

Workforce Innovation and Opportunity Act Title I-B

Washington State Policies

SECTION D

This document has been formatted for use on this web site. It contains hyperlinks that enable the user to jump directly to related documents.

Grantees, subrecipients, and contractors funded under the Workforce Innovation and Opportunity Act, (WIOA) whether in whole or in part, must abide by the Workforce Investment Act of 1998, the WIOA Regulations, all applicable Office of Management and Budget (OMB) Circulars, state regulations in laws and rules (Revised Code of Washington and Washington Administrative Code), Office of Financial Management (OFM) policies, and the Washington State WIOA Policies.

EFFECTIVE DATE: July 1, 2017

WIOA POLICY NUMBER: 5611

SUBJECT: Governor's Procedure for Determining Training Program Eligibility

BACKGROUND:

The Governor's Procedure for determining training program eligibility sets forth Washington State's policy for determining the eligibility of training providers and their programs to receive Workforce Innovation and Opportunity Act (P.L. 113-128) Title I-B Individual Training Accounts, and to train dislocated workers receiving additional unemployment insurance benefits under the state's Training Benefits Program. The Washington State Eligible Training Provider list can be accessed at: www.careerbridge.wa.gov

Local Workforce Development Councils are required to use the procedure. The procedure shall be used to determine eligibility during the time period beginning July 1, 2017 and ending on June 30, 2018. The Workforce Training and Education Coordinating Board (Workforce Board), on behalf of the Governor, may modify or extend the procedure for use beyond June 30, 2018.

The Procedure consists of three parts. Part I establishes the state required performance levels. Part II establishes the definitions of performance measures and the methodological

protocols. Part III establishes the processes for training provider application, data submission, denial of application, and appeal.

REQUIRED POLICIES

Part I. State Required Performance Levels

In order for a program of a training provider to be eligible, the program must meet or exceed certain performance levels.

A program must meet or exceed each of the following minimum performance floors:

- ▶ A completion rate of 20 percent
- ▶ An employment rate of 50 percent
- ▶ An earnings level of \$3,943 in a calendar quarter

Failure to achieve any one of these minimum floors shall make the program ineligible.

In addition, the program must achieve at least an average of 100 percent of the following performance targets:

- ▶ A completion rate of 30 percent
- ▶ An employment rate of 65 percent
- ▶ An earnings level of \$4,965 in a calendar quarter

The average shall be calculated by dividing actual performance on each measure, for which there is sufficient data, by the target for that measure, adding the results together, and dividing by the number of measures for which there is sufficient data.

If a program meets or exceeds each of the minimum performance floors and an average of 100 percent of the performance targets, the program shall be determined to have satisfied the state required performance levels.

If a program meets or exceeds the minimum performance floors but does not achieve an average of 100 percent of the performance targets, then the program's actual performance on each measure shall be adjusted for each measure by a mathematical regression model that takes into account some of the demographic characteristics of the program participants and one or more economic characteristics of the county or counties in which the program participants reside.

If application of the adjustment models result in a program's average performance meeting or exceeding 100 percent of the performance targets, and the program meets or exceeds each of the minimum performance floors (without regression adjustment) then the program shall be determined to have satisfied the state required performance levels.

If a program fails to meet the eligibility requirements for earnings, the program may still qualify by meeting the requirements for hourly wages. The requirements for hourly wages are:

Minimum hourly wage floor = \$10.64 per hour
Performance target = \$11.76 per hour

Local Workforce Development Councils (WDCs) may establish higher performance levels and/or additional criteria for eligibility.

Part II. Definitions of Performance Measures and Methodological Protocols

Part II defines the performance measures and methodological protocols that will be used to determine training program eligibility.

The three measures shall be used to determine eligibility to receive Workforce Innovation and Opportunity Act (WIOA) Title I-B Individual Training Accounts.

The three measures will also be used to identify training programs that meet program performance criteria under the state's Training Benefits Program. Individuals may receive additional unemployment benefits under the Training Benefits Program only if they are enrolled in a training program that meets the criteria.

The performance measures are based on administrative records submitted to the Workforce Board and matched with other administrative records as appropriate. Additional, supplemental data will be accepted under certain conditions as specified in Appendix B.

It is the responsibility of the training provider to submit the necessary data elements to the Workforce Board for the performance measures to be calculated. As required under WIOA, providers must submit performance data annually. The required process for data submittal is identified in Part III of this policy.

Definitions of Performance Measures

The performance measures are categorized by two groups. The first group applies to all program participants, the second group applies only to participants who receive assistance under WIOA sec.134.

Performance Measures for all individuals participating in the programs of training services, including individuals who are not receiving assistance under WIOA section 134 and individuals who are receiving such assistance.

Completion Rate

1. Completion Rate: “information on the program completion rate for such participants.” (WIOA sec. 122(b)(2)(D))

State definition: The percentage of all exiters from the applicable provider program who successfully completed that program.

Calculation: The number of successful completions of the applicable program during the reporting period divided by the number of all exiters from the applicable program during the reporting period.

$$\frac{\text{\#successful completions of the applicable program during the reporting period}}{\text{\#exiters from the applicable program during the reporting period}}$$

Definition of terms

Program: One or more courses or classes, or a structured regimen, that upon completion leads to:

- (1) a certificate or a degree, or
- (2) 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 industries and determined prior to training.

Exiters: All participants in the program who left during the reporting period, no matter what the reason and regardless of their start date.

Reporting Period: 12 recent calendar quarters.¹

Successful Completers: All exiters who successfully completed the program during the reporting period include:

¹ The most recent 12 calendar quarters that allow for sufficient time for data analysis prior to eligibility determination.

- ▶ Those who have graduated with a degree or certificate from the program.²
- ▶ For community and technical colleges and private institutions, students who have transferred to a four-year institution, or students who have completed 45 vocational credits, with a C or above average and are employed.³

Minimum Data Requirement: Records on 25 exiters from the applicable program or program category during the reporting period. Records on 15 exiters from the applicable program, if the provider has reported at least three years of data.

Grouping Data: For performance analysis, the records from individual training programs that do not meet the minimum data requirement will be grouped into categories based on similar job type and wage/earnings level using CIP codes. If a particular program does not have the minimum number of records for a measure, then the determination for that measure will be based on the performance of all training programs that are in the same program category as the particular program in question.⁴ If there are an insufficient number of records from the training programs in the category from the categories listed in Appendix A-1, then the determination will be based on the training programs that are in the same program category based on the program categories in Appendix A-2. If neither program category has the minimum number of records for determining eligibility based on the performance measure, then the measure will not be used to determine eligibility.

If a program has between 15 and 25 exiters and meets performance standards, but does not meet performance standards when grouped with similar programs, grouping will not be used.

Programs with at least 15 usable student records and for which three years of data have been reported must meet the performance requirements at the individual program level and will not be grouped.

Employment Rate

2. Employment Rate: “The percentage of program participants who are in unsubsidized employment.” (WIOA sec. 116(b)(2)(A))

State definition: The percentage of all exiters from the applicable program who obtained unsubsidized employment.

² For community and technical colleges, these also include students whose exit status is Code 9, “earned a non-degree certificate award.” For apprenticeships, these include those who the committees have designated as having completed their programs.

³ For institutions that do not use the same quarter credit system as the community and technical college system, the acceptable equivalent is at least 9 months of a program that takes 9 months or more to complete.

⁴ See Appendix A for list of the program categories. Apprentice trade codes are translated into CIP codes for this purpose.

Calculation: The number of exiters from the applicable program during the reporting period with unsubsidized employment in the fourth quarter after the quarter of exit divided by the number who exited the applicable program during the reporting period.

$$\frac{\text{\#exiters from the applicable program employed in the fourth quarter after exit}}{\text{\#exiters from the applicable program during the reporting period}}$$

Definition of terms

Program: One or more courses or classes, or a structured regimen, that upon completion leads to:

- (1) a certificate or a degree, or
- (2) 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 industries and determined prior to training.

Exiters: All participants in the program who left during the reporting period, no matter what the reason and regardless of their start date.

Reporting Period: 12 recent calendar quarters.

Successful Completers: All exiters who successfully completed the program during the reporting period include:

- ▶ Those who have graduated with a degree or certificate from the program.
- ▶ For community and technical colleges and private institutions, students who have transferred to a four-year institution, or students who have completed 45 vocational credits, with a C or above average and are employed.

Minimum Data Requirement: Records on 25 exiters from the applicable program or program category during the reporting period. Records on 15 exiters from the applicable program, if the provider has reported at least three years of data.

Grouping Data: For performance analysis, the records from individual training program that do not meet the minimum data requirement will be grouped into categories based on similar job type and wage/earnings level using CIP codes. If a particular program does not have the minimum number of records for a measure, then the determination for that measure will be based on the performance of all training programs that are in the same

program category as the particular program in question.⁵ If there are an insufficient number of records from the training programs in the category from the categories listed in Appendix A-1, then the determination will be based on the training programs that are in the same program category based on the program categories in Appendix A-2. If neither program category has the minimum number of records for determining eligibility based on the performance measure, then the measure will not be used to determine eligibility.

If a program has between 15 and 25 exiters and meets performance standards, but does not meet performance standards when grouped with similar programs, grouping will not be used.

Programs with at least 15 usable student records and for which three years of data have been reported must meet the performance requirements at the individual program level and will not be grouped.

Earnings Level

3. Earnings level: "The wages at placement in employment of all individuals participating in the applicable program."

State definition: The quarterly earnings of all participants exited from the applicable program with earnings in unsubsidized employment in the fourth quarter after exit.

Calculation: The median quarterly earnings of exiters from the applicable program during the reporting period with reported earnings in the fourth quarter after the quarter of exit.

Definition of terms

Program: One or more courses or classes, or a structured regimen, that upon completion, leads to:

- (1) a certificate or a degree, or
- (2) 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 industries and determined prior to training.

⁵ See Appendix A for list of the program categories. Apprentice trade codes are translated into CIP codes for this purpose.

Exiters: All participants in the program who left during the reporting period, no matter what the reason and regardless of their start date.

Reporting Period: 12 recent calendar quarters.

Successful Completers: All exiters who successfully completed the program during the reporting period include:

- ▶ Those who have graduated with a degree or certificate from the program.
- ▶ For community and technical colleges and private institutions, students who have transferred to a 4-year institution, or students who have completed 45 vocational credits, with a C or above average and are employed.

Minimum Data Requirement: Records on 25 exiters from the applicable program or program category during the reporting period. Records on 15 exiters from the applicable program, if the provider has reported at least three years of data.

Grouping Data: For performance analysis, the records from individual training program that do not meet the minimum data requirement will be grouped into categories based on similar job type and wage/earnings level using CIP codes. If a particular program does not have the minimum number of records for a measure, then the determination for that measure will be based on the performance of all training programs that are in the same program category as the particular program in question.⁶ If there are an insufficient number of records from the training programs in the category from the categories listed in Appendix A-1, then the determination will be based on the training programs that are in the same program category based on the program categories in Appendix A-2. If neither program category has the minimum number of records for determining eligibility based on the performance measure, then the measure will not be used to determine eligibility.

If a program has between 15 and 25 exiters and meets performance standards, but does not meet performance standards when grouped with similar programs, grouping will not be used.

Programs with at least 15 usable student records and for which three years of data have been reported must meet the performance requirements at the individual program level and will not be grouped.

⁶ See Appendix A for list of the program categories. Apprentice trade codes are translated into CIP codes for this purpose.

Appendix A to Part II

Accounting
Administrative Support
Agriculture, Forestry and Fisheries
Airframe/Power Plant Associate Degree Nurse Auto Diesel
Commercial & Graphics Art Computer Maintenance Tech Construction Trades
Cosmetology
Culinary Arts Dental Assisting Dental Hygienist Drafting
Early Childhood Ed Electrical Equipment Repair Electronics Technology Engineering
Technology

A-1 Program Categories

Industrial Technology (except electronics tech) Information Technology
Legal/Real Estate Services
Machinist
Managerial and Managerial Support
Marketing and Sales
Med Lab Tech/Histologic
Medical Assisting
Medical Xray Nursing Assistant
Other Health Services Other Health Tech Other Services
Other Technical
Paramedic EMT, Operating Tech
Pharmacy Assisting Physical Therapy Practical Nurse
Precision, Production, Crafts
Protective Services
Radiation & Imaging
Social Services
Support Courses, Parent Ed Teaching/Library Assistant Transportation Operators
Veterinarian Assistant Welding

A-2 Program Categories

Agriculture, Food & Natural Resources
Architect & Construction
Arts, A/V & Communication
Auto & Diesel Mechanics
Business, Management & Admin
Education & Training
Finance
Health Services
Health Technology
Hospitality & Tourism
Human Services
Information Technology
Law, Public Safety & Security
Manufacturing
Marketing, Sales & Services
Nursing (RN & LPN)
Other
Science, Tech, Engineering & Math
Transportation, Distribution & Logistics

Appendix B to Part II Supplemental Data

Under certain conditions a training provider may submit supplemental data to the Workforce Board to be used to determine the eligibility of the provider's program(s). Supplemental data refers to data that is in addition to administrative records used by the Workforce Board in calculating the performance measures.

Employment

If a program of a training provider fails to meet the required performance level based on administrative records, then the provider may submit supplemental employment data to the Workforce Board to measure unsubsidized employment for performance measures A-2, B-1, or B-2. Supplemental data may consist of either (1) individual employment records that meet the standards of the provider's accrediting agency; or (2) a copy of a W-2 form, pay stub, or Internal Revenue Service 1099 form that documents employment during the time period in the measure. As a supplemental measure of unsubsidized employment or self-employment, a provider may submit survey responses that indicate an individual was employed or self-employed during the time period in the measure. A WDC may establish a local policy to accept other types of supplemental data for individual participants at its discretion.

Wages

If a training program fails to meet the required performance levels, the program may submit supplemental earnings data to Workforce Board for the Employment Rate or Earnings Level measures for former participants who are self-employed.

The supplemental data may consist of survey responses that indicate an individual's earnings from self-employment during the time period in the measure, or a copy of a tax form submitted either to the Washington State Department of Revenue or to the United States Internal Revenue Service that shows earnings from self-employment during the year in which the fourth quarter post-exit occurs. For purposes of the measure(s), the gross earnings reported for the year will be divided by four in order to approximate quarterly earnings. A WDC may establish a local policy to accept other types of supplemental data for individual participants at its discretion.

Local area policy option

WDCs have the option of establishing a local area policy to accept supplemental individual participant data from a training provider with a program that did not meet state required performance levels. Adopting such an option requires the WDC to inform an affected training provider that certain supplemental data will be accepted by the WDC and the required due date for the receipt of the data. After reviewing supplemental information supplied by the school, the WDC shall conclude that WIOA Sec.122(b) performance requirements were either met or not met. The WDC shall then notify the school and the Workforce Board of their conclusion.

Part III. New Applications, Annual Renewal and Data Submittal, Denials of Eligibility and Appeal Processes

Part III covers:

- A. Procedures for approving new applications for ETP eligibility from training providers.
- B. Annual renewal guidelines for training programs already on Washington State's Eligible Training Provider (ETP) list, including the process for required data submittal.
- C. Procedures for denying initial ETP eligibility, removing a training program from the list, and appeals.

Section A. Procedures for approving new applications for ETP program eligibility from training providers.

Application

A training provider who wishes to have one or more of its programs of training placed on the state ETP list will submit an application to the Workforce Board. A training provider may apply on-line by going to: www.careerbridge.wa.gov/.

Types of Training

Only occupational skill training programs are allowed on the state ETP list. Programs are not allowed on the list if they are:

- ▶ Avocational training (for fun, recreation, or non-job-related)
- ▶ On the job training
- ▶ Incumbent worker training: programs that exclusively train workers on behalf of their employers
- ▶ Internships or mentorships with no classroom or online training component
- ▶ Online training that is administered by a school located outside of Washington
- ▶ Subscription or membership fee based self-paced training
- ▶ Training that consists solely of a purchased CD or downloaded program for a fee and is self-paced
- ▶ Intensive or short-term pre-vocational training

Assurances form

All first-time applicants except Registered Apprenticeship programs are required to download, sign, and return an assurances form to the Workforce Board certifying that the training provider:

- (a) is a legal entity, registered to do business in Washington State
- (b) has not been determined to be ineligible to receive Federal funds

- (c) does not discriminate against nor deny employment or services to any person on the grounds of race, color, religion, sex, national origin, age, handicap, citizenship, political affiliation or belief
- (d) complies with the 1990 Americans with Disabilities Act (ADA)
- (e) has demonstrated effectiveness in operating occupational classroom or online training program(s)
- (f) agrees that provider facilities, classroom instruction, relevant financial records, and attendance records may be reviewed during the period of performance of any voucher by state, federal and/or local monitors or auditors to ensure compliance with funding requirements

As part of the ETP application process, training providers who are not apprenticeship programs must sign and return to the Workforce Board a second portion of the assurances form, assuring that a school representative reviewed the data reporting requirements posted with application instructions and that the school agrees to provide the Workforce Board required student records for all students trained in each of the programs identified in the ETP application and in subsequent applications to place additional programs on the list. The school must agree to submit the student records during the next fall reporting period. In addition, the training provider must agree to the posting of performance outcomes and cost information, for each of their programs on the ETP List, on the state's performance results website, careerbridge.wa.gov. The Workforce Board will not consider the school's ETP application to be complete until it receives the signed assurance form.

A WDC may request the Workforce Board to add additional ETP application requirements for schools whose training facilities are located in the WDC's area. In such cases, the training provider, in the process of applying to the ETP on-line, is required to contact the WDC for instructions and submit any required additional information to the appropriate WDC.

Approval process

Until the Workforce Board completes its annual program performance review, the Workforce Board will inform the training provider that the training program meets the state's requirements for ETP **"interim eligibility"** status if:

- a. the training provider's ETP application is complete, ETP assurances form requirements are met, and other related state requirements are met; and
- b. the program meets *initial* eligibility requirements.

Initial eligibility is met in either one of two ways:

1. *Initial* eligibility is automatically met if the training provider is:
 - ▶ a public community or technical college or public four-year college or university
 - ▶ a registered apprenticeship program

- ▶ a private vocational school licensed by the Workforce Board or by the Department of Licensing, or approved by the Washington Student Achievement Council or approved by the Federal Aviation Administration
- ▶ an educational institution eligible to receive federal funds under Title IV of the Higher Education Act of 1965.

2. If a school does not fall in any of the training provider categories listed above, *initial* eligibility must be determined by the WDC in the area where the school facility is located. The Workforce Board will notify the appropriate WDC when it has received an on-line application from a school in this “other” category. In these special cases, it is the responsibility of the WDC to determine if the training provider meets *initial* eligibility. Staff of the WDC must conduct a general review of the training provider’s qualifications and notify the Workforce Board of its conclusions. Examples of elements that the WDC may consider in its review include: financial stability, quality of instructions and administrators, quality of the facilities and training equipment, curriculum, cost, rate of participant certification for a trade, job placement rates, wages, and completion rates.

In these special cases, the Workforce Board will not process the training provider’s ETP application until it receives a notice from the appropriate WDC reporting the WDC’s decision as to whether the training provider meets *initial* eligibility.

NOTE: The Workforce Board will not process an ETP application from a private vocational school if the training program on the application is not licensed and licensing is required.

Out of state schools: The Workforce Board will not accept new applications from training providers whose training facility is located out of state.

Arranging out of state training: It is the policy of the state to allow an eligible WIOA Title I-B adult or dislocated worker to use an Individual Training Account (ITA) voucher to purchase training services offered by a provider on another state’s ETP list whenever permitted under WIOA Sec 122(g). In arranging out-of-state ITA vouchers, a WorkSource Operator must follow WIOA Sec.134(d) requirements, Washington State WIOA policies, and local WDC ITA policies. The local policies may affect the terms of an individual training account plan and may be more restrictive concerning out-of-state ITAs. Training programs located outside of Washington state cannot be on Washington’s ETP list.

Section B. Annual renewal and data submittal for training programs already on Washington’s ETP list.

Data Submittal

Each year, in the Fall, the Workforce Board will collect student data from all training programs on the state ETP list. The State Board for Community and Technical Colleges (SBCTC) will supply the participant data for Washington’s public community colleges and technical colleges. The Department of Labor and Industry (L&I) will supply the data for Washington’s registered apprenticeship programs, except for non-credit certificate programs. The Education Research and Data Center (ERDC) will supply the participant data for Washington’s public four-year institutions, except for certificate programs. The Workforce Board will directly contact all other training providers on the ETP list (private career schools, private four-year institutions, community-based organizations, others) to request the required participant data and to inform the school when the data is due to the Workforce Board.

Annual Renewal

Registered Apprenticeship programs remain eligible providers once added [WIOA Sec. 122(a)(3)] and are not subject to the following Annual Renewal policies.

Except for Registered Apprenticeship programs, renewal of eligibility for a training program requires the program to meet required levels of performance [WIOA Sec.122(b)(1)]. The data sources for identifying performance results are administrative records (e.g. participant records and unemployment insurance wage records). In some cases, the Workforce Board will accept supplemental data from the training provider. See Parts I and II for the state policies on required performance levels, performance measures, minimum data requirements, and conditions when supplemental data may be accepted by the Workforce Board. The Workforce Board will compare a training program’s performance results (completion rates, employment rates, earnings) with state performance criteria to determine whether a training program meets state required performance levels. The Workforce Board will inform the local WDC and the provider of its determinations. Some programs of training may not have the minimum data required for the Workforce Board to conduct the state performance review. The Workforce Board will inform the provider and WDC that the training program(s) will be given an “interim eligibility” status and remain on the state list until minimum data is available to conduct the state’s performance review.

Renewal of eligibility for a training program also requires that the program’s performance and cost information shall be posted as part of Job Training Results, the state’s consumer report system for WIOA. This performance and cost information is posted on the Workforce Board’s website Career Bridge, located at www.careerbridge.wa.gov. Posting performance information shall be limited by the same minimum data restrictions that apply in determining program eligibility. The

posting of employment information shall include available information on self-employment, where applicable.

WIOA Sec.122(b)(3) allows WDCs to set higher levels of performance than the level required by the state. A WDC adopting local standards that go beyond the state minimum criteria shall provide these local procedures to the Workforce Board.

Section C. Procedures for denying initial ETP eligibility, removing a training program from the list, and appeals.

1. Denial of Program Eligibility for First-Time Listing on the State WIOA Eligible Training Provider List

a. Reasons for Denial

- i. The Workforce Board, in coordination with the appropriate WDC, shall deny eligibility if an applicant fails to meet the minimum criteria for initial eligibility as specified in local WDC policy and Part III, Sec. A. of this policy.
- ii. The Workforce Board shall deny eligibility if the applicant fails to provide a complete application, including a signed assurances form.
- iii. The WDC shall deny ETP eligibility if the applicant intentionally supplied inaccurate information and shall deny ETP eligibility to a provider who has substantially violated any WIOA requirements. Penalties are described in WIOA Sec.122(f)(1)(A).
- iv. After conferring with the Workforce Board's Private Career School Licensing unit, the Workforce Board, in consultation with the appropriate WDC, shall deny ETP eligibility to any private career school required by Washington State law to be licensed to operate in the state and which is not licensed.

If the Workforce Board/WDC denies eligibility for first-time listing of a provider's program on the ETP list, the Workforce Board/WDC must, within 30 calendar days of this decision, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process. A copy of this notice must be sent to the Workforce Board/WDC.

2. Removal of a Program from the State ETP List

a. Reasons and procedures for removal

- i. The Workforce Board shall remove a program (or programs) from the ETP list if the provider fails to supply the Workforce Board with available participant data

required for the performance review within due dates established by the Workforce Board.

Training providers who are unwilling to supply required and available participant data shall be informed by the Workforce Board, in writing with 30 days' notice, that their program(s) of training will be removed from the state ETP list. Removals for this reason are not subject to formal appeal.

- ii. The Workforce Board shall remove a program if it is determined that the applicant intentionally supplied inaccurate information and shall deny ETP eligibility to a provider who has substantially violated any WIOA requirements. Training providers shall be informed by the Workforce Board, in writing, that their program(s) of training have been removed from the state ETP list. Removal for this reason is not subject to formal appeal.
- iii. The Workforce Board shall remove a program (or programs) from the ETP list if the provider is unwilling to have its cost information and performance information pertaining to completion, employment rate and earnings posted on careerbridge.wa.gov, the State's WIOA consumer report website. Training providers shall be informed by the Workforce Board, in writing, that their program(s) of training have been removed from the state ETP list. Removal for this reason is not subject to formal appeal.
- iv. The Workforce Board shall remove a program (or programs) from the ETP list if the provider is operating in violation of the state's Private Vocational Schools Act or other Washington state laws requiring licensure. Training providers shall be informed by the Workforce Board, in writing, that their program(s) of training have been removed from the state ETP list. Removal for this reason is not subject to appeal.
- v. If state or local required performance levels are not met, the program shall be removed. Removal procedures are described as follows:
At the point when the Workforce Board determines that a program will be removed from the ETP list due to not meeting minimum performance standards, the Workforce Board shall, within 30 calendar days of this decision, inform the provider in writing and include the reason(s) for the removal and complete information on the appeals process, if applicable. The Workforce Board must send a copy of this notice to the appropriate WDC.

The Workforce Board shall remove a program that was determined to be no longer eligible no earlier than the 31st calendar day from the issuance of the removal notice. If a training provider chooses to appeal, a training program that is subject to removal shall remain on the state ETP list until the appeal is concluded.

In support of the customer: When a program of training is removed from the state ETP list, WIOA registrants currently enrolled in the program with the support of an ITA may complete their training (as outlined in their WIOA Individual Employment Plan).

3. Procedures for Appeals to a WDC

- a. Each WDC must have a written appeal policy that includes the following required provisions:
 - i. A provider wishing to appeal a decision by a WDC must submit a written appeal to the WDC within 30 calendar days of the issuance of the denial notice. The appeal must include a statement of the desire to appeal, specification of the program in question, the reason for the appeal and the signature of the training provider.

Note: If the appeal is limited solely to the issue of a program of training not meeting state required performance levels, and if the WDC does not have an established policy accepting supplemental participant data, the WDC may choose to expedite the appeal process by authorizing the Workforce Board to have the school appeal directly to the Workforce Board, otherwise the school will be instructed to send their letter of appeal to the WDC in the area where their school is physically located with a copy to the Workforce Board. The WDC may refer the appeal on to the Workforce Board as appropriate.

- ii. The first step in any WDC appeal process should be an informal meeting between the WDC staff and the appealing provider. This meeting is an opportunity for the WDC to explain to the training provider why a training program is not eligible to be on the WIOA ETP list. The WDC may use this meeting to invite the training provider to supply supplemental participant data (if WDC policies allow supplemental participant data).
- iii. The WDC procedures must include the opportunity for an appealing provider to have a hearing before a hearing committee. Guidelines for how a hearing committee is structured must be described in the WDC's appeal policy. The committee shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten calendar days before the scheduled hearing. Both parties shall have the opportunity to request documents relevant to the issue(s). Supplemental participant data may be presented by the training provider if the WDC accepts supplemental participant data.
- iv. A WDC must notify the provider of its final decision on an appeal within 90 calendar days of receipt of the appeal. This period includes a hearing if requested by the provider. In addition, the WDC must notify the Workforce Board of its decision. The WDC's written notification of its final decision

must state that the provider has the right to request an appeal to the Workforce Board.

4. Procedures for Appeals to the Workforce Board

- a. This procedure applies: (1) to a provider whose appeal was directly referred to the Workforce Board by the WDC; and (2) to a provider who has exhausted the appeal process of a WDC and is dissatisfied with the WDC's final decision.
 - i. A provider wishing to appeal to the Workforce Board must submit a written appeal request to the Workforce Board within 30 calendar days of the issuance of the denial or removal notice by the Workforce Board, or in cases where the denial originated with the WDC, within 30 calendar days of the issuance by the WDC of its final decision on an appeal. The request for appeal must be in writing and include a statement of the desire to appeal, specification of the program in question, the reason for the appeal and the signature of the appropriate provider official.
 - ii. The Workforce Board must conduct a review within 30 calendar days from the date of receipt of the review request. The Workforce Board will determine:
 - (1) whether the WDC followed its appeal procedure; and (2) whether the WDC's decision was reasonable, fair, and in keeping with the intent of WIOA. In appeal cases where the training program met state required performance levels but did not meet the WDC's performance standards, the Workforce Board will establish whether the WDC correctly followed its local performance procedures including, where applicable, its procedures for reviewing and accepting supplemental data provided by the appealing training provider. In an appeal challenging the Workforce Board's process for determining state required performance levels, the Workforce Board will review whether it followed consistent procedures when applying its standards. The decision rendered by the Workforce Board, on behalf of the Governor, shall be final.