program during any period of noncompliance, WIA Final Regulations 663.565(b)(3).
  3. Action may be taken for any clients active in training to continue to receiving services from another service provider for the remainder of their training period.
  
- E. Any eligible training provider found to be in violation of any requirement under the Act, for which disciplinary action has been determined to be appropriate, may appeal the decision in the following manner:
  1. Denial or removal by Region VII Workforce Investment Board:
    - a. Submit a written request for a hearing to the local Workforce Investment Board. This hearing – conducted by the local Board’s Training and Performance Committee – must take place within 30 days of receipt of the request by the local board;
    - b. The hearing shall include a rationale as to why the eligibility was terminated or denied and an appeal by the training provider as to why the decision should be reversed or a compromise should be established;
    - c. Within 10 working days after the training provider is notified of the results from the local hearing, the training provider may appeal the local board’s decision to WorkForce West Virginia. The training

provider must submit the appeal using the WorkForce West Virginia Training Provider Appeal form available at each WorkForce West Virginia Career Center or from [www.workforcewv.org](http://www.workforcewv.org). All supporting documentation must be submitted with the appeal form.

2. Denial or removal by WorkForce West Virginia:
  - a. WorkForce West Virginia has 30 working days from receipt of the appeal form and supporting documentation to conduct an investigation, hold a hearing and issue a decision. The investigation may include, but is not limited to, on-site visits, informal conferences or conference calls to seek a resolution, and a formal hearing.
  - b. The State Workforce Investment Council will have 30 working days from the receipt of any appeal arising from WorkForce West Virginia's decision to issue their decision. The decision of the State Workforce Investment Council is final. The State Workforce Investment Council's Chairperson, Vice-Chairperson and the legal counsel for State will conduct the appeal review.

SUMMARY:

Current WIA training providers, including programs eligible to receive funds under Title IV of the Higher Education Act of 1965, and programs under the National Apprenticeship Act, and training providers who desire to submit an initial application, must submit program performance and cost information to each local WIB with which the provider desires to be listed.

Each local WIB reviews the information to determine if the program meets the required performance established by the Local WIB and the State. If the WIB determines the program meets those requirements, the WIB will send a copy of the application to the State for inclusion on the State training provider list. The State will review each initial and renewal application to ensure that, at the minimum, the State performance levels and requirements are met. Programs approved will be added to the State training provider list. **Only those programs included on the State list will be eligible to receive WIA referrals.**

A training provider must deliver results and provide accurate information in order to retain its status as an eligible training provider. If the provider's programs do not meet the established performance levels, the programs will be removed from the eligible provider list.

The Act requires the State to verify performance information. The State will conditionally approve programs based on the performance information submitted by the training provider, but if after verification of the performance data submitted by the provider, it is determined the program did not meet the

required performance measures, the program will be removed from both the approved state training list and the approved local training program list.

If it is determined that a provider or an agent of the provider intentionally supplied inaccurate information on either the initial or the renewal application, the provider shall be ineligible to receive WIA training funds for any program, for a period of time, of not less than two years.

Region VII WIB has established an appeal process that includes a State level appeal.

**ACTION:** Effective March 18, 2010 the Region VII Workforce Investment Board will advise all Region VII Eligible Training Providers and those Training Providers to desire approval as an Eligible Training Provider to follow the procedures outlined in this policy. Region VII WIB will make available the WIA Training Provider Application and WIA Training Renewal Application to all providers interested in establishing eligibility.

A copy of this policy can be obtained from the Region VII Workforce Investment Board.

**EXPIRATION DATE:** This policy is in effect until rescinded or modified by the Region VII Workforce Investment Board.

**SIGNATURES:**

  
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T.J. Van Meter, Executive Director

3/22/10  
Date

  
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Tina Combs, Chairperson Region VII WIB

3/24/10  
Date