

Location: Western Iowa Tech Community College & Teleconference

Date: 11/21/19

PRESENT - LWDB MEMBERS				ABSENT - LWDB MEMBERS			
Sara DeAnda		Dan Moore		Sara DeAnda	X	Dan Moore	X
David Gleiser	X	James O'Donnell		David Glesier		James O'Donnell	X
Brittney Gutzmann		Judy Peterson		Brittney Gutzmann	X	Judy Peterson	X
John Hamm	X	Dr. Robert Rasmus	X	John Hamm		Dr. Robert Rasmus	
Janet Hansen	X	MacKenzie Reiling	X	Janet Hansen		MacKenzie Reiling	
Bridget Hoefling	X	Marcia Rosacker	X	Bridget Hoefling		Marcia Rosacker	
Christine Kennedy		Dan Schoenherr	X	Christine Kennedy	X	Dan Schoenherr	
Peggy La	X	Susanna Taylor	X	Peggy La		Susanna Taylor	
Micah Lang		Mary Tyler	X	Micah Lang	X	Mary Tyler	
Craig Levine	X	Pam Woolridge	X	Craig Levine		Pam Woolridge	
Jean Logan				Jean Logan	X		

PRESENT - CEO MEMBERS				ABSENT - CEO MEMBERS			
Craig Anderson		Pete Groetken	X	Craig Anderson	X	Pete Groetken	
Tom Brouillette	X	Wane Miller	X	Tom Brouillette		Wane Miller	
Raymond Drey		Keith Radig	X	Raymond Drey	X	Keith Radig	

PRESENT		PRESENT	
Alana Tweet – WIOA Title I	X	Guest: Shawn Fick, Goodwill	X
Janet Gill – WIOA Title I	X	Guest:	
Lori Knight – WIOA Title I	X	Guest:	

1. Call to Order & Roll Call:

LWDB @ 4:04 P.M. Call to Order & Roll Call – Mary Tyler, Vice Chair
 CEO @ 4:05 P.M. Call to Order & Roll Call – Pete Groetken, Vice Chair

2. Approval of Agenda – LWDB – Mary Tyler & CEO – Pete Groetken

3. Approval of Meeting Minutes: September 26, 2019, Joint LWDB/CEO Minutes – LWDB – Mary Tyler & CEO – Pete Groetken

4. New Business: Siouxland Pipe Update (Name change to Midwest Welding and Mechanical LLC); Region 12 FY18 Annual Report

5. Old Business: Realignment, CEO Training, CLEO Selection

6. WIOA Core Partner Reports: Title I – Adult, Dislocated Worker, Youth Services; Title II – Adult Basic Education and Literacy; Title III – Employment Services; Title IV – Vocational Rehabilitation Services

7. LWDB Chair Report: Mary Tyler

8. Policy/Field Memo Updates: Field Memo# 19-04: Coordination of WIOA Title I and Trade Act Training Funding with Iowa Last Dollar Scholarship (This memo rescinds and replaces Field-Memo 19-03: Coordination of WIOA Title I funds and Iowa Last Dollar Scholarship); Field Memo# 19-05: Workforce Innovation and Opportunity Act (WIOA) Program Monitoring (This memo supersedes memo 19-04 issued July 30, 2019); TEG# 17-18: Change 2: Change 2 to Training and Employment Guidance letter (TEGL) 17-18, Availability of Program Year (PY) 18 Funding for State Apprenticeship Expansion; TEN# 3-18, Change 2: Creating Industry-Recognized Apprenticeship Programs to Expand Opportunity in America (Cancels TEN# 3-18 and TEN#3-18 Change 1)

9. Reports from Individual LWDB/CEO Members

10. Report from State Representative

11. Adjournment

Motions Taken - Decisions Reached

APPROVALS	1ST	2ND	Unanimously Approved
2. Approval of Agenda – LWDB – Mary Tyler	Dr. Robert Rasmus	John Hamm	X
2. Approval of Agenda – CEO – Pete Groetken	Tom Brouillette	Wane Miller	X
3. Approval of Meeting Minutes – LWDB – Mary Tyler <ul style="list-style-type: none"> • September 26, 2019 Joint LWDB/CEO Minutes – “Attachment “A” 	Dr. Robert Rasmus	David Gleiser	X
3. Approval of Meeting Minutes – CEO – Pete Groetken <ul style="list-style-type: none"> • September 26, 2019 Joint LWDB/CEO Minutes – “Attachment “A” 	Keith Radig	Wane Miller	X
11. Adjournment – LWDB @ 4:37 P.M.	Marcia Rosacker	John Hamm	X
11. Adjournment – CEO @ 4:37 P.M.	Tom Brouillette	Wane Miller	X

Meeting Notes

Reports/Discussion:

IV. New Business

Janet Gill stated Siouxland Pipe update is a name change to Midwest Welding & Mechanical LLC. Janet Gill stated the Region 12 FY18 Annual Report is a comprehensive report on things done throughout the year. The report explains what IowaWORKS Greater Siouxland and partners are doing and how they can improve stated MacKenzie Reiling. The report was completed by Alana Tweet, Program Coordinator Title I, Pam Woolridge, Program Coordinator Title II, MacKenzie Reiling, Operations Manager IowaWORKS Title III, and Brittney Gutzmann, Iowa Vocational Rehabilitation Supervisor Title IV.

V. Old Business

Realignment discussion took place. Keith Radig stated there will be a request for proposal for the fiscal agent. The CEOs will be determining this. The CEOs hammered out the 28E agreement. The CLEO was selected and is from Kossuth County.

VI. Partner Reports

Title I – Janet Gill reviewed the Title I report. There were 114 employers that attended the Career Fair today that was coordinated between IowaWORKS Greater Siouxland and Western Iowa Tech. The transitioning from IWORKS in June to GEO-Solutions continues to evolve. Board training with the Chief Elected Officials is currently taken place. Will continue with meetings as the current board is. Wane Miller stated on the realigned boards there will be 17 LWDB members and 24 CEOs (1 person from each of the 24 counties). Janet Gill gave an update on the ETPL List. Training programs will go directly to the state with the local boards being apprised of program updates and approvals. There is a name change of Siouxland Pipe Welding School to Midwest Welding and Mechanical LLC. Policy field updates were reviewed. Field Memo# 19-04 gives details on the Last Dollar Scholarship coordination with WIOA Title I funds changes. The prior guidance indicated that federal funds would be applied first (Title I) and state dollars second (Last Dollar Scholarship) for program participants. The current guidance states it is based on the timeframe when a participant is determined to be eligible for a funding source as to which funding source is primary. There are program monitoring adjustments detailed in Field Memo# 19-05. Apprenticeship guidance and updates are given in TEG# 17-18 Change 2 and TEN# 3-18 Change 2.

Title II – Pam Woolridge reviewed the Title II report. The LeMars location has 22 people attending. The afternoon class did not go but they are taking names and eventually it will go. ABE has 827 students enrolled in programs (552 ELL and 275 HSED) with total attendance of 18,633 hours with thirteen weeks of class. There were 28 HSED completers. There was an award ceremony held on October 10 (791 certificates/199 people attending). New Students testing at all locations on January 6 and 8. Three staff attended a National Transition Conference in Boston on November 11-13. ABE staff completed training at the WITCC Staff Development. Strategic Initiatives and Goals were completed.

Title III – MacKenzie Reiling gave a verbal report. Working with Midwest Peterbuilt on a grant and registered apprenticeship. IowaWORKS Greater Siouxland has been doing quite of few career fairs. Recently did LMI training with employers. Staff went through social media training. Attended round tables on access issues for people for Vocational Rehabilitation Services.

Title IV – See Attachment E

VII. LWDB Chair Report – Mary Tyler stated she attended a Future Ready Conference in Cherokee. It helped to understand the Governor’s Initiative and where programs are headed.

VIII. Policy/Field Memo Updates

Janet Gill stated covered them in the Title I report and are attachments F, G, H and I. Discussion took place on the Iowa Last Dollar Scholarship.

IX. Reports from Individuals LWDB/CEO Members – None

XI. Reports from State Representative – None

XII. Adjournment – Next meeting will be January 23, 2020

RESPECTIVELY SUBMITTED



Janet Hansen
Date: 11/21/19

“The Mission of our group is to fully engage the Region 12 community in strengthening the economy through workforce development making it a better place to live, work, and grow.”



TITLE I REPORT

JANUARY 23, 2020

Title I Midyear Funding Update

Having just completed the mid-point of this fiscal year, an update on expenditures is presented below. Approximately 46% of available Title I funds have been expended as of December 31, 2019 for fiscal year 2020. We anticipate we will be able to complete the fiscal year within budget.

<u>FY 20 YTD Expenditures</u>		<u>FY 20 Available Funds</u>	
Admin Funds	\$ 26,189	FY20 WIOA Allocation	\$368,578
Low Income Adult	\$ 32,471	FY19 Carry Forward	\$ 69,820
Dislocated Worker	\$ 64,906	Recapture	\$ 7,871
Youth	\$ 79,731	TOTAL	<u>\$446,269</u>
TOTAL	<u>\$204,099</u>		

Upcoming Events

Annual Legislative Breakfast – The annual Association of Iowa Workforce Partners (AIWP) Legislative Breakfast is scheduled for Wednesday, February 5, 2020 at the Iowa State Capital.

AIWP Conference – The 18th annual AIWP “Pathways to Personal Success” conference is to be held on March 26 & 27, 2020 in Johnston, Iowa at Stoney Creek Inn. The conference themes this year are Emotional Intelligence, Leadership, Future Trends, Work/Life Balance, Health & Mental Health Care, Transitions in the Workplace, Dealing with Change, Burnout/Self-Care and Self Advocacy.

Spring Career Fair – Western Iowa Tech and IowaWORKS are currently in the planning stages for the Spring Career Fair. It will be held on Thursday, March 26, 2020 at the Western Iowa Tech Campus. This is a great opportunity for employers to visit with Spring graduates and job seekers from the Region.

Policy and Guidance Updates

TEGL #8-19 – WIOA Title I Training Provider Eligibility and State List of Eligible Training Providers and Programs – Guidance on allowable types of training, both work-based and classroom instruction. The goal is to ensure provider performance, job-driven training, informed consumer choice, continuous improvement, and cost-effective investment of public funds. Four attachments to this TEGL provide detailed instructions on processes for training provider review, state and board responsibility details, and registered apprenticeship program processes to become an eligible training program.

TEN #13-19 – Wagner-Peyser Act Staffing Flexibility Final Rule – Notice allows states the flexibility to provide Employment Services activities through various arrangements including a combination of state merit-staff and subrecipients. Outreach activities will require additional collaboration with other organizations in areas of referrals, career services, supportive services, and training.

Region 12 IowaWORKS Report out

- Registered Apprenticeship with Peterbuilt
 - Finalized in December
 - Also received a grant through the Innovation Fund

- Continuing work with those being released from incarceration
 - Woodbury County Jails
 - RTF/DISSMSS
 - WARN with DOJ

- Cherokee County Recognized as a "Work Ready Community"
 - Ceremony for this is on January 22nd

- Stem Lunch and Learns
 - Identifying where in Northwest Iowa that these will take place
 - Businesses that would be good to participate/host teachers

- Partnering with IVRS for Summer STEM Camp

- Refugee Rise
 - Senait

- Staffing
 - DVOP
 - Vacant Workforce Advisor

Sioux City Iowa Vocational Rehabilitation Services

10-1-2019 to current

- 1 Total Number of Job Candidates currently served = **909**
- 2 Number of Candidates currently employed, but not closed = **82**
- 3 Number of Candidates currently looking for employment = **13**
- 4 Number of eligible students currently in high school = **209**
- 5 Number of candidates in assessments = **117**
- 6 Number currently receiving Supported Employment Services = **12**
- 7 Number currently in Self-Employment, non-supported, job development = **183**
- 8 Number currently in Community College/Vocational School = **94**
- 9 Number of Candidates currently in a 4 Year College = **58**
- 10 Current Rehabilitation Rate for fiscal year = **49%**
- 11 Number of Successfully Employed = **24**

Autism 2019 207 55%
2018 176 53%

Deaf 2019 171 68.4%
2018 149 63.88%

Mental Health 2019 1097 46%
2018 1009 42%

DD/Cognitive 2019 386 47.6%
2018 414 49.23%

These numbers reflect service priority areas identified by our State Rehabilitation Council. The focus was on service for individuals who were diagnosed with autism, deaf/hard of hearing, Mental Health or Developmentally disabled. The chart demonstrates successful closures in 2019 and 2018 and the related rehabilitation rate. Improvement was demonstrated in three of the four areas with our DD/Cognitive population showing a decrease.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIOA – ETP Eligibility
	CORRESPONDENCE SYMBOL OWI
	DATE January 2, 2020

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 8-19

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS
STATE APPRENTICESHIP AGENCIES
STATE DIRECTORS OF THE OFFICE OF APPRENTICESHIP
DISABLED VETERANS OUTREACH PROGRAM REPRESENTATIVES
LOCAL VETERANS EMPLOYMENT REPRESENTATIVES

FROM: JOHN PALLASCH 
Assistant Secretary

SUBJECT: Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs

1. **Purpose.** The purpose of this guidance is to identify actions that states can take to meet requirements for training providers, program eligibility, and the state ETP list in WIOA Section 122 and 20 CFR part 680. WIOA and its regulations established the allowable types of training, including both work-based and classroom instruction, with the goal of ensuring provider performance, job-driven training, informed consumer choice, continuous improvement, and cost-effective investment of public funds. This guidance replaces Training and Employment Guidance Letter (TEGL) 41-14, *Workforce Innovation and Opportunity Act (WIOA or Opportunity Act) Title I Training Provider Eligibility Transition*, and the subsequent TEGL 41-14, Change 1.
2. **Action Requested.** States should review and, if necessary, update current ETP policies to ensure compliance with the WIOA statute, the Final Rule, and this TEGL.
3. **Summary and Background.**
 - a. Summary – WIOA Title I training can be provided through a variety of contract mechanisms, or it may be funded through an individual training account (ITA) that is used to purchase training from an ETP. This guidance focuses on the requirements for:

RESCISSIONS TEGL 41-14 and TEGL 41-14, Change 1	EXPIRATION DATE Continuing
-----------------------------------------------------------	--------------------------------------

1) providing for certain training with contracts; 2) establishing initial provider and program eligibility and continued eligibility for use of ITAs; 3) establishing roles and responsibilities of states and local workforce development areas for maintaining the ETP list; 4) disseminating the ETP list; 5) addressing unique requirements for Registered Apprenticeship Programs (RAPs); and 6) suggesting actions for and tools to assist in meeting these requirements.

b. **Background** – Following the enactment of WIOA in 2014, the Department of Labor (Department) issued transition guidance about ETP requirements in TEGL 41-14 and the subsequent TEGL 41-14, Change 1 prior to the publication of the Final Rule. The transition guidance described both the timeline for transitioning from the Workforce Investment Act (WIA) to WIOA and operational requirements. This TEGL aligns to the Final Rule and provides additional guidance based on the Department’s review of state ETP policies provided by states in their WIOA Unified and Combined State Plans.

4. **Guidance.** See Attachments I – V for guidance.

5. **Inquiries.** For further information, please direct inquiries to the appropriate Regional Office.

6. **References.** See Attachment V.

7. **Attachments.**

- Attachment I – Requirements for Training Providers, Program Eligibility, and the State Eligible Training Provider List in Workforce Innovation and Opportunity Act Section 122 and 20 CFR part 680
- Attachment II – Eligible Training Provider Requirements and Responsibilities
- Attachment III – Eligible Training Provider Eligibility Policy Checklist
- Attachment IV – Registered Apprenticeship Program (RAP) Required Information for Eligible Training Provider List
- Attachment V – References

Requirements for Training Providers, Program Eligibility, and the State Eligible Training Provider (ETP) List in the Workforce Innovation and Opportunity Act (WIOA) Section 122 and 20 CFR part 680

1. Providing Training under WIOA Title I and Types of Training.

- a. Providing Training Under WIOA Title I.** As listed in the table below, WIOA allows the use of multiple kinds of participant training.

Allowable types of training under WIOA Section 134(c)(3)(D) and 20 CFR 680.200¹
(a) Occupational skills training, including training for nontraditional employment;
(b) On-the-Job Training (OJT);
(c) Incumbent Worker Training (IWT);
(d) Programs that combine workplace training with related instruction, which may include cooperative education programs;
(e) Training programs operated by the private sector;
(f) Skill upgrading and retraining;
(g) Entrepreneurial training;
(h) Job readiness training provided in combination with the training services described in (a) through (g) of this chart or transitional jobs;
(i) Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services provided in any of clauses (a) through (g); and
(j) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

WIOA authorizes various funding mechanisms for allowable participant training. These mechanisms include direct contracts for services and individual training accounts (ITAs). An ITA is a payment agreement established by a local workforce development board (local board) on behalf of a participant with a training provider and may be used to pay for any allowable type of training, as long as the program of training service (also referred to as “program of study”) is on the state list of eligible training providers (ETP list). Direct contracts for training services with employers and the state or local workforce development area (local area) may be for OJT, IWT, and customized training. A state or local area, when it is determined most appropriate, may also establish a contract with an institution of higher education or other provider of training services for a

¹ See TEGL 19-16 *Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules* (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3851) for additional details. Note that while not explicitly stated, the types of training in this list include apprenticeship and its component parts.

group of WIOA participants concurrently training in in-demand industry sectors or occupations, provided that the contract does not limit customer choice.

An ITA is the most commonly used training funding mechanism because it provides participants flexibility in purchasing training. A local board has the flexibility to determine how it will deliver training. As a result, it should develop WIOA policies and procedures that align with the use of its multiple kinds of participant training. Only ITAs require the use of an ETP from the ETP list.

As long as training services are chosen in a manner that achieves the goals outlined in the purpose section of this Training and Employment Guidance Letter (TEGL), select training services may also be provided using a contract between the provider and the local board. For these select training services, participants can receive the training from a program that is not on the ETP list. Training services that are exempt from the Section 122(a) through (f) eligibility requirements include:

- On-the-job training;² customized training; incumbent worker training, transitional employment;³ or
- Training provided under the circumstances described at WIOA Section 134(c)(3)(G)(ii) and 20 CFR 680.320, where the local board determines that:
 - There is an insufficient number of ETPs in the local area to accomplish the purposes of a system of ITAs;
 - 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;
 - 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 industry sectors or occupations, and such contract does not limit customer choice; or
 - When the local board provides training services through a pay-for-performance contract.

For training programs that are exempt from the Section 122(a) through (f) eligibility requirements, the Governor may establish performance criteria those providers must meet to receive funds under the adult or dislocated worker programs. Local boards must collect this information, if required, and determine whether the providers meet the

² For more information and resources on work-based learning and training, see the Department's work-based learning resource page at <https://ion.workforcegps.org/resources/2017/03/09/12/20/Work-Based-Learning-Adult-and-Dislocated-Worker-Programs>.

³ Although "transitional employment" is listed here alongside other types of training, as described in 20 CFR § 680.190, "transitional employment" is a work experience, and therefore a career service rather than a training service. It is listed here in order to clarify that "transitional employment" services can be provided through a contract and are not subject to the eligibility requirements in Section 122(a) through (f).

Governor's performance criteria before entering into contracts with training providers that meet these criteria.

- b. Eligible Training Providers and Programs of Study.** The WIOA statute and the Final Rule distinguish between ETPs and programs of study, as one ETP may provide multiple programs of study for a variety of occupations. Each provider's programs of study are subject to the eligibility requirements in WIOA Section 122 and the regulations at 20 CFR part 680.
- c. Types of Entities Eligible to Apply to be Eligible Training Providers.** Only the entities listed below may apply for inclusion on the ETP list, and these are the only entities eligible to provide training for participants who enroll in a WIOA Title I-funded program of training services, except as discussed above in section 1a of this Attachment. Training provider entities eligible to apply for inclusion on the ETP list include:
- Institutions of higher education that provide a program that leads to a recognized postsecondary credential;
 - Apprenticeship programs, including Industry Recognized Apprenticeship Programs (IRAPs) and Registered Apprenticeship Programs (RAP) in accordance with the language below and in forthcoming guidance on RAPs and WIOA;
 - Other public or private providers that provide training, which may include community based organizations (CBOs) and joint labor-management organizations;
 - Eligible providers of adult education and literacy activities under WIOA Title II if such activities are provided in combination with training services described in 20 CFR § 680.350; and
 - Local boards, if they meet the conditions of WIOA Section 107(g)(1).

ETPs are subject to the equal opportunity and nondiscrimination requirements contained in Section 188 of WIOA and implementing regulations at 29 CFR part 38.

Eligible Programs of Training Services (programs of study):

A program of study 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, as defined in WIOA Section 3(52), which includes an industry- recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the state involved or Federal Government, a postsecondary credential, secondary school diploma or its equivalent, employment, or measurable skill gains toward a recognized postsecondary or secondary school diploma or its equivalent credential or employment. These training services could be delivered in person, online, or in a blended approach.

Registered Apprenticeship Program (RAP) sponsors:

Registered Apprenticeship Programs are automatically eligible to be included on the ETP list and are exempt from state and local ETP eligibility requirements. The Governor must establish a mechanism for RAPs to be informed of their automatic eligibility and indicate

the program sponsor wishes to be included on the list. State workforce agencies must provide a process through which RAPs can opt in to the ETP list. State agencies must not add sponsors to the state ETP list without the sponsor submitting such a request either directly through the state or through the Department's Office of Apprenticeship (if registered under national program guidelines) using the process described by the Department's Office of Apprenticeship through guidance and technical assistance. To facilitate this process, the state ETP coordinator should work in conjunction with the state office of apprenticeship. States must have a process for adding RAPs that imposes minimal burden on the RAP, and states must describe the process in their state plan. This process may require that the RAP provide the following basic information:

- Occupations included within the RAP;
- The name and address of the RAP sponsor;
- The name and address(es) of the Related Technical Instruction provider(s) and the location(s) of instruction if different from the program sponsor's address⁴;
- The method and length of instruction; and
- The number of active apprentices.

For RAPs that opt for inclusion on the ETP list, states and local areas must add them without applying any additional eligibility requirements that they might otherwise apply to other types of training providers. Furthermore, states must maintain RAPs on the list until:

- The RAP program notifies the state agency it no longer wants to be included on the list;
- The program becomes deregistered under the National Apprenticeship Act;
- The program is determined to have intentionally supplied inaccurate information; or,
- A determination is made that the RAP substantially violated any provision of Title I of WIOA or the WIOA regulations, including 29 CFR part 38.

Similar to the RAP exemption from the eligibility requirements, RAPs also are exempt from ETP performance reporting requirements in WIOA Sections 116(d)(4) and 122, including any additional ETP reporting requirements that have been added by the state or local area. This also means that the states and local areas must not establish any RAP specific performance reporting requirements; however, RAPs may voluntarily report performance outcomes. States may require only the information necessary to verify the registration status for the RAP, in accordance with procedures established by the state in consultation with the state office of apprenticeship. Unlike RAPs, note that IRAPs are subject to the same requirements detailed in section 2 and Attachment II of this guidance.

⁴ If the provider of Related Technical Instruction is different from the program sponsor, cost of the instruction may be requested as a part of the state's process.

2. **ETP List Requirements and Responsibilities for States, Local Areas, and Eligible Training Providers.** In accordance with the WIOA statute and Final Rule, the state, local area, and training providers must complete a variety of ETP list development and maintenance requirements. Attachment II lists each of these responsibilities along with the entity responsible for the task.

In addition to the requirements listed in Attachment II, local areas and the state entity designated by the Governor to implement ETP requirements must work together to accomplish the identification of ETPs for the state list. As Attachment II shows, states must develop policies and procedures for adding training providers to the list, including developing eligibility policies that include the factors listed in the checklist in Attachment III, as well as maintaining the list of ETPs once they have been identified. State policies and procedures may provide for reciprocal or other agreements established with another state to permit eligible training providers in a state to accept ITAs provided by the other state.

One of the primary responsibilities of the state is to make eligibility determinations for training providers seeking inclusion on the ETP list, which includes:

- (1) Initial eligibility determinations that allow a training provider onto the ETP list for the first year, and
- (2) Continued eligibility determinations that allow the training providers to stay on the list until the next continued eligibility determination.

States must make continued eligibility determinations before the end of the first year of an ETP's initial eligibility, and at least every two years as a part of the required biennial review of the ETP list thereafter. States have discretion in how they implement eligibility procedures and timelines for biennial review. Some States may find it efficient to review the entire state list every 2 years, while others may have a system for reviewing each provider annually or on the anniversary of when that provider established continued eligibility under WIOA. The timeline for how initially eligible training providers are deemed as continually eligible and incorporated into the review system will vary from state to state. For more information on the initial and continued eligibility requirements and responsibilities, see Attachment II.

Local boards may add additional requirements for providers, except for RAPs, that result in providers that are on the state ETP list that may not be eligible for inclusion on the local ETP list. If the local board is reviewing provider applications for inclusion on the state ETP list, it must do so using only the state's requirements and not the local area's additional requirements.

Although local boards may add some of their own restrictions and requirements in defining the list of ETPs for their local area, they may include only training providers on their list that are approved for the state ETP list. The Department encourages states to streamline the processes and policies for ETPs to reduce the number of local ETP lists and the degree to which they vary from the state list and one another. A local area that does not add restrictions and requirements must include all state ETPs on its local ETP list, while a local

area that adds eligibility restrictions may have a subset of the state list as depicted in Figure 1.

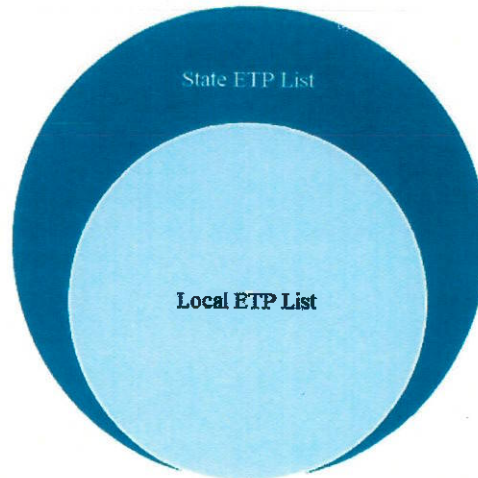


Figure 1. Providers on the local ETP must be on the state ETP

3. **ETP Eligibility Requirements vs. ETP Performance Reporting Requirements.**

- a. **General.** As described in TEGL 03-18, *Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)*, WIOA contains two different sections that set forth requirements for states' reporting related to performance information for ETPs—one for determining eligibility of training providers (WIOA Section 122(b)) and their programs of study and the other for reporting on outcomes of individuals served by the program of study (WIOA Section 116(d)(4) and 116(d)(6)(B)).

This guidance focuses on the requirements described in WIOA Section 122(b), which identifies requirements and criteria that states must establish for use in determining the eligibility of training providers and programs of study and includes certain performance information. Many of the requirements for training provider eligibility mirror the requirements for ETP performance reporting set forth in WIOA Section 116(d)(4) and 116(d)(6)(B). TEGL 03-18 describes those ETP reporting requirements in detail.

WIOA Section 122 establishes requirements, including some requirements that serve more than one purpose (e.g., ETP eligibility, consumer information, performance accountability, etc.), relating to performance information.⁵ The performance of ETPs is a factor the states must use in determining both initial and continued eligibility of a provider to be included on a state's ETP list. For initial eligibility, among other factors, WIOA requires that state eligibility criteria include at least one factor related to the primary indicators of performance described in WIOA Section 116(b)(2)(A)(i)(I)-(IV). States are already reporting such data in their annual WIOA ETP Reports (ETA-9171),

⁵ See attachments II-IV for additional information on these requirements.

and the Department's Employment and Training Administration (ETA) plans to make such data publicly available in a Training Provider Results website starting in PY 2020.⁶ In addition to informing customers, states use such data to review whether an institution should remain an eligible training provider. States determine what constitutes a "factor" for this purpose; for example, the state may consider performance indicators similar to the WIOA primary indicators of performance; academic research suggesting the selected training strategy is effective in improving similar performance indicators; or other data relating to the employment, earnings, or credential attainment of participants with the program or provider. See section 5 and Attachment III for additional information. Additionally, publicly available performance information of the training providers on the ETP list, which is one of the requirements described in Attachment II, facilitates informed customer choice.

The figure below demonstrates the basic flow of the data collection and reporting process for ETPs, and the various uses of the data.⁷

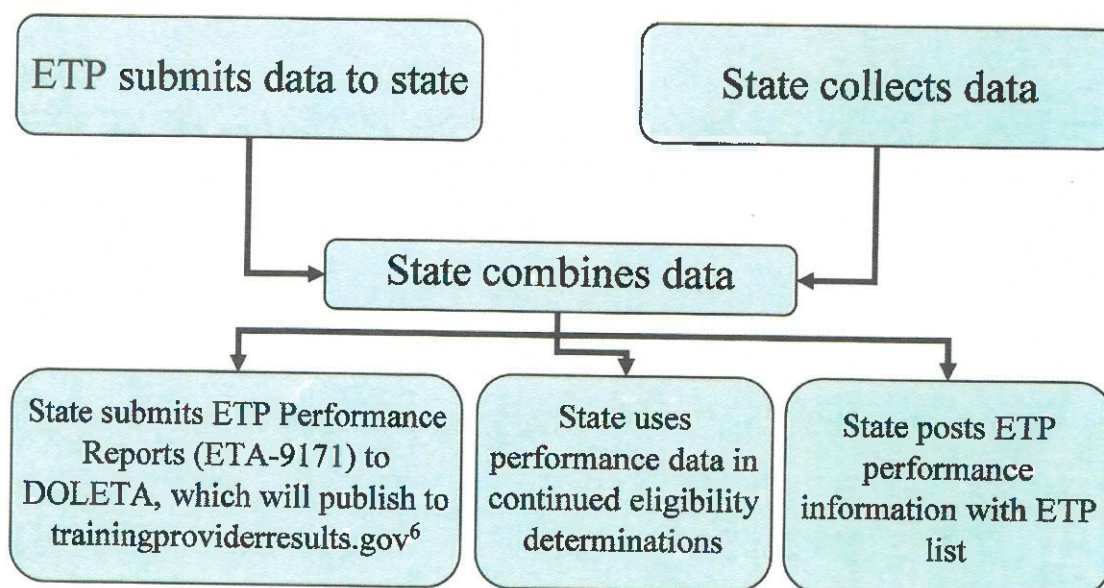


Figure 2. ETP Data Submission and Use Chart

- b. **Waivers.** The Secretary of Labor has the authority under WIOA Section 189(i) to waive certain requirements of WIOA Title I, Subtitles A, B, and E, and Sections 8–10 of the Wagner-Peyser Act. This authority is limited in specific situations. For example, WIOA Section 189(i)(3)(A)(i) explicitly forbids the Department from waiving any provision

⁶ ETA will make available the training provider results on trainingproviderresults.gov, which will become an active website during PY 2020.

⁷ For additional information and guidance on data matching, see TEGL 7-16. *Data Matching to Facilitate WIOA Performance Reporting* (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6956).

concerning statutory or regulatory requirements relating to the eligibility of providers or participants, which includes training providers. The Department has issued waivers of certain non-eligibility requirements relating to the ETPs. For Program Years (PY) 2018-19, many states received a waiver of their obligation to collect and report ETP performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and (B), 122(d)(2)(A); 20 CFR 677.230(a)(4) and (5); and 20 CFR 680.430(b)(5). (Please note that as part of preparations for PY 2020-23 WIOA State Plans, states seeking such a waiver should be prepared to explain why such waivers are needed and the steps they have taken to collect and report data on all students to phase out the waiver. ETA will continue to consider all waivers that states submit, but will rigorously review all requests on a case-by-case basis.) However, this waiver does not waive the requirement to use such performance data in the determination of continued eligibility for those providers pursuant to 20 CFR 680.460(f)(1)(iii), as listed in Attachment II. States are responsible for determining the details of how they will decide continued ETP eligibility. States must consider all available data when calculating the performance indicators required as a part of continued eligibility. Additionally, states are required to collect information and report on WIOA participants who receive training from an ETP.

4. **Dissemination of ETP List and Consumer Information.** WIOA requires that the Governor or state agency disseminate the ETP list and accompanying performance and cost information through a variety of methods and to several stakeholders. Stakeholders include local boards in the state, members of the public, the one-stop delivery system and its program partners, and the state's secondary and postsecondary education systems via online methods such as websites, searchable databases, or other means the state uses to disseminate information to consumers. To facilitate the public and stakeholder access to such information, training provider outcomes information will also be published on TrainingProviderResults.gov after states submit PY 2019 data in October 2020. States should ensure that the data submitted for PY 2019 is adequately reviewed and ready for public display.

ETA will continue to maintain lists of state ETPs on www.careeronestop.org and encourages workforce agencies to also make this information available on state websites through a web service or other application programming interface.

Because the purpose of the ETP list is to support participants and their case managers with making informed choices regarding job-driven training providers, states must make the list easily available to partners, stakeholders, those participants interested in training, and those individuals in employment and training activities funded by WIOA. States must also present the information in a format that facilitates comparisons and is searchable, user-friendly, and easily understood by individuals seeking information on training outcomes. The state list must be accessible to individuals with disabilities. Additionally, states must display the state ETP list accompanied by appropriate information, including the required items listed in Attachment II, to assist participants in choosing job-driven employment and training activities. Local boards may supplement the criteria and information requirements established by the governor in order to support informed consumer choice and the achievement of local performance measures.

Accompanying information must not reveal personally identifiable information about an individual participant. In addition, disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) including the circumstances relating to prior written consent.

5. **Challenges and Potential Solutions.** States should strive only to populate their ETP list with training programs that are successful and proven and remove those providers that fail to achieve positive results for training customers. In implementing the requirements described above and listed in the attachments to this guidance, states and local boards may encounter various challenges to ensuring the best providers get on and stay on the ETP list. Some of the more common challenges associated with these requirements are described in the table below, along with some potential solutions to those challenges. ETA will continue to identify challenges as they arise and provide technical assistance to address these challenges.

Challenge	Potential Solution
<p>How do states ensure that the training provider programs impart the skills and credentials needed to qualify individuals for in-demand industries and occupations?</p>	<p>States and local areas could regularly validate the programs on the ETP list with board members, community business leaders, and current labor market information for the state to ensure that the programs on the list meet the needs of business throughout the state and reflect training for in-demand fields and occupations. States could also include in their ETP eligibility process an assurance that the curriculums of the programs are built around competencies identified by the businesses in the state and local areas. States may also give priority to ETPs that have established relationships with employers that are looking to hire.</p>
<p>What can states and local areas do to help build a comprehensive and job-driven list of eligible training providers?</p>	<p>States and local areas should move beyond transactional exchanges limited to ITAs to build strategic relationships with education and training providers. State and local boards can include members or sub-committee representatives from community colleges and other providers, as well as regularly convene meetings or attend events to engage with education and training providers outside the workforce boards' standard meetings.</p>

Challenge	Potential Solution
How do states ensure RAP sponsors face minimal burden in getting added to the ETP list while still meeting the requirement they “opt-in” rather than having to “opt-out”?	Some states require a simple letter or e-mail request, with enough information that they are able to identify the sponsor using information from the state apprenticeship agency or the ETA Office of Apprenticeship, such as the information listed in Section 1c above.
How do states minimize the burden associated with ETP eligibility determinations throughout the year?	Some states have established policies and procedures to align the cycle of eligibility determinations so that all providers on the list or new applicants can be evaluated during the same time frame, rather than conducting these determination processes throughout the year.
How do states identify a “factor relating to performance” for use as one of the criteria in the state’s initial training provider eligibility assessments when the training provider’s program of study has not previously collected data on WIOA performance measures?	A state can identify a variety of measures/proxy data to meet this requirement such as: number of students who obtained employment, number of students who obtained a credential, similar state and federal performance measures, or measures that are similar to WIOA but consider different time frames.
How do states encourage training providers that are concerned about reporting requirements to add their programs to the state ETP list?	As discussed in TEGl 03-18, states have a variety of options to reduce the reporting burdens on training providers. These may include conducting wage matching for providers (for all individuals and not just participants, when possible) to collect employment and earnings outcomes and using information provided during the application process as much as possible.
How do states provide technical assistance to local areas on highly technical issues such as those presented by ETP performance data requirements?	Some states have worked with entities to develop tools that simplify the process of collecting and reporting required data for local areas or training providers. One example includes the Training Provider Outcomes Toolkit (TPOT) (http://documentation.dataatwork.org/tpot/), a collection of tools for securely collecting, connecting, analyzing, aggregating, and publishing data on wage and employment outcomes for education and training participants. The University of Chicago’s Center for Data Science and Public Policy led the development of TPOT in cooperation with ETA and state and local governments.

Challenge	Potential Solution
<p>How can states differentiate among providers and programs in making eligibility determinations and providing consumer information where comparisons may be made among non-comparable programs of study? For example, a six-week certificate training will likely have a higher completion rate than a multi-semester program of study at a community college in which a number of enrolled individuals may intend to complete only a portion of the program. When reporting and sharing data on all individuals in the ETP performance reporting and using those outcomes for eligibility determinations, how can states ensure they are taking into account the many factors that influence a performance outcome?</p>	<p>States may account for these differences in providers and programs when establishing their training provider eligibility criteria, including in setting the optional minimum performance thresholds or weighing other factors more heavily, such as cost of the program. Additionally, as stated in TEGL 3-18, performance reporting is required only for individuals enrolled in the program of study and is not required for individuals who elect to take an individual course that is a part of the program. To ensure that these individuals taking only a portion of a program of study are not inaccurately counted, some training providers have modified their systems to track differences in students enrolled in the full program of study versus those taking just a portion of the program as a way to determine who must be included in reports for improved accuracy of performance outcomes and reporting.</p>
<p>How do states ensure that ETP lists are disseminated properly and contain enough information to be useful to consumers?</p>	<p>Some states have made efforts to leverage search engine optimization strategies and behavioral insights to ensure that their ETP lists and corresponding performance and cost information are easily found by consumers on prominent web postings and page links. This allows users to find the link directly from the state's website or from an internet search engine. States have also established routine processes such as providing monthly updates to local boards that can be shared with American Job Center staff. Periodically asking training customers for feedback on the value and ease of use of the training provider information may provide insights for improving the display and dissemination of the ETP list.</p>

Eligible Training Provider (ETP) List Requirements and Responsibilities

Table 1

Required State Responsibilities		20 CFR Citation
I	The designated state entity must develop and maintain the ETP list (providers and their programs of study).	680.430(b)
1	The state eligible training provider list must be accompanied by appropriate information to assist participants in choosing employment and training activities. Such information must include the following, disaggregated by local areas served, as applicable:	680.430(b) 680.500(d)(1-4)
a	Recognized post-secondary credential(s) offered;	680.490(b)(2) 680.500(d)(1)
b	Provider information supplied to meet the state's eligibility procedure;	680.500(d)(2)
c	Performance and cost information; and,	680.490(b) 680.500(d)(3)
d	Additional information as the state determines appropriate, such as the number of units (for example, credits, hours or semesters) needed to earn the credentials offered.	680.500(d)(4)
2	The state eligible training provider list must be accompanied by relevant performance and cost information.	680.430(b)(5) 680.500
3	The state eligible training provider list must be widely available to the public (including all local boards) through electronic means, including websites and searchable databases, as well as any other means states use to disseminate information to consumers, and easily understood.	680.400(b) 680.430(b)(5) 680.500(c)
a	The designated state entity must disseminate the list to the local boards, the one-stop system, its partner programs, the public, and the state's secondary and postsecondary education system.	680.500
b	The state eligible training provider list must be accessible to individuals with disabilities, individuals seeking information on training outcomes, and individuals participating in employment and training programs funded under WIOA.	680.500(c)

Required State Responsibilities (cont.)			20 CFR Citation
	c	The State eligible training provider list must not reveal personally identifiable information about individual participants.	680.500(e)
II		The state must establish a minimally burdensome mechanism for adding Registered Apprenticeship programs (RAPs) to the list and verifying registration status at least every two years.	680.470(a) 680.460(j)
III		The governor must work with the state board to develop procedures, information requirements, and criteria for determining eligibility (including clarifying state and local board responsibilities).	680.430
	1	Initial eligibility requirements must:	680.450
	a	Include required initial eligibility components listed on Eligibility Policy Checklist (see Attachment III);	680.450(e)
	b	Require providers seeking initial eligibility to provide verifiable program specific performance information;	680.450(e)
	c	Require providers to submit required information for the programs to be considered for initial eligibility in accordance with the state's procedure; and,	680.450(a)
	d	Only permit initial eligibility to last for one year for each program of study.	680.450(g)
	e	<i>Exempt from eligibility determinations:</i> RAPs.	680.450(b)
	i	If a RAP expresses interest in being on the state eligible training provider list, the state must request the RAPs provide the following information to the state:	Attachment I
		(1) Occupations included within the RAP;	
		(2) The name and address of the RAP sponsor;	
		(3) The name and address of the Related Technical Instruction provider, and the location of instruction if different from the program sponsor's address;	

Required State Responsibilities (cont.)				20 CFR Citation	
			(4)	The method and length of instruction; and,	
			(5)	The number of active apprentices.	
	2	Continued eligibility requirements must:			680.460
		a	Establish an application procedure for training providers to maintain their eligibility and the eligibility of their programs;		680.460(a)
		b	Establish a procedure that ensures that all providers are subject to review and renewal of their eligibility within a year of their initial eligibility determination and at least every two years thereafter, which can establish minimum standards;		680.450(g) 680.460(i)
		c	Describe the application procedure for continued eligibility in the State Plan, and outline the roles of the state and local areas in receiving and reviewing provider applications, and in making eligibility determinations;		680.460(d-e)
		d	Include the continued eligibility components listed on Eligibility Policy Checklist (see Attachment III); and		680.460(f)(1-10)
		e	Take into account whether the provider accurately and timely submitted all of the information required for completion of eligible training provider performance reports (WIOA section 116(d)(4)) and all of the information required for initial and continued eligibility.		680.460(f)(10)
		f	Information requirements for continued eligibility established by the governor must require eligible training providers to submit appropriate, accurate, and timely information for participants receiving training under WIOA title I. That information must include:		680.460(g)
			i	The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;	680.460(g)(1)
			ii	The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;	680.460(g)(2)
			iii	The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;	680.460(g)(3)

Required State Responsibilities (cont.)				20 CFR Citation
		iv	The percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program;	680.460(g)(4)
		v	Information on recognized postsecondary credentials received by program participants;	680.460(g)(5)
		vi	Information on cost of attendance, including costs of tuition and fees, for program participants; and	680.460(g)(6)
		vii	Information on the program completion rate for such participants.	680.460(g)(7)
	3		The policies and procedures must include RAP sponsors requesting ETP list inclusion as long as the program is registered or until the program sponsor notifies the state that it no longer wants to be included on the list, until the program is deregistered, or until they are determined to have intentionally supplied inaccurate information or have substantially violated a provision of Title I of WIOA or its regulations.	680.470(b)
	4		The policies and procedures must not subject RAPs to the same application and performance information requirements or to a period of initial eligibility or continued eligibility procedures.	680.470
	5		The governor and state board must work with the federal Office of Apprenticeship (OA) state director, or if the state oversees the apprenticeship system, with the SAA to develop a mechanism to contact all RAPs within the state in order to allow them to indicate interest.	680.470(a)
IV			For initial and continued eligibility procedures, the governor must:	680.460(b) 680.450(c)
	1		During a designated time period, solicit and consider recommendations from local boards and training providers regarding the procedures.	680.460(b)(1) - (3) 680.450(c)(1) - (3)
	2		Provide an opportunity for public comment regarding the initial and continued eligibility procedures.	680.460(b)(2) 680.450(c)(2)

Required State Responsibilities (cont.)		20 CFR Citation
V	The designated state entity must determine whether the provider 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 the requirements of WIOA.	680.460(k-1) 680.480 680.430(b)(2), (4)
	1 The governor's procedures must include what the governor considers to be a substantial violation of the requirement to timely and accurately submit all of the information required for completion of the eligible training provider performance reports required under WIOA Section 116(d)(4) and all of the information required for initial and continued eligibility.	680.460(l)
	a These procedures must take into account exceptional circumstances beyond the provider's control, such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues.	680.460(l)(1)
	b Providers who substantially violate the requirement to timely and accurately submit all required information must be removed from the ETP list.	680.460(l)(2)
VI	The designated state entity must ensure that state-established minimum performance levels for initial and/or continued eligibility are met (if applicable) including verifying the accuracy of the information.	680.430(b)
VII	The governor must establish procedures for removing a provider from the list. Such procedures must:	680.480
	1 Remove programs that do not meet established eligibility criteria or state established minimum performance levels (if applicable).	680.430(b)(3) 680.480(c)
	2 Identify which entity is responsible for revoking a provider's eligibility (local board or state agency).	680.480(b)
	3 Ensure that revocation is for a period not less than two years for providers that intentionally supply inaccurate information or substantially violate any provision of WIOA or its regulations and that the training provider is liable to repay all adult and dislocated worker training funds received during the period of noncompliance.	680.480(b)

Required State Responsibilities (cont.)		20 CFR Citation	
	4	Providers removed from the statewide ETP list, or from a particular local area list of eligible training providers, must be afforded the opportunity to appeal the removal.	680.480(d) 680.480(e)
	5	Establish an appeals procedure for providers of training to appeal a denial of eligibility. The procedure must include an opportunity for a hearing and must explain the appeals process for denial or termination of eligibility of a provider of training services.	680.480(b) 680.480(d) 680.480(e)
VIII		The governor must establish a procedure by which a provider can demonstrate that providing state-required additional performance and cost information would be unduly burdensome or costly. If the state determines that providers have demonstrated such extraordinary costs or undue burden:	680.490(c), (d)
	1	The state must provide access to cost-effective methods for the collection of the information	680.490(d)(1)
	2	The state may provide additional resources to assist providers in the collection of the information from funds for statewide workforce investment activities reserved under WIOA secs. 128(a) and 133(a)(1); or	680.490(d)(2)
	3	The state may take other steps to assist eligible training providers in collecting and supplying required information such as offering technical assistance.	680.490(d)(3)
Allowable State Responsibilities		20 CFR Citation	
I		Governors may require any additional performance information (such as the information described at WIOA Section 122(b)(1)) that the governor determines to be appropriate for eligibility or to better inform consumers.	680.490(c)
II		Governors may establish minimum performance standards for initial and continued eligibility, based on the performance information required for each.	680.450(f) 680.460(f)(1)(iv)
III		The governor may establish procedures and timeframes for providing technical assistance to eligible training providers who are not intentionally supplying inaccurate information or who have not substantially violated any of the requirements under this section but are failing to meet the criteria and information requirements due to undue cost or burden.	680.460(k)
IV		State policies and procedures may provide for reciprocal or other agreements established with another state to permit eligible training providers in a state to accept ITAs provided by the other state.	680.520(c)

Table 2

Required Local Board Responsibilities		20 CFR citation
I	Local boards must 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 the services involved in a manner that maximizes consumer choice and leads to competitive integrated employment for individuals with disabilities.	680.430(c)(2)
II	Local boards must complete other responsibilities delegated to the local boards by the state (state may not delegate responsibilities specifically designated as a state responsibility unless explicitly stated in this guidance, the WIOA Final Rule, or WIOA statute). For example, local boards must collect such performance information as the state may require and determine whether the providers meet the state's performance criteria.	680.430(c)(1)
III	Local boards must remove ETPs that fail to meet local performance standards (if applicable) from the local ETP list, in accordance with state and local policies and procedures. This process must allow for appeals in accordance with the state's appeals procedure for providers of training to appeal a denial of eligibility from the local list of eligible training providers.	680.480(e) 683.630(b)
IV	Local boards must ensure that the state's ETP list is disseminated publicly through the local one-stop system, including in formats accessible to individuals with disabilities, and its partner programs.	680.430(c)(3)
Allowable Local Board Responsibilities		20 CFR citation
I	The local board may, except with respect to registered apprenticeship programs:	680.430(e)
1	Require additional criteria and information from local providers as criteria to become or remain eligible in that local area; and	680.430(e)(1)
2	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.	680.430(e)(2)
II	Local boards may supplement the criteria and information requirements established by the governor in order to support informed consumer choice and the achievement of local performance indicators. However, the local board may not do so for registered apprenticeship programs.	680.510(a)

Allowable Local Board Responsibilities (cont.)			20 CFR citation
	I	This additional information may include:	680.510(b)
	a	Information on programs of training services that are linked to occupations in demand in the local area;	680.510(b)(1)
	b	Performance and cost information, including program-specific performance and cost information, for the local outlet(s) of multi-site eligible training providers;	680.510(b)(2)
	c	Information that shows how programs are responsive to local requirements; and	680.510(b)(3)
	d	Other appropriate information related to the objectives of WIOA.	680.510(b)(4)
III	Local boards may make recommendations to the Governor on the procedure used to determine eligibility of providers and programs.		680.430(d)

Table 3

Training Provider Responsibilities		20 CFR citation
I	Training providers must submit accurate and timely performance data and cost information for both initial eligibility and continued eligibility at least every two years, according to procedures established by the governor.	680.450(a) 680.450(e) 680.460(g) 680.460(l) 680.490(a), (b)
II	Training providers must deliver results and provide accurate information in order to retain status as an ETP.	680.460(h-l)
III	RAPs must submit the information necessary to indicate interest in being on the ETP list according to procedures established by the state, after being contacted by the state. These items should include the items in the checklist in Attachment III.	680.470(a) 680.450(b)
IV	Intermediaries serving as RAPs who are employers using an outside instructional provider must identify their instructional provider in accordance with requirements established by their local board.	Forthcoming Guidance

Eligible Training Provider (ETP) Eligibility Policy Checklist

Use this checklist to ensure your state ETP eligibility policy has the WIOA required components.

State ETP List – Eligibility Policy Checklist ¹		Complete?
Your state initial eligibility requirements must include:	Description of each program of training services to be offered.	
	Information addressing a factor related to the Workforce Innovation and Opportunity Act (WIOA) performance indicators* (employment 2nd & 4th Quarter after exit, median earnings 2 nd Quarter after exit, credential attainment).	
	Information concerning whether provider is in a partnership with a business.	
	Information addressing the alignment of training with in-demand industry sectors and occupations.	
	Other information required by the Governor.	
Your state continued eligibility requirements must include²:	ETP performance on WIOA performance indicators (employment 2nd & 4th Quarter after exit, median earnings, credential attainment).	
	Access to training services throughout the state (including rural areas and through technology use).	
	Information reported to state agencies on federal and state training programs other than WIOA Title I-B programs.	
	The degree to which training programs relate to in-demand industry sectors and occupations in the state.	
	State licensure requirements of training providers, and licensing status of providers of training services, if applicable.	
	ETP's ability to offer industry-recognized certificates and credentials.	
	ETP's ability to offer programs that lead to a recognized post-secondary credential.	
	Quality of the program of training services including a program that leads to a recognized postsecondary credential. ³	
	ETP's ability to provide trainings that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities.	
	Timeliness and accuracy of ETP's performance reports.	
A requirement that at least every 2 years (or sooner, if defined in state policy) ETPs must submit performance and cost information for each of the provider's programs of study that are on the ETP list, as described in Attachment II of this guidance and the Governor's procedures. The submission must be made in the state-defined timeframe and manner.		
Other factors determined by the Governor.		
*Note: Does not include Measurable Skill Gains		

¹ Where possible, states are encouraged to leverage the required ETP performance reporting data to implement these policies and procedures. The ETP performance reporting requirements are described in Training and Employment Guidance Letter (TEGL) 03-18 (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3527) and the WIOA Common Performance Reporting Information Collection Request (OMB Control No. 1205-0526, <https://doleta.gov/performance/reporting/>).

² Criteria that require collection of information to demonstrate compliance must not be unduly burdensome or costly to providers (20 CFR 680.460(h)(2)).

³ Note that WIOA statute nor final rules do not define "quality" for ETP programs. Therefore, states may define "quality" with respect to a program of training services.

Registered Apprenticeship Program (RAP) Required Information for ETP List*

RAPs approved under National Program Standards must submit to ETA the following information to be added to ETP list(s):	
I	Occupations included within the RAPs;
II	The name and address of the Registered Apprenticeship program sponsor;
III	The name and address(es) of the Related Technical Instruction provider(s), and the location(s) of instruction if different from the program sponsor's address; (Note: If the provider of Related Technical Instruction is different from the program sponsor, cost of the instruction may be requested);
IV	The method and length of instruction; and
V	The number of active apprentices.

*Note that Industry Recognized Apprenticeship Programs (IRAPs) do not receive the same ETP exceptions that WIOA allows for RAPs. Therefore, IRAPs seeking addition to the ETP list must follow the same process requirements as other training providers that are not RAPs, as described in Attachments I and II of this guidance.

References

- Workforce Innovation and Opportunity Act, Pub. L. 113-128
- Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule (WIOA Joint Final Rule) published at 81 FR 55792 (Aug. 19, 2016)
- Employment and Training Administration, Workforce Innovation and Opportunity Act; Final Rule (WIOA DOL Final Rule) published at 81 FR 56071 (Aug. 19, 2016)
- [Training and Employment Guidance Letter \(TEGL\) No. 03-18](#), *Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)*, (August 31, 2018)
- [TEGL 19-16](#), *Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules*, (March 1, 2017)
- Work-Based Learning Resource Page ([https://ion.workforcegps.org/resources/2017/03/09/12/20/Work-Based_Learning - Adult and Dislocated Worker Programs](https://ion.workforcegps.org/resources/2017/03/09/12/20/Work-Based_Learning_-_Adult_and_Dislocated_Worker_Programs))
- Training Provider Outcomes Toolkit (TPOT) (<http://documentation.dataatwork.org/tpot/>)

TRAINING AND EMPLOYMENT NOTICE	NO. 13-19
	DATE January 13, 2020

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARDS
LABOR COMMISSIONERS
AMERICAN JOB CENTERS
STATE MONITOR ADVOCATES
ALL ETA GRANTEES

FROM: JOHN PALLASCH 
Assistant Secretary

SUBJECT: Announcing the Release of the *Wagner-Peyser Act Staffing Flexibility* Final Rule and Amended Information Collections Associated with this Rulemaking

1. **Purpose.** The purpose of this Training and Employment Notice (TEN) is to announce changes to the Workforce Innovation and Opportunity Act (WIOA) regulations as part of the implementation of the *Wagner-Peyser Act Staffing Flexibility* final rule. Additionally, this TEN provides information to states seeking to adopt the flexibilities provided in this rulemaking as part of their WIOA Unified or Combined State Plan submissions for 2020.
2. **Action Requested.** Please share this information with interested stakeholders and review the regulations and information collections.
3. **Summary and Background.**
 - a. Summary – On January 6, 2020 the Employment and Training Administration (ETA) released the *Wagner-Peyser Act Staffing Flexibility* final rule to give states increased flexibility in their administration of Employment Service (ES) activities funded under the Wagner-Peyser Act. The final rule removes the requirement that states hire state merit staff for ES activities provided under the Wagner-Peyser Act. This flexibility applies to the grants allocated to the states for the traditional labor exchange and related services, and for the employment services in support of the foreign labor certification program, including the placement of employer job orders, inspection of housing for agricultural workers, and the administration of prevailing wage and practice surveys.

The final rule amends *Department of Labor-only WIOA final rule* provisions governing the Wagner-Peyser Act at 20 CFR 651, 652, 653, and 658, and is available at 85 FR 592. The final rule is effective February 5, 2020.

This TEN also announces the approved amendatory information collections associated with this final rule:

- OMB Control Number 1205-0522, *Required Elements for Submission of the Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act*, and
- OMB Control Number 1205-0039, *Migrant and Seasonal Farmworker Monitoring Report and Complaint/Apparent Violation Form*.

Lastly, this TEN provides information to states on the changes to the state planning requirements for the Wagner-Peyser Act beginning with the Program Year (PY) 2020-2023 WIOA Unified or Combined State Plan planning cycle.

b. Background – The Wagner-Peyser Act established the ES program, which is a nationwide system of public employment offices that provide labor exchange services. The ES program is designed to improve the functioning of the nation’s labor markets by bringing together individuals seeking employment with employers seeking workers. On June 24, 2019, ETA issued a Notice of Proposed Rulemaking (NPRM) to amend regulations in 20 CFR parts 651, 652, 653, and 658 to allow states flexibility in how they engage in ES activities. 84 Fed. Reg. 29433 (June 24, 2019). ETA took into consideration the public comments from the NPRM, and made some changes based on those comments, which are addressed in the final rule.

4. **Final Rule and State Planning.** The final rule includes several changes to the Information Collection Request (ICR) for OMB Control Number 1205-0522, *Required Elements for Submission of the Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act*. These changes were also announced in the NPRM. 84 Fed. Reg. at 29448–49. Specifically, the Department of Labor updated requirements for the Wagner-Peyser Act portion of the State Plan to reflect the flexibility provided by the final rule; these ICR changes can be found in Attachment I: Wagner-Peyser Act Program (Employment Service) Requirements for State Plans.

The primary change to the ICR for ES activities asks a state how it plans to staff the provision of labor exchange services under the Wagner-Peyser Act. The ICR requires states seeking to use the flexibility provided by the final rule to describe how these services will be provided, such as through a subrecipient arrangement, or a combination of state merit-staff and subrecipients.

The Department also made changes to the Agricultural Outreach Plan (AOP) section of the State Plan ICR. Addressing the AOP requirements discussed in Attachment I is a necessary part of State Plan submissions. Note that, pursuant to the continued requirements at 20 CFR 653.107(d)(3), no change has been made to the requirement that SWAs solicit information and suggestions for the AOP from WIOA sec. 167 National Farmworker Jobs Program (NFJP) grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations. In addition, at least 45 calendar days before

submitting its final AOP to the Department—as has been required in the past—the SWA must provide the proposed AOP to NFJP grantees, public agencies, agricultural employer organizations, and other organizations expressing an interest and allow at least 30 calendar days for review and comment.

Lastly, the Department made a change to the Assurances section of the Wagner-Peyser Act part of the State Plan ICR to remove the assurance that Wagner-Peyser Act-funded staff be state merit-staff employees. This was replaced with an assurance addressing services to migrant and seasonal farmworkers discussed in Attachment I.

a. Early Implementation

States seeking to implement the final rule’s flexibility for the beginning of PY 2020 need to describe their planned implementation activities in the PY 2020-2023 State Plan submission, as is required by the changes to the State Plan ICR, which are described in Attachment I. States interested in early implementation must ensure all aspects of the State Plan have met public comment requirements. States seeking early implementation can contact the appropriate ETA Regional Office for additional technical assistance.

b. Implementation after July 1, 2020 - Modification to 2020 State Plan

States wishing to implement the flexibility later than the beginning of PY 2020 or subsequent to the approval of their PY 2020-2023 WIOA Unified or Combined State Plan may submit a State Plan modification any time after they receive such notification of approval, as with any modification to a State Plan. Similarly to early implementer states, states submitting a modification to their State Plan will need to describe their implementation strategy, as is required by the changes made to the State Plan ICR, which are described in Attachment I.

c. States Opting Not to Use Flexibility in the Rule

Under the final rule, states may continue to use state merit staff as they have previously done. States not seeking to change their staffing will still need to address the changes made to the State Plan ICR described in Attachment 1, but can simply notify ETA that the state will continue to use state merit-staffing in question (a)(1) under the Wagner Peyser Act section in the state plan, as is stated in the State Plan ICR.

5. **Inquiries.** Please direct inquiries to the appropriate Regional Office.

6. **References.**

- Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.);
- The Workforce Innovation and Opportunity Act (WIOA) of 2014 (Pub. L. 113-128) Title I and III, enacted July 22, 2014;
- WIOA Regulations at 20 CFR parts 651, 652, 653, and 658;

- Wagner-Peyser Act Staffing Flexibility final rule (85 FR 592, available at <https://www.govinfo.gov/content/pkg/FR-2020-01-06/pdf/2019-27260.pdf>)

7. Attachments.

- Attachment I: Wagner-Peyser Act Program (Employment Service) Requirements for State Plans

Attachment I: Wagner-Peyser Act Program (Employment Service) Requirements for State Plans

The language below is found on pages 21-24 of Information Collection Request (ICR) (OMB Control Number 1205-0522) describes the requirements that states must address in their State Plan submissions in accordance with the Wagner-Peyser Act. Substantive changes made to the language in this section of the ICR are indicated by bold text below.

WAGNER-PEYSER ACT PROGRAM (Employment Service)

(a) Employment Service (ES) Staff.

- (1) **Describe how the state will staff the provision of labor exchange services under the Wagner-Peyser Act, such as through state employees, including but not limited to state merit staff employees, staff of a subrecipient, or some combination thereof. *(Note – States not seeking to utilize the staffing flexibility in the final rule as part of their 2020 State Plan submission can answer this question by entering that the state will continue to utilize state merit staff employees)***
 - (2) Describe how the state will utilize professional development activities for Employment Service staff to ensure staff is able to provide high quality services to both jobseekers and employers.
 - (3) Describe strategies developed to support training and awareness across core programs and the Unemployment Insurance (UI) program and the training provided for Employment Service and WIOA staff on identification of UI eligibility issues and referral to UI staff for adjudication.
- (b) Explain how the state will provide information and meaningful assistance to individuals requesting assistance in filing a claim for unemployment compensation through one-stop centers, as required by WIOA as a career service.
- (c) Describe the state's strategy for providing reemployment assistance to UI claimants and other unemployed individuals.
- (d) Describe how the state will use Wagner-Peyser Act funds to support UI claimants, and the communication between the Employment Service and UI, as appropriate including the following:
- (1) Coordination of and provision of labor exchange services for UI claimants as required by the Wagner-Peyser Act;
 - (2) Registration of UI claimants with the state's employment service if required by State law;
 - (3) Administration of the work test for the state unemployment compensation system, including making eligibility assessments (for referral to UI adjudication, if needed), and providing job finding and placement services for UI claimants; and
 - (4) Provision of referrals to and application assistance for training and education programs and resources.
- (e) Agricultural Outreach Plan (AOP). Each state agency must develop an AOP every four years as part of the Unified or Combined State Plan required under sections 102 or 103 of WIOA.

The AOP must include an assessment of need. An assessment need describes the unique needs of farmworkers in the area based on past and projected agricultural and farmworker activity in the state. Such needs may include but are not limited to: employment, training, and housing. **The assessment of need must include:**

- (1) An assessment of the agricultural activity in the state: 1) Identify the top five labor-intensive crops, the months of heavy activity, and the geographic area of prime activity; 2) Summarize the agricultural employers' needs in the state (i.e. are they predominantly hiring local or foreign workers, are they expressing that there is a scarcity in the agricultural workforce); and 3) Identify any economic, natural, or other factors that are affecting agriculture in the state or any projected factors that will affect agriculture in the state.
 - (2) An assessment of the unique needs of farmworkers means summarizing Migrant and Seasonal Farm Worker (MSFW) characteristics (including if they are predominantly from certain countries, what language(s) they speak, the approximate number of MSFWs in the state during peak season and during low season, and whether they tend to be migrant, seasonal, or year-round farmworkers). This information must take into account data supplied by WIOA Section 167 National Farmworker Jobs Program (NFJP) grantees, other MSFW organizations, employer organizations, and state and/or Federal agency data sources such as the U.S. Department of Agriculture and the U.S. Department of Labor, Employment and Training Administration.
- (f) Outreach Activities. The local offices outreach activities must be designed to meet the needs of MSFWs in the state and to locate and contact MSFWs who are not being reached through normal intake activities. Describe the state agency's proposed strategies for:
- (1) Contacting farmworkers who are not being reached by the normal intake activities conducted by the employment service offices.
 - (2) **Providing technical assistance to outreach staff. Technical assistance must include trainings, conferences, additional resources, and increased collaboration with other organizations on topics such as one-stop center services (i.e., availability of referrals to training, supportive services, and career services, as well as specific employment opportunities), the Employment Service and Employment-Related Law Complaint System ("Complaint System" described at 20 CFR 658 Subpart E), information on the other organizations serving MSFWs in the area, and a basic summary of farmworker rights, including their rights with respect to the terms and conditions of employment.**
 - (3) Increasing outreach staff training and awareness across core programs including the UI program and the training on identification of UI eligibility issues.
 - (4) Providing outreach staff professional development activities to ensure they are able to provide high quality services to both jobseekers and employers.
 - (5) Coordinating outreach efforts with NFJP grantees as well as with public and private community service agencies and MSFW groups. **If an NFJP grantee is the State Workforce Agency's (SWA) subrecipient conducting outreach, provide:**
 - i. **A description of that relationship;**
 - ii. **A description of any other MSFW service providers the NFJP is coordinating with; and**
 - iii. **The NFJP grantee's outreach plan to be included in the State Plan.**

(g) Services provided to farmworkers and agricultural employers through the one-stop delivery system. Describe the state agency's proposed strategies for:

- (1) Providing the full range of employment and training services to the agricultural community, both farmworkers and agricultural employers, through the one-stop delivery system. This includes:
 - i. How career and training services required under WIOA Title I will be provided to MSFWs through the one-stop centers;
 - ii. How the state serves agricultural employers and how it intends to improve such services.
- (2) Marketing the Complaint System to farmworkers and other farmworker advocacy groups
- (3) Marketing the Agricultural Recruitment System for **U.S. Workers (ARS)** to agricultural employers and how it intends to improve such publicity.

(h) Other Requirements.

- (1) *Collaboration.* Describe any collaborative agreements the SWA has with other MSFW service providers including NFJP grantees and other service providers. Describe how the SWA intends to build upon/increase collaboration with existing partners and establish new partners over the next four years (including any approximate timelines for establishing agreements or building upon existing agreements).
- (2) *Review and Public Comment.* In developing the AOP, the SWA must solicit information and suggestions from NFJP grantees,¹ other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations. In addition, at least 45 calendar days before submitting its final AOP, the SWA must provide a proposed plan to NFJP grantees, public agencies, agricultural employer organizations, and other organizations expressing an interest and allow at least 30 days for review and comment. The SWA must: 1) Consider any comments received in formulating its final proposed AOP; 2) Inform all commenting parties in writing whether their comments have been incorporated and, if not, the reasons therefore; and 3) Transmit the comments and recommendations received and its responses with the submission of the AOP.
 - i. The AOP must include a statement confirming NFJP grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations and other interested employer organizations have been given an opportunity to comment on the AOP. Include the list of organizations from which information and suggestions were solicited, any comments received, and responses to those comments.
- (3) *Data Assessment.* Review the previous four years Wagner-Peyser Act data reports on performance. Note whether the state has been meeting its goals to provide MSFWs quantitatively proportionate services as compared to non-MSFWs. If it has not met these goals, explain why the state believes such goals were not met and how the state intends to improve its provision of services in order to meet such goals.
- (4) *Assessment of progress.* The plan must include an explanation of what was achieved based on the previous AOP, what was not achieved and an explanation as to why the state

¹ Where the NFJP grantee is the subrecipient, the NFJP grantee would not need to submit comments. Instead, the SWA must solicit information from other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations.

believes the goals were not achieved, and how the state intends to remedy the gaps of achievement in the coming year.

- (5) *State Monitor Advocate*. The plan must contain a statement confirming the State Monitor Advocate has reviewed and approved the AOP.

Wagner-Peyser Assurances

The State Plan must include assurances that:	
1.	The Wagner-Peyser Act Employment Service is co-located with one-stop centers or a plan and timeline has been developed to comply with this requirement within a reasonable amount of time. (sec 121(e)(3));
2.	If the state has significant MSFW one-stop centers, the state agency is complying with the requirements under 20 CFR 653.111, State Workforce Agency staffing requirements;
3.	If a state Workforce Development Board, department, or agency administers state laws for vocational rehabilitation of persons with disabilities, that board, department, or agency cooperates with the agency that administers Wagner-Peyser Act services, Adult and Dislocated Worker programs and Youth Programs under Title I; and
4.	If a state chooses to provide certain ES activities without merit staff, it remains incumbent upon SWA officials to carry out the following activities if they arise: <ol style="list-style-type: none"> 1) Initiate the discontinuation of services; 2) Make the determination that services need to be discontinued; 3) Make the determination to reinstate services after the services have been discontinued; 4) Approve corrective action plans; 5) Approve the removal of an employer's clearance orders from interstate or intrastate clearance if the employer was granted conditional access to ARS and did not come into compliance within 5 calendar days; 6) Enter into agreements with state and Federal enforcement agencies for enforcement-agency staff to conduct field checks on the SWAs' behalf (if the SWA so chooses); and 7) Decide whether to consent to the withdrawal of complaints if a party who requested a hearing wishes to withdraw its request for hearing in writing before the hearing.