

## AGREEMENT FOR WORKFORCE TRAINING

THIS SUBAWARD AGREEMENT ("Agreement"), made and entered into this 00th day of Month, 2023, by and between the City of Santa Ana, a charter city and municipal corporation duly organized and existing under the Constitution and laws of the State of California ("CITY") and School Name for-profit or Non-Profit corporation identified by the assigned Data Universal Numbering System (DUNS) Number( 000000000) ("CONTRACTOR").

### RECITALS:

A. CITY has been designated a Local Workforce Development Area (LWDA) under the Workforce Innovation and Opportunity Act of 2014, Public Law 1-113-128 ("WIOA" or "the Act"), Catalog of Federal Domestic Assistance (CFDA) Number 17.258, 17.278, 17.259 and Federal Award Identification Number (FAIN) AA363092155A6.

B. The State of California has created the LWDA to administer the Act programs operated by the State of California pursuant to the Act.

C. As a LWDA, CITY is entitled to receive Federal funds to establish programs to increase the employment, retention and earnings of participants, and increase occupational skills attainment by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the nation. Under WIOA, participants in need of training services may access career training through a list of state-approved schools and their training programs.

D. In addition to WIOA, the CITY received funding from the Orange County Social Services Vocational Training grant funded through the California Work Opportunity and Responsibility to Kids Act of 1997, which provides monies for the basic needs of families with children ("CalWORKs" or "SSA"). An important component of CalWORKs allows for the provision of employment services for parents. Heads of households are provided job training services to help families upgrade job skills with the ultimate goal of self-sufficiency.

E. The CITY intends to utilize the WIOA and SSA Grant Funds to operate a Workforce Training Program in which vocational training courses will be made available to Qualified Participants ("Workforce Training Program"). Qualified Participants are those individuals that are permitted to participate under the Act and approved to participate under the City's Workforce Training Program ("Qualified Participants"). Pursuant to the Workforce Training Program, the CITY desires to contract with public and private organizations, including employers, who are qualified to participate in the CITY's Workforce Training Program by providing services to Qualified Participants (each, a "Qualified Contractor").

F. CONTRACTOR is a Qualified Contractor that has been selected as one of several vendors that qualified to provide workforce training under the Workforce Training Program.

G. CONTRACTOR represents that it is knowledgeable in its field, and is

willing to provide workforce training services under the Workforce Training Program pursuant to applicable Federal and California laws.

H. The CITY and CONTRACTOR (each, a "Party" and jointly, the "Parties") desire to enter into this Agreement so that CONTRACTOR may receive a subgrant of the proceeds of the WIOA and/or SSA Grants (hereinafter defined as the "Subgrant") in consideration for CONTRACTOR's participation in the CITY's WIOA and/or SSA Programs and provision of services to Qualified Participants upon the request of the CITY.

WHEREFORE, for and in consideration of the respective and mutual covenants and promises hereinafter contained and made, and subject to all the terms and conditions hereof, the Parties hereto do hereby agree as follows:

## I. CONTRACTOR'S OBLIGATIONS

A. In compliance with all of the terms and conditions of this Agreement, CONTRACTOR shall provide the CONTRACTOR's Services, as authorized by the CITY's Representative. CONTRACTOR represents and warrants that CONTRACTOR's Services to be provided hereunder shall be performed in a competent, professional and satisfactory manner in accordance with the CITY's Workforce Training Program.

B. CONTRACTOR agrees to provide benefits to individuals who participate in the activities and services funded by this Agreement ("Participants") in accordance with the standards and requirements set forth in this Agreement.

C. CONTRACTOR acknowledges and agrees that CITY shall request that CONTRACTOR provide the CONTRACTOR's Services on an "as requested" basis and that CITY does not guaranty a minimum number of Qualified Participants for whom CONTRACTOR's Services shall be requested and required under this Agreement. CONTRACTOR acknowledges and agrees that CONTRACTOR shall not commence to provide CONTRACTOR's Services to a particular Qualified Participant hereunder unless and until CONTRACTOR receives a Notice to Proceed from the CITY authorizing the provision of CONTRACTOR's Services to that particular Qualified Participant. CONTRACTOR further acknowledges and agrees that this Agreement and any request for the provision of services hereunder is nonexclusive and that the CITY may enter into similar agreements with other entities for the provision of similar services.

D. Time is of the essence in the performance of this Agreement. CONTRACTOR shall perform and complete all of CONTRACTOR's Services in a timely and expeditious manner. CONTRACTOR shall not be responsible for delays caused by circumstances beyond its reasonable control, provided that CONTRACTOR has delivered to the CITY written notice of the cause of any such delay within ten (10) days of the occurrence of such cause.

E. Scope of Services. On an as-needed basis, and at the sole discretion of CITY, CONTRACTOR shall perform the services that are described in **Exhibit A**. The Scope of Services shall include the CONTRACTOR's proposal or bid, if any, which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms

of such proposal and this Agreement, the terms of this Agreement shall govern. Specific allocation of services may be changed at the discretion of the CITY and upon mutual agreement of the Parties.

F. Compliance with Law. CONTRACTOR's Services shall be provided in accordance with all ordinances, resolutions, statutes, rules, regulations and laws of the CITY and any Federal, State or local governmental agency of competent jurisdiction.

G. CONTRACTOR shall obtain, at CONTRACTOR's sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of CONTRACTOR's Services. CONTRACTOR shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for the performance of the services required by this Agreement

H. CONTRACTOR shall adhere to all applicable labor standards as required by the Act ("Labor Standards").

I. If funding is through WIOA, CONTRACTOR agrees to comply with the "Complaint Handling Procedures under the WIOA", attached hereto as **Exhibit H** and incorporated herein as though fully set forth in 20 CFR 658.411. CONTRACTOR shall advise applicants, where applicable, and Qualified Participants of their rights to file complaints under the Act and the procedures for resolution of any complaints. CITY's procedures for handling complaints alleging a violation of the Act, regulations, grants, or other agreements under the Act shall be followed and any decision of CITY, the State or the Federal government relating to the complaint shall be binding and followed by CONTRACTOR. CONTRACTOR, who is an employer, shall operate a grievance system that incorporates CITY's procedures for resolution of complaints relating to the terms and conditions of employment; these procedures shall be approved in writing by CITY.

J. As a condition of this award of financial assistance under the Act to CONTRACTOR from CITY, CONTRACTOR assures, with respect to operation of all programs or activities funded with funds provided pursuant to the Act, and all agreements or arrangements to carry out such programs or activities, that it will comply fully with the nondiscrimination and equal opportunity provisions of the Act (Section 188) and compliance with Equal Employment Opportunity provisions in Executive Order (E.O.) 11246, as amended by E.O. 11375 and supplemented by the requirements of 41 CFR Part 60; the Nontraditional Employment for Women Act of 1991; Title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; the Americans with Disabilities Act of 1990; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including, but not limited to, 29 CFR Parts 33 and 37. The United States, the State of California and CITY have the right to seek judicial enforcement of this assurance.

K. CONTRACTOR agrees that no Qualified Participant(s) shall commence training prior to the approval of funding pursuant to Section 123 of the Act, or the approval of SSA funding, as applicable.

L. CONTRACTOR agrees to the following accounting, monitoring, auditing, and review requirements:

1. CONTRACTOR agrees to maintain such records and submit such reports, data and information, on the form and containing such information, at such times as CITY may request or require regarding the performance of CONTRACTOR'S services or activities, costs or other data, including but not limited to Qualified Participants' attendance and certifications.

2. CITY, the State of California and the United States government and/or their representatives shall have access for purposes of monitoring, auditing and examining of CONTRACTOR'S activities, performance, and Qualified Participants related to this Agreement. Such agencies or representatives shall also schedule on-site monitoring at their discretion. Monitoring activities may also include, but are not limited to, questioning employees and Qualified Participants and entering any premises or onto any site in which any of the services or activities funded hereunder are conducted or in which any of the records of CONTRACTOR are kept (2 CFR 200.330). Nothing herein shall be construed to require access to any privileged or confidential information as set forth in Federal or state law.

3. In the event CONTRACTOR does not make the above-referenced documents available within the City of Santa Ana, California, CONTRACTOR agrees to pay all necessary and reasonable expenses incurred by CITY in conducting any audit at the location where said records and books of account are maintained.

4. All accounting records and evidence pertaining to all costs of CONTRACTOR and all documents related to this Agreement shall be kept available at the location where CONTRACTOR conducted the program, as well as in the County of Orange, for the duration of this Agreement and thereafter for three (3) years after completion of an audit. Records which relate to (a) complaints, claims, administrative proceedings or litigation arising out of the performance of this Agreement, or (b) costs and expenses of this Agreement to which CITY, the State of California or the United States Government take exception, shall be retained beyond the three (3) years until resolution of disposition of such appeals, litigation, claims, or exceptions.

M. Without prejudice to any other section of this Agreement, CONTRACTOR shall, where applicable, maintain the confidential nature of information provided to it concerning Qualified Participants in accordance with the requirements of Federal and state law. Notwithstanding the foregoing, CONTRACTOR agrees to submit to CITY, the State of California and/or the United States Government or their representatives, all records requested for administrative purposes, including audits, examinations, monitoring and verification of records submitted by CONTRACTOR, costs incurred and services rendered hereunder.

N. CONTRACTOR shall not expend funds pursuant to this Agreement to provide services to any Qualified Participant where costs of training are paid for by any other person or entity.

O. If funding is through WIOA, CONTRACTOR shall comply with the provisions of Uniform Guidance 2 CFR Part 200 of the U.S. Office of Management and Budget (OMB) and all other applicable Federal statutes and executive orders and their implementing regulations, including regulations at 29 CFR Part 97.

P. If funding is through WIOA, CONTRACTOR shall comply with the requirements of Federal regulations found at 29 CFR Part 93, which provide that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, member of Congress or an officer or employee of a member of Congress in connection with awarding of any Federal contract, the making of any Federal grant or loan, entering into any cooperative agreement and the extension, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. CONTRACTOR shall sign a Certification Regarding Lobbying to that effect in a form as set forth in **Exhibit D**, attached hereto and by this reference incorporated herein. CONTRACTOR shall submit said signed Certification to CITY prior to performing any of its obligations under this Agreement and prior to any obligation arising on the part of CITY to pay any sums to CONTRACTOR under the terms and conditions of this Agreement.

Q. CONTRACTOR agrees to provide a drug-free work place and to execute a Drug Free Workplace Certification as set forth in **Exhibit E** attached hereto and incorporated herein by this reference.

R. CONTRACTOR, in accordance with the Child Support Recovery Act of 1992, recognizes and acknowledges the importance of child and family support obligations and shall fully comply with all state and Federal laws relating to child and family support enforcement, including, but not limited to: disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the state Family Code; and, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Employee Registry maintained by the California Employment Development Department (EDD).

S. CONTRACTOR agrees to comply with all applicable provisions of the Act or SSA, as applicable, and all applicable Federal regulations, including, but not limited to, the Code of Federal Regulations, Title 2 -Grants and Agreements, Subtitle A—Office of Management and Budget Guidance for Grants and Agreements, as well as all applicable state and local regulations.

T. If funding is through WIOA, CONTRACTOR agrees to remain in compliance with the Certification Regarding Debarment, attached hereto as **Exhibit F** and incorporated herein by reference, as required by the regulations implementing Executive Order 12549, Debarment and Suspension, (2 CFR Part 180).

U. If funding is through WIOA, CONTRACTOR agrees to provide priority of services for veterans and eligible spouses pursuant to 20 CFR Part 1010, and the regulations implementing priority of service for veterans and eligible spouses in Department of Labor job

training programs under the Jobs for Veterans Act published at 73 Fed. Reg. 78132 on December 19, 2008.

V. CONTRACTOR acknowledges that the official name for the statewide system of providing employment and training through the WIOA partnerships, SSA, and various other local programs is “America’s Job Center”. To achieve the goals of this Workforce Training Program, it is important that the public has a quick and easy method to identify that the projects or programs they are taking part in are part of the “America’s Job Center”. CONTRACTOR agrees to place the America’s Job Center logo, in accordance with the State of California guidelines for such use, on all public materials, such as statements, press releases, brochures, advertisements, reports and other documents describing projects or programs funded in whole or in part with WIOA or SSA funds. When the America’s Job Center logo is used, CONTRACTOR may accompany it with the following statement, “The (CONTRACTOR) is a proud partner of the America’s Job Center network”. CONTRACTOR shall not use the America’s Job Center logo in any manner that would imply that the State of California endorses a commercial product, service or activity.

## II. CITY'S OBLIGATIONS

A. On July 1, 2023 the CITY was awarded a Department of Labor Workforce Innovation and Opportunity Act grant of \$2,367,690.00 for fiscal year 2023-2024. In addition, on July 1, 2023, the CITY was awarded an Orange County Social Services Vocational Training grant through the California Work Opportunity and Responsibility to Kids Act of 1997 in the total amount of \$838,964.00 for fiscal year 2023-2024. A portion of both grants in a total amount not to exceed \$2,500,000.00 shall be available to all Qualified Contractors to provide workforce training classes for Qualified Participants.

B. If a Qualified Participant chooses to enroll in a course offered by CONTRACTOR, CITY agrees to pay to CONTRACTOR when, if and to the extent WIOA or SSA funds are received under the provisions of the applicable grants, in accordance with the Course Costs attached hereto as **Exhibit B** and incorporated herein by reference, which may be amended during the period of this Agreement. Said sum shall be paid with either WIOA or SSA funds, as determined by the CITY in its sole discretion, after CITY receives invoices submitted by CONTRACTOR as provided herein.

C. CONTRACTOR has the ability to adjust line item amounts in the Course Costs with the approval of the Executive Director.

D. CITY agrees to provide for on-site monitoring reviews of the Workforce Training Program operation at least annually. In addition, monthly desktop reviews of pertinent information will be conducted.

E. CITY has the right to de-obligate the funds hereunder, and take such funding back from CONTRACTOR, due to any of the following reasons: (a) lack of performance by CONTRACTOR; (b) lack of fiscal accountability of CONTRACTOR; or (c) decrease in available

funding.

### III. COMPENSATION

A. CITY neither warrants nor guarantees any minimum or maximum compensation to CONTRACTOR under this Agreement. CONTRACTOR shall be paid only for actual services performed under this Agreement at the rates and charges identified in **Exhibit B**. Any compensation payable to CONTRACTOR shall be paid from a portion of the above-referenced WIOA and/or SSA grants awarded to the CITY in a total amount not to exceed \$2,500,000.00.

B. Payment by CITY shall be made within thirty (30) days following receipt of proper invoice evidencing work performed, subject to CITY accounting procedures.

### IV. TERM OF AGREEMENT

A. This Agreement shall commence on the date stated above and continue through June 30, 2027, with a one-year option to renew executable by the CITY in its sole discretion, unless terminated earlier by either party. The one-year option may be executed, by a writing executed by the City Manager and the City Attorney.

B. Unless the CITY authorizes an extension, CONTRACTOR must liquidate all obligations incurred under the Federal award not later than ninety (90) calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award, as applicable.

### IV. INDEPENDENT CONTRACTOR

A. CONTRACTOR shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the CITY. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the CITY to exercise discretion or control over the professional manner in which CONTRACTOR performs the services which are the subject matter of this Agreement; however, the services to be provided by CONTRACTOR shall be provided in a manner consistent with all applicable standards and regulations governing such services. CONTRACTOR shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

### V. WORKER'S COMPENSATION AND EMPLOYER'S RIGHTS

A. CONTRACTOR shall use appropriate funds received from CITY to provide workers' compensation to all those hired by CONTRACTOR under this Agreement.

B. CONTRACTOR shall have the right to hire, dismiss, or promote its employees or contract personnel hired under this Agreement so long as its hiring or dismissal policy or standard does not violate Title VII of the Civil Rights Act of 1964, Fair Labor Standards Act of 1938, or any other applicable law, and CONTRACTOR maintains itself as an Equal Opportunity Employer.

## VI. APPLICABLE GUIDELINES

A. The Parties hereto agree that CONTRACTOR shall comply with all applicable Federal and state laws and regulations, including, but not limited to the Eligible Training Provider List (ETPL) Policy and Procedures WSD21-03 attached hereto as **Exhibit C** and incorporated herein by reference, and general program requirements described in Sections 2 and 116 of the Act, and applicable regulations, and the U.S. Department of Labor guidelines and regulations, including amendments or revisions made during the terms of this Agreement. Said applicable laws are hereby incorporated by reference and made part of this Agreement as though fully set forth herein.

B. CONTRACTOR also assures and certifies that:

1. CONTRACTOR shall comply with Title VII of the Civil Rights Act of 1964 and in accordance with Title VII of the Act, requiring that no person shall, on the grounds of race, color, religion, sex, age, handicap or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

2. CONTRACTOR shall comply with any and all Federal laws limiting the political activity of employees hired under this Agreement.

3. CONTRACTOR shall comply with the requirements that no program under the Act shall involve political activities.

4. **RECORD INSPECTION.** CONTRACTOR shall provide the U.S. Department of Labor and the Comptroller General, by and through any authorized representative, as well as the California Workforce Development Board ("WDB") Administrative Office, access to and the right to examine all records, books, papers or documents relating to the accounting and use of funds under this Agreement for a three-year period from and after the effective date of this Agreement.

5. No person with responsibilities in the operation of any program under the Workforce Training Program shall discriminate with respect to any Qualified Participant or any application for participation in such program because of race, creed, color, national origin, sex, political affiliation or beliefs.

6. CONTRACTOR shall maintain appropriate standards for health and safety in work and training situations.



7. CONTRACTOR shall comply with general provisions, assurances, and execute the Assurances and Certifications attached hereto as **Exhibit G** and incorporated herein.

8. **EQUAL OPPORTUNITY.** Any literature distributed by CONTRACTOR for the purpose of apprising businesses, Qualified Participants, or the general public of its programs under this Agreement shall state that its programs are supported by the City of Santa Ana and the Santa Ana Workforce Development Board, and shall state that the program is an “equal opportunity employer/program” and that “auxiliary aids and services are available upon request to individuals with disabilities.”

9. Based on the population eligible to be served, or likely to be directly affected by the program or activity, the services or information may need to be provided in a language other than English in order to allow such population to be effectively informed about or able to participate in the program or activity. Pursuant to 29 CFR 37.35, CONTRACTOR must take reasonable steps to provide services and information in appropriate languages after considering the scope of the program or activity, and the size and concentration of the population that needs services or information in a language other than English.

10. CONTRACTOR certifies that all property, finished or unfinished documents, data, studies and reports prepared or purchased under this Agreement, will be disposed of in accordance with the direction of the CITY. In addition, any tools and/or equipment furnished to the CONTRACTOR by the CITY and/or purchased by the CONTRACTOR with funds pursuant to this Agreement, will be limited to use within the activities outlined in this Agreement and will remain the property of the United States Government and/or CITY. Upon termination of this Agreement, CONTRACTOR will immediately return such tools and/or equipment to the CITY or dispose of them in accordance with the direction of the CITY.

11. CONTRACTOR certifies that this Agreement does not provide for the advancement or aid to any religious sect, church or creed, or sectarian purpose, nor does it help to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination, as specified by Article XVI, Section 5, of the Constitution of the State of California, regarding separation of church and state.

12. **CLEAN AIR ACT / CLEAN WATER ACT.** If the grant hereunder exceeds \$100,000, CONTRACTOR must comply with the Clean Air Act (“CAA”)[(42 USC 7401, et seq.); the Clean Water Act (“CWA”) (33 USC 1368); Executive Order 11738 and United States Environmental Protection Agency (“EPA”) regulations (40 CFR Part 35) as any may now exist or be hereafter amended. Under these laws and regulations, the CONTRACTOR assures that:

- (a) No facility to be utilized in the performance of the proposed grant has been issued a violation from the EPA under the CAA or CWA;
- (b) It will notify CITY prior to award of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the grant is under consideration for issuance of a violation under the CAA or CWA; and,
- (c) It will notify the CITY and the EPA about any known violation of the above laws and regulations.

13. CONTRACTOR agrees to adhere to the following STANDARDS OF CONDUCT:

- (a) General Assurance. Every reasonable course of action will be taken by CONTRACTOR in order to maintain the integrity of this expenditure of public funds and to avoid favoritism. This Agreement will be administered in an impartial manner, free from errors to gain personal, financial, political gain. CONTRACTOR, its officers and employees, in administering this Agreement, will avoid situations, which give rise to a suggestion that any decision was influenced by prejudice, bias, special interest or desire for personal gain.
- (b) Employment of Former State or CITY Employees. CONTRACTOR will ensure that any of its employees who were formerly employed by the State of California or CITY, in a position that could have enabled such individuals to impact policy regarding or implementation of programs covered by this Agreement, will not be assigned to any part or phase of the activities conducted pursuant to this Agreement for a period of not less than two (2) years following the termination of such employment.
- (c) Conducting Business Involving Relatives. No relative by blood, adoption or marriage of any executive or employee of CONTRACTOR will receive favorable treatment when considered for enrollment in programs provided by, or employment with, CONTRACTOR.
- (d) Conducting Business Involving Close Personal Friends and Associates. Executives and employees of CONTRACTOR will be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering this Agreement, will exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates. When it is in the public interest for CONTRACTOR to conduct business with a friend or associate of an executive or employee of CONTRACTOR, an elected official in the area or a voting or non-voting member of the Local Workforce Development Board (WDB), a permanent record of the transaction will be retained.

- (e) Avoidance of Conflict of Economic Interest. No executive or employee of CONTRACTOR elected official in the area, or voting or non-voting member of a WDB, will solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed in whole or part by CONTRACTOR or CITY. Supplies, materials, equipment or services purchased with Agreement funds will be used solely for purposes asserted or allowed under this Agreement. No voting member of the WDB will cast a vote on the provision of services or vote on any matter, which would provide direct financial benefit to that member or any business or organization that the member directly represents.
- (f) Salary and Bonus Limitations. If CONTRACTOR receives WIOA funds, CONTRACTOR is required to comply with Federal requirements regarding the limitations on salary and bonus payments in accordance with Public Law 109-149, Section 503.

## VII. HOLD HARMLESS

CONTRACTOR agrees to defend, and shall indemnify and hold harmless the CITY, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the CONTRACTOR, its subcontractors, agents, employees, or other persons acting on its behalf which relates to the services described in this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The CONTRACTOR further agrees to indemnify, hold harmless, and pay all costs for the defense of the CITY, including fees and costs for special counsel to be selected by the CITY, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. CITY may make all reasonable decisions with respect to its representation in any legal proceeding.

## VIII. INSURANCE

A. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

## B. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. *(Not required if CONTRACTOR provides written verification an automobile is not required to perform services.)*
- **Workers’ Compensation:** as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. *(Not required if CONTRACTOR provides written verification it has no employees.)*
- **Professional Liability** (Errors and Omissions) Insurance appropriate to the Consultant’s profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

## C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

### *Additional Insured Status*

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

### ***Primary Coverage***

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

### ***Waiver of Subrogation***

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

### ***Claims Made Policies (note – should be applicable only to professional liability, see below)***

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not replaced ***with another claims-made policy form with a Retroactive Date prior to*** the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of work.

***Verification of Coverage***

Contractor shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them.

The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Special Risks or Circumstances***

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

## **IX. CORPORATE STATUS**

CONTRACTOR shall be in good standing, without suspension by the California Secretary of State, Franchise Tax Board or Internal Revenue Service. Any change in corporate status or suspension shall be reported immediately to CITY.

## **X. ASSIGNABILITY**

None of the duties of, or work to be performed by, CONTRACTOR under this Agreement shall be subcontracted or assigned to any agency, consultant, or person without the prior written consent of CITY. CONTRACTOR must submit all subcontracts and other agreements that relate to this Agreement to CITY. If receiving WIOA funds, CONTRACTOR acknowledges and agrees that it must follow procurement regulations for contractors (2 CFR 200.317). No subcontract or assignment shall terminate or alter the legal obligations of CONTRACTOR pursuant to this Agreement.

## **XI. LAWS GOVERNING THIS AGREEMENT**

A. In its performance under this Agreement, CONTRACTOR shall fully comply with the requirements of the following, whether or not otherwise referred to in this Agreement:

1. If receiving WIOA funds, the Act and all applicable Federal statutes, regulations, policies, procedures and directives, including but not limited to, 2 CFR 200 and 20 CFR. Parts 651 and 654
2. All applicable State statutes, regulations, policies, procedures and directives;
3. All applicable CITY policies, procedures and directives;
4. All applicable local ordinances and requirements, including use permits and licensing;
5. Court orders applicable to its operation; and,
6. The terms and conditions of this Agreement.

If any of the foregoing is enacted, amended, or revised, CONTRACTOR will comply with such or will notify CITY after enactment or modification that it cannot so comply. CITY may thereupon terminate this Agreement, if necessary.

## **XII.**

### **EXCLUSIVITY AND AMENDMENT OF AGREEMENT**

This Agreement, together with attachments hereto, represents the complete and exclusive statement between the CITY and CONTRACTOR, and supersedes any and all other agreements, oral or written, between the Parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the CITY and by an authorized representative of CONTRACTOR. The Parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate CONTRACTOR or the CITY. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein.

## **XIII.**

### **FRAUD**

CONTRACTOR shall immediately report to CITY all instances and facts concerning possible fraud, abuse or criminal activity relating to expenditure or receipt of funds under this Agreement.

## **XIV.**

### **CONTINGENCY OF FUNDS**

CONTRACTOR acknowledges that approval of and funding for this Agreement is contingent upon State approval, and WIOA and/or SSA funds received or obligated from the State of California to CITY. If such approval of funds is not forthcoming, or is otherwise limited, CITY shall immediately notify CONTRACTOR. Within twenty (20) days of receipt of such notice, CONTRACTOR shall modify or cease operations as directed by CITY and negotiate necessary

modification to this Agreement and/or reimbursement of costs incurred hereunder.

## **XV. TERMINATION**

A. This Agreement may be terminated by either party at its sole discretion, upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. However, CONTRACTOR may not terminate this Agreement if undue hardship will result to any Qualified Participant.

B. In the event CONTRACTOR defaults by failing to fulfill all or any of its obligations hereunder, CITY may declare a default and termination of this Agreement by written notice to CONTRACTOR, which default and termination shall be effective on a date stated in the notice which is to be not less than ten (10) days after certified mailing or personal service of such notice, unless such default is cured before the effective date of termination stated in such notice. If terminated for cause, CITY shall be relieved of further liability or responsibility under this Agreement, or as a result of the termination thereof, including the payment of money, except for payment for approved expenses incurred for services satisfactorily and timely performed prior to the mailing or service of the notice of termination, and except for reimbursement of (1) any payments made for services not subsequently performed in a timely and satisfactory manner, and (2) costs incurred by CITY in obtaining substitute performance.

## **XVI. DISPUTES**

A. Except as otherwise provided in this Agreement, any dispute concerning any question arising under this Agreement shall be decided by CITY. In such a case, CITY shall reduce its decision to writing and mail or otherwise furnish a copy thereof to CONTRACTOR. The decision of the CITY shall be final and conclusive unless within thirty (30) calendar days from the mailing or delivery of such copy, CITY receives from CONTRACTOR written request to appeal said decision.

B. If receiving WIOA funds, procedures governing the appeal shall be prescribed by CITY and/or the State of California in accordance with the Act and all corresponding regulations and OMB circulars. Pending final disposition of the appeal, CONTRACTOR shall act in accordance with CITY's decision unless the dispute involves a change order.

## **XVII. BREACH - SANCTIONS**

A. If, through any cause, CONTRACTOR violates any of the terms and conditions of this Agreement, and/or prior agreements whereby grant funds were received by CONTRACTOR pursuant to this Agreement, or if CONTRACTOR reports inaccurately or if any Audit Report makes disallowances, CONTRACTOR shall promptly remedy its acts or omissions and/or repay CITY all amounts due CITY as a result of CONTRACTOR's violation. For any such failures or



violations, CITY shall also have the right at its sole discretion to either: (1) discontinue program support until such time as CONTRACTOR fulfills its obligations or remedies all violations of this Agreement or prior agreements; and/or (2) collect outstanding amounts as determined by CITY due CITY by offsetting or debiting from current claims or invoices, if after thirty (30) days' written notice CONTRACTOR has failed to repay same or a repayment schedule has not been made; and/or (3) terminate this Agreement by giving written notice to CONTRACTOR of such termination in accordance the Notices provision in Paragraph XVIII herein below.

### **XVIII. NOTICES**

All notices, reports and correspondence between the Parties hereto respecting this Agreement shall be in writing and deposited in the United States Mail, postage prepaid, addressed as follows:

|             |   |
|-------------|---|
| CITY:       | City of Santa Ana<br>Manager, WDB Administrative Office<br>P.O. Box 1988 (M-76)<br>Santa Ana, CA 92702  |
| CLERK:      | Clerk of the City Council<br>City of Santa Ana<br>20 Civic Center Plaza (M-30)<br>P.O. Box 1988<br>Santa Ana, CA 92702-1988<br>Fax (714) 647-6956 |
| CONTRACTOR: | School Name<br>Address<br>City, CA zip code<br>Phone: (714) 000-000<br>Email:   |

### **XX. VALIDITY**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**XXI.**  
**MISCELLANEOUS PROVISIONS**

A. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective Parties to each of the terms of this Agreement, and shall indemnify CITY fully, including reasonable costs and attorney's fees, for any injuries or damages to CITY in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

B. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

*{Signatures on following page}*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the date and year first above-written.

ATTEST:


"CITY"

\_\_\_\_\_  
Jennifer Hall  
Clerk of the Council

By: \_\_\_\_\_  
Kristine Ridge  
City Manager

APPROVED AS TO FORM:  
Sonia R. Carvalho  
City Attorney

"CONTRACTOR"

By:   
Andrea Garcia-Miller  
Assistant City Attorney

By: \_\_\_\_\_  
Name:  
Title:  
Tax ID #:

RECOMMENDED FOR APPROVAL:

\_\_\_\_\_  
Michael L. Garcia  
Executive Director  
Community Development Agency

**EXHIBIT A & B**

**Scope of Service & Course Cost**

**PLACE HOLDER FOR**

**EXHIBIT B**

**Course Cost**

## ETPL POLICY AND PROCEDURES

### EXECUTIVE SUMMARY

This policy provides guidance and establishes the procedures applicable to the training providers and programs listed on the state and local Eligible Training Provider List (ETPL) under the *Workforce Innovation and Opportunity Act* (WIOA). This policy applies to Local Workforce Development Boards (Local Boards), and is effective on the date of issuance.

This policy contains some state-imposed requirements. All state-imposed requirements are indicated by ***bold, italic*** type.

This Directive finalizes Workforce Services Draft Directive *ETPL Policy and Procedures* (WSDD-215), issued for comment on September 3, 2020. The Workforce Development Community submitted 131 comments during the draft comment period. A summary of comments, including all changes, is provided as Attachment 8.

This policy supersedes Workforce Services Directive *WIOA Eligible Training Provider List - Policy and Procedures* (WSD15-07) dated November 10, 2015. Retain this Directive until further notice.

### REFERENCES

- *Workforce Innovation and Opportunity Act* (Public Law 113-128) Sections 3, 116, 122, 123, 129, 134, and 404
- [Title 20 Code of Federal Regulations](#) (CFR) Part 677: Performance Accountability Under Title I of the Workforce Innovation and Opportunity Act (Uniform Guidance), Sections 677.150 and 677.230
- Title 20 CFR Part 680: Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act (DOL Exceptions), Sections 680.200, 680.210, 680.230, 680.300, 680.310, 680.320, 680.330, 680.340, 680.350, 680.410, 680.420, 680.430, 680.450, 680.460, 680.470, 680.480, 680.490, 680.500, 680.520, and 680.530

*The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.*

- Title 20 CFR Part 681: Youth Activities Under Title I of the Workforce Innovation and Opportunity Act (DOL Exceptions), Sections 681.480 and 681.540
- Title 34 CFR Part 600: Definitions (Department of Education), Section 600.2
- [Training and Employment Guidance Letter](#) (TEGL) 8-19, *Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs* (January 2, 2020)
- TEGL 3-18, *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 WIOA and the Wagner-Peyser Act Employment Services, as amended by title III of WIOA, and for Implementation of the WIOA Final Rules* (March 1, 2017)
- TEGL 13-16, *Guidance on Registered Apprenticeship Provisions and Opportunities in the WIOA* (January 12, 2017)
- *California Code of Regulations* [Division 7.5](#)
- *California Education Code* Sections [94801.5](#), [94850.5](#), and [94874](#)
- *California Unemployment Insurance Code* (CUIC) [Section 14005](#)
- CUIC [Section 14230](#)
- [Workforce Services Directive](#) WSD22-08, *ETPL Reciprocal Agreements* (January 17, 2023)
- WSD22-01, *Performance Guidance* (July 18, 2022)
- WSD19-10, *Recovery of WIOA Tuition and Training Refunds* (February 20, 2020)
- WSD19-06, *CalJOBS Activity Codes* (December 27, 2019)
- WSD17-01, *Nondiscrimination and Equal Opportunity Procedures* (August 1, 2017)
- [California's Unified Strategic Workforce Development Plan](#)

## BACKGROUND

---

WIOA Section 122 requires states to establish and maintain a list of training providers who are eligible to receive WIOA Title I, subtitle B funds for training services. An America's Job Center of California<sup>SM</sup> (AJCC) may issue an Individual Training Account (ITA) to a WIOA Title I, subtitle B eligible individual (out of school youth age 16-24, adult or dislocated worker) to fund training services.

The Employment Development Department (EDD) is the entity responsible for publishing, disseminating, and maintaining the comprehensive California (CA) ETPL with performance and cost information. In addition, the EDD is responsible for ensuring programs meet the eligibility criteria and performance levels established in this Directive; removing programs that do not meet the program criteria or performance levels established in this Directive; and taking enforcement actions against providers that intentionally provide inaccurate information, or that substantially violate the requirements of WIOA.

Likewise, the Local Board is responsible for carrying out the procedures outlined in this Directive; work with the state to ensure there are sufficient numbers and types of providers of training services with expertise in assisting individuals with disabilities, and adults in need of adult education and literacy activities; developing and maintaining a local ETPL; and ensuring the dissemination of the CA and local ETPL through the AJCCs, including in formats accessible to individuals with disabilities.

In cooperation with stakeholders, the State has adopted the following principles when developing the CA ETPL policies and procedures:

1. **Simplicity** – Avoid imposing burdens that inhibit the participation of quality training providers.
2. **Customer Focus** – The policies and procedures support the collection and presentation of easily accessible and reliable training program information for both individuals seeking career and occupational training information, and career planners who assist participants eligible for training services.
3. **Informed Consumer Choice** – The CA ETPL includes locally approved training programs that lead to self-sustainable careers in the local/regional economy, as supported by current labor market information identifying industry sectors and occupational clusters that are high-growth, high-demand, projecting skills shortages, and/or vital to the regional economy.
4. **Training Delivery Flexibility** – Policies and procedures that foster and support the inclusion of various types of training delivery that expand opportunities for consumer choice.
5. **Quality** – Ensure a comprehensive list of quality training programs that meet minimum performance standards, and provide industry-valued skills in priority industry sectors. Information must be accurate, transparent, accessible, and user-friendly.
6. **Respect for Local Autonomy** – The policy remains supportive of the autonomy WIOA grants to the Local Boards.

In addition, this policy and Local Board policies should align with the three policy objectives outlined in the California Unified Strategic Workforce Development Plan:

1. **Fostering demand-driven skills attainment** – Workforce and education programs need to align program content with the state's industry sector needs so as to provide California's employers and businesses with the skilled workforce necessary to compete in the global economy.
2. **Enabling upward mobility for all Californians** – Workforce and education programs need to be accessible for all Californians, especially populations with barriers to employment, and ensure that everyone has access to a marketable set of skills, and is



able to access the level of education necessary to get a good job that ensures both long-term economic self-sufficiency and economic security.

3. **Aligning, coordinating, and integrating programs and services** – Workforce and education programs must economize limited resources to achieve scale and impact, while also providing the right services to clients, based on each client’s particular and potentially unique needs, including any needs for skills-development.

## POLICY AND PROCEDURES

---

This policy establishes the types of allowable training services, consumer choice, the difference between the state and local ETPL, the requirement for Local Boards to establish a ETPL policy, eligibility criteria and procedures for initial and continued eligibility for CA ETPL training providers and programs, the federally mandated Eligible Training Provider Performance Report (ETP Report), and the roles and responsibilities of the Local Boards and the EDD in maintaining the integrity of the CA ETPL.

The following attachments to this Directive provide guidance and resources when implementing the CA ETPL:

1. ***ETPL Policy and Procedures***  
Contains detailed information on initial and continued eligibility requirements, and the roles and responsibilities of the Local Boards, and the EDD in maintaining the integrity of the CA ETPL and the quality of the training programs offered on it.
2. ***ETPL Definitions***  
Includes definitions relevant to the ETPL Policy and Procedures.
3. ***ETPL Local Board Delegation and Cancellation Form***  
This form is utilized to delegate or cancel the delegation of a Local Board’s ETPL responsibilities to another Local Board. The delegation includes both state and local ETPL functions. This form is required to be submitted annually.
4. ***CA ETP Assurances Form***  
This form must be completed by the provider to ensure they will provide the data necessary to complete the annual ETP Report. This form must be submitted annually.
5. ***CA ETPL Training Provider and Program Determination Flowchart***  
Decision trees designed to assist Local ETPL Coordinators with determining initial and continued eligibility for the various provider types and programs.

6. ***Local ETPL Coordinator Contact Form***

A form for Local Boards to designate the Local ETPL Coordinators and provide their contact information.

7. ***Summary of Comments***

A list of all comments received during the comment period, and responses to those comments from the EDD.

8. ***Errata Chronology***

A list of changes that were made to the Directive and its attachments.

## ACTION

---

---

The information contained in this Directive should be shared with Local ETPL Coordinators, and all other staff involved in the administration of the ETPL.

## INQUIRIES

---

---

If you have any questions, contact the State ETPL Coordinator at [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov).

/s/ JAVIER ROMERO, Deputy Director  
Workforce Services Branch

Attachments:

1. [ETPL Policy and Procedures \(DOCX\)](#)
2. [ETPL Definitions \(DOCX\)](#)
3. [ETPL Local Board Delegation and Cancellation Form \(DOCX\)](#)
4. [CA ETP Assurances Form \(DOCX\)](#)
5. [CA ETPL Training Provider and Program Determination Flowchart \(PDF\)](#)
6. [Local ETPL Coordinator Contact Form \(DOCX\)](#)
7. [Summary of Comments \(DOCX\)](#)
8. [Errata Chronology \(DOCX\)](#)

## ETPL Policy and Procedures

### Contents

|   |    |
|---|----|
| A. Introduction .....   | 2  |
| B. Allowable Types of Training Services.....                          | 2  |
| C. State and Local ETPLs.....   | 2  |
| D. Local Board Policy .....   | 3  |
| E. Consumer Choice .....  | 6  |
| F. CA ETPL Application Process.....                                   | 6  |
| ETPL Application Process by Provider Category .....                   | 7  |
| G. CA ETPL Initial Eligibility .....                                  | 8  |
| Training Provider Initial Eligibility Criteria .....                  | 8  |
| Training Program Initial Eligibility Criteria .....                   | 11 |
| H. CA ETPL Continued Eligibility Criteria .....                       | 13 |
| Training Provider Continued Eligibility Criteria .....                | 13 |
| Training Program Continued Eligibility Criteria .....                 | 13 |
| I. Approval and Denial of Training Provider/Program .....             | 15 |
| Approval of Training Provider/Program .....                           | 15 |
| Denial of a Training Provider/Program .....                           | 15 |
| J. Delisting Training Providers/Programs.....                         | 16 |
| K. Placing Delisted Training Providers/Programs Back on the ETPL..... | 18 |
| L. Appeals.....   | 18 |
| Appeals to EDD .....  | 19 |
| M. Maintenance of the CA ETPL.....                                    | 20 |
| N. ETP Report.....  | 20 |
| O. Technical Assistance and Resources.....                            | 20 |
| Training Providers .....  | 21 |
| Local ETPL Coordinators.....  | 21 |

**A. Introduction**

This policy establishes the types of allowable training services, consumer choice, the difference between the state and local Eligible Training Provider List (ETPL), the requirement for Local Workforce Development Boards (Local Boards) to establish an ETPL policy, eligibility criteria and procedures for initial and continued eligibility for Eligible Training Providers (ETP) and programs, the federally mandated Eligible Training Provider Performance Report (ETP Report), and the roles and responsibilities of the Local Boards and the Employment Development Department (EDD) in maintaining the integrity of the state ETPL.

This document contains detailed information on initial and continued eligibility requirements, and the roles and responsibilities of the Local Boards, and the EDD in maintaining the integrity of the state ETPL and the quality of the training programs offered on it.

**B. Allowable Types of Training Services**

The following are the allowable types of training for the *Workforce Innovation and Opportunity Act* (WIOA) Title I program:

- a. Occupational skills training, including 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) above.
- 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 with the training services described in (a) through (g) above.
- j. Customized training conducted with a commitment by an employer, or group of employers, to employ an individual upon successful completion of the training.

While all of the above are allowable training services under WIOA, service types b, c, and j are not required to be on the ETPL.

**C. State and Local ETPLs**

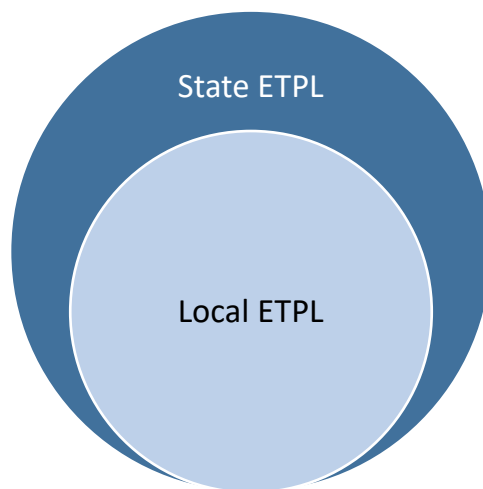
Local Boards and the EDD are responsible for working together to identify ETPs for the state ETPL. The state ETPL creates a pool of ETPs that Local Boards can utilize to establish their local ETPL. In California, the state ETPL is called the California (CA) ETPL.

Each Local Board must maintain a local list of training providers and programs. Local Boards may add additional local requirements for providers and/or programs (except for

apprenticeship programs) to be eligible on the local ETPL. Local Boards must include all CA ETPL approved apprenticeship programs on their local ETPL. Adding additional local requirements may result in providers that are on the CA ETPL, but may not be eligible for inclusion on the local ETPL. While additional requirements may be added for the local ETPL, Local Boards may only include training providers on their list that are approved for the CA ETPL.

If the Local Board is reviewing provider and/or program applications for inclusion on the ETPL, the Local Board must conduct the state eligibility review first, and then determine eligibility for inclusion on their local ETPL. When conducting the state eligibility review, the Local Board must do so using only the state's requirements, and not the Local Board's additional requirements.

Local Boards that do not add additional requirements must include all of the providers/programs on the CA ETPL on their local ETPL, whereas Local Boards with additional requirements may have a subset of the state list as depicted in the diagram below:



Note – Providers on the local ETPL must be on the CA ETPL.

Note – Additional functionality is being added to the CalJOBS<sup>SM</sup> system to enable Local Boards to identify the training providers and programs approved for their local ETPL.

#### **D. Local Board Policy**

Each Local Board must develop local policies that provide sufficient consumer protection and oversight of training providers. These policies must meet the minimum requirements of the procedures outlined in this Directive, and may include additional requirements as deemed appropriate by the Local Board. Such policies must include, but are not limited to, processes that achieve the following:

- Ensure participants can avail themselves of, and are made aware of, grievance/complaint procedures. Please reference Workforce Services Directive *WIOA Grievance and Complaint Resolution Procedures* ([WSD18-05](#)) for guidance.
- Recover WIOA training funds. Please reference *Recovery of WIOA Tuition and Training*

*Refunds* ([WSD19-10](#)) for guidance on recovering training funds.

- Outline any additional eligibility requirements providers and/or programs (except apprenticeship programs) must meet to be listed on the local ETPL.
  - These requirements must support the creation of a list that ensures provider performance, job-driven training, informed consumer choice, continuous improvement, and cost-effective investment of public funds.
  - Requirements may include, but are not limited to:
    - Additional performance requirements.
    - Program location.
    - Accreditation requirements.
    - Cost.
- Include the timeline for initial and continued eligibility review for inclusion on the local ETPL.
  - Continued eligibility review for the CA ETPL must be completed annually, and review for the local ETPL must be completed at least once every two years.
  - Within the federally required timeline in the previous bullet, Local Boards have discretion on when they conduct initial and continued eligibility for inclusion on the local ETPL. The following are just a few examples of options for local review:
    - Review entire local ETPL every two years.
    - Review each provider/program annually.
    - Review on the anniversary of when the provider/program established continued eligibility on the local ETPL.
- Process for delisting training provider/programs from the local ETPL.
- Provide comparable training opportunities if the training provider goes out of business. If the training provider is a Bureau of Private Postsecondary Education (BPPE) approved provider, the policy should include the requirement to coordinate with BPPE's [Office of Student Assistant Relief](#).
- Ensure training programs lead to at least one of the following: 1) credentials and/or certificates valued by employers, or 2) training-related employment as a result of gaining measurable technical skills for a specific occupation. This requirement ensures that training programs lead to high-quality jobs, as described in the California Unified Strategic Workforce Development Plan. Job quality serves the workforce development system and broader public sector by protecting investments in training. Please see *ETPL Definitions* (Attachment 2) for a definition of a postsecondary credential, as well as a definition of a training program that leads to employment.
  - Please note, a program on the ETPL that only leads to employment will negatively affect a Local Board's Credential Attainment rate, since all individuals in an education or training program are included in the measure. Please refer to *CalJOBS Activity Codes* ([WSD19-06](#)) Attachment 3 for a list of activity codes that place individuals into the Credential Attainment performance measure.

- Verify and document participant attendance at regular intervals throughout the length of the training program. Per [WSD19-10](#), the Local Board should check with the training provider to ensure clients are still in the training program each month. If not able to check monthly, the Local Board must check at least quarterly.
- Require providers to maintain sufficient records and to make these records available for monitoring or audit by either the Local Board and/or the state.
- Ensure there are no conflicts of interest between the Local Board and the provider, which includes, but is not limited to the following:
  - A prohibition on the payment of referral fees by training providers to Local Board staff, including America's Job Center of California<sup>SM</sup> (AJCC) operator staff.
  - Decisions made by the Local Board regarding ETPs and their programs is in compliance with WIOA Section 107(h).
- Outline the requirement of the Local Board to keep all training provider and program eligibility documents (either physical or electronic), and the process to provide them to the EDD within five business days, if requested.
- Explain the Local ETPL Coordinator's responsibilities, which, at minimum, must include the following:
  - Requirement to provide technical assistance to all training providers with programs located within the Local Workforce Development Area (Local Area) seeking to be listed on the CA ETPL.
  - Requirement for reviewing and approving or denying providers and programs for initial eligibility in a timely manner:
    - The review must include eligibility for the CA ETPL that meets requirements outlined in this Directive.
    - The review must include eligibility for the local ETPL that meets requirements outlined in the Local Board's local ETPL policy.
  - Requirement for reviewing and approving or denying providers and programs for continued eligibility in a timely manner:
    - The review must include eligibility for the CA ETPL that meets requirements outlined in this Directive.
    - The review must include eligibility for the local ETPL that meets requirements outlined in the Local Board's local ETPL policy.
  - Method and timeline for notifying providers if they or their program(s) are removed from the CA and/or local ETPL.
- Describe the appeal process that meets the requirements outlined in this Directive.

In addition, Local Board policies shall include the following for training providers who are deemed exempt per California Education Code (CEC) [Section 94874](#), and are not regionally accredited by an accrediting institution:

- Verification of the instructor's credentials or experience.

- Ensure the financial stability of the training provider.
- Annual inspection of the schools or training programs.
- Ensure actual instruction is taking place.
- Ensure instructional equipment and instruction meet current industry standards.

***Local Boards may delegate their responsibility of the ETPL to another Local Board to act on their behalf in making nominations for training providers and programs to be listed on the CA ETPL, and the creation of their local ETPL. To delegate, or cancel an existing delegation, please complete and submit the ETPL Local Board Delegation and Cancellation Form (Attachment 3). Any Local Boards that delegate their ETPL responsibilities to another Local Board must complete this form annually between July 1<sup>st</sup> and July 30<sup>th</sup>. Due to the signature requirement (physical or electronic signature), this form should be emailed as an attachment.***

## **E. Consumer Choice**

Training services must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider and program. Each Local Board must make the local ETPL available to customers. Additionally, the Local Board must make available information identifying ETPs for OJT, customized training, and IWT.

After consultation with a career planner, an individual who has been determined eligible for training services may select an ETP from the Local Board's local ETPL. Unless the program has exhausted training funds for the program year, the Local Board must refer the individual to the selected provider, and establish an Individual Training Account (ITA) for the individual to pay for training. A referral may be carried out by providing a voucher or certificate to the individual to obtain training. The cost of the referral of an individual with an ITA to a training provider is paid by the applicable Adult, Dislocated Worker, or Youth program.

## **F. CA ETPL Application Process**

For a provider to be listed on the CA ETPL, the provider must have its information entered into the CalJOBS ETPL module. It is the Local ETPL Coordinator's role to provide assistance and guidance to training providers who register in CalJOBS. Once all necessary information is entered, the Local ETPL Coordinator must review and nominate the training provider and/or program to the State ETPL Coordinator for inclusion on the CA ETPL ensuring all information provided is complete, accurate, and current, and is in alignment with this Directive.

The EDD will review applications for the CA ETPL within 30 days of receipt from the Local Board.



Once the provider and/or program is approved and included on the CA ETPL, the Local Board must review, and approve or deny the training provider for inclusion on their local ETPL ensuring all information is in alignment with their Local Board policy.

### **ETPL Application Process by Provider Category**

#### **1. In-State Training Provider**

All training providers that have a training site(s) in CA and wish to be listed on the CA ETPL are required to be registered in CalJOBS. The training provider shall provide all the training provider information required in the CalJOBS ETPL module. The training provider must upload a signed *CA ETP Assurances Form* (Attachment 4) to the documents section of the Provider Profile in CalJOBS.

If the in-state training provider is a Department of Labor (DOL) Registered Apprenticeship or California Department of Industrial Relations (DIR), Division of Apprenticeship Standards (DAS) approved apprenticeship, please see the *Training Provider Initial Eligibility* section below.

***Local Boards must review and nominate a provider headquartered in their Local Area for the CA ETPL if the provider meets state eligibility requirements. If a provider has multiple locations, the Local Board(s) in the area of the provider locations must nominate the program(s) to the State ETPL Coordinator.***

#### **2. Distance Education Training Providers**

All Distance Education training providers that wish to be listed on the CA ETPL are required to be registered in CalJOBS. The training provider shall provide all the training provider information required in the CalJOBS ETPL module. The training provider must upload a signed *CA ETP Assurances Form* (Attachment 4) to the documents section of the Provider Profile in CalJOBS. The State ETPL Coordinator will determine if a Distance Education training provider is eligible to be on the CA ETPL using the eligibility criteria in this Directive. If a Local ETPL Coordinator is contacted by a Distance Education training provider, the provider should be referred to [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov) for assistance.

#### **3. Out-of-State Training Providers**

All training providers, other than Distance Education training providers, that have training sites located only outside of CA cannot be listed on the CA ETPL. Local Boards cannot utilize an ITA with out-of-state training providers unless leveraging an approved ETPL reciprocal agreement. Please see *ETPL Reciprocal Agreements* (WSD22-08) for more information on the use of approved agreements.

Please reference the *CalJOBS ETPL Module Guide Card* (located on the Staff Online Resources page in CalJOBS) for detailed information on the CalJOBS process for registering new training providers.

## G. CA ETPL Initial Eligibility

### Training Provider Initial Eligibility Criteria

Initial eligibility applies to providers previously not listed on the CA ETPL under the WIOA or the *Workforce Investment Act of 1998* (WIA). The initial eligibility period is one year (365 days). The Local ETPL Coordinator is responsible for reviewing the training provider's initial eligibility prior to nominating for inclusion on the CA ETPL.

The following institution types are eligible for inclusion on the CA ETPL:

1. Adult education secondary schools, as long as the activities are provided in combination with occupational skills training.
2. Pre-apprenticeship and apprenticeship providers.
3. Private postsecondary institutions.
4. Public postsecondary institutions.

The initial eligibility process for each for the training provider types listed above is based on the following:

#### 1. **Adult Education Secondary Schools**

Training providers must be an eligible provider of adult education and literacy activities under Title II of WIOA. Adult education and/or literacy activities must be offered concurrently, or in combination with, occupational skills training. A list of Title II providers can be found on the [California Department of Education](#) (CDE) website.

#### 2. **Pre-apprenticeship and Apprenticeship Providers**

##### a. *Pre-apprenticeship Provider*

Training providers must have a letter of commitment from a DOL registered or DIR DAS approved apprenticeship program. To be listed on the CA ETPL, the pre-apprenticeship program must award an industry-recognized credential or certificate. *The state will not enter information on pre-apprenticeship training programs; this information will be entered by Local Boards, if necessary.*

Pre-apprenticeship programs are considered Individualized Career Services under WIOA, and thus are not required to be on the ETPL. Pre-apprenticeship programs that do not result in an industry-recognized credential or certificate cannot be listed on the ETPL; however, those pre-apprenticeship programs that do provide an industry-recognized certificate or credential can be listed on the ETPL and used in conjunction with an ITA. The California Workforce Development Board (State Board) and each Local Board must ensure that federal WIOA funds awarded for pre-apprenticeship training in the building and construction trades fund programs and services that follow the Multi-Craft Core Curriculum (MC3) implemented by the CDE and that develop a plan to help increase the representation of women in those trades. WIOA prohibits Title I funds from being used for "construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with

prior approval.”

*b. DOL Registered Apprenticeships and DIR DAS Approved Apprenticeships*

DOL registered apprenticeships and DIR DAS approved apprenticeships are automatically eligible to be listed on the CA ETPL and do not have any eligibility requirements. The state will reach out to new apprenticeship programs to inform them of the opportunity to join the CA ETPL. If the provider opts into the ETPL, the apprenticeship program will be placed on the ETPL by the state.

The State Board and Local Boards shall, to the maximum extent feasible, coordinate their pre-apprenticeship and apprenticeship training programs with one or more DIR DAS approved apprenticeship for the occupation and geographic area.

**3. Private Postsecondary Institutions (for-profit or non-profit)**

***Training providers must be accredited by the Accrediting Commission for Schools (ACS) Western Association of Schools and Colleges (WASC); the WASC Senior College and University Commission (WSCUC); have current BPPE Approval to Operate; current Verification of Exemption by BPPE; or are deemed exempt per California Education Code (CEC) [Section 94874](#).***

***Note that providers who are deemed exempt are not required to have a Verification of Exemption. However, if EDD is unable to determine the specific exemption that the provider falls under, then EDD reserves the right to request that the provider obtain a Verification of Exemption from the BPPE.***

***Providers that fall under exemptions (a), (d), (f), or (h) of CEC Section 94874 are not eligible for the ETPL.***

***A Distance Education provider without a physical presence in California that offers postsecondary distance education to California students for a fee must be registered with the BPPE. Private Distance Education higher education institutions that are degree granting, non-profit, and accredited are not required to register with BPPE, but must be accredited by the ACS WASC, the WSCUC, or an agency recognized by the U.S. Department of Education.*** For more information on the BPPE Out-of-State Institution registration, please see the [BPPE Out-of-State Institution Registration](#) webpage.

For a directory of accredited schools, please visit [ACS WASC](#) and [WSCUC](#).

For more information regarding BPPE Approval to Operate, or current Verification of Exemption, please visit the [BPPE](#) website. If the training provider has a BPPE Approval to Operate, Verification of Exemption, or Out-of-State Institution Registration, the document must be uploaded to the documents section of the Provider Profile in CalJOBS.

**4. Public Postsecondary Institutions**

*a. Public Postsecondary Community Colleges*

***Training providers must be accredited by the WASC Accrediting Commission for Community and Junior Colleges (ACCJC). The following website can be utilized to search for the WASC ACCJC accredited colleges: [WASC ACJCC](#).***

***For public postsecondary community colleges not WASC ACCJC accredited, but are currently in the initial accreditation process, the Local Board can nominate the training provider, and the State Board and the EDD will determine whether the community college meets the training provider initial eligibility criteria.***

***b. CA State University (CSU) and University of CA (UC)***

***Training providers must be accredited by the WSCUC. The following website can be utilized to search for WSCUC accredited colleges: [WSCUC](#).***

In addition to the above requirements, all training providers (with the exception of apprenticeship programs) must meet the following:

- All training providers are subject to the Equal Opportunity and Nondiscrimination requirements found in Section 188 of WIOA. All Local Boards must ensure a training provider is in compliance prior to nominating the training provider to be on the CA ETPL. Equal Opportunity and Non-Discrimination procedures should be posted at the AJCC and approved training providers' facilities, and provided to each participant upon enrollment in a CA ETPL training program. It is critical for Local Boards to utilize EDD-provided monitoring tools to evaluate the providers, and to upload appropriate documents to the Documents section of the Provider Profile in CalJOBS. It is also important to note that all site locations for a provider must be in compliance with WIOA Section 188. For more information, refer to *Nondiscrimination and Equal Opportunity Procedures* ([WSD17-01](#)).
- Provide information supporting the provider's partnership with business. This may include information about the quality and quantity of employer partnerships.
- Enter program(s) of training services into CalJOBS. The training provider should only enter the program(s) desired to be on the CA ETPL. If the program is offered with multiple modes of delivery, curriculum, or course lengths, the program must be entered separately for each variation. Please reference *ETPL Definitions* (Attachment 2) for the definition of a *Training Program*.
- A signed copy of the *CA ETP Assurances Form* (Attachment 4) is uploaded to the Documents section of the Provider Profile in CalJOBS. This form must be uploaded annually, prior to the provider being reviewed for eligibility.

Once the training provider completes the CA ETPL application on CalJOBS, the Local ETPL Coordinator is responsible for reviewing the provider's information and either denying their inclusion on the CA ETPL, or nominating them for review by the State ETPL Coordinator through the CalJOBS approval process. The Local ETPL Coordinator must review and nominate, or deny a training provider profile within 30 days of the completed application date.

The Local Board that contains the headquarters of the provider is responsible for nominating the provider profile. Please reference the *Approval or Denial of Training Provider/Program* section of this attachment for additional information.

### **Training Program Initial Eligibility Criteria**

Initial eligibility applies to a program previously not listed on the CA ETPL under the WIOA or the WIA. The initial eligibility period is one year (365 days). After a training provider meets the training provider initial eligibility criteria listed above, been nominated by the Local Board, and approved by the State ETPL Coordinator, each individual training program must meet the following requirements to be listed on the CA ETPL:

- The training program must be for occupations in in-demand industry sectors identified by the state, region, or Local Board. In-demand or priority industry sector information must be verified with the State Board and/or Local Board.
- The training program provides training services that lead to an industry-recognized credential, national or state certificate, or degree, including all industry appropriate competencies, licensing and/or certification requirements, or employment in a specific occupation after receiving measurable technical skills. Please note the training program does not have to issue the credential, but the training program should prepare the individual to obtain the credential. For example, a Class A Truck Driving program does not issue the Class A driver's license, but it should prepare the individual to pass the state-issued exam to obtain the license. For more information on if a training leads to an industry-recognized credential, please see DOL's [Credential Attainment Decision Tree](#).
- The cost in the Cost Details tab in the program wizard should match the cost of a member of the general public enrolling in the program without assistance from WIOA. This information should be available in the provider's brochure or website. If the Local Board works out a different cost with the provider, then the cost information in the training activity code will need to be updated to reflect the different cost.
- The mode of instruction, and class schedule(s) are consistent with the provider's advertised brochure/website. If a program is offered with multiple modes of instruction (e.g., online and in-person) or durations, the program needs to be entered separately for each variation.
- ***For providers with a BPPE Approval to Operate, the training program and its location are BPPE approved<sup>1</sup>.***
- ***For WASC accredited training providers where the program's instruction and/or curriculum development is entirely sub-contracted to another entity or third party vendor, the training provider directly receiving tuition and related instruction fees***

---

<sup>1</sup> For providers with a BPPE Approval to Operate, not all BPPE training programs are automatically eligible to be listed on the CA ETPL.

***(e.g., ITA) must meet the requirements outlined in this directive, and register in CalJOBS as a provider. See ETPL Definitions (Attachment 2) for the definition of third-party subcontracting and what is considered allowable.***

- Program must provide and meet the following performance metrics based on aggregate data for all students in the program to ensure the program supports the ability for the individual to obtain an industry-recognized postsecondary credential, and/or employment upon completion of the program. The provider must provide performance data for the prior complete program year (July 1 – June 30).
  - Public Postsecondary Community Colleges, CSUs, UCs, and Adult Education Secondary Schools are required to provide performance information for consideration of placement on the CA ETPL, but due to heavy state oversight, investment, and the inability to capture true program outcome data, these institution types are not required to meet a specific performance threshold to be listed on the CA ETPL. The following performance data must be provided and listed in CalJOBS:
    - Of individuals that exited the program, the percentage who successfully completed the training program (did not withdraw or transfer out of the program).
    - Of individuals that successfully completed the training program, the percentage who are employed within six months of graduating from the training program. For occupations for which the state requires passing an examination, the six month period begins after the announcement of the examination results for the first examination available after a student completes the program.
  - Private Postsecondary Institutions are required to meet and provide the following performance data in CalJOBS:
    - Of individuals who exited the program, 50% successfully completed the training program (did not withdraw or transfer out of the program).
    - Of individuals who successfully completed the training program, 50% are employed within six months of graduating from the training program. For occupations for which the state requires passing an examination, the six month period begins after the announcement of the examination results for the first examination available after a student completes the program.

*Please note – Apprenticeship programs are not subject to program initial eligibility criteria.*

Once the training provider enters the program into CalJOBS, the Local ETPL Coordinator is responsible for reviewing the program information and either denying their inclusion on the CA ETPL, or nominating them for review by the State ETPL Coordinator through the CalJOBS approval process. The Local ETPL Coordinator must review and nominate, or deny a training program within 30 days of the completed application date.

The Local Board where the program is located is responsible for nominating the program. Please reference the *Approval or Denial of Training Provider/Program* section of this attachment for additional information.

For more information regarding the training provider and program initial eligibility process, please refer to the *CA ETPL Training Provider and Program Determination Flowchart* (Attachment 5).

## H. CA ETPL Continued Eligibility Criteria

### Training Provider Continued Eligibility Criteria

Continued eligibility applies to all training providers listed on the CA ETPL at any time under the WIOA or WIA, and whose initial eligibility has expired. A training provider's initial and continued eligibility is valid for 365 days after the provider is approved for the ETPL. ***Since providers can be reviewed year-round, all active training providers on the CA ETPL will be evaluated annually by the EDD no earlier than 60 days, and no later than 30 days prior to the provider's eligibility expiration date to ensure they continue to meet eligibility to be retained on the CA ETPL.*** To determine continued eligibility, the EDD must verify that the training provider continues to meet the requirements outlined in the *Training Provider Initial Eligibility Criteria* section of this Directive. DOL registered apprenticeships and DIR DAS approved apprenticeships do not have any continued eligibility requirements and will remain on the ETPL. It is recommended that apprenticeships update their program information annually.

***In addition, providers on the CA ETPL for two full program years (July 1 – June 30) must have at least one Title I, subtitle B enrollment during the previous two program years. If removed due to enrollment requirements, a provider must wait six (6) months from removal to submit their ETPL application for reinstatement and will not be held to the enrollment requirement when determining continued eligibility for placement back onto the list.***

### Training Program Continued Eligibility Criteria

Continued eligibility applies to all training programs listed on the CA ETPL at any time under the WIOA or WIA and whose initial eligibility has expired. A training program's initial and continued eligibility is valid for 365 days after the program is approved for the ETPL. ***Since programs can be reviewed year-round, all active training programs on the CA ETPL will be evaluated annually by the Local Board no earlier than 60 days, and no later than 30 days prior to the program's eligibility expiration date to ensure they continue to meet eligibility to be retained on the CA ETPL.***

Training providers must reapply for WIOA program certification using CalJOBS. All applications for continued eligibility of training programs will be evaluated as they are received, by the Local Board and EDD, to ensure they continue to meet eligibility to be retained on the CA ETPL. The Local Board where the program is located is responsible for evaluating the program.

After a training provider has met the training provider continued eligibility criteria listed above, each individual training program must meet the following requirements to retain their listing on the CA ETPL:

- Training program information is reviewed and updated in CalJOBS.
- Training program meets all requirements outlined above in the *Training Program Initial Eligibility Criteria* section of this attachment.
- CA ETPL training programs must meet performance metrics to retain their eligibility on the ETPL. The EDD will negotiate with DOL to establish yearly performance goals based on the WIOA primary indicators of performance. For continued eligibility, CA ETPL training programs (with the exception of apprenticeship programs, Adult Education programs, Community Colleges, UCs and CSUs) must meet or exceed the performance metrics required in initial eligibility, as well as the negotiated state-level Title I Adult performance goals. The EDD will publish the state-level negotiated performance goals in a Workforce Services Information Notice located on the [EDD website](#). The continued eligibility performance calculations for each program is based on WIOA participant performance, and is verified using the federal ETP Report published annually by the state. Providers are required to collect and submit aggregate performance data for all students to EDD. The following outlines the performance metrics for continued eligibility:
  - The program must meet the following performance metric for all students for the most recent complete program year (July 1 – June 30):
    - Of individuals who exited the program, 50% successfully completed (did not withdraw or transfer) the program.
  - The program must meet the following performance metrics for WIOA participants for the most recent complete program year (July 1 – June 30)<sup>2</sup>:
    - Employment Rate 2<sup>nd</sup> Quarter after Exit meets the state’s negotiated goal for the Title I Adult program.
    - Employment Rate 4<sup>th</sup> Quarter after Exit meets the state’s negotiated goal for the Title I Adult program.
    - Median Earnings meet the state’s negotiated goal for the Title I Adult program.
    - Credential Attainment meets the state’s negotiated goal for the Title I Adult program (if applicable).
    - Measurable Skill Gains meets the state’s negotiated goal for the Title I Adult program.

---

<sup>2</sup> With the exception of completers, providers will be held accountable for the performance measures in which two complete years of data is available for their program(s) on the ETP Report.



Please see *CalJOBS ETPL Module Guide Card* (located on the Staff Online Resources page in CalJOBS) for instructions on how providers reapply for WIOA program certification in CalJOBS.

For detailed information regarding the definitions and calculations of the WIOA primary indicators of performance, please see *Performance Guidance* ([WSD22-01](#)).

Please refer to the *CA ETPL Training Provider and Program Determination Flowchart* (Attachment 5) to determine if a training provider and its program(s) meet the continued eligibility criteria to remain on the CA ETPL.

## **I. Approval and Denial of Training Provider/Program**

### **Approval of Training Provider/Program**

After reviewing to ensure the provider/program meets the eligibility criteria above, the Local Board can nominate the training provider/program to the state for review. If nominating the provider to the State ETPL Coordinator, the signed *CA ETP Assurances Form* (Attachment 4) must be uploaded to the documents section of the Provider Profile in CalJOBS.

The State ETPL Coordinator will review providers within 30 days of their nomination by the Local Board. The EDD will review the provider/program's information to ensure it meets all initial or continued eligibility requirements outlined in this Directive. If eligible, the State ETPL Coordinator will approve the provider/program for the CA ETPL, and notify the Local ETPL Coordinator.

***If the Local Board has additional local ETPL eligibility requirements, the Local ETPL Coordinator must review all CA ETPL approved distance education programs, as well as all in-state CA ETPL approved programs located in the Regional Planning Unit for inclusion on their local ETPL.***

If the Local Board does not have additional local ETPL eligibility requirements, all approved CA ETPL programs must be included on the Local Board's local ETPL.

### **Denial of a Training Provider/Program**

After review, if a Local Board determines the training provider/program does not meet the requirements to be listed on the CA ETPL, the Local Board must inform the training provider in writing with the reason(s) for the denial, and provide information on the Local Board appeal process within 30 days of receipt of the application. A copy of the written notification provided to the provider must be uploaded to the documents section of the Provider Profile in CalJOBS within 10 business days of issuance.

If the Local Board nominates a provider/program to the state for review, but upon review, the State ETPL Coordinator denies the training provider/program listing on the CA ETPL, the EDD must inform the Local Board of the denial and the reason(s) for the denial within 30 days of receipt of the nomination. The Local Board must in turn inform the training provider in writing with the reason(s) for the denial, and information on the Local Board appeal process within 30

days of receipt of the EDD's decision. A copy of the written notification provided to the provider must be uploaded to the document section of the Provider Profile in CalJOBS within 10 business days of issuance.

If the training provider is able to rectify the issue that caused the denial, the Local Board can review the information and resubmit to the State ETPL Coordinator for review. For example, if a provider is denied solely because the *CA ETP Assurances Form* (Attachment 4) was not uploaded to CalJOBS, the State ETPL Coordinator would notify the Local Board, which would notify the provider. The Local Board can then nominate the provider again once the form is uploaded to CalJOBS.

The training provider's request to be on the CA ETPL must be denied if the training provider fails to provide complete information, intentionally provides inaccurate information, or has substantially violated any WIOA requirement(s). If the EDD, in consultation with the nominating Local Board, determines a training provider intentionally supplied inaccurate information or violated any WIOA requirement(s), the EDD or the Local Board shall deny the training provider's application for the CA ETPL, and the training provider is not allowed to be reconsidered for inclusion on the CA ETPL for at least two years.

If approved for inclusion on the CA ETPL, but the Local ETPL Coordinator determines the training provider/program does not meet their local ETPL requirements, the Local Board must inform the training provider in writing with the reason(s) for the denial, and information on the Local Board appeal process within 30 days of receipt of the application. A copy of the written notification provided to the provider must be uploaded to the documents section of the Provider Profile in CalJOBS within 10 business days of issuance.

## **J. Delisting Training Providers/Programs**

To ensure the integrity of the CA ETPL, the Local Board or the EDD will remove a training provider or program from the CA ETPL at any time for the items below:

1. The training provider will be immediately removed from the CA ETPL for any of the following reasons until such time as they meet continued eligibility. A provider who has been removed from the list for any of the following reasons is liable to repay all Adult and Dislocated Worker training funds received during the period of noncompliance:
  - a. The training provider has lost its accreditation or its approval to operate from its regulating agency.
  - b. A private postsecondary training provider no longer meets the exempt criteria per CEC [Section 94874](#), or the provider's Verification of Exemption by BPPE (if required by the EDD) expired or is revoked, and the provider does not have a new Verification of Exemption, or BPPE Approval to Operate.
  - c. The nonprofit Community Based Organization no longer qualifies under Section 501(c)(3) of the Federal Internal Revenue Code.
  - d. The apprenticeship program is no longer registered with the DOL under the National Apprenticeship Act, or is no longer approved by DIR DAS. The State

- ETPL Coordinator is responsible for removing apprenticeship programs.
- e. The pre-apprenticeship program no longer has a Letter of Commitment from a DOL registered or DIR DAS approved apprenticeship program, or no longer leads to an industry-recognized postsecondary credential.
  - f. It is determined the provider sub-contracted instruction of the program to another entity without approval from WASC or BPPE. See *ETPL Definitions* (Attachment 2) for the definition of third-party subcontracting.
  - g. The provider is not in compliance with WIOA Section 188.
2. A training provider will be immediately removed from the CA ETPL for a period of no less than two years for any of the reasons listed in this section. A provider who has been removed from the list for any of the following reasons is liable to repay all Adult and Dislocated Worker training funds received during the period of noncompliance:
    - a. The state identifies the Local Board and training provider are participating in pay-to-play activities (commonly known as kickbacks) that include, but are not limited to: the Local Board received monetary or gift exchanges for (or in the hope for) referrals to a specific training provider, and/or exchanges of money or gifts to have the training provider listed on ETPL. As part of the annual on-site monitoring of Local Boards, if it is determined the Local Board is engaging in pay-to-play activities, a corrective action is required, and failure to take timely action to be in compliance may result in decertification of the Local Board involved.
    - b. It is determined the training provider falsely reported information.
    - c. The training provider substantially violated a provision of Title I of WIOA, or its implementing regulations.
    - d. The training provider's top level leadership (e.g., owner, CEO, Director, etc.) is convicted of violating any federal or state law associated to the operation of the institution.
  3. The EDD, in coordination with the Local Board, can remove a provider for any of the following reasons. Reactivation to the list is at the discretion of the State ETPL Coordinator and the Local Board:
    - a. It is determined the provider is not serving or providing value to WIOA participants, and is listed on the CA ETPL solely for other purposes, such as the utilization of Workers' Compensation Supplemental Job Displacement Benefit vouchers.
    - b. The provider has not served at least one Title I, subtitle B enrollment during the previous two program years. See "Training Provider Continued Eligibility Criteria" for requirements to be reinstated to the ETPL.
    - c. The provider's CalJOBS profile and/or program information is inaccurate or incomplete.
    - d. The training provider has not demonstrated a good faith effort in providing the ETP Report data to the EDD.
    - e. The provider no longer wishes to be listed on the CA ETPL.

- 4. *In an effort to safeguard WIOA funds, the training provider will be suspended from the CA ETPL if the training provider is under any federal, state, or local investigation. During the period of suspension, no new enrollments may occur, but the training provider can continue to serve existing WIOA-funded enrollments. Once the investigation is complete, a review of the findings by the state will determine if the provider can be reinstated to the CA ETPL.***

If a training provider/program is removed from the CA ETPL, the EDD must inform the Local Board of the denial and the reason(s) for the delisting within 30 days of the removal. The Local Board must in turn inform the training provider in writing with the reason(s) for the delisting, and provide information on the Local Board appeal process within 30 days of receipt of the EDD's decision. A copy of the written notification provided to the provider must be uploaded to the document section of the Provider Profile in CalJOBS within 10 business days of issuance.

All training provider/programs removed from the CA ETPL must be removed from the local ETPL immediately upon notification from the EDD, as any new enrollments into a training program not eligible to be on the CA ETPL will result in disallowed costs.

It is the responsibility of the EDD and the Local Board to work together to ensure any participants currently enrolled in a training program removed under items 1 and 2 experience minimal disruption. If the training provider or program is removed due to items 1, 3, or 4, any participants already enrolled (attended at least one day of instruction) can continue participation in the program until the training is complete, but no new enrollments may occur.

Please see [WSD19-10](#) for additional information regarding the recovery of training funds.

## **K. Placing Delisted Training Providers/Programs Back on the ETPL**

Requests to be placed back on the CA ETPL must be submitted through the Local Board (unless the provider is a Distance Education or apprenticeship program). The training provider and program(s) must meet all criteria outlined in the *CA ETPL Continued Eligibility Criteria* section of this attachment to be placed back on the CA ETPL.

If the training provider is removed for item 2 of the *Delisting Training Providers/Programs* section of this directive, two years must have passed from the time of their removal before they can be placed back onto the CA ETPL.

If the training provider is removed for item 3(b) of the *Delisting Training Providers/Programs* section, the provider must wait 6 months from the date of removal before submitting an ETPL application for reinstatement.

## **L. Appeals**

### **Appeals to the Local Board**

Each Local Board must have a written appeal process for the CA and local ETPL that includes the following required provisions:

- Instructions for a training provider wishing to appeal a decision. The training provider must appeal to the Local Board in writing within 30 days of the issuance of the denial or delisting notice. The appeal must include a statement of the desire to appeal, specification of the training program(s) in question, the reason(s) for the appeal (i.e., grounds), documentation supporting the grounds for the appeal, and the signature of the appropriate training provider official.
- An initial informal meeting between the Local Board staff and the training provider. The purpose of this meeting is to identify if there is a simple solution to resolve the dispute.
- The opportunity for training providers to have a hearing. The hearing officer shall be an impartial person. The hearing officer shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten calendar days in advance of the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath, to call and question witnesses, request documents relevant to the proceedings, and have legal representation.
- The hearing officer's final decisions must be made within 60 days of receipt of the appeal, and the training provider and the Local Board notified in writing of the final decision.
- A copy of the final decision must be emailed to the State ETPL Coordinator ([wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov)), and the Local ETPL Coordinator must upload the final decision to the Provider Profile section of CalJOBS.

### **Appeals to EDD**

Distance Education and Apprenticeship programs can appeal directly to the EDD. All other training provider may appeal to the EDD only if the local appeal process has been exhausted, and the provider is dissatisfied with the Local Board's final decision.

- A training provider wishing to appeal a Local Board's decision must submit a written appeal to the EDD within 30 days from the date of the Local Board's final decision. The request for appeal must include a statement of the desire to appeal, specification of the training program in question, the reason(s) for the appeal (i.e., grounds), Local Board's final decision document, and the signature of the appropriate training provider official. The appeal should be sent to: [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov).
- The EDD will promptly notify the appropriate Local Board when the EDD receives a request for appeal and when a final decision has been rendered.
- The EDD will review appeals received, make a decision, and notify the training provider and the Local Board.
- The EDD will upload the state's final decision to the Provider Profile in CalJOBS.

### **M. Maintenance of the CA ETPL**

The EDD is responsible for the maintenance and publishing of the CA ETPL. Local Boards, in turn, are responsible for ensuring all of their AJCC locations have access to the most recent version of the CA and local ETPLs. Local Boards may include additional performance, occupational, and/or industry data to augment the CA ETPL listings on their local ETPL.

Local Boards, job seekers, and training providers have access to the CA ETPL on [CalJOBS](#) by clicking the *Access California's ETPL and Apprenticeship Providers* link from the homepage, or by clicking *More Career Services*, and then *Education Services* section.

### **N. ETP Report**

The WIOA requires the state to submit an ETP Report with the federal WIOA Annual Performance Report on October 1<sup>st</sup> utilizing a template developed jointly by the DOL and U.S. Department of Education. This report includes all WIOA and non-WIOA participants served by each training program listed on the CA ETPL<sup>3</sup>. The DOL has made the ETP Report data available to the public via [trainingproviderresults.gov](#).

The ETP Report gathers critical information, including the employment, earnings, and credentials obtained by participants in the training program. This information will be widely disseminated to assist participants and members of the general public in identifying effective training providers and programs. This information will also benefit the training provider by providing awareness of their program, and serving as a tool to potentially enhance their programs.

All training providers are required to electronically submit the program participant data outlined in the *CA ETP Assurances Form* (Attachment 4). The state recognizes the reporting burden this causes, and understands the data limitations, so the state will work with training providers based on the available data provided.

Data reporting for the annual ETP Report will be a phased approach with the state working collaboratively with Local Boards, and training providers to obtain the required information. Training providers that demonstrate a good faith effort in providing data will not be subject to removal from the ETPL; however, failure to provide any data may result in removal from the CA ETPL. Performance data from the ETP Report will be used for continued eligibility review of all training programs, excluding DOL registered or DIR DAS approved apprenticeships.

### **O. Technical Assistance and Resources**

Technical assistance will be provided by BPPE, DIR DAS, Local ETPL Coordinators, and EDD on respective application processes, compliance requirements, and reporting documents. Each Local Board must identify a Local ETPL Coordinator(s) using the *Local ETPL Coordinator Contact*

---

<sup>3</sup> Apprenticeship programs are excluded from this requirement.

*Form* (Attachment 6). The Local Board must provide an updated form if the Local ETPL Coordinator changes, or if the existing coordinator's information changes.

**Training Providers**

Training providers may contact the Local ETPL Coordinator in their area with questions regarding the application process and eligibility (initial and continued). For basic ETPL information and a list of Local ETPL Coordinators, refer to the EDD's [Eligible Training Provider List](#) located on the EDD website.

Private postsecondary training providers can obtain assistance from the BPPE through technical assistance workshops (BPPE Application Workshop and BPPE Compliance Workshop), which assists training providers in completing the BPPE Annual Reports, and online reporting tools.

Apprenticeship providers that are registered with either the US DOL or CA DIR DAS and wish to be added to the ETPL should contact the State ETPL Coordinator by email: [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov).

**Local ETPL Coordinators**

Local ETPL Coordinators can communicate with the State ETPL Coordinator by email: [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov).

The EDD will coordinate webinars and trainings as necessary. Announcements related to the CA ETPL will be made via email to the Local ETPL Coordinators.

The *CalJOBS ETPL Module Guide Card* (located on the *Staff Online Resources* page in *CalJOBS*) provides detailed instructions to assist Local Boards with entering programs into the CalJOBS ETPL module. The CalJOBS system includes data entry screens and reports, and is the mandatory method to be used by training providers and Local Boards for transmitting this data to the state.

For a full list of CalJOBS Activity Codes used to track a participant's training activities, please see *CalJOBS Activity Codes* ([WSD19-06](#)).

## ETPL DEFINITIONS

*Apprenticeship Program* – All apprenticeship programs that are registered with the U.S. Department of Labor (DOL), Office of Apprenticeship, or approved by California (CA) Department of Industrial Relations (DIR) Division of Apprenticeship Standards (DAS), are automatically eligible to be included on the CA Eligible Training Provider List (ETPL). Apprenticeship programs are a written plan designed to move an apprentice from a low or no skill entry-level position to full occupational proficiency. The apprenticeship program is sponsored by an employer, and upon completing the training program, an apprentice earns a "Completion of Registered Apprenticeship" certificate, which is an industry-issued, nationally-recognized credential.

*Customized Training* – Training that meets the following criteria:

1. Designed to meet the specific requirements of an employer (including a group of employers).
2. Conducted with a commitment by the employer to employ an individual upon successful completion of the training.
3. The employer pays a significant portion of the cost of training, as determined by the Local Workforce Development Board (Local Board) involved, taking into account the size of the employer and such other factors as the Local Board determines to be appropriate, which may include the number of employees participating in training, wage and benefit levels of those employees at present and anticipated upon completion of the training), relation of the training to the competitiveness of a participant, and other employer-provided training and advancement opportunities.

*Distance Education* – Education that uses only one or more of the technologies listed below to deliver instruction to students who are separated from the instructor, and to support regular and substantive interaction between the students and the instructor, whether offered concurrently or not. The technologies include the following:

1. The internet.
2. One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices.
3. Audio conferencing.

*Eligible Training Provider (ETP)* – In order for a training provider to list a program on the ETPL, the training provider must do the following:

1. Receive funding for training services.
2. Meet the standards and requirements to be a training provider on the ETPL.
3. Provide a program of training services.
4. Be one of the following types of entities:
  - a. Institution of Higher Education that leads to a recognized post-secondary credential.



## ETPL POLICY AND PROCEDURES

- b. Entities that carry out a training program registered under the National Apprenticeship Act.
- c. Other public or private training providers, which may include the following:
  - i. Nonprofit Community Based Organization under Section 501(c)(3) of the Federal Internal Revenue Code.
  - ii. Joint labor-management organizations.
  - iii. Eligible training providers of Adult education and literacy activities under Workforce Innovation and Opportunity Act (WIOA) Title II.

*ETPL Training Program Types* – In order for a training provider to receive WIOA funds through an Individual Training Account (ITA), its training program(s) must be listed on the ETPL. These programs must provide training services, including, but not limited to the following (unless otherwise noted):

1. Occupational skills training, including training for non-traditional employment.
2. Programs that combine workplace training with related instruction, which may include cooperative education programs.
3. Training programs operated by the private sector.
4. Skill upgrading and retraining.
5. Entrepreneurial training.
6. Adult Education or Literacy Activities in combination with training services listed above.
7. Apprenticeship and Pre-apprenticeship Skills Training (20 CFR 680.330).

*In-demand Industry Sector or Occupation* – The determination of whether an industry sector or occupation is in-demand shall be made by the California Workforce Development Board (CWDB) or Local Board, as appropriate, using state and regional business and labor market projections. An industry sector is considered in demand if it has a substantial current, or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors. An occupation that currently has, or is projected to have, a number of positions in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

*Occupational Skills Training* – An organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels.

*Postsecondary Credential* – An industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state or federal government, or an Associate or Bachelor's degree. A recognized postsecondary credential is based on the attainment of measurable technical or industry/occupational skills necessary to obtain employment or advance within an industry/occupation. These technical or industry/occupational skills are generally based on standards developed or endorsed by

## ETPL POLICY AND PROCEDURES

employers or industry associations. The following are types of recognized postsecondary credentials:

- Associate degree.
- Bachelor's degree.
- Occupational licensure (e.g. Certified Nursing Assistant license).
- Occupational certificate, including Registered Apprenticeship and Career and Technical Education educational certificates.
- Occupational certification (e.g. Automotive Service Excellence certification).
- Other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment.

Certificates awarded by Local Boards and work readiness certificates are not considered postsecondary credentials because neither type of certificate is recognized industry-wide, nor documents the measurable technical or industry/occupational skills necessary to gain employment or advancement within an occupation. Certificates/credentials that provide general skills, even if such general skills are broadly required to qualify for entry-level employment or advancement in employment, are not considered postsecondary certificates/credentials.

The following are examples of credentials/certificates that are not recognized postsecondary credentials:

- Occupational Safety and Health Administration 10-hour course on job-related common safety and health hazards (OSHA 10).
- National Career Readiness Certification.
- National Retail Federation Credentials.
- ServSafe Food Handler's Certification.
- Cardio Pulmonary Resuscitation (CPR) Certification.
- Certificates for General Computer Skills (Microsoft Word, Excel, Outlook, etc.).

For an additional resource, the DOL designed an interactive [Postsecondary Credential Attainment Decision Tree](#) to assist in making a determination about whether a credential is considered an industry-recognized credential. This tool is best used in conjunction with the information outlined in this directive.

*Pre-apprenticeship Program* – A program designed to prepare individuals to enter and succeed in an apprenticeship program, and includes the following elements:

1. Training and curriculum that aligns with the skill needs of employers in the economy of the state or region involved.
2. Access to educational and career counseling and other supportive services, directly or indirectly.

3. Hands-on, meaningful learning activities that are connected to education and training activities, such as exploring career options, and understanding how the skills acquired through coursework can be applied toward a future career.
4. A partnership with one or more apprenticeship programs that assists in placing individuals who complete the pre-apprenticeship program in an apprenticeship program.
5. Opportunities to attain at least one industry-recognized credential through an apprenticeship program.

*Secondary School Diploma or Recognized Equivalent* – CA-recognized diplomas issued by a CA public school, as well as by private schools accredited by the Western Association of Schools and Colleges (WASC) or equivalent regional accreditation body. The requirements of a secondary school diploma are outlined by the California Department of Education (CDE) and listed on CDE’s High School Graduation Requirements webpage.

A secondary school equivalency certification indicates that a student has completed the requirements for a high school education. CA has approved the use of three high school equivalency tests (HSET): GED®, HiSET®, and TASC™. These tests are for students 18 years old and older, and 17 years old (in some instances). Those who pass the CA High School Proficiency Examination are awarded a Certificate of Proficiency by the CA State Board of Education. While some HSET preparation programs may issue “diplomas or certificates” of completion these documents are not genuine high school equivalency credentials. There are various free HSET preparation programs available for free through the CA Adult Education Provider Directory.

*Third-Party Subcontracting* – a program where course instruction and curriculum is not developed by the provider, and instead is created and delivered by a third party. Per Attachment 1 of the directive, the provider accepting tuition and related instruction fees (e.g. ITA) must be the provider listed on the ETPL.

Third-party subcontractors cannot accept WIOA funding without meeting ETPL eligibility requirements, and being placed on the ETPL. Per the California Education Code Section 94886, private postsecondary institutions that receive “institutional charges” such as tuition are required to be approved or deemed exempt by the BPPE.<sup>1</sup>

---

<sup>1</sup> EDC 94886 - Except as exempted in Article 4 (commencing with Section 94874) or in compliance with the transition provisions in Article 2 (commencing with Section 94802), a person shall not open, conduct, or do business as a private postsecondary educational institution in this state without obtaining an approval to operate under this chapter.

EDC 94858 - “Private postsecondary educational institution” means a private entity with a physical presence in this state that offers postsecondary education to the public for an institutional charge.

## ETPL POLICY AND PROCEDURES

*Training Program* – A program of training services is one or more courses or classes, or a structured regimen that provides the WIOA training services, and leads to any of the following:

1. An industry-recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the State or the Federal government, an associate or baccalaureate degree.
2. A secondary school diploma or its equivalent.
3. Employment (see definition for Training Program that leads to Employment).
4. Measurable skill gains.

Due the federal reporting requirements of the ETP Report, if a program is offered with more than one mode of delivery (e.g. online and in-person), more than one program length (e.g. contact hours and/or weeks), and/or more than one curriculum, the program needs to be entered once for each different variation. For example, if program A is offered online, and in-person, the program needs to be entered twice: (1) for the online program, and (2) for the in-person program.

*Training Program that leads to Employment* – An eligible ETPL program must prepare graduates for a specific occupation related to the training that was provided. This means that programs must award measurable technical skills, rather than general skills that are broadly required for employment. These measurable technical or industry/occupational skills generally are based on standards developed or endorsed by employers or industry associations.

The training program must be valuable to employers, as evidenced by partnerships with business within priority industry sectors as identified in the State or Local Plan. Support of the training program from at least three separate employers are required to be eligible, and documentation of this support should be uploaded into the provider profile.

In addition, graduates of the program must be employed in an occupation related to the training program. Training-related employment can be recorded for WIOA graduates in the follow-up ribbon of the WIOA application.

*Unsubsidized Employment* – Employment in the private or public sector where the employer does not receive a subsidy from public funds to offset all or part of the wages and costs of employing the individual.

## ETPL LOCAL BOARD DELEGATION AND CANCELATION FORM

A Local Workforce Development Board (Local Board) may delegate or cancel responsibility of the California (CA) and local Eligible Training Provider List (ETPL) to an appointed Local Board by completing this form. This form must be completed at the time of a change (delegation or cancelation), and annually in July to ensure the State ETPL Coordinator is able to coordinate with the appropriate Local Board.

Please sign (physical or electronic) and submit the completed form to the Employment Development Department via email to [WSBETPL@edd.ca.gov](mailto:WSBETPL@edd.ca.gov).

Select either the Delegation or Cancelation box:

☐

**DELEGATION** – Delegating Local Board is assigning responsibility for the CA and local ETPL to the Appointed Local Board, and the Appointed Local Board agrees to coordinate the CA and local ETPL on behalf of the Delegating Local Board. Signatures are required of the Delegating and Appointed Local Board's Executive Director.

☐

**CANCELATION** – Delegating Local Board is revoking responsibility for the CA and local ETPL to the Appointed Local Board. The Delegating Local Board will resume responsibility for the CA and local ETPL unless a new Local Board is assigned this responsibility. Signatures are required of the Delegating and Appointed Local Board's Executive Director.

**Delegating Local Board:** \_\_\_\_\_

Delegating Local Board Executive Director

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Appointed Local Board:** \_\_\_\_\_

Appointed Local Board Executive Director

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**CA ETP ASSURANCES FORM**

A completed and signed California (CA) Eligible Training Provider (ETP) Assurances Form must be uploaded to the documents section of the Provider Profile in CalJOBS. This form must be uploaded annually, prior to the provider being reviewed for eligibility.

**Part A.**

I certify that [Insert Name of School/Organization]:

- (a) Is a legal entity, registered to do business in the state of California (CA).
- (b) Has not been determined to be ineligible to receive federal funds.
- (c) Is in compliance with *Workforce Innovation and Opportunity Act* Section 188 and Title 29 Code of Federal Regulations Part 38.
- (d) Has demonstrated effectiveness in operating occupational classroom or distance training program(s).
- (e) Agrees that training provider facilities, classroom instruction, relevant financial records, and attendance records may be reviewed by state, federal and/or local monitors or auditors to ensure compliance with funding requirements.

**Part B.**

I certify that I:

- (a) Have reviewed the annual student data reporting requirements for the Eligible Training Provider Performance Report (ETP Report) established for training providers. Please refer to the ETP Report Required Data listed below.
- (b) Will begin collecting required student data elements that are not currently being collected.
- (c) Will report and submit the ETP Report data for all students trained in each of my school/organization's training programs listed as approved on the Eligible Training Provider List (ETPL) to the Employment Development Department by the due date.

I understand that my school/organization's application for program approval on the CA ETPL will not be processed without receiving this Eligible Training Provider Assurances Form.

Name of Training Provider (School/Organization) \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Phone Number (###) ###-####

Print Name of School/Organization Representative \_\_\_\_\_

Title of School/Organization Representative \_\_\_\_\_

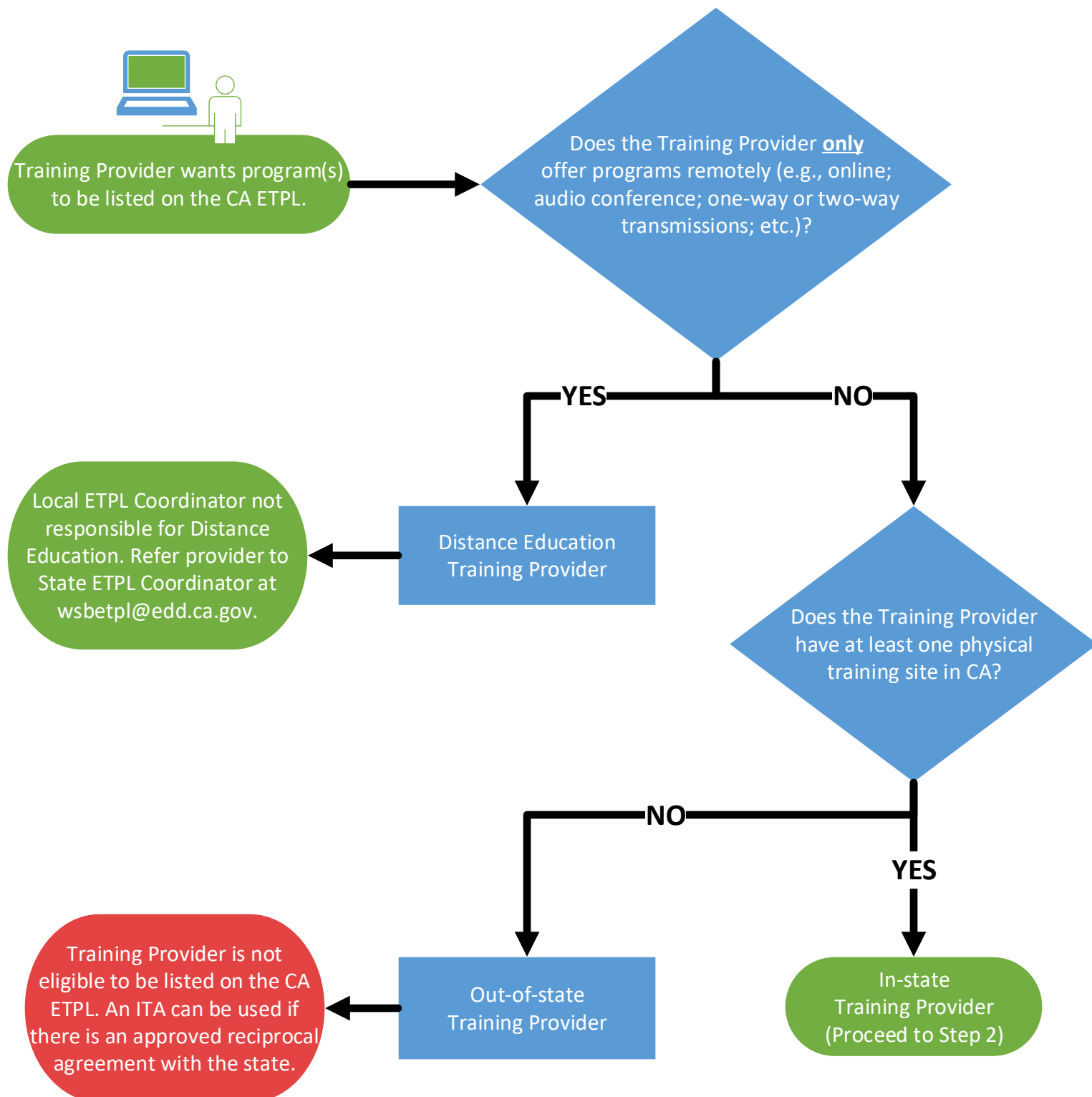
\_\_\_\_\_  
Signature of School/Organization Representative

\_\_\_\_\_  
Date

**ETP REPORT REQUIRED DATA**

| Required Data Fields                                       |
|--|
| ETPL Provider Name   |
| ETPL Program Name  |
| Total Number of Individuals Served                         |
| Total Number of Individuals Exited                         |
| Total Number who Completed the Program                     |
| Total Number Employed 2 <sup>nd</sup> Quarter after Exit   |
| Median Earnings in the 2 <sup>nd</sup> Quarter after Exit  |
| Total Number Employed 4 <sup>th</sup> Quarter after Exit   |
| Total Number of Individuals that Attained a Credential     |
| Average Earnings in the 2 <sup>nd</sup> Quarter after Exit |
| Average Earnings in the 4 <sup>th</sup> Quarter after Exit |

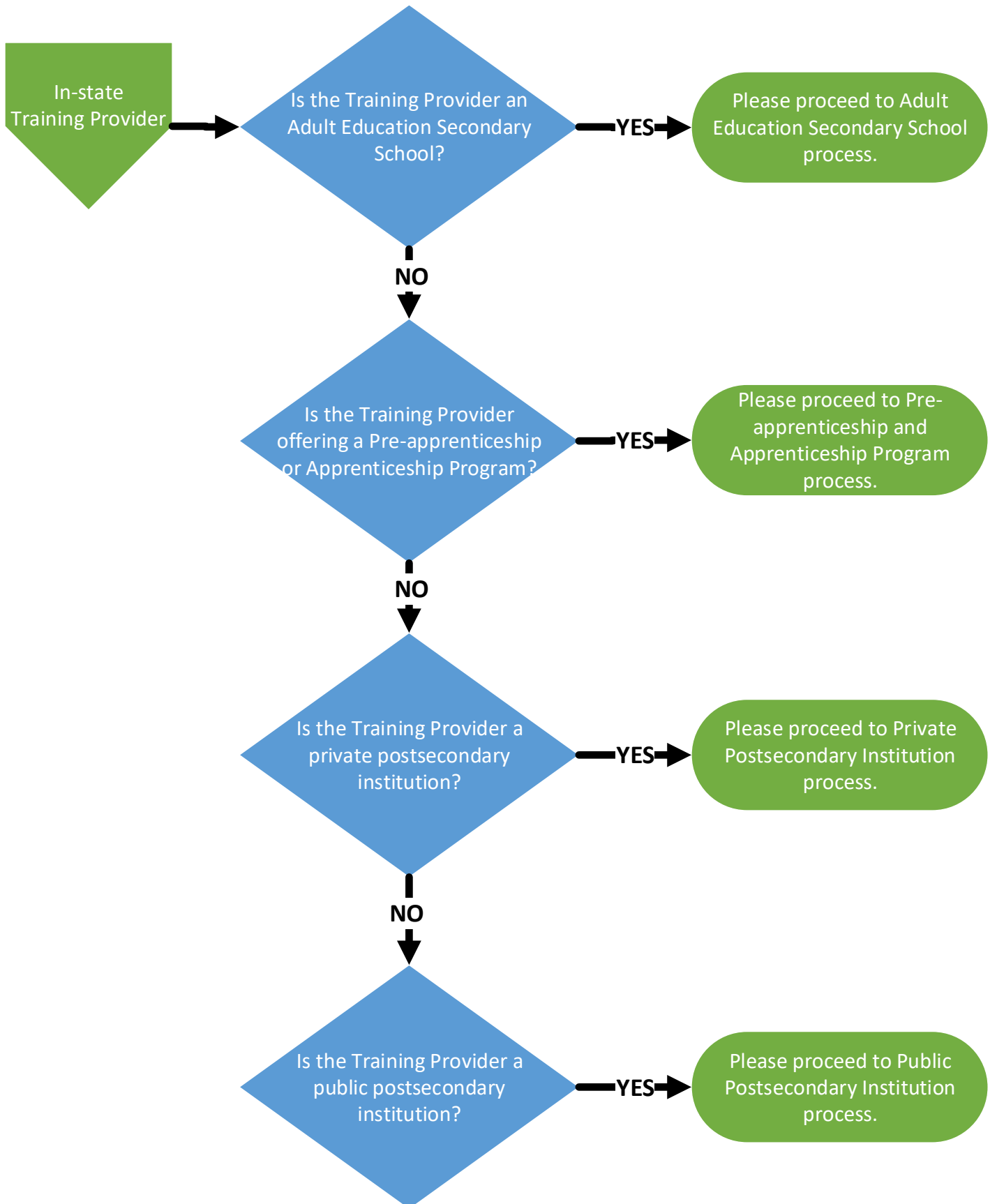
## STEP 1: CALIFORNIA ELIGIBLE TRAINING LIST (ETPL) TRAINING PROVIDER CATEGORY DETERMINATION



Once Training Provider Type is determined, proceed to Step 2.

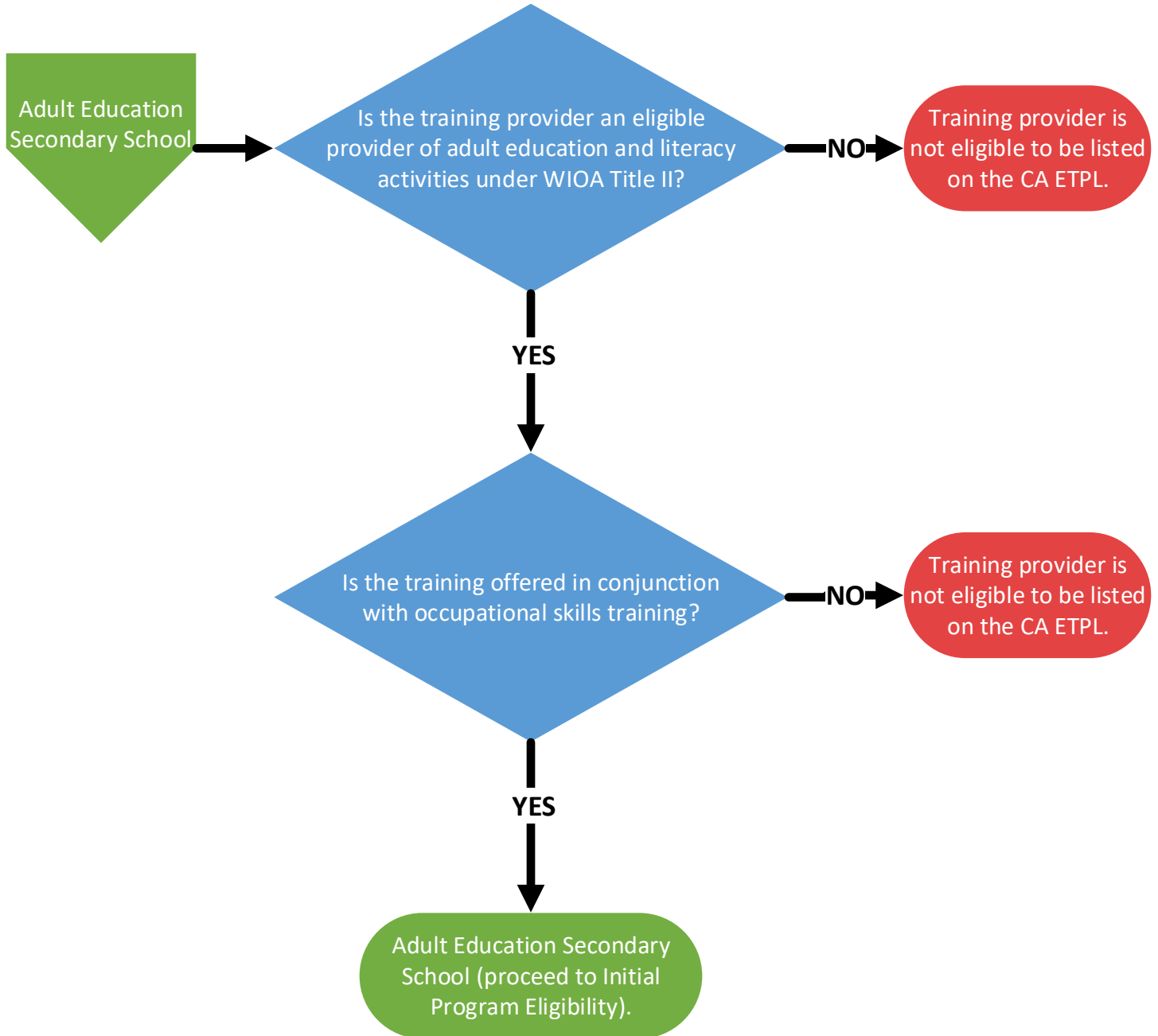


STEP 2: CA ETPL TRAINING PROVIDER TYPE DETERMINATION

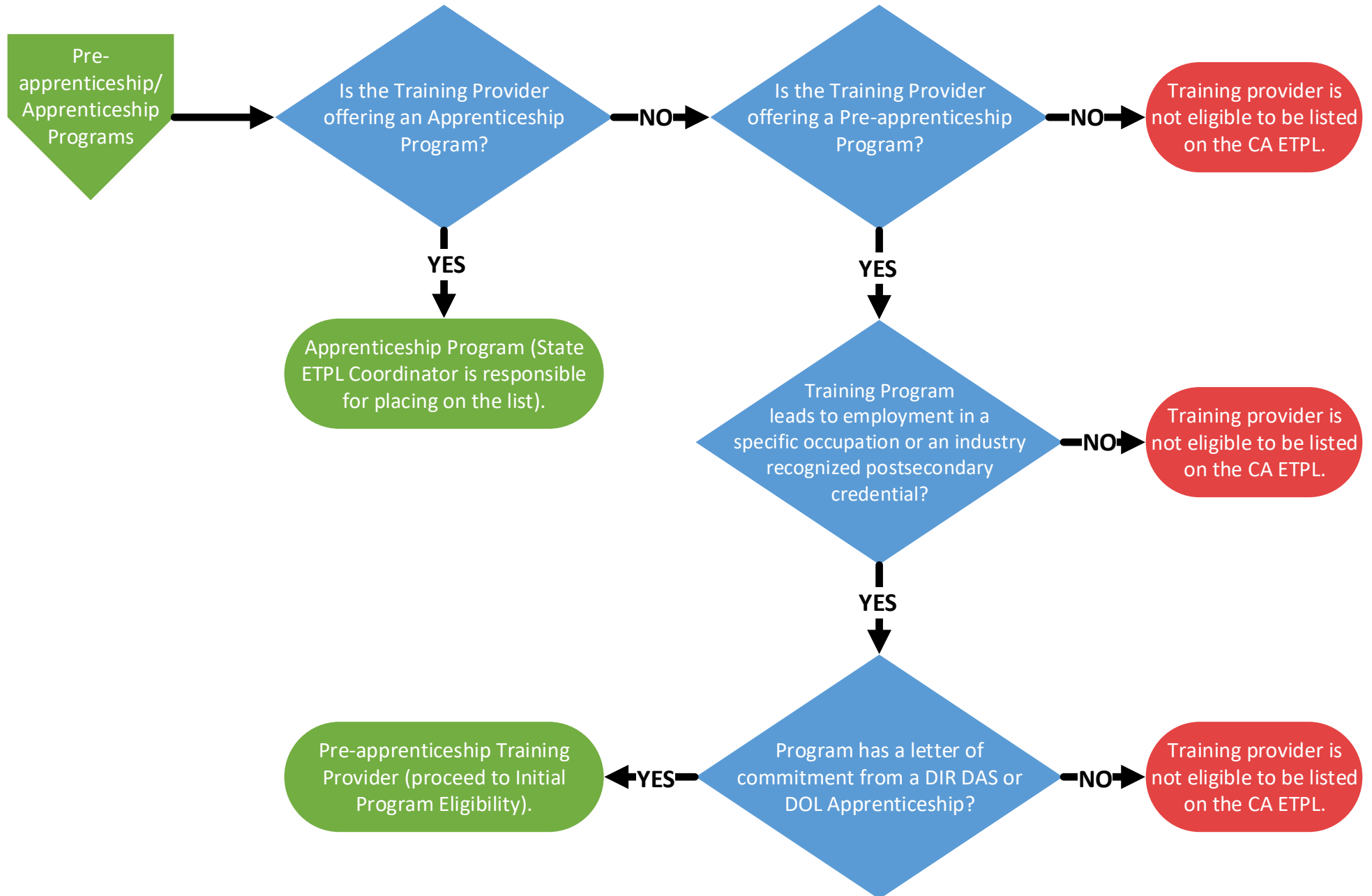


For definitions of the provider types, please reference Attachment 1 and 2 of the Directive.

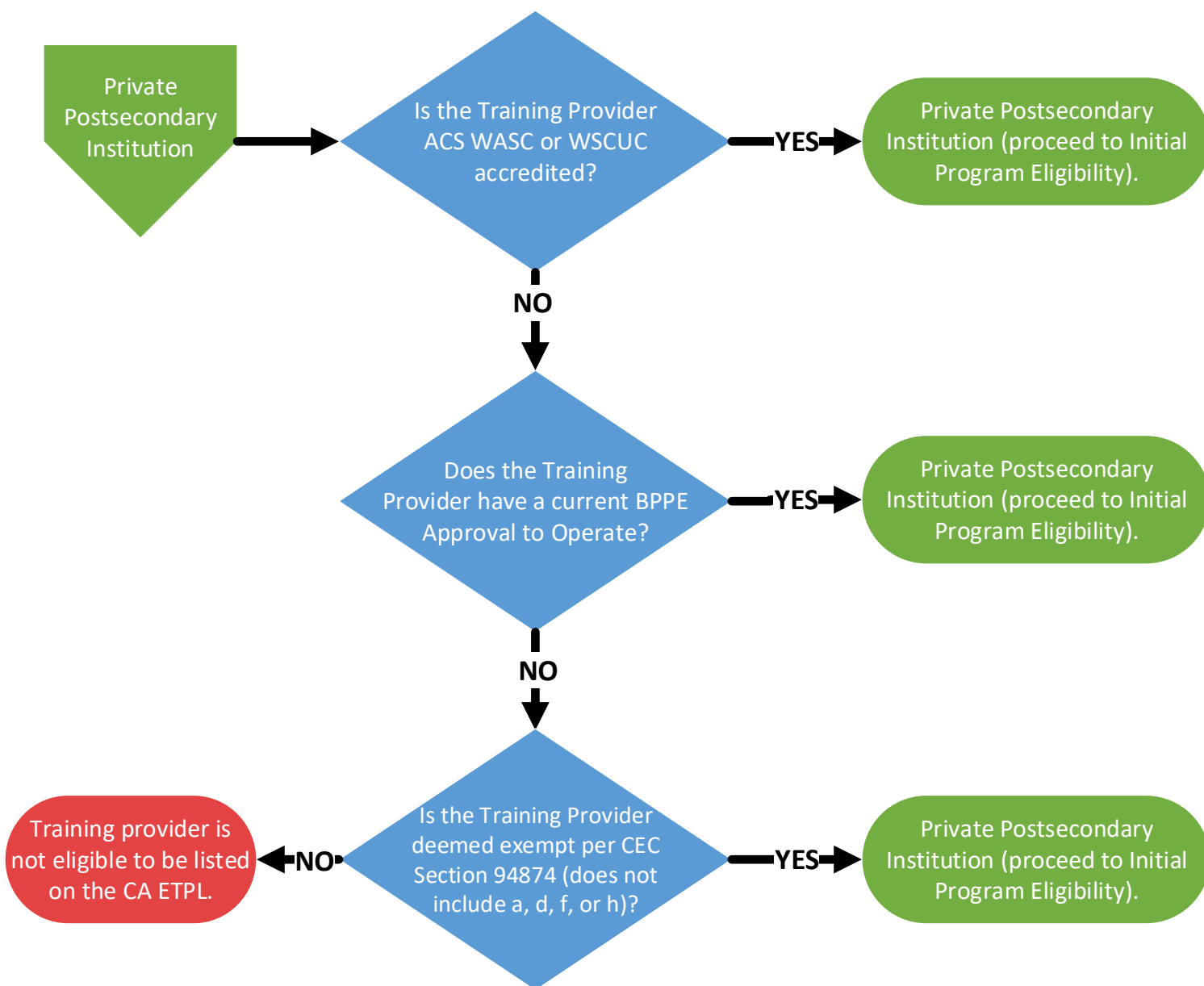
STEP 3: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION



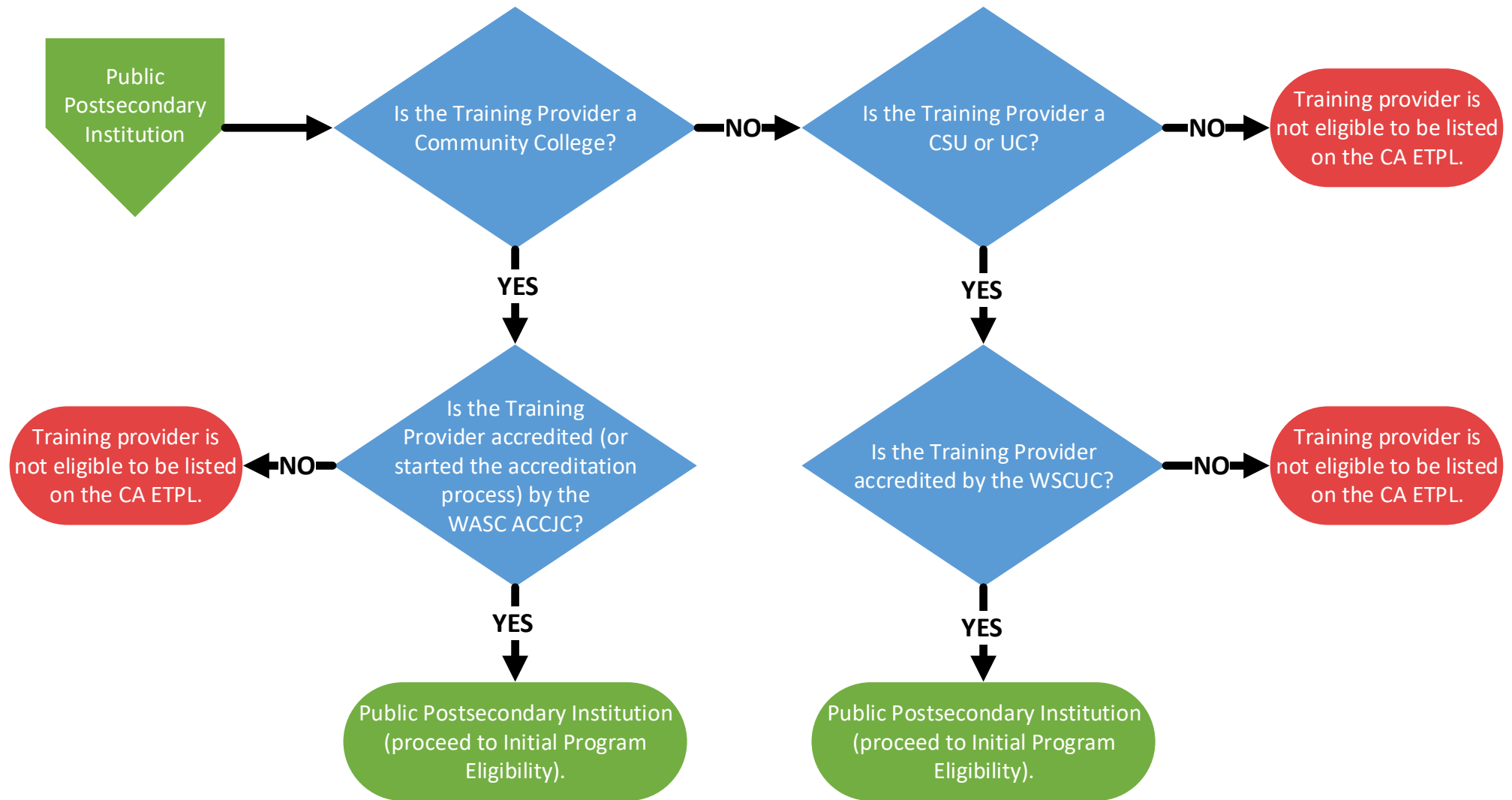
STEP 3: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION



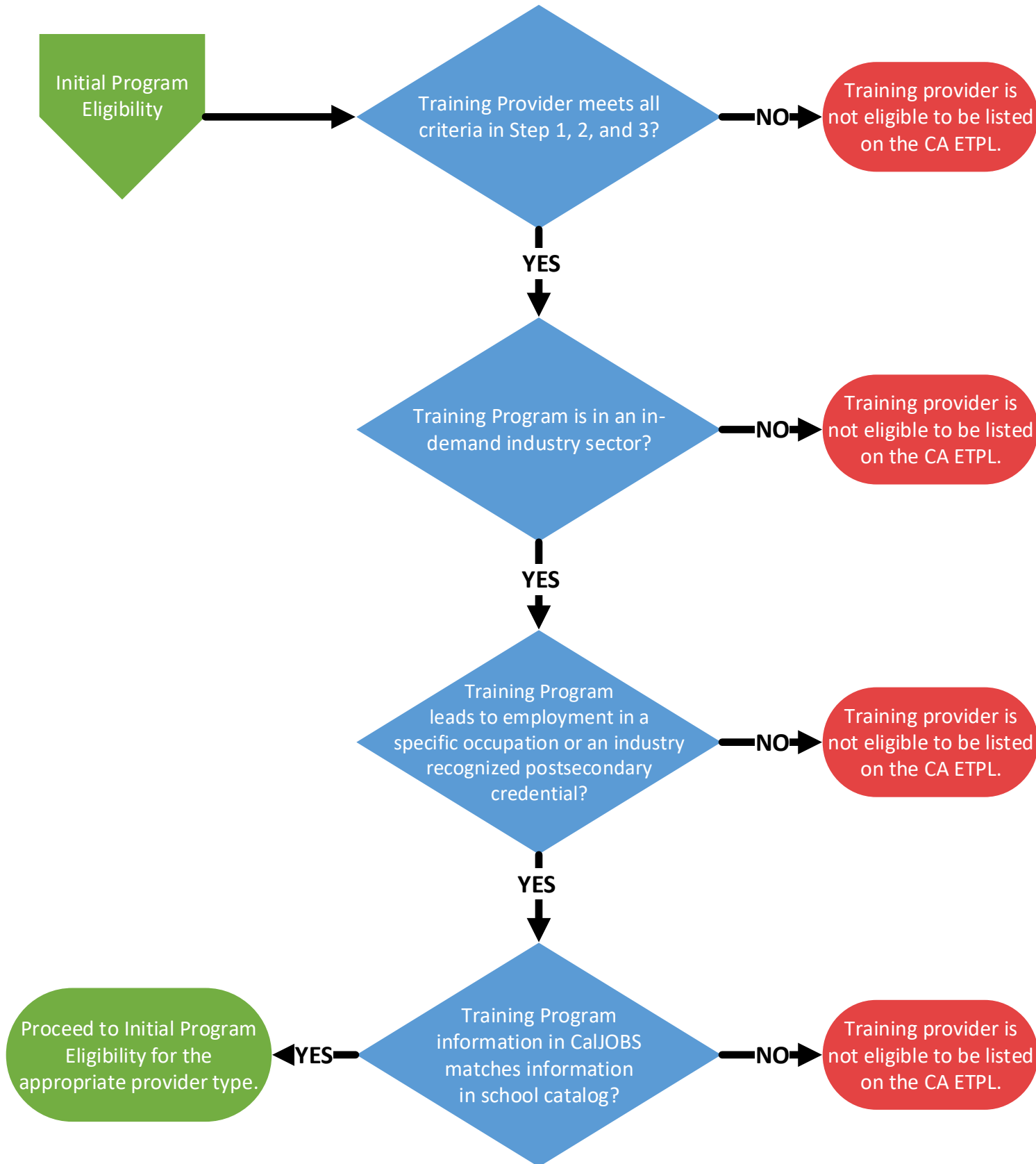
STEP 3: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION



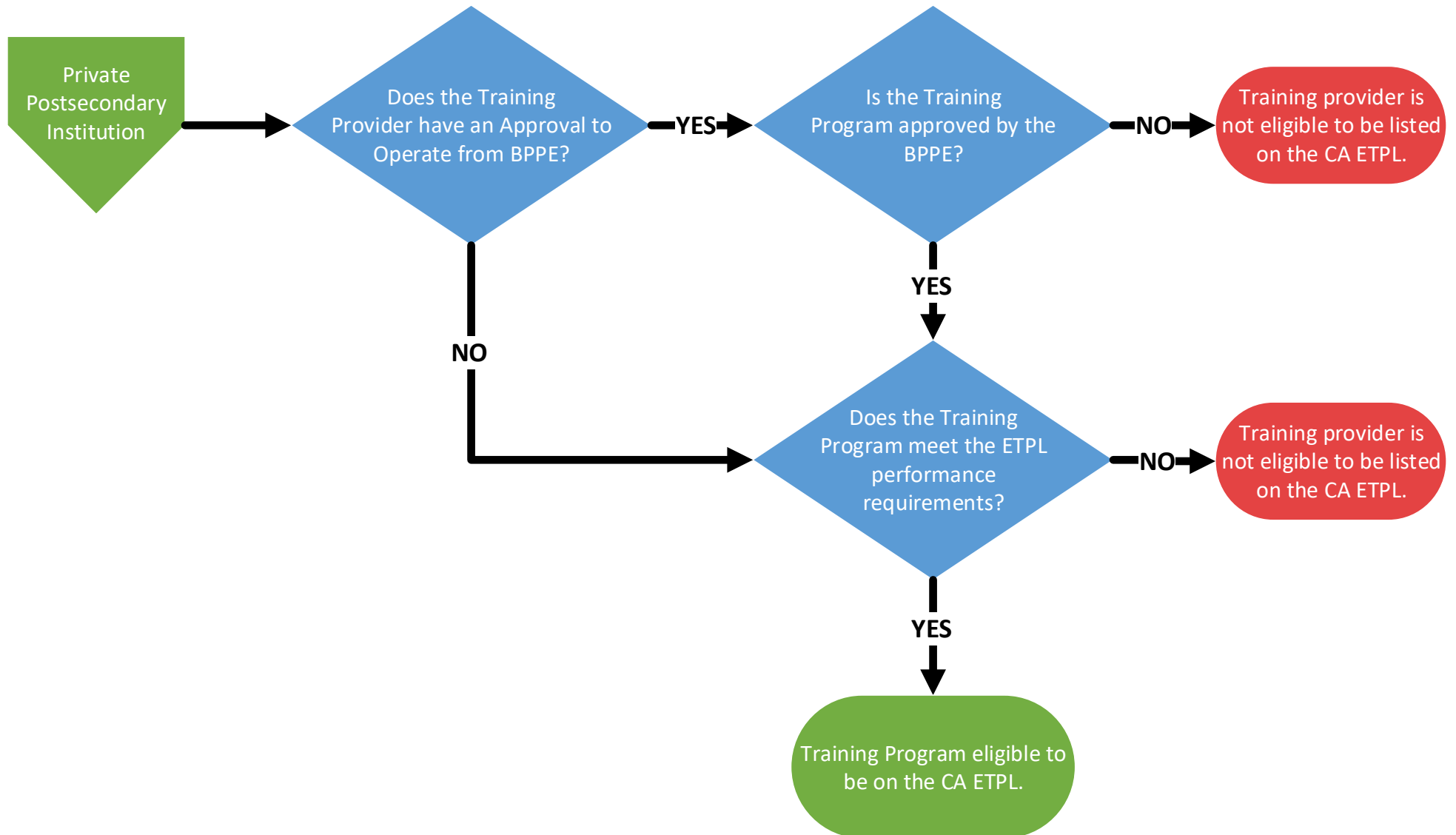
STEP 3: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION



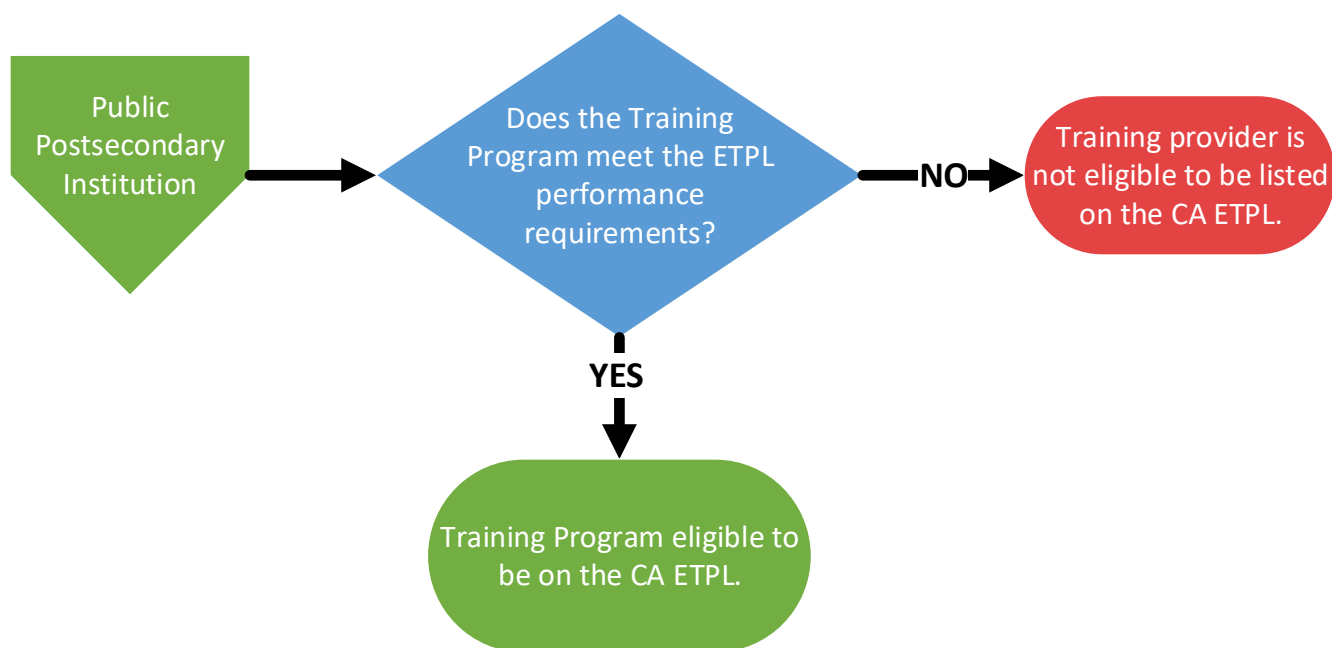
STEP 4: CA ETPL TRAINING PROVIDER TYPE DETERMINATION



STEP 5: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION

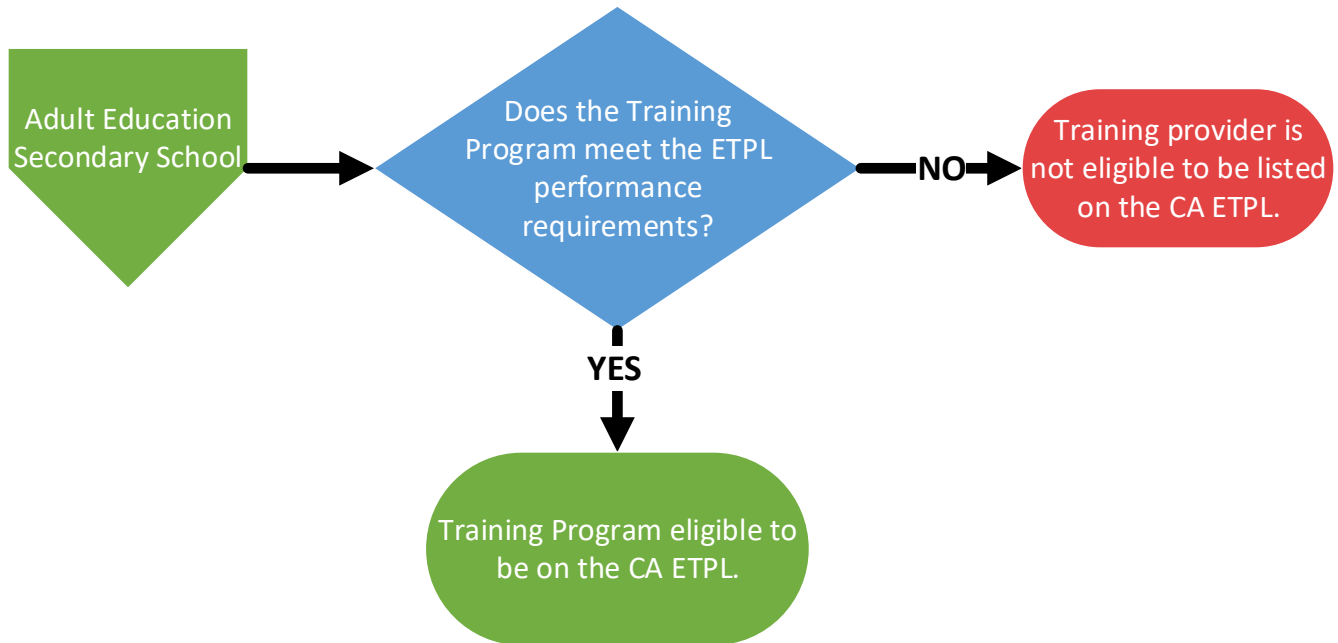


STEP 5: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION





STEP 5: CA ETPL TRAINING PROVIDER ELIGIBILITY DETERMINATION



**LOCAL ETPL COORDINATOR CONTACT FORM**

Each Local Workforce Development Board (Local Board) Executive Director must designate a Local Eligible Training Provider List (ETPL) Coordinator(s). The Local ETPL Coordinator(s) will review and nominate training providers and programs for inclusion on the ETPL, via CalJOBS<sup>SM</sup>, on behalf of the Local Board.

Submit completed and signed (physical or electronic) form to the Employment Development Department by email: [WSBETPL@edd.ca.gov](mailto:WSBETPL@edd.ca.gov).

Date: \_\_\_\_\_

Local Board: \_\_\_\_\_

MIS Administrator Name: \_\_\_\_\_

Executive Director Name: \_\_\_\_\_

Executive Director Email Address: \_\_\_\_\_

| ETPL Coordinator     | First Name | Last Name | Phone | Email Address |
|----------------------|------------|-----------|-------|---------------|
| PRIMARY              |            |           |       |               |
| ALTERNATE (Optional) |            |           |       |               |

\_\_\_\_\_  
Signature of Approving Local Board Executive Director

\_\_\_\_\_  
Date

# SUMMARY OF COMMENTS

## Draft Directive *ETPL Policy and Procedures* (WSDD-215)

There were 131 comments to the draft version of this Directive.

### Contents

|  |    |
|--|----|
| Accreditation.....   | 2  |
| Adult Education.....   | 2  |
| Appeals.....   | 2  |
| Apprenticeships .....  | 3  |
| Consumer Choice .....  | 5  |
| Delegation .....   | 5  |
| Eligibility.....   | 7  |
| <i>General Eligibility</i> .....                                 | 7  |
| <i>Initial Eligibility</i> .....                                 | 7  |
| <i>Continued Eligibility</i> .....                               | 8  |
| Cost Information .....   | 10 |
| Credentials .....  | 11 |
| Distance Education .....   | 12 |
| EEO.....   | 13 |
| ETP Report.....  | 14 |
| ETP Assurances Form .....  | 17 |
| General ETPL Requirements .....                                  | 17 |
| In-Demand .....  | 19 |
| Local Board Policy .....   | 19 |
| Local vs CA ETPL.....  | 20 |
| Other .....  | 22 |
| Out-of-State Providers .....                                     | 22 |
| Pre-apprenticeships .....  | 23 |
| Third Party.....   | 24 |
| Worker's Comp/Supplemental Job Displacement Benefit (SJDB) ..... | 24 |

## Accreditation

**Comment #1** – How do we determine if a provider and their programs are accredited?

**Resolution** – Accreditation can be verified by visiting the Western Association of Schools and Colleges, Senior College and University Commission (WSCUC) or WASC Accrediting Commission for Community and Junior Colleges (WASC ACCJC) website and searching for the provider in the directory of institutions. Direct links are provided in the policy.

**Comment #2** – Do private postsecondary schools need to be Bureau of Private Postsecondary Education (BPPE) approved and accredited by WASC?

**Resolution** – No, private providers must be either accredited by WASC, have BPPE Approval to Operate, or meet the exemption criteria identified in *California Education Code* (CEC) Section 94874. See Attachment 1 under 3. Private Postsecondary Institutions for more information.

**Comment #3** – Why is the accreditation only limited to Accrediting Commission for Schools (ACS), WASC, the WSCUC? Why is accreditation limited to regional and not inclusive of any Department of Education (DOE) accrediting agency in lieu of BPPE? There are specific examples listed in bold italics that do include these exceptions, what's the difference?

**Resolution** – The BPPE oversees private postsecondary institutions operating in California with the exception of those outlined in CEC Section 94874. Per CEC 94874(i) institutions accredited by the ACS WASC, or WSCUC are exempt from the BPPE. Additional language expanding acceptable accrediting agencies for Distance Education providers has been added on page 9 of this directive.

## Adult Education

**Comment #4** – Regarding defining providers of adult education as only those who provide training under Title II of Workforce Innovation and Opportunity Act (WIOA) (English as a Second Language [ESL] and citizenship classes). This could exclude Regional Occupational Programs (ROPs), community based schools, and any district that contract these services out to local Community Based Organizations (CBOs).

**Resolution** – Training Employment and Guidance Letter (TEGL) 8-19, attachment 1, page 3 includes “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 Code of Federal Regulations (CFR) § 680.350” as an eligible training provider.

## Appeals

**Comment #5** – Does the appeals process still work in the context of Local Workforce Development Boards (Local Boards) “nominating” providers for the ETPL instead of placing them on directly? Where should the appeals process start?

**Resolution** – The appeals process starts with the Local Board that issued the denial. If a provider is denied inclusion on the ETPL, and wishes to appeal, the provider must submit its appeal to the Local Board.

**Comment #6** – Who would be the party responsible for (1) suspending the provider that is under federal, state, or local investigation; (2) notifying the provider of the suspension? If the provider protests, stating they were not afforded due process conduct, who will be responsible for handling any possible legal process as a result of this suspension.

**Resolution** – Removing the provider would be the responsibility of both the Local Board and the state. If either found that a training provider is currently under investigation, then the provider would be immediately suspended by either the state or the Local Board, and the Local Board would inform the provider of the suspension. The provider would then undergo the appeals process if it so chooses, starting with the Local Board.

**Comment #7** – What if the training provider disagrees with the Local Board’s initial eligibility assessment?

**Resolution** – The Local Board must provide the training provider with information regarding the appeals process.

**Comment #8** – Are initial/informal meetings required as part of the appeals process if both parties waive it based on written confirmation?

**Resolution** – All Local Boards must include an option for an informal meeting in their appeals policy. However, both parties can agree to waive this requirement, and documentation should be uploaded into the Provider Profile. This also needs to be included in the local policy.

**Comment #9** – Are formal hearings required if both parties waive it? Can impartial hearing officers be employed at the Local Board or does it need to be from an outside agency? Can the hearing officer be a compliance analyst not working directly with ETPL?

**Resolution** – Local Boards must include the option of a formal hearing in their appeals policy. However, both parties can agree to waive this requirement, and documentation should be uploaded into the Provider Profile. Guidance on the appeals process, including impartial hearing officers, needs to be included in the local policy.

**Comment #10** – Can a Local Board rule to approve a provider on appeal, if the EDD originally rejected it?

**Resolution** – Yes, but the provider/program has to go through final EDD approval before being reinstated to the ETPL.

## **Apprenticeships**

**Comment #11** – It appears that a number of requirements are inapplicable to apprenticeship programs, including the WIOA Section 188 requirement. Is this correct?

**Resolution** – Both Department of Labor (DOL) and Department of Industrial Relations (DIR), Division of Apprenticeship Standards (DAS) ensure that apprenticeships meet Equal Employment Opportunity (EEO) standards per 29 CFR 30.3, therefore the Local Board cannot impose additional EEO requirements onto the apprenticeship program.

**Comment #12** – Please provide further guidance on including all California (CA) apprenticeships on the local Eligible Training Provider List (ETPL). There are some apprenticeship programs that are not available locally (example: apprenticeship programs in Imperial County do not have a presence in Southern California), and does not seem to make sense to list locally as we are unable to provide the Individual Training Account (ITA) for training due to the distance restrictions.

**Resolution** – Per TEGL 13-16, Change 1, “All Registered Apprenticeship Program (RAPs) on a statewide ETP list must also be located on all local ETP lists in the state.” In addition, TEGL 8-19 states that “Local Boards may add additional requirements for providers, except for RAPs, which result in providers that are on the state ETP list that may not be eligible for inclusion on the local ETP list.”

**Comment #13** – Can Local Boards require local program requirements to apprenticeship programs related to payments (W-9s, Invoice Agreements) and other WIOA assurances (WIOA section 188), list of employers partners, or is that assumed by the state?

**Resolution** – Apprenticeship programs cannot have additional eligibility requirements added to them, per TEGL 8-19. If an apprenticeship program is approved by DOL or DIR DAS and want to be added to the ETPL, they must be added to the state and local ETPL. They cannot be removed from the ETPL until they request to be removed or they lose apprenticeship approval/designation from DOL or DIR DAS.

**Comment #14** – Are registered apprenticeship programs required to provide a paid employment component and if they are not providing employment, how is that monitored? If they do not provide employment, isn't that just a regular training program?

**Resolution** – Yes, per the Factsheet located on the DOL [Apprenticeship website](#), apprenticeships are required to provide a paid employment component. The approval of apprenticeship programs is managed by the DOL and/or DIR DAS.

**Comment #15** – Are we allowed to require apprenticeship to meet our contracting/insurance requirements to be on the local list?

**Resolution** – No. Per TEGL 8-19, no additional eligibility requirements can be added to apprenticeship programs.

**Comment #16** – There are approved apprenticeship programs in occupations that are not in our local priority sector or in-demand occupations. Our local policy is to not put such programs on our local ETPL. It would be inconsistent to allow such a program to be listed as an apprenticeship when we do not list it as a private postsecondary training program.

**Resolution** – Per TEGL 13-16, Change 1, “Given that RAPs are a link to demonstrated hiring needs and WIOA provides automatic training provider eligibility to RAPs, ETA has determined that RAPs qualify as occupations in-demand in the local labor market.” In addition, TEGL 8-19, Attachment 1, page 3 states: “RAPs are automatically eligible to be included on the ETP list and are exempt from state and local ETP eligibility requirements.”

**Comment #17** – If WIOA funds cannot be used for building construction, doesn't that restrict Local Boards from funding apprenticeship/pre-apprenticeship programs?

**Resolution** – DOL Final Rules 683.235 clarifies that WIOA funds can't be used for construction, etc. for the purposes of administering WIOA without prior approval from the Secretary of State. However, in the context of apprenticeships and pre-apprenticeships, WIOA funds can be used to pay for participants to be enrolled in construction programs.

## **Consumer Choice**

**Comment #18** – Does this mean the Local Board must refer the client for training and an ITA regardless of the appropriateness of the training? Can an individual demand enrollment and training services while demonstrating poor fitness by missing appointments, failing to meet their obligations in the Individual Employment Plan (IEP), and participate in training that does not necessarily fit their employment goals as long as they possess the minimum age, basic skills, and/or prerequisites to do so? If so, we do not believe this is required by WIOA or beneficial to the participant or the system.

**Resolution** – The America's Job Center of California<sup>SM</sup> staff must determine training services are appropriate for an individual after conducting an interview, an evaluation or assessment, and career planning. If training is determined to be appropriate after meeting with a career planner, the Local Board must send that participant to the training they select as long as training funds have not been exhausted. Individuals maintain the right to enroll in whatever program they choose, however it is the Local Board's responsibility to help individuals with choosing the best program that fits their needs based on the IEP. Please see the definition of Training Services in WSD19-06 for further guidance on how an individual qualifies for training services.

**Comment #19** – The CA ETPL does not permit the Local Board to approve a training program that is eligible to be paid with WIOA funding, even though the Local Board is the subject matter expert on what will lead to a self-sustainable career in the local/regional economy. The CA ETPL limits the choice of consumer and the Local Board to use Labor Market Information to determine which courses should be deemed eligible.

**Resolution** – Local Board staff are still able to select providers to nominate that reflect the needs of their Local Workforce Development Area (Local Area). Attachment 1, page 6 states "Once all necessary information is entered, the Local ETPL Coordinator must review and nominate the training provider and/or program for inclusion on the CA ETPL."

## **Delegation**

**Comment #20** – Does each Local Board need to screen all ETPL schools in the Regional Planning Unit (RPU) for inclusion on its local ETPL? Currently we only go through the local process if a customer requests the school.

**Resolution** – Yes, as well as all CA ETPL approved distance education providers and registered apprenticeships.

**Comment #21** – How does a Local ETPL Coordinator get notified that a distance education program or a program in the RPU has been approved?

**Resolution** – ETPL Coordinators receive notifications via the CalJOBS<sup>SM</sup> Message Center for their ETPL Coordinator account alerting them to newly added and approved programs.

**Comment #22** – Please explain how this will be handled for the providers and programs that are already listed. Currently, the ETPL Coordinator in which the main campus is located must manage all of the sites, even those out of their area.

**Resolution** – Local Board initial and continued eligibility procedures will need to be adjusted. For Continued Eligibility, the provider profile will be reviewed by the EDD. The programs will continue to be reviewed by the Local Boards where the programs are located.

**Comment #23** – Local Boards with the main office or main campus located in their region, should not be responsible for listing other affiliated programs located outside their region. Each region needs to have the option to list linked campuses/schools separately in each region. With EEO monitoring requirements and no designated funding provided to hire ETPL Coordinators, being responsible for multiple campuses throughout the State, is an unrealistic expectation, especially for smaller Local Boards with limited resources.

**Resolution** – For Initial Eligibility, the provider profile is nominated by the Local Board where the provider is headquartered. Programs will be nominated by the Local Board where the program is located. For Continued Eligibility, the provider profile will be reviewed by the EDD. The programs will continue to be reviewed by the Local Boards where the programs are located.

**Comment #24** – Once programs are listed on the CA ETPL, can this be clarified why training providers need to contact Local Boards? If the provider is not currently on the CA ETPL, shouldn't the Local Board where the provider (not the program) is located be responsible for nominating the provider?

**Resolution** – Providers can reach out to the Local ETPL Coordinator for technical assistance with entering information in CalJOBS. The provider is nominated by the Local Board where the provider is headquartered. Programs will be nominated by the Local Board where the program is located.

**Comment #25** – If there are no changes to the ETPL Local Board Delegation and Cancellation Form (Attachment 3) and the Local ETPL Coordinator Contact Form (Attachment 7) that are already on file, do we need to resubmit them under this new Draft Directive?

**Resolution** – Local Boards will need to submit the ETPL Local Board Delegation and Cancellation Form (Attachment 3) annually in July. The Local ETPL Coordinator Contact Form (Attachment 7) only needs to be resubmitted when there are updates.

**Comment #26** – Is it possible to not only delegate ETPL duties to another Local Board, but instead to delegate individual providers to another Local Board?



**Resolution** – The delegation form is used to delegate ETPL responsibilities (including providers/programs) to another Local Board. Individual providers cannot be delegated to another Local Board. If a provider moves its headquarters from one Local Area to another, the responsibility for that provider changes, and both Local Board ETPL Coordinators should be made aware of the change.

## **Eligibility**

### *General Eligibility*

**Comment #27** – Can Local Boards place the burden of proof on providers to prove that their programs meet the requirements for eligibility?

**Resolution** – Local Board staff are required to review programs to ensure they meet eligibility requirements, including credentials. Once all necessary information is entered, the Local ETPL Coordinator must review and nominate the training provider and/or program for inclusion on the CA ETPL ensuring all information provided is complete, accurate, and current, and is in alignment with this Directive.

**Comment #28** – What documentation is required to demonstrate a provider’s partnership with local businesses?

**Resolution** – This will vary depending on the Local Board and their local policy. The state will allow Local Boards to decide what is considered "in partnership with business."

**Comment #29** – Will the negotiated goals be the same as WIOA title I programs or will there be different ones for training provider programs?

**Resolution** – Programs must meet the performance requirements described in the continued eligibility section of the Directive, as well as the state-level Title I Adult performance goal.

**Comment #30** – Why are training providers that do not award degrees and solely provide educational programs for total charges of \$2,500 not allowed? If a provider has a BPPE exemption, it is unclear if a WIOA-funded ITA is considered Federal student financial aid and therefore ineligible.

**Resolution** – This exemption prohibits any federal funding be used to pay for this program, thus excluding WIOA funding from being used. Section 74110 of the CEC defines public funding as “any financial aid paid on behalf of students or directly to an institution from any public source,” which includes WIOA.

### *Initial Eligibility*

**Comment #31** – Performance requirements for initial eligibility limit customer choice and local autonomy by removing the ability for new training providers to be added to the ETPL without performance data. The Draft Directive does not specify the source of the performance metrics. If in the past, it will come from a provider’s BPPE Annual Report, this will further inhibit a Local Board’s autonomy as BPPE is currently two years behind in publishing performance data and, in fact, does not even allow a provider to upload data until September for publication in

December. This would effectively mean new providers would be required to have two years of performance metrics.

**Resolution** – TEGL 8-19, Attachment 1 indicates that, “The performance of ETPs is a factor that states must use in determining both initial and continued eligibility of a provider to be included on the state’s ETP list.” The state requires placement data for initial eligibility for two main reasons: 1) it ensures that providers on the ETPL are of a certain quality in keeping with state and federal laws and regulations, and 2) participants are more likely to be successful in WIOA (i.e. employment) if the ETPL program meets the initial eligibility placement requirement. This benefits Local Board performance numbers. Performance data is entered directly into CalJOBS, and is no longer verified using the BPPE Annual Report.

**Comment #32** – Given the time it takes for a provider to create and complete an ETPL application, what is the exact timeframe for Local Boards to complete their review process?

**Resolution** – Local Boards should complete their review process of a provider within 30 calendar days of the complete provider and/or program data being submitted into CalJOBS. The state considers the date of a program being submitted as the application date, and the Local Board has 30 days from that date to nominate the program for review to the state.

**Comment #33** – Is it required that all initial and continued eligibility reviews be reviewed by the state prior to a Local Board approving? If so, what is the process for this?

**Resolution** – Local Boards will submit providers and their programs to the state for review. This is called "nominating," and the process will be very similar to the current one for adding programs to the ETPL. Within 30 days of receiving the nomination, the state will review the data in CalJOBS and either approve or deny the provider and/or program, and inform the Local Board.

**Comment #34** – In the past, performance was collected during the subsequent eligibility period. Are we now, gathering information on performance prior to listing a program on the ETPL? Is there an exception for performance if the provider or program is new?

**Resolution** – Yes, performance information must be provided as part of the initial eligibility review process. The use of performance data during initial eligibility review is required by the DOL, and cannot be waived.

#### *Continued Eligibility*

**Comment #35** – Removing programs and then requiring a program meet continued eligibility requirements limits consumer choice and would slow the ETPL’s ability to foster demand-driven skills attainment.

**Resolution** – The state has implemented this policy to limit the number of providers that are only on the ETPL for other funding sources (e.g. Workers’ Compensation Vouchers) and should help limit the burden of the Local Board ETPL Coordinators in reviewing these providers if they are not helping participants in the workforce system.

**Comment #36** – Previously, it was up to the Local Board to determine if a provider or program can stay on the ETPL. Is it required that we remove the provider if no enrollments have

occurred in 2 years? If so, what is the process for the provider to get back on the ETPL? Can a customer request the provider?

**Resolution** – Yes, per the Directive providers must be removed from the ETPL if they do not have at least one enrollment in the previous two program years (PYs). If they would like to get back on the ETPL, they must wait 6 months before reapplying to the ETPL and meet the continued eligibility requirements in the Directive.

**Comment #37** – What is the process for schools that are already listed on the ETPL? Do we review all new requirements at their annual mark or do they need to be reviewed at the effective date of this Directive?

**Resolution** – Per the ETPL Directive, continued eligibility applies to all training providers listed on the CA ETPL at any time under the WIOA or Workforce Investment Act (WIA), and whose initial eligibility has expired. A training provider's initial and continued eligibility is valid for 365 days after the provider is approved for the ETPL. Providers and programs already on the list can be reviewed using the policies outlined in this directive the next time they are reviewed for continued eligibility.

**Comment #38** – Providers on the ETPL for two full complete PYs (July 1 – June 30) must have at least one Title I, subtitle B enrollment during the previous two PYs. Does this refer to one enrollment in the entire provider or one enrollment in the individual program?

**Resolution** – One enrollment for the entire provider. This requirement is not applied to the program.

**Comment #39** – What is the reapplication process for programs trying to remain on the ETPL?

**Resolution** – Please see the ETPL Guide Card (Attachment 5) for steps on how programs are submitted for continued eligibility review.

**Comment #40** – Since continued eligibility can be reviewed at any time during the year (calendar or fiscal), which timeframe is used to measure performance?

**Resolution** – The performance timeframe is for the previous complete PY, July 1<sup>st</sup> to June 30<sup>th</sup>.

**Comment #41** – Will Local Boards have the discretion when they conduct continued eligibility?

**Resolution** – After the program becomes initially eligible, they must be reviewed again before the end of the first year (i.e. a program is added to the ETPL on 10/22/2020, the Local Board must review the program again prior to 10/22/2021). Continued eligibility for providers and programs on the CA ETPL must be reviewed every year. For the local ETPL, Local Boards can do continued eligibility every two years. Local Boards can determine the time frame in which they review and complete continued eligibility as long as it is done within the required timeframes.

**Comment #42** – For programs that run over the one-year period, how should the Local Board conduct continued eligibility?

**Resolution** – Programs that are longer than one year should use whatever cohort is graduating in the year to determine if they meet continued eligibility.

**Comment #43** – How do Local Boards determine which programs are up for continued eligibility?

**Resolution** – ETPL programs in CalJOBS have a Subsequent Review Due Date (SRDD), which is the date that Local Boards must review a program by. If a program is not reviewed by the SRDD, the program will automatically be removed from the ETPL. Programs that are 60 days from their SRDD will have a REAPP icon, indicating they are in need of review. The Detailed Report > Provider > by Program Reapplication allows Local Board to see which programs on the ETPL are due for review.

**Comment #44** – How do Local Boards keep track of programs during continued eligibility, aside from reports? What if there are issues with how the reports function?

**Resolution** – ETPL staff accounts allow for notifications to be sent to staff's email regarding new programs, changes to existing programs, and other changes in the ETPL module. If there are any issues regarding notifications, please reach out to the CalJOBS Operations Unit at caljobsadmin@edd.ca.gov. The state is also working to revise provider reports to be more useful to ETPL staff. If ETPL staff would like to request updates to reports (new filters, new columns, etc.), they can email the ETPL box at wsbetpl@edd.ca.gov.

**Comment #45** – Will we be using the most recent data available in ETP Report for our continued eligibility or waiting until a new year is submitted?

**Resolution** – You would use the most recently available performance data to determine if a provider is eligible.

**Comment #46** – Reviewing year-round instead of at one specific time may seem like a more efficient method, but in reality, it puts an onerous burden on ETPL coordinators. Couldn't it be possible to make the review at a set time during the year? Or Local Boards should have the option to review at a minimum, once per year, or every 2 years if programs are longer than a year?

**Resolution** – After the program becomes initially eligible and is added to the CA ETPL, they must be reviewed annually for continued eligibility (i.e. a program is added to the ETPL on 10/22/2020, the Local Board ETPL Coordinator must review the program again prior to 10/22/2021). For the local ETPL, Local Boards can do continued eligibility every two years. Local Boards can determine the time frame in which they review and complete continued eligibility as long as it is done within the required timeframes.

## **Cost Information**

**Comment #47** – What should the cost information for an ETPL program be matched to?

**Resolution** – The cost in the Cost Details tab of the program wizard should match the cost a

member of the general public would pay when enrolling in the program without assistance from WIOA. This information should be available in the provider's brochure or website.

## Credentials

**Comment #48** – This DOL Credential Tool does not include a category for private postsecondary providers.

**Resolution** – Those providers would fit under the "Institutions for Higher Education" category.

**Comment #49** – The DOL Credential Tool does not explain the skills that either meet/do not meet the definition of a credential. It also does not explain what "in-demand" means.

**Resolution** – The DOL Credential Tool is meant to accompany federal ETPL guidance and illustrate how the requirements are met, rather than explain what those requirements are.

**Comment #50** – If a Local Board, as part of the local initial eligibility requirements, completes an onsite visit with an industry expert who verifies the program meets industry standards, evidenced by the review of the curriculum, equipment, testing, etc., would this be considered as meeting the industry credentials?

**Resolution** – These requirements are in addition to the credential/employment for a specific occupation requirement, not specific criteria for the requirements. Credentials that are "industry-recognized" must meet the definition as described in WSD19-03.

**Comment #51** – There are many programs that do not meet the narrow definition of Post-Secondary Credential outlined in the Definitions attachment that provide valuable and demonstrated effectiveness to individuals with barriers to employment (such as programs for Microsoft Office applications and other office and administrative oriented programs). We also believe these should meet the definition of training under Skills Upgrade and Retraining.

**Resolution** – Per Training and Employment Notice (TEN) 25-19, the programs described here do not meet the definition of a post-secondary credential, since the skills that are attained fall into the general skills/work readiness category. WIOA funds can be used to provide training to general skills such as work readiness, hygiene or safety, but credentials can only be counted toward recognized postsecondary credential attainment if they prepare a person with the competencies required to perform a specific occupation. Local Boards can still send participants to Microsoft courses; however, it is considered a Short-term Prevocational Service and CalJOBS activity code 215 should be used.

**Comment #52** – Several comments were received regarding the desire to exclude Skills Upgrading and Retraining, Entrepreneurial Training, and Adult Education and Literacy Activities from the list of services required to be on the ETPL.

**Resolution** – Per TEGL 8-19, Attachment 1, these training services are required to be on the ETPL if using an ITA.

**Comment #53** – Would the fact that there is a partnership be the only evidence needed to prove that the provider’s credential and/or certificate is acceptable as an industry-recognized credential? What extent or depth of partnership is required to meet this bar- and what criteria should the ETPL coordinator use to determine what the extent or depth of the partnership is? Should there be written documentation?

**Resolution** – No, credentials that are "industry-recognized" must meet the definition as described in WSD19-03. The extent or depth of partnership will be determined by each Local Board.

**Comment #54** – The second to last bullet (page 4) only mentions credentials and or certificates, but does it also include degrees or licenses?

**Resolution** – Yes. Attachment 2 provides a full list of the types of recognized postsecondary credentials.

**Comment #55** – If the program does not issue the credential, what is the distinction that the program meets a requirement to lead to a license? Would it be “if a separate/third party exam is required to obtain the license,” otherwise it would need to be issued by the training provider?

**Resolution** – The training program does not have to issue the credential, but the training program should prepare the individual to obtain the credential. For example, a Class A Truck Driving program does not issue the Class A driver’s license, but it should prepare the individual to pass the state issued exam to obtain the license.

**Comment #56** – The DOL Credential Tool indicates that a secondary school diploma or equivalent meets the requirements of a credential when attesting to Industry-wide Technical or Industry/Occupation Skills. We believe programs to attain secondary school diplomas or the equivalent meet the definition of training and credential.

**Resolution** – Credentials that are "industry-recognized" must meet the definition as described in WSD19-03. A secondary school diploma or equivalent is a credential, but the Adult Education program can only be on the ETPL when earned in conjunction with Occupational Skills Training.

## **Distance Education**

**Comment #57** – Emergent needs from COVID (online versions, remote training, etc.) is not represented at this time on ETPL. There is urgent need for access to quick training options in addition to training designed to assist in short-term skill building in order to access surge recruitment and lifeboat jobs. How will we handle this need?

**Resolution** – Online learning and/or remote training (distance education) is eligible to be on the ETPL. These providers are reviewed for initial and continued eligibility by the State ETPL Coordinator. Under the new Directive, the responsibility for providers that only function in a distance education capacity shifts to the state for initial and subsequent eligibility review.

**Comment #58** – With the change in instruction delivery due to COVID, will training providers already listed on ETPL have to create new listings for on-line programs?

**Resolution** – Yes. Per Attachment 1, “If the program is offered with multiple modes of delivery, curriculum, or course lengths, the program must be entered separately for each variation.” Please reference the definition of a Training Program in Attachment 2.

**Comment #59** – Online training is really limited, particularly by providers outside of California. There are many quality training programs that initiate and have headquarters outside of California. The ETPL makes it difficult to find and access these providers. Additionally, online courses (without physical operations) are not easily added which is a disincentive.

**Resolution** – Distance Education providers can be headquartered outside of CA, but they must only offer distance education courses. If they only have physical training locations outside of CA, then they are considered an out-of-state provider and cannot be on the CA ETPL; however, an approved reciprocal agreement may be used. If they have physical locations in CA, but are headquartered outside CA, they are still considered an in-state provider and can be on the ETPL if they meet eligibility requirements. Per the Education Code Section 94801.5, Distance Education private postsecondary education institutions must register with BPPE, unless they provide undergraduate or graduate degrees.

**Comment #60** – What about providers that provide both distance and in-person programs? Or programs that are hybrid partially distance and partially in-person?

**Resolution** – If the provider offers alternative or “hybrid” in-person and online programs, and have a physical location in California, they are an in-state provider. If the program is offered with multiple modes of delivery, different curriculum, and/or different course lengths, the program must be entered separately for each variation. Please reference the definition of a Training Program in Attachment 2.

**Comment #61** – CalJOBS offers a screen for choosing “Duration” with options of more than one intensity, duration and schedule. CalJOBS also offers a “Scheduling” screen that could be updated by GSI to allow a selection for in-person and/or distance learning if you want to track it. Could these be used instead of creating separate program entries in CalJOBS for a single program that only has one listing with the accrediting agency, one curriculum, one cost and one set of performance? Shouldn’t CalJOBS listings match the exact titles and programs approved by the accrediting agency?

**Resolution** – Programs with multiple modes of delivery, different lengths of instruction, and/or different curriculum must be listed separately to comply with ETP Report requirements. Program details should match the brochures available on the provider's website.

**Comment #62** – Who is responsible for initial and continued eligibility for Distance Education providers?

**Resolution** – The State ETPL Coordinator is responsible for the initial and continued eligibility of Distance Education providers.

**EEO**

**Comment #63** – Where do Local Boards find the EEO monitoring tools?

**Resolution** – Please refer to your Local Board’s EEO Officer, as defined in WSD17-01.

**Comment #64** – How do Local Boards conduct EEO monitoring for providers with multiple locations?

**Resolution** – It is recommended that Local Boards provide the provider one of the EEO monitoring tools (depending on size of provider), and have them complete it and add it to their CalJOBS Provider Profile. For additional assistance, please refer to your Local Board’s EEO Officer and reference WSD17-01.

**Comment #65** – Are on-site visits (which would be needed to determine that EEO and other items are posted) required before nominating a training vendor for inclusion on the CA ETPL?

**Resolution** – No, it is recommended that Local Boards provide one of the EEO monitoring tools (depending on size of provider), and have them complete it and add it to their CalJOBS Provider Profile. For additional assistance, please refer to your Local Board’s EEO Officer and reference WSD17-01.

**Comment #66** – Do the EEO requirements in the Draft Directive apply to all providers?

**Resolution** – This applies to all training providers, except apprenticeship programs.

## **ETP Report**

**Comment #67** – What if BPPE performance data is not collected for providers who serve rural areas? Won’t this negatively affect their placement rate?

**Resolution** – Performance requirements for providers under the new ETPL Directive do not require BPPE placement data. Placement data is directly entered into CalJOBS.

**Comment #68** – Public education either does not collect and track students past graduation or claim they aren’t allowed to release that information due to confidentiality requirements. If a public postsecondary CC, CSU or UC does not provide % who successfully completed a program, nor % who are employed within 6 months for initial eligibility, their program must still be listed on the CA ETPL because they are not required to meet a specific performance threshold, correct?

**Resolution** – For Initial Eligibility, public postsecondary providers are still required to submit performance data. They are not required to meet a threshold.

**Comment #69** – Would a waiver be available if the individual was sick or had a valid reason not to take the first test? Some state tests have very long periods between test dates.

**Resolution** – No, a waiver is not available for a missed test.

**Comment #70** – How is the provider supposed to know when one of their students has exited from WIOA? Or does this mean the student exited from the program, either by successfully completing or dropping out?

**Resolution** – Exiting the program refers to the training program rather than WIOA.



**Comment #71** – Is the placement requirement based on WIOA enrollments only or includes general public as well?

**Resolution** – The placement requirement for initial eligibility includes all students. For continued eligibility, the completion measures includes all students, whereas the other measures include WIOA participants only.

**Comment #72** – In regards to performance for public postsecondary, is there a form for the providers to fill out with the performance information?

**Resolution** – All providers are required to report their performance data directly into CalJOBS.

**Comment #73** – Local Boards are responsible for meeting WIOA performance outcomes for WIOA participants. Are training providers held to the outcomes that are the responsibility of the Local Boards or do they hold shared responsibility? If the performance metrics inclusive of both WIOA and non-WIOA participants, is it common for providers to track employment outcomes or is this specific to ETPL?

**Resolution** – Providers are held to the performance requirements outlined in the ETPL Directive, as described in the Initial and Continued Eligibility sections. If providers and/or programs are successful with WIOA participants, the Local Board will see this success in meeting their negotiated goals. The responsibility of outcomes is shared.

**Comment #74** – Program data being entered into CalJOBS represents duplication of work for those who do collect such information and is not verifiable. Minimally, we believe the state should work with the CalJOBS vendor to provide a more streamlined process.

**Resolution** – As described in TEGL 3-18, all providers must work with the state to submit performance data required by the ETP Report in order to be eligible and listed on the ETPL. WIOA participant data will come from case management work that is already entered into WIOA applications in CalJOBS. Providers are required to submit aggregate data on all students in CalJOBS.

**Comment #75** – Providers are required to report data on ALL students, not just WIOA, to the Local Board and the state. Does this data need to be reported by individual? If so, how do we avoid FERPA violations with individuals who have not signed consent for us to have their data?

**Resolution** – Providers only need to submit aggregate all student data as outlined on the CA ETP Assurances Form (Attachment 4).

**Comment #76** – The data collection and reporting of all students that is required for the ETP Report is prohibitive. This is evidenced by many waivers that have been granted by DOL to states as well as our own state's request to waive this provision. The waiver to collect all student data should be extended.

**Resolution** – The waiver to report all student data ended with PY 19. DOL has recently granted an extension to the waiver for PY 20; however, the DOL denied our request for a waiver

beyond PY 20, so providers will need to collect and report data on all students (WIOA and non-WIOA). For additional information on the end of this waiver, please see [TEN 07-21](#).

**Comment #77** – Are Community Colleges, UCs and CSUs required to submit data on all of the data points referenced in the CA ETP Assurance Form? There should be a mechanism to obtain entered employment from students attending public schools.

**Resolution** – Yes, per TEGL 3-18 all providers must submit data for the ETP Report. The CA ETP Assurances Form (Attachment 4) notes the data elements required for providers.

**Comment #78** – Will the state be working directly with providers to upload data to CalJOBS or will the State be contacting the Local Boards to complete these tasks?

**Resolution** – Ultimately, the Local Boards are responsible for reviewing providers and programs for initial and continued eligibility, which includes performance data. Guidance will be provided on how to upload or enter performance data into CalJOBS.

**Comment #79** – The Directive references the ETP site is scheduled to launch in PY 2020; when will this be a requirement for providers to submit data to the system? What do we do in the interim?

**Resolution** – Per TEN 7-21, the ETP All Students Waiver expired on June 30, 2021, so performance data is required to be submitted by providers beginning in PY 21.

**Comment #80** – ETP Reports will be published in October, what is the reporting period for that report? Are performance reports requested annually by calendar year or program year?

**Resolution** – The ETP Report is reported by PY (July 1 to June 30). For PY 2020, the report due in October 2021 reflects data from July 1, 2020 to June 30, 2021.

**Comment #81** – It looks like the state is aligning the provider program performance measures with WIOA indicators of performance. Does this mean the state will measure this data themselves just as they do with WIOA indicators of performance?

**Resolution** – Providers will submit all student data to the state through the CalJOBS system, which is then uploaded into the Eligible Training Provider Performance Report (ETP Report). The CA ETP Assurances Form (Attachment 4) details what data the providers are responsible for submitting. WIOA student data will be calculated automatically via the case management data in the CalJOBS system.

**Comment #82** – Will training providers be required to enter performance data for individual participants or will it still be totals per program? Will the data be required for both WIOA and non-WIOA students?

**Resolution** – Training providers must enter aggregate data into CalJOBS for all students in the programs. WIOA student performance data will be calculated via the case management data entered by the case manager.

**Comment #83** – Will there be a CalJOBS report for performance data?

**Resolution** – Yes, please use the CalJOBS Detailed Reports > Provider > by Program Performance report.

**Comment #84** – What if a participant used a pseudo SSN in CalJOBS?

**Resolution** – If the participant has a pseudo SSN, Local Boards should capture employment and wage information in the Follow Up forms, just as they would normally for WIOA performance. WIOA participants will be included in the ETP Report automatically.

**Comment #85** – Are training providers expected to capture WIOA performance data that is being captured by WIOA case managers (i.e., employment data)?

**Resolution** – Training providers are expected to capture and report aggregate data for all students (WIOA and non-WIOA).

**Comment #86** – Will the due date for performance be issued as an Information Notice?

**Resolution** – Beginning in PY 21, any provider undergoing initial or continued eligibility review must provide the performance data outlined in this directive.

### ETP Assurances Form

**Comment #87** – Does Page 2 have to be filled out for each student who attended during the reporting period?

**Resolution** – No, the CA ETP Assurances Form is just the signed agreement from the provider agreeing they will provide the necessary data elements on the following page.

**Comment #88** – Does the completed and uploaded CA ETP Assurances Form replace the Performance tab? Or does the information have to be entered in both places?

**Resolution** – The CA ETP Assurances Form is just an agreement that providers will provide the indicated data. The form should be uploaded to the Documents section of the Provider's Profile. The performance data still needs to be submitted in the Performance tab in CalJOBS.

### General ETPL Requirements

**Comment #89** – Due to a combination of performance reporting and the continued eligibility process, Local Boards have seen competition on the ETPL dwindle to very few. This does not promote access and equity. The challenge primarily seems to stem around the accreditation process and reporting.

**Resolution** – It is required per WIOA law, regulations, and guidance that initial eligibility and continued eligibility of providers and programs meet certain requirements, including accreditation and meeting a factor of performance. DOL has also prescribed the requirements of the ETP Report. The state is looking into and open to suggestions on ways to make the required reporting less burdensome. We are also open to ideas and ways to assist Local Boards with advertising the ETPL to providers in their area in an effort to build the list of providers in their area. While a contract is more cumbersome than an ITA, a Local Board has the authority to contract with a provider if they determine there is a lack of providers in their area that offer a specific training program.

**Comment #90** – Vetting process for adding training providers needs to be streamlined and much improved. It is currently locally driven. Can this be centralized in state this can really help achieve economies of scale? Additionally, the state has expertise in financial stability, accessibility, compliance, etc.

**Resolution** – With the implementation of this policy, the EDD will review all Local Board nominated providers and program for initial and continued eligibility ensuring the requirements outline in this directive are applied consistently. In addition, the EDD is exploring other ways to streamline and improve the ETPL process.

**Comment #91** – Are Adult Education and Literacy activities not allowable/fundable under WIOA unless in conjunction with an authorized training? Are such activities allowable, but not considered training? Are they simply not allowable?

**Resolution** – To be listed on the ETPL, the provider must be an eligible provider of adult education and literacy activities under Title II of WIOA. Adult education and/or literacy activities must be offered concurrently, or in combination with, occupational skills training.

**Comment #92** – Public education course work should automatically be accessed and allowed on ETPL. Data collection has proven prohibitive. Should all public schools, such as Adult Ed, Community Colleges, ROP, contract education, etc., should be automatically eligible.

**Resolution** – Not all public education programs are in-demand, so each program should be looked at individually for ETPL eligibility requirements. Per federal requirements, data collection is required of all providers (except registered apprenticeships).

**Comment #93** – Are all other service types on Section B, page 2 (except on the job training [OJT], Incumbent Worker Training [IWT], and customized training) required to be on ETPL?

**Resolution** – Aside from OJT, IWT, and customized training, all services listed are considered "training services," and when funded through an ITA, these must be on the ETPL per TEGL 8-19.

**Comment #94** – Is it required that OJT, IWT, customized training providers are listed in CalJOBS as a non-ITA provider or be listed on the local ETPL?

**Resolution** – Local Areas are encouraged to enter OJT, IWT, and customized training providers into CalJOBS as a non-ITA provider. These providers are not required to be on the ETPL; however, the Local Board must inform participants of the OJT, IWT, and customized training options available. In CalJOBS, these providers would be listed as either ETPL (ITA) or Local Providers (non-ITA).

**Comment #95** – If all elements of the Draft Directive become final, it will take all the time of one full-time employee to implement them. Additional funding and training would have to be provided by the state.

**Resolution** – The EDD will offer training, and quarterly meetings with the ETPL Coordinators to provide technical assistance. Questions and concerns regarding Local Area's allocations can be directed to the Local Board's Regional Advisor.

**Comment #96** – What about programs that are offered in English and Spanish? Should those be listed separately, like programs that are online or in-person? BPPE does not mandate combining of program data for English and Spanish courses.

**Resolution** – If the curriculum between a Spanish and an English program is the same, then the program only needs to be entered once. The description of the program should indicate that the program is offered in both English and Spanish. If the curriculum between the two programs is different, then the programs should be listed separately, per DOL ETP reporting requirements.

## **In-Demand**

**Comment #97** – Who verifies whether a program is in-demand? The ETPL coordinator of the Local Board that nominated the provider? And what about priority sectors of adjacent or even far-away Local Boards?

**Resolution** – The Local Board is responsible for verifying that a program be for occupations in in-demand industry sectors identified by the state, region, or Local Board. In-demand or priority industry sector information must be verified with the State Board and/or Local Board. CA ETPL programs would then be available for other Local Boards to use. If the Local Board chooses to have a local ETPL, the Local Board would determine if the program is in-demand in their area.

**Comment #98** – In-demand industry sectors are locally defined. How do you identify occupations (by SOC code) that are in-demand as determined by the state? Where is this list located? Would you use state in-demand to determine state eligibility, then use local in-demand to determine local eligibility?

**Resolution** – California’s Unified Strategic Workforce Development Plan has language on what is considered an in-demand occupation, as well as a list of occupations that Local Boards can use to justify state in-demand requirements. Local Boards would then apply their own local requirements for their local ETPL eligibility. You can find a link to the plan on the California Workforce Development Board’s [website](#).

## **Local Board Policy**

**Comment #99** – Does the state have a guide for the specific documents that contribute to “sufficient records”?

**Resolution** – This requirement is to ensure providers are submitting accurate data to the Local Board. Providers can be removed for intentionally supplying inaccurate data. What constitutes as “sufficient records” needs to be addressed in the Local Board’s local policy.

**Comment #100** – If the provider that went out of business is the only provider in a reasonable distance, Local Boards may not be able to provide a comparable training alternative. Must we provide travel costs if the client wishes to go?

**Resolution** – This would be something to address in the Local Board’s local policy.

**Comment #101** – Regarding the requirements for Local Board policy listed at the bottom of page 5, isn't this already covered by BPPE Approval/Exemption or WASC accreditation?

**Resolution** – This requirement is for providers who are deemed exempt per CEC 94874, and are not regionally accredited by an accrediting institution.

**Comment #102** – Current local policy is to have individuals research and visit 3 schools that provide the training that the individual is interested in, before they select which school they wish to attend. Does this supersede the requirements described in Section E, page 5, and we should no longer have the individuals go to 3 schools first?

**Resolution** – Local Boards can continue with this type of procedure, as described in their local policy.

### **Local vs CA ETPL**

**Comment #103** – Without clear guidelines, Local Boards cannot expect the participants to understand why certain local programs are available in the state, but not in our Local Area. It also makes it confusing for the participant when they are reverse referred from that training provider and we will not approve the training locally, but it can be added to the CA ETPL.

**Resolution** – The state is working with the vendor to display CA and local ETPL programs differently. This distinction in the system should help clarify what programs are available to participants, depending on where they are located. TEGL 8-19 allows for Local Boards to continue deciding what programs are allowed on their local ETPL.

**Comment #104** – If a Local Board utilizes the CA ETPL, CalJOBS serves as the “local list of training providers and programs,” correct? Is it possible for the Local Board to make incumbent worker training provider information available when this is by definition only for a specific employer and a specific group of employed individuals?

**Resolution** – The list available to the public includes training providers and programs that are on the ETPL. Any additional training providers that are not on the ETPL (non-ITA) can be entered as a local provider in CalJOBS and only viewed by staff. The IWT may be eligible for, but not required to be on, the ETPL.

**Comment #105** – Can state and local eligibility be conducted simultaneously?

**Resolution** – Local Boards can review the provider and program at the same time for both CA and local ETPL eligibility, but they need to review the provider for the appropriate requirements (i.e. local ETPL has additional requirements to eligibility that do not effect eligibility for the CA ETPL). Also, CA ETPL eligibility review must happen first, because if they are no longer eligible per CA ETPL requirements, then they cannot be on the local ETPL.

**Comment #106** – For the purpose of review for continued eligibility, does local ETPL refer to the geographic boundaries of the Local Board or the training providers that are under contract to the Local Board for payment of ITAs?

**Resolution** – The local ETPL includes all providers that are on the CA ETPL, and meet that Local Board's local ETPL requirements.

**Comment #107** – Local Boards may have additional criteria in order to be listed locally. For those who do not meet our local requirements, we are expected to list and manage them for the CA ETPL even though we will not use them locally? For both initial and continued eligibility? What happens when a provider has an onsite program and have no enrollments? We are expected to monitor them for compliance, review their performance, and provide technical assistance even though they aren't utilized?

**Resolution** – If a provider and/or program meets the state requirements for the ETPL, and their business is headquartered in Local Area A, then Local Board A must nominate this provider profile to the CA ETPL. If the provider also has programs located in Local Area A, then Local Board A must review and nominate those programs for inclusion on the ETPL—even if this means the provider would not receive any participants. The Local Area can choose to only use their local ETPL for serving their participants, but the providers on the CA ETPL still should be available for other Local Boards to use. Local Board A would monitor for compliance, review performance, and provide technical assistance. The Local Board can delist the provider if the provider has not served at least one Title I, subtitle B enrollment during the previous two program years. See “Training Provider Continued Eligibility Criteria” for requirements to be reinstated to the ETPL.

**Comment #108** – Will there be copy and paste functionality added or radio button to add a program to the local ETPL?

**Resolution** – CalJOBS includes the ability to copy program data and create duplicate programs as needed via the “Duplicate” button in the Education and Training Programs tab. See Attachment 5 for more guidance on how to navigate CalJOBS.

**Comment #109** – As written, it appears that providers outside the Local Area must be included on the local ETPL, if there is no specific local criteria. What is the reasoning behind requiring all CA ETPL to be also on the local ETPL? We don't include out-of-area training on our local ETPL, but if a participant requests it, we will consider it on a case-by-case basis. Local Boards should have the autonomy to consider allowing interested participants to attend out-of-area providers on a case-by-case basis.

**Resolution** – A local ETPL is available for Local Boards to require additional criteria (such as location) for providers to meet, in order for them to serve participants using WIOA funds. If no additional requirements are added, then the Local ETPL will mirror the CA ETPL.

**Comment #110** – Providers and programs may be eligible for the CA ETPL but not on the local ETPL. Are Local Boards required to nominate them, based only on the requirements of the Directive, will now be responsible to manage that provider and programs on the ETPL?

**Resolution** – Yes. If the provider meets the CA ETPL requirements, Local Boards are responsible for nominating providers headquartered in their Local Area to the CA ETPL. They are also responsible for nominating programs located within their Local Area to the ETPL, assuming they meet the CA ETPL requirements. Per TEGl 8-19, page 5, Local Boards can only use CA ETPL requirements when reviewing providers for the CA ETPL. After conducting state

eligibility, the Local Board can then review the provider for local eligibility using their Local ETPL-specific requirements.

## Other

**Comment #111** – Who are the stakeholders involved in developing the CA ETPL policies and procedures?

**Resolution** – The California Workforce Development Board, Local Boards, regulatory agencies, and providers.

**Comment #112** – Can an enrolled Youth in a Title I Youth program enroll in ITAs on ETPL if they are over 18 or do they need to be enrolled as an Adult?

**Resolution** – An ITA can be used for an Out-of-School Youth ages 16 to 24, Adults, or Dislocated Workers. In-school Youth cannot receive an ITA.

**Comment #113** – Who is responsible for uploading documents into the provider’s profile?

**Resolution** – Both the provider or the ETPL Coordinator have the ability to upload documents.

**Comment #114** – ETPL Coordinator job qualifications need to be defined. Currently if an ETPL Coordinator is not the MIS Administrator, they are excluded from invitations to MIS Admin meetings and no alternative provisions are made to train new ETPL Coordinators.

**Resolution** – To ensure Local ETPL Coordinators receive the training and support needed, the EDD will provide quarterly ETPL Coordinator webinars similar to the monthly MIS Administrator call. In addition, Local ETPL Coordinators can contact the State ETPL Coordinator and [wsbetpl@edd.ca.gov](mailto:wsbetpl@edd.ca.gov) to request assistance.

**Comment #115** – Where would providers and/or Local Board staff go for resources on how to navigate the Provider Module in CalJOBS?

**Resolution** – Providers and Local Board staff can access the ETPL Guide Card, which is attachment 5 of this Directive. Local Board staff can also access the Provider Services User Guide located in the Staff Online Resources menu of CalJOBS.

**Comment #116** – The “CRS” designation is confusing to both providers and staff as it is not spelled out or explained anywhere. Can this be removed if it is no longer relevant?

**Resolution** – The state is currently working with the vendor to improve the ETPL module and make it more streamlined, and will look into removing the CRS designation.

**Comment #117** – What staff privileges are associated to changing the Local Board responsible for the provider on page 58 of the ETPL Guide Card?

**Resolution** – This is available to any staff with an ETPL Coordinator account.

## Out-of-State Providers

**Comment #118** – Can out-of-state providers have training paid for through an ITA?



**Resolution** –All training providers, other than Distance Education training providers, that have training sites located only outside of CA cannot be listed on the CA ETPL. Local Boards cannot utilize an ITA with out-of-state training providers unless leveraging an approved ETPL reciprocal agreement. Please see *ETPL Reciprocal Agreements* (WSD22-08) for more information on the use of approved agreements.

**Comment #119** – Can WIOA funds be used for out-of-state provider training, as long as the provider is on the ETPL in the state where their headquarters is located?

**Resolution** – All training providers, other than Distance Education training providers, that have training sites located only outside of CA cannot be listed on the CA ETPL. Local Boards cannot utilize an ITA with out-of-state training providers unless leveraging an approved ETPL reciprocal agreement. Please see *ETPL Reciprocal Agreements* (WSD22-08) for more information on the use of approved agreements.

**Comment #120** – When Local Boards contract with an out-of-state provider, how is EEO monitoring conducted? What about going through a formal procurement process?

**Resolution** – To align with 20 CFR 680.320, the directive has been updated to remove the ability for Local Boards to contract with a provider listed on another state’s ETPL. All training providers, other than Distance Education training providers, that have training sites located only outside of CA cannot be listed on the CA ETPL. Local Boards cannot utilize an ITA with out-of-state training providers unless leveraging an approved ETPL reciprocal agreement. Please see *ETPL Reciprocal Agreements* (WSD22-08) for more information on the use of approved agreements.

## **Pre-apprenticeships**

**Comment #121** – Do pre-apprenticeships need to meet placement? In the last Directive, this was spelled out.

**Resolution** – Yes, the pre-apprenticeship programs that are on the ETPL need to meet the same standards as the other postsecondary programs.

**Comment #122** – Suggestion to change pre-apprenticeship language to read: must provide training that “leads” to an industry-recognized credential or certificate.

**Resolution** – No changes were made to the directive as a result of this comment.

**Comment #123** – Can the state please elaborate on what Local Boards must require of pre-apprenticeship training in the building and construction trades, especially those related to Multi-Craft Core Curriculum (MC3)?

**Resolution** – If WIOA funds are being used to send participants to a construction pre-apprenticeship, the state and Local Boards must ensure the pre-apprenticeships follow Multi-Craft Core Curriculum (MC3) standards.

**Comment #124** – If pre-apprenticeships are not required to be on the ETPL, is their inclusion solely to use ITAs if it does lead to a credential? What does listed on ETPL and used in

conjunction with an ITA mean? I thought ITAs and ETPL went hand in hand. Is it possible to get a link to MC3 in the policy? If a pre-apprenticeship is listed on ETPL must it be connected with a Registered Apprenticeship Program?

**Resolution** – Pre-apprenticeships are considered an individualized career service, and are not required to be on the ETPL. However, if a Local Area wants to utilize an ITA, the program must meet the requirements to be listed on the ETPL. The pre-apprenticeship must meet the definition of occupational skills training and award an industry-recognized credential. If it does not meet these requirements, it cannot be on the ETPL. In order to be eligible for the ETPL, pre-apprenticeships must have a Letter of Commitment from a DOL or DIR DAS apprenticeship. The last paragraph on page 8 states that Local Boards should prefer pre-apprenticeships that are partnered with DIR DAS Approved apprenticeships. Here (PDF) are some resources for understanding Multi-Craft Core Curriculum.

### Third Party

**Comment #125** – Isn't this third party subcontracting requirement applicable only to public colleges and universities?

**Resolution** – This applies to both public and private provides accredited by WASC.

**Comment #126** – Why are only WASC-accredited institutions limited from providing courses via a third party if they participated in development of the curriculum and ensure responsibility for the curriculum by issuing the related credential?

**Resolution** – WASC providers do not have their third party courses reviewed during accreditation. To protect WIOA funds, third party vendors that directly receive tuition fees are not allowed to provide training unless the third party vendor provider and program is on the ETPL.

**Comment #127** – Can an accredited training provider sub-contract to another training provider, as long as that training provider is accredited by WASC?

**Resolution** – If the subcontracted training provider is directly receiving payment, they must be listed as their own provider on the ETPL.

**Comment #128** – How do we determine which Local Board conducted continued eligibility for the provider?

**Resolution** – The review record in CalJOBS will show which Local Board completed the review.

### Worker's Comp/Supplemental Job Displacement Benefit (SJDB)

**Comment #129** – Has this passage about removing Workers Comp providers been discussed with the agencies that currently use the ETPL (e.g. Worker's Comp, VA, DOR)? We have frequent requests from these agencies to verify and list their providers.

**Resolution** – Yes, the state has discussed this language with other agencies.

**Comment #130** – ETPL Coordinators get a lot of calls for people looking for worker's comp voucher training. It seems that the worker's comp customers have to guess what to do, and

while this clarification in the Directive will give ETPL Coordinators a ready-made response as to why ETPL Coordinators can't assist worker's comp customers, it still leaves worker's comp customers with questions.

**Resolution** – The DIR handles the administration of the Worker's Comp program, which includes informing those in the program of where they can use their voucher. State law requires that vouchers only be used for public schools or providers on the ETPL. Local Boards that receive questions from voucher holders should direct them to their employer, Claims Administrator, or the Department of Industrial Relations.

**Comment #131** – What are some resources that Local Board staff can use for Worker's Compensation questions?

**Resolution** – A few resources regarding Workers' Compensation include the EDD's ETPL webpage, which has a paragraph on Workers' Compensation, and Chapter 8 of the DIR's Handbook on the Workers' Compensation program.

## ERRATA CHRONOLOGY

The Workforce Services Directive *ETPL Policy and Procedures* (WSD21-03) dated November 10, 2021 was revised with the following changes:

**Errata #1** – On February 22, 2023, the following changes were made to the Directive:

- Directive, Page 1 and Attachment 7, page 1 – Corrected the number of comments received from 135 to 131.
- Directive, Pages 1-2 – Made updates to the References section, including: updated format to be in alignment with department guidance, added *ETPL Reciprocal Agreements* (WSD22-08), and replaced *Performance Guidance* (WSD19-03) with *Performance Guidance* (WSD22-01).
- Directive, Page 4 and 5, and Attachment 1, page 7, 13, 15, and 21 – Due to removal of Attachment 5, removed *CalJOBS ETPL Module Guide Card from list of attachments*, changed references to “Attachment 5” to “located on the Staff Online Resources page in CalJOBS,” and updated references to Attachments 6 and 7 appropriately.
- Directive Page 4 and 5 – Added Errata Chronology.
- Attachment 1, page 7, Attachment 5, Page 1, and Attachment 7, page 13 and 23 – Added language regarding the allowable use of an approved ETPL reciprocal agreement for Out-of-State Training Providers.
- Attachment 1, page 9 and 10, Attachment 5, page 5 and 6, and Attachment 7, page 2 – In alignment with the commission’s update, change the abbreviation for the Western Association of Senior College and University Commission from “WASC SCUC” to “WSCUC”.
- Attachment 1, page 10 and Attachment 4, page 1 – Added sentence clarifying that the *CA ETP Assurances Form* (Attachment 4) is uploaded annually into the Documents section of the provider profile, prior to the provider’s eligibility review.
- Attachment 1, page 11 and Attachment 5, page 8 – Removed requirement for WSCUC providers to have their training program, location, and mode of delivery approved.
- Attachment 4, page 2 – In the table, edited “ETPL Provider Number” to “ETPL Provider Name” and “ETPL Program Number” to “ETPL Program Name.”
- Attachment 5, page 1 – Simplified text from “Is the Training Provider headquartered and/or has at least one physical training site in CA?” to “Does the Training Provider have at least one physical training site in CA?”
- Attachment 5, page 4 and 7 – Changed text from “Does the program offer occupational skills training that results in an industry-recognized credential?” to “Training Program leads to employment in a specific occupation or an industry recognized postsecondary credential?”

CERTIFICATION REGARDING LOBBYING  
CERTIFICATION FOR CONTRACTS, GRANTS, LOANS  
and COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including agreements) and that all subrecipient's shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure.

\_\_\_\_\_  
 Grantee/Contractor Organization

\_\_\_\_\_  
 Program Title

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Name of Certifying Official Signature

## **Certification Regarding Drug-Free Workplace Requirements**

The certification set out below is a material representation upon which reliance is placed by the U.S. Department of Housing and Urban Development in awarding the grant. If it is later determined that the contractor knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the U.S. Department of Housing and Urban Development, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

### **CERTIFICATION**

- A. The contractor certifies that it will provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing a drug-free awareness program to inform employees about –
    - (1) The dangers of drug abuse in the workplace;
    - (2) The contractor's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation, and employee assistance program; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - (c) Making it a requirement that each employee who will be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
  - (d) Notifying the employee in the statement required by paragraph -(a) that, as a condition of employment under the contract, the employee will -
    - (1) Abide by the terms of the statement; and
    - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

- (e) Notifying the U.S. Department of Housing and Urban Development within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
  - (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted -
    - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- B. The contractor shall insert in the space provided on the attached "Place of Performance" form the site(s) for the performance of work to be carried out with the grant funds (including street address, city, county, state, and zip code) .the contractor further certifies that, if it is subsequently determined that additional sites will be used for the performance of work under the contract, it shall notify the U.S. Department of Housing and Urban Development immediately upon the decision to use such additional sites by submitting a revised "Place of Performance" form.

---

 Date

---

 Program Operator Signature

**DIVISION OF EMPLOYMENT SERVICES  
PLACE OF PERFORMANCE  
FOR CERTIFICATION REGARDING DRUG-FREE WORKPLACE  
REQUIREMENTS**

Name: \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

Contractor Number: \_\_\_\_\_

Date: \_\_\_\_\_

The Contractor shall insert in the space provided below the site(s) expected to be used for the performance of work under the contract covered by the certification:

Place of Performance (include street address, city, county, state, zip code for each site):

\_\_\_\_\_  
\_\_\_\_\_

Address



**Certification Regarding**  
**Debarment, Suspension, Ineligibility and Voluntary Exclusion**  
**Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, as amended, Nonprocurement Debarment and Suspension, 2 CFR Part 2998, Subpart C, Responsibilities of Participants Regarding Transactions. The regulations were published as Part VII of the May 26, 1988, Federal Register (Pages 19160-19211), and as subsequently amended in 81 Federal Register 25585.  
**(Before completing certification, read instructions which are an integral part of certification)**

1. Pursuant to 2 CFR 180.335, the prospective primary participant, (i.e. grantee) certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently excluded or disqualified;
- b. Have not been convicted within the preceding three years of any of the offenses listed in 2 CFR 180.800(a) convicted or had a civil judgment rendered against them for one of those offenses within that time period.
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses listed in 2 CFR 180.800(a); and
- d. Have not had one or more public transactions (Federal, State or local) terminated within the preceding three years for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\_\_\_\_\_  
 Grantee/Contractor Organization

\_\_\_\_\_  
 Name and Title of Official Authorized to Certify  
 On Behalf of the Grantee

\_\_\_\_\_  
 Date

## INSTRUCTION FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous whom submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction”, “debarment”, “suspended”, “ineligible”, “lower tier covered transaction”, “participant”, “person”, “primary covered transaction”, “principle”, “proposal”, and “voluntarily excluded”, as used in this cause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds agrees by submitting this proposal, that it will include the clause title “Certification Regarding Debarment, Suspension, Ineligible, or voluntarily excluded from the covered transaction unless it knows that the certification is erroneous.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

## Assurances & Certifications

Selected providers will be required to sign and submit “actual” assurances and certificates as required by the City of Santa Ana and the Workforce Development Board on all contracts.

I recognize that I must give assurances for each item below. *Please initial each box indicating you have read and are providing assurance you are or will be in compliance with the following:*

- ☐ SAWDB uses the CalJOBS ETPL Module for accepting applications from the providers to be listed on the ETPL. Local boards may authorize a single local board to act on their behalf in making determinations for initial and/or subsequent eligibility of providers. Contractors must enter program(s) of training services into CalJOBS. The training provider should only enter the program(s) desired to be on the CA ETPL. If the program is offered with multiple modes of delivery, or course lengths, the program must be entered separately for each variation.
- ☐ SAWDB has authorized the South Bay WDB to make initial and subsequent eligibility determinations for applications submitted from providers. Contractors should contact the South Bay WDB 11539 Hawthorne Blvd., 5<sup>th</sup> Floor, Hawthorne, CA 90250, 310-970-7700.
- ☐ CONTRACTOR is required to be in compliance with South Bay WDB Master agreement and SAWDB agreement.
- ☐ In cases where South Bay WDB has denied a provider’s application, provider may submit the application to SAWDB for consideration and processing at 801 W. Civic Center Dr. #200, Santa Ana, CA 92701 ATTN: SAWDB Staff. The submission must include completed ETPL training program applications and a copy of the letter from the South Bay WDB denying application.
- ☐ Local boards may establish local policies requiring performance above the state minimum standards for providers to be included on the ETPL.
- ☐ Acceptance and processing of an application does not constitute an agreement or relationship between the CONTRACTOR and SAWDB, nor does it guarantee any referrals to the provider by SAWDB. Applications will be process on an ongoing basis.
- ☐ CONTRACTOR must be in compliance with the State and Federal regulations, per Workforce Innovation and Opportunity Act (WIOA) Eligible CONTRACTOR List Policy and Procedure WSD15-07 or it’s replacement.
- ☐ CONTRACTORS must also meet one of the following criteria in order to have their programs listed on the ETPL:
  - 1) Bureau of Private Postsecondary Education Approval to Operate, or Verification of Exemption by BPPE.

- 2) Accreditation by the Accrediting Commission for Senior Colleges and Universities, WASC, or the Accrediting Commission for Community and Junior Colleges, CSU, UC, and other WASC accredited institutions. This accreditation can be verified at: [www.accjc.org/](http://www.accjc.org/) or [www.wascsenior.org/](http://www.wascsenior.org/).
- 3) Postsecondary institutions eligible under Title IV of the Higher Education Act (HEA) and offering programs leading toward an associate degree, baccalaureate degree, or certificate.
- 4) Approval by the California Department of Education.
- 5) Approval by the Chancellor's Office of the California Community Colleges (CCCCO).

- ☐ CONTRACTOR must reapply to be considered for **subsequent** approval on the ETPL and agrees to provide the required performance and cost information data.
- ☐ CONTRACTOR must annually meet the state's minimum performance standards, however the SAWDB may set higher levels. Public Postsecondary Community Colleges, CSUs, and UCs are required to provide performance information for consideration of placement on the CA ETPL, but due to heavy state oversight, investment, and the inability to capture true program outcome data, these institution types are not required to meet a specific performance threshold to be listed on the CA ETPL.
- ☐ CONTRACTOR's BPPE accredited shall provide a copy of the provider's BPPE Annual Report (the Performance Fact Sheet) to document their achievement of the performance criteria if applicable.
- ☐ ALL Training on the ETPL must be for occupations in in-demand industry sectors identified by the state, regional or local workforce development boards.
- ☐ All Training on the ETPL must provide training services that lead to an industry-recognized credential, national or state certificate, or degree, including all industry appropriate competencies, licensing and/or certification requirements.
- ☐ CONTRACTOR understands that all performance data and data submitted on the ETPL must be made available for data verification by the SAWDB or the State EDD office.
- ☐ CONTRACTOR must maintain all the relevant records utilized to support the data submitted on ETPL for audit or monitoring purposes by the SAWDB or the State EDD office.
- ☐ CONTRACTOR that claim an exemption to BPPE ([Section 94874 of the BPPE Act](#)), must apply and receive a "Verification of Exemption" before being listed on the ETPL. Since it has been determined that any expenditure of public funds, state or federal, that directly benefits a student to be student financial assistance, we expect that instances of exemption will be very rare.
- ☐ CONTRACTOR must have all considered training programs listed with the BPPE, the SAWDB may verify the data that was submitted to BPPE.
- ☐ All new and current CONTRACTOR will be required to be registered in CalJOBS<sup>SM</sup> and must have all considered training programs listed with the BPPE match on CalJOBS.
- ☐ All CONTRACTOR are required to enter performance data for each program to be listed on the ETPL and provide evidence to the Local Board that they have met the minimum performance criteria required. Programs that do not include performance data will not be approved for listing on the ETPL.

- ☐ CONTRACTOR must have their current course catalogs on file with the SAWDB.
- ☐ CONTRACTOR agrees to immediately notify (within 10 working days) the SAWDB, in writing, of any changes in the information submitted with initial agreement.
- ☐ CONTRACTOR agrees to accept WIOA eligible referrals from the Santa Ana WORK Center on an individual referral basis.
- ☐ CONTRACTOR shall not accept nor enroll WIOA participants who do not meet the CONTRACTOR's entrance requirements, which are to be the same general entrance requirements required of public students, and agrees to submit a written notification to the Santa Ana WORK Center's Case Manager stating the reason(s) for non-acceptance.
- ☐ CONTRACTOR agrees to assist the WIOA client in applying for PELL Grants and any other funds that might be available to offset the cost to WIOA and to work together with the WIOA client's Case Manager to ensure all other funding sources are investigated and those funds obtained before submitting the Vendor Voucher to the SAWDB for payment.
- ☐ CONTRACTOR agrees to cross out sections of the student enrollment agreement that would hold the WIOA participant financially responsible for any training related expenses.
- ☐ Once accepted, CONTRACTOR agrees to enroll the WIOA participant in the course stipulated on the Vendor Voucher and no other.
- ☐ CONTRACTOR agrees to invoice the Santa Ana WORK Center, on a cost reimbursement basis, for third party testing (Microsoft, Novell, A+, etc.) and will provide a copy of the Pass/Fail results at that time.
- ☐ Pre-Apprenticeship CONTRACTORS must include a letter of commitment from an approved apprenticeship program and meet the application policies and procedures required for the type of program (e.g., community college, private post-secondary, adult education provider, etc.).
- ☐ CONTRACTOR Apprenticeship Programs registered under the *National Apprenticeship Act* (NAA) or recognized by DIR/DAS are exempt from initial eligibility procedures. Registered apprenticeship programs must be included and maintained on the list of eligible providers of training services as long as the corresponding program remains registered, as described at WIOA sec. 122(a)(3).
- ☐ CONTRACTOR agrees to allow SAWDB, Santa Ana WORK Center, the State of California, and the Department of Labor, the WIOA client and any of their duly authorized representatives' access to all the records regarding the WIOA client for monitoring purposes. The records include any books, documents, papers, files and computer data directly pertinent to the records of the WIOA participant. The right to records includes the right to make excerpts, transcripts and photocopies. The right also includes the right to have reasonable and timely access to personnel for the purpose of interviews and discussions related to the records of the WIOA participant.
- ☐ CONTRACTOR agrees to provide progress reports which indicate grades and test scores, as well as attendance reports, to the WIOA client's Case Manager on a monthly basis.

- ☐ CONTRACTOR agrees to notify the WIOA client's Case Manager **immediately** (within 5 working days) if the WIOA client is absent for more than 3 days in a row, has sporadic attendance or drops out of school unless other arrangement are made in writing.
- ☐ CONTRACTOR agrees to provide a copy of the "reimbursement form" and issue a refund check to the "City of Santa Ana" for the number of unused training hours and any non-issued training/testing vouchers, books, tools, etc. due within 30 calendar days after the last day the WIOA client attended school or the day the school was notified that the WIOA client dropped. Said check to be mailed to the attention of the WIOA Case Manager, 801 W Civic Center Dr., #200, Santa Ana, CA 92701.
- ☐ CONTRACTOR agrees to provide the WIOA Case Manager a copy of the WIOA client's certificate of completion or diploma or official transcripts within 10 working days of the date of completion or graduation.
- ☐ CONTRACTOR agrees to provide the WIOA client with the same level of job search/placement assistance as provided to the public students and to provide the WIOA Case Manager with all the pertinent information regarding the placement of the WIOA client within 5 working days of the WIOA client's first day of employment. A WIOA client has 180 days after completing training to get a job for the CONTRACTOR to get credit for placement in employment.
- ☐ I am authorized by my Board of Directors, Trustees, other legally qualified officer, or as the owner of this agency or business to submit this proposal.
- ☐ CONTRACTOR is not currently on any Federal, State of California, or local Debarment list.
- ☐ CONTRACTOR will provide records to show that we are fiscally solvent, if needed.
- ☐ CONTRACTOR has, or will have, all of the fiscal control and accounting procedures needed to ensure that WIOA funds will be used as required by law and contract.
- ☐ CONTRACTOR has additional funding sources and will not be dependent on WIOA funds alone.

**CONTRACTOR will meet the applicable Federal, State, and local compliance requirements.** These include, but are not limited to:

- ☐ Records accurately reflect actual performance if applicable.
- ☐ Maintain record confidentiality, as required.
- ☐ Reporting financial, participant, and performance data, as required.
- ☐ Comply with State and Federal fiscal and program activity audits.
- ☐ Complying with Federal and State non-discrimination provisions.
- ☐ Meeting requirements of Section 504 of the Rehabilitation Act of 1973.
- ☐ Meeting requirements of the American's with Disabilities Act of 1990. **(submit completed survey)**

- ☐ Meeting all applicable labor law, including Child Labor Law standards.
- ☐ Agree to provide a drug free workplace.
- ☐ Agree to insure the City of Santa Ana through General Liability Insurance and Automobile Liability Coverage in the amount of \$1,000,000.00 policy.
- ☐ Agree to provide all participants with Grievance Procedures.
- ☐ Agree to insure proposer's employees through Workers Compensation Insurance (including part-time employees)
- ☐ Procurement policies and procedures are in place and meet federal guidelines.

**CONTRACTOR will not:**

- ☐ Use WIOA money to assist, promote, or deter union organizing.
- ☐ Use funds to employ or train of persons in sectarian activities.
- ☐ Use funds for youth in the construction, operation, or maintenance of any part of a facility to be used for sectarian instruction or religious worship.
- ☐ Use WIOA money under this contract to purchase any equipment.

**I hereby assure that all of the above are true.**

| Name | Title | Date |
|------|-------|------|
|------|-------|------|

COMPLAINT HANDLING  
UNDER THE  
Workforce Innovation Opportunity Act

Santa Ana Local Workforce Development Area  
Revised March 10, 2023



## Table of Contents

|      |   |    |
|------|---|----|
| I.   | Information Regarding Complaints_____                                   | 3  |
| A.   | Nondiscrimination and Equal Opportunity Complaints_____                 | 3  |
| 1.   | Policy Statement_____   | 3  |
| 2.   | Civil Rights_____   | 4  |
| 3.   | Nondiscrimination laws under WIOA_____                                  | 4  |
| 4.   | How to File Your Complaint_____   | 5  |
| B.   | Criminal Complaints_____  | 6  |
| II.  | General Procedures for Handling Non-Criminal Violations of the Act_____ | 6  |
| III. | Procedures for Handling Complaints at the LWDA Level_____               | 8  |
| IV.  | Procedures for Handling Complaints at the State Level_____              | 12 |
| V.   | Procedures for Handling Discrimination Complaints by Participants_____  | 15 |
| VI.  | Procedures for Handling Disability Complaints by Participants_____      | 17 |
|      | GLOSSARY OF WIOA TERMS_____   | 20 |

# I. Information Regarding Complaints

## A. Nondiscrimination and Equal Opportunity Complaints

### 1. Policy Statement

In carrying out the purpose of the Workforce Innovation Opportunity Act (WIOA), the City of Santa Ana Local Workforce Development Area (LWDA) will establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those individuals facing serious barriers to employment. Every effort will be made to provide services necessary for eligible individuals to obtain productive employment.

In implementing WIOA, all contractors in the Santa Ana LWDA will foster equal opportunity and non-discrimination, as provided in State and Federal equal opportunity and non-discrimination laws including, but not limited to:

- Title VI of the Civil Rights Act of 1964
- Title VII of the Civil Rights Act of 1964
- The Age Discrimination Act of 1975, as amended
- Section 503 of the Rehabilitation Act of 1973
- Section 504 of the Rehabilitation Act of 1973
- Title IX of the Education Amendments of 1972
- Section 188 of the Workforce Innovation Opportunity Act of 2014

In keeping with our commitment, no individual shall be excluded from participation in, denied benefits of, subjected to discrimination under, or denied employment, in the administration or of in connection with any WIOA funded program because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

Participation in programs and activities financially assisted in whole or in part under WIOA shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugee, parolees, and other individuals authorized by the Attorney General to work in the United States.

No individual will be intimidated, threatened, coerced, or discriminated against because of filing a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing or any other activity related to the administration of WIOA.

Administration responsibility for this Equal Opportunity/Affirmative Action (EO/AA) Program is delegated to the Equal Employment Opportunity (EEO) Officer for the Santa Ana local Workforce Development Area. Equal opportunity and non-discrimination, however, will only be achieved through leadership and implementation of a viable Affirmative Action Equal Opportunity Program.

## 2. Civil Rights

No one applying for or enrolled in the Workforce Innovation Opportunity Act (WIOA) programs may be discriminated against because of race, color, creed, disability, national origin, sex, age, political affiliation, or beliefs.

This means that – for any of the characteristics listed above:

- You may not be denied the opportunity to enroll in WIOA.
- No benefits or services may be denied you for discriminatory reasons.
- You may not be segregated or treated any differently from other applicants or participants, while you are being registered, interviewed, counseled or tested; or while you are working or attending classes as part of the program.
- You must be provided an equal chance to use all facilities available in the program.
- Fair employment practices must be provided to all staff with regard to recruiting, hiring, transferring, promotions, training, compensation, benefits, layoff, and termination.

You have the right to make a complaint if you feel you have been denied any of the above opportunities. You cannot in any way be penalized for filing a complaint. Your WIOA sponsor has established a mechanism for handling complaints and grievances. Your complaint must be filed within 180 days. All complaints will be handled confidentially.

## 3. Nondiscrimination Laws under WIOA

### Title VI of the Civil Rights Act of 1964

Prohibits discrimination on the basis of race, color, national origin, or religion.

### The Age Discrimination Act of 1975

Prohibits arbitrary discrimination against persons' age 40-70.

### The Rehabilitation Act of 1973

Prohibits discrimination based on disability.  
Title IX of the Education Amendments of 1972

Prohibits discrimination in any education or training program or activity receiving federal financial assistance.

OTHER CIVIL RIGHTS LAWS:

Title VII of the Civil Rights Acts of 1964

Prohibits discrimination in employment based on race, color, religion, sex, or national origin in all terms and conditions of employment and establishes the Equal Employment Opportunity Commission as the administrative agency.

White House Executive Order no. 11246 as Amended by Executive Order No. 11375

Creates the office of Federal Contract Compliance and prohibits discrimination based on race, color, sex, religion, or national origin.

Department of Labor Secretary's Order no. 4-73

Prohibits discrimination based on sex.

Equal Pay Act of 1963

Prohibits pay differential solely because of sex.

Emergency Employment Act of 1971

Prohibits discrimination based on race, creed, national origin, political affiliation, or beliefs.

4. How to File Your Complaint

- a. Put your complaint in writing.
- b. Have it sworn to before a notary public, if possible.
- c. Provides details that tell what happened, where it happened and when it happened.
- d. Give the name and addresses of all persons who were present or who had anything to do with the matter.

...Complaints on the basis of race, color, or national origin, age, sex, religion, political affiliation or belief, retaliation and citizenship, must be filed within 180 days of the alleged occurrence directly with:

Director  
 Civil Rights Center  
 U.S. Department of Labor, Room N-4123  
 200 Constitution Ave., NW  
 Washington, D.C. 20210

Complaints on the basis of disability must be filed within 180 days of the alleged occurrence. These complaints must be filed directly with the WIOA administrative entity. The WIOA administrative entity shall issue a written decision within 30 days of the filing of the complaint. If the complaint is still unresolved, an appeal may be made to the Chief of State Workforce Investment Division Office.

The Department of Labor, the Civil Service Commission, the Equal Employment Opportunity Commission, and many other offices and agencies are committed to assuring equal employment opportunities for all persons. They will protect you.

A case may be taken to court if the other processes do not yield satisfactory results.

You may hire your own lawyer, or if you cannot afford one, the court may appoint one for you.

It is unlawful for an employer, union, or employment agency to punish you or any witness for attempting to present the facts in a case.

YOUR CIVIL RIGHTS UNDER THE  
 WORKFORCE INNOVATION OPPORTUNITY ACT  
 Santa Ana Local Workforce Development Area  
 801 W. Civic Center Drive, Suite 200  
 Santa Ana, CA 92701  
 (714)565-2600

## B. Criminal Complaints

In accordance with the WIOA and the implementing code of Federal section 667.600.... Federal handling of criminal complaints and report fraud, abuse and other criminal activity. "All information and complaints involving fraud, abuse or other criminal activity shall be reported directly and immediately to the City of Santa Ana and the Secretary of Labor."

## II. General Procedures for Handling Non-Criminal Violations of the Act

The following procedure is promulgated to meet the requirements of Title 20, of the Code of Federal Regulations, Section 186 through 188 of the WIOA regulations, and Section 181 of the Act (Public Law 105.200: 29 U.S. Code Sec. 2931 et seq.) at the State and LWDA level for the receipt, investigation, hearing, and resolution of complaints by WIOA participants, sub

recipients, applicants for participation, or financial assistance, labor unions, community based organizations, or any other persons.

These procedures provide for resolution of non-criminal complaints arising from the operation of the Santa Ana LWDA.

A complaint is defined here as a written expression by a party alleging a violation of the Act, regulations promulgated under the Act, recipient grants, sub agreements, or other specific agreements under the Act, including terms and conditions of employment of such participants in employment training programs. All complaints, amendments and withdrawals shall be in writing. These procedures are intended to resolve matters which concern policies, procedures or action(s) arising in connection with WIOA programs operated by each LWDA grant recipient and sub recipient under the Act.

These procedures shall not be construed as affecting any other available legal remedy outside of the WIOA complaint process (i.e., disputes regarding terms and conditions of employment of any employee who is not a participant), either separately or simultaneously, that a person may wish to pursue in the resolution of a non-WIOA complaint. Also, these procedures do not restrict the LWDA grant recipient staff in carrying out informal discussion

Procedures do not restrict the LWDA grant recipient staff in carrying out informal discussion and resolution of any problems outside of and without resort to the formal complaint procedure.

A. The following principles and rules apply to all complaints at all steps of the complaint procedures:

1. All complaints must be made in writing within 180 days of the alleged occurrence, except complaints alleging fraud or criminal activity.
2. All persons filing a complaint shall be free from restraint, coercion, reprisal, or discrimination. Good faith efforts shall be made to informally resolve the complaint prior to the scheduled hearing. Complainants have the right to withdraw their complaints (in writing) at any time prior to the hearing. A complainant may amend his/her complaint to correct technical deficiencies but not to add issues.
3. Complainants shall have the right to be represented at their own expense by person(s) of their choosing at all levels of the complaint process.
4. Upon enrollment into employment or training, participants shall be provided with a written description of these procedures, including notification of their right to file complaints and instructions for filing.

An employer of participants, including private-for-profit employers of participants, may use this or other complaint resolution procedures so long as the participant is informed of the complaint resolution procedure they are to follow and the time frames governing review of complaints are met.

A “participant”, within the meaning of these procedures, is an individual who receives employment-training services under a program funded by Santa Ana LWDA. The Complaint Resolution Procedures contained herein (or the alternative procedures which an employer may use) shall be available to participants to resolve disputes regarding items and conditions of employment of such participants in employment training programs. However, such procedures shall not be used to resolve disputes regarding terms and conditions of employment of any employee who is not a participant, as defined herein.

5. If a complaint does not receive a decision at the LWDA grant recipient level within 60 days of filing the complaint or receives an unsatisfactory decision, the complainant then has a right to request a review of the complaint by the Governor.
6. Complainants must initially file and exhaust LWDA grant recipient/hearing procedures prior to appealing to the State except where the State determines that the LWDA grant recipient’s procedures are not in compliance with the State’s procedures.

### III. Procedures for Handling Complaints at the LWDA Level

#### A. Receipt Complaints

Pursuant to the WIOA regulations found at 20 CFR, Section 683.600, the LWDA administrative entities have the responsibility to conduct hearings and resolve complaints made by individuals about the administration of programs in the LWDA. “LWDA level” encompasses LWDA administrative entity and employers to which the administrative entity has delegated the complaint resolution process. The following comprise the guidelines for resolving issues arising in connection with WIOA programs operated by the Santa Ana LWDA including resolutions of complaints arising from actions, such as audit disallowances or the imposition of sanctions taken by the Governor with respect to audit findings, investigations or monitoring reports.

##### 1. Form and Filing of Compliant

Official filing date of the compliant is the date the written complaint is received. The filing of the complaint with the Santa Ana LWDA Equal Employment Opportunity Officer shall be considered as a request for hearing and a decision must be issued within 60 days. The complaint must be in writing and must be signed and dated. The complaint should also contain the following information:

- a. Full name, telephone number, if any, and mailing address of the complainant;
- b. Full name, telephone number, and mailing address of the agency involved (respondent);
- c. Clear and concise statement of facts including dates constituting alleged violation;
- d. What provisions under the Act, regulations, grant or other agreements under the Act, are believed to have been violated;

- e. Remedy sought by the complainant; and
- f. If the complainant is a private or public entity or corporation, and not a natural person, the filing of the complaint must be duly authorized by the governing body of such entity or corporation.

The absence of any of the requested information shall not be a basis for dismissing the complaint.

A copy of the complaint must be sent to the respondent and both parties notified of the opportunity for an informal resolution. At each step of the complaint process, the complainant must be notified in writing of the next procedural step.

## 2. Informal Conference

Informal conferences will be utilized by the Santa Ana LWDA to resolve complaints; however, such informal conferences shall not extend the time within which a decision must be issued after receipt of a complaint. Attempts at informal resolution will commence with two (2) weeks of the date of filing of the complaint.

- a. The EEO Officer will review the case and ascertain facts prior to the conference so that appropriate resolution can take place at the time of this meeting whenever possible.
- b. Although the complainant should be encouraged to attend this conference, his/her failure to do so should not preclude his/her right to request a hearing on the matter.
- c. If mutually satisfactory resolution results and the Santa Ana LWDA concurs, the EEO Officer will write a brief report for the file stating the issues and resolution. The matter shall then be considered closed.
- d. If resolution does not result, the complainant shall be provided the necessary information and assistance to request a hearing if he/she so desires.

## 3. Request for Hearing

- a. As in the case of the complaint, the request for a hearing should be put in writing and be filed in person or by mail. A governing board resolution of authorization to appeal should also be submitted when appropriate. The request should be filled with:

Daniel Durham  
 Sr. Personnel Analyst – EEO Officer  
 20 Civic Center Drive, M-24  
 Santa Ana, CA 92701  
 (714) 647-5330



- b. A hearing will be scheduled by the EEO Officer within thirty (30) days of the date of filing of the complaint.

#### 4. Notice of Hearing

Upon receipt of the request for hearing, the complainant and the respondent will be notified in writing of the hearing ten (10) calendar days prior to the date of the hearing. The ten-day notice may be shortened with the written consent of the parties. A decision will be issued by the Santa Ana LWDA within sixty (60) days of the date of filing of the complaint.

The hearing notice shall be in writing and contain the following information:

- a. The date of notice, name of the complainant, and the name of the party against whom the complaint is filed.
- b. The date, time and place of hearing before an impartial hearing officer.
- c. A statement(s) of the alleged violation(s)
- d. Advise as to where information or assistance may be obtained, and the name, address, and telephone number of the Santa Ana LWDA Equal Employment Opportunities (EEO) Officer who can answer inquiries.

#### B. Conduct of Hearing

The hearing shall be conducted in an informal manner with strict rules of evidence not applicable. Unnecessary technicalities should be avoided. It should provide the flexibility to enable adjustment to the circumstances presented.

- 1. The hearing officer shall have complete independence to obtain facts and make decisions. The hearing officer shall be in a position to render impartial decisions and thus should not be subordinate to the Santa Ana LWDA or its sub recipients. The hearing officer will be selected from a list of names on file with the EEO Officer.
- 2. Full regard must be given to the requirements of due process to insure a fair and impartial hearing.
- 3. The hearing office designated by the EEO Officer to function in a quasi-judicial capacity should begin the hearing by summarizing the record and the issue and should explain the manner in which the hearing will be conducted, making sure that everyone involved understands the proceedings. Such explanations should be adapted to the needs of the specific situation. The hearing officer might take testimony under oath or affirmation to give some assurance of veracity to the hearing.

4. The burden of proof should be reasonable and flexible, dependent upon the circumstances of the case involved. The hearing officer determines the order of proof. Generally, the party making the complaint has the obligation of establishing his or her case and should be examined first.
5. The party involved should have the right to be represented (at their own expense) if he/she so desires. Other he/she is limited to his/her own abilities and those to the hearing officer in obtaining testimony in the case.
6. It is important that the hearing officer obtain the fullest information for the record. If the parties involved, or their representatives, do not know how to ask the right or pertinent questions in pursuing their right to due process, it shall be necessary for the hearing officer to step in to have all the materials and relevant facts elicited.
7. The practice in informal hearings is generally not to apply strict rules of evidence in obtaining facts. However, the quantity of evidence required to support a decision on an issue should be sufficiently credible that the state (or other appropriate agency), upon reviewing the decision, would conclude that the decision is supported by substantial evidence.
8. The hearing officer should attempt to negotiate a resolution of the issue at any time prior to the conclusion of the hearing.
9. Within ten (10) days of the conclusion of the hearing, the hearing officer will issue a recommended decision to the LWDA for final determination. The recommended decision shall be in writing and may be accepted, rejected or modified by the Santa Ana Workforce Development Board.

#### C. Issuance of Decision

Within sixty (60) calendar days of filing of the complaint, the Santa Ana LWDA shall issue a written decision to all parties by first class mail. The final decision shall contain the following information:

1. The name of the parties involved.
2. A statement of the alleged violation and issues related to the alleged violation.
3. A statement of the facts.
4. The decision and the reasons for the decision.
5. A statement of corrective action, if any, to be taken.
6. Notice of the right to request, within ten (10) calendar days of receipt of the decision, a review of the decision by the State Review Panel.

#### D. Record of Hearing

An administrative file containing support documents on the complaint resolution process hearing conducted will be retained by the Santa Ana LWDA. The purpose of a record is to serve as substantiation of the process followed by the Santa Ana LWDA on the resolution of the issues and the results. This information would then be available for subsequent review in the event the matter is raised with the State. Such records must be retained for a three-year period after the grant has been officially closed out.

The Santa Ana LWDA's written decision will be included in the record. Evidence received at the hearing, notes by the hearing officer, stenographer's notes and tape recordings may also be used.

#### E. Establishment of Complaint Procedures

In accordance with Section 683.600, each employing agency including private-for-profit employers of participants under the Act is required to establish a complaint procedure for resolving matters relating to the terms and conditions of employment. Employers may operate their own grievance system or may utilize the Santa Ana LWDA's established procedures under Section 683.600. At a minimum these procedures must include:

1. Written notice, upon enrollment into employment training services, of the scope and availability of such procedures. Employer's grievance procedures shall be set forth in a written document and must meet the regulation mandate that a complaint will be resolved with sixty (60) days from the date the complaint was filed. A copy of employer's grievance procedure shall be provided to each participant upon enrollment in employment training.
2. Written notice, at the time the grievance is filed, of the procedures under which the grievance will be processed.
3. Written notification of the disposition of the grievance and a written decision shall be issued within thirty (30) days of the filing of the grievance unless a present and long established grievance specifically provides other limits; and
4. Written notification of the participant's right to request a review of the employer's decision by the Santa Ana LWDA and the State Review Panel in accordance with Section 683.600.

### IV. Procedures for Handling Complaints at the State Level

Section 181 (c) of the Act and the WIOA regulations at 20 CFR, Section 683.600 (d) requires the Governor to establish a State Review process of complaints filed at the LWDA grant recipient level and of complaints initially filed at the State level.

Appeals of decisions issued at the LWDA level including audit disallowances and sanctions shall be reviewed by the State Review Panel. The State Review Panel shall review the record

established at the LWDA level and shall issue a decision based on the information contained therein.

Complaints which may be initially filed at the State level will be heard by an independent hearing officer designated by the State Workforce Investment Division (WID). The hearing officer shall conduct a hearing and issue a recommended decision to the State Panel. The recommended decision shall be in writing and may be accepted, rejected or modified by the State Review Panel.

#### A. Form and Filing of Complaint.

##### 1. Request for State Review of LWDA Level Decisions

On receipt of a complainant's request for review because of an unsatisfactory decision, the State shall provide for an independent state review.

##### 2. Filing of Requests for State Review

The State Review Panel shall review all LWDA level decisions when a request for review is filed within 10 days of receipt of the adverse decision. Such requests must be filed in writing with the Chief of the WID Office. The request for review should contain the following information:

- a. Full name, address, and telephone number of the party requesting the review
- b. Full name, address, and telephone number of the other party
- c. A copy of the decision
- d. Brief statement of reasons for review or the section of the LWDA decision to be reviewed including regulatory and statutory citations
- e. A statement of the relief sought.

##### 3. Complainant Responsibility

It is the responsibility of the complainant to include in the request for review a written statement setting forth the facts presented at the LWDA hearing which support the requested relief.

The Chief, WID, shall mail a copy of the request for review to the other party and to the LWDA. It shall be the responsibility of the LWDA to submit the complete record including a typed record of the hearing to the Chief, WID, within ten (10) days.

#### B. Conduct of Hearings.

##### 1. Request for Hearing at the State Level

If no decision has been issued at the LWDA level or the State has determined an audit disallowance or imposed sanctions, the complainant may request a hearing. The hearing officer will then issue a recommended decision to the State's Review Panel for final determination.

## 2. Filing for Request for Review

The request for a State hearing shall be filed within ten (10) days after LWDA should have issued a decision or ten (10) days after the issuance of the audit disallowance or sanction. The request shall be filed directly with the Chief of the WID in writing and should include the following:

- a. Full name, address, and telephone number of the LWDA
- b. Name, address, and telephone number of the LWDA
- c. Copies of complaints made at LWDA level from which no decisions were issued or sanctions and imposed.
- d. A statement of basis for the request for hearing.

## 3. Evidentiary Hearing

Upon receipt of the request for a State level hearing, a hearing before a designated hearing officer will be scheduled.

The hearing will be recorded mechanically or by court reporter.

Both parties concerned will have the opportunity to present oral and written testimony under oath, to call and question witnesses in support of his/her position, to present oral and/or written arguments, to examine records and documents relevant to the issue(s), and to be represented.

The hearing officer shall issue a written decision, which shall be forwarded to the State Review Panel for final determination.

The State Review Panel may accept, reject or modify this recommendation. The decision of the State Review Panel is final except for audit disallowances, which must be approved by the Secretary of Labor

## C. State Review Panel

The State Review Panel will consist of a panel of three representatives from the Employment Development Department: one from the Legal Offices, one from the WID, and one from the Director's office. The panel will issue a written decision, which will be sent to the appropriate parties within thirty (30) days of receipt of the request for State review.

Decisions issued by this panel, under the authority of the Governor, are final.

D. Issuance of State Review Decision.

The State review will be limited to violations of the WIOA, implementing WIOA regulations or the grant agreement. This review shall be limited to the record established at the LWDA hearing.

V. Procedures for Handling Discrimination Complaints by Participants.

- A. Complaints on the basis of race, color, or national origin, age, sex, religion, political affiliation or belief, retaliation, and citizenship, where appropriate, must be filed within 180 days of the alleged occurrence.
  - 1. It is the responsibility of the Santa Ana LWDA's Equal Employment Opportunity (EEO) Officer to determine jurisdiction and to make the complainant aware of and provide assistance in filing a complaint in accordance with the Santa Ana LWDA's procedure under Section II (A).

# PROCEDURES FOR HANDLING NON-CRIMINAL COMPLAINTS

No later than  
180 days of  
alleged  
discrimination

*Handling of complaints filed at LWDA level arising in connection with  
WIOA programs operated by LWDA's*

## Informal Resolution Process

Filing of Complaint/Request for Hearing

Notice of Hearing issued by LWDA

Hearing Conducted

LWDA Decision within 60 days

30 Days

60 Days

## Unsatisfactory Decision or LWDA Decision not issued within 60 days

Within 10 days of  
receipt of  
unsatisfactory  
decision or 10  
days from date  
LWDA decision  
should have been  
issued.

Request for State Review

Governor's Decision issued by State Review Panel

30 Days

## If no decision issued by State Review Panel

## Appeal to DOL

2. In cases where areas of authority overlap, it is the responsibility of the EEO Officer to advise the complainant of the existence of State, Federal and other proper action agencies, which may also have a bearing.
3. Complainants alleging discrimination under this part will be made aware of their right to file directly with the Office of Civil Rights (OCR), U.S. Department of Labor and applicable procedures.
4. Complainants must file their complaint directly with:

Daniel Durham  
Sr. Personnel Analyst – EEO Officer  
20 Civic Center Drive, M-24  
Santa Ana, CA 92701  
(714) 647-5330

## VI. Procedures for Handling Disability Complaints by Participants

Complaints alleging discrimination on the basis of disability will be filed and processed under the Department of Labor regulations implementing Section 504 of the Rehabilitation Act of 1973 at 29 Code of Federal Regulations Section 32.

1. Complaints must exhaust the Santa Ana LWDA's informal resolution procedures before filing their complaint with OCR.
2. Complainants will be made aware of the 180 days requirement in which to file his/her complaint.

### A. Procedures at the LWDA Level

1. The complainant shall file his/her complaint directly with the Santa Ana LWDA. Upon receipt of the complaint, the EEO Officer shall investigate and gather information concerning the complaint.
2. An informal conference will be held with the parties concerned in an effort to resolve the issue(s). The complainant has the right to be present and may be represented during the conference.
3. The Santa Ana LWDA shall issue in writing its decision to the complainant no later than thirty (30) days after the filing of the complaint.

### B. Procedures at the State Level

1. The complainant may appeal to the State if he/she is not satisfied with the decision of the Santa Ana LWDA.

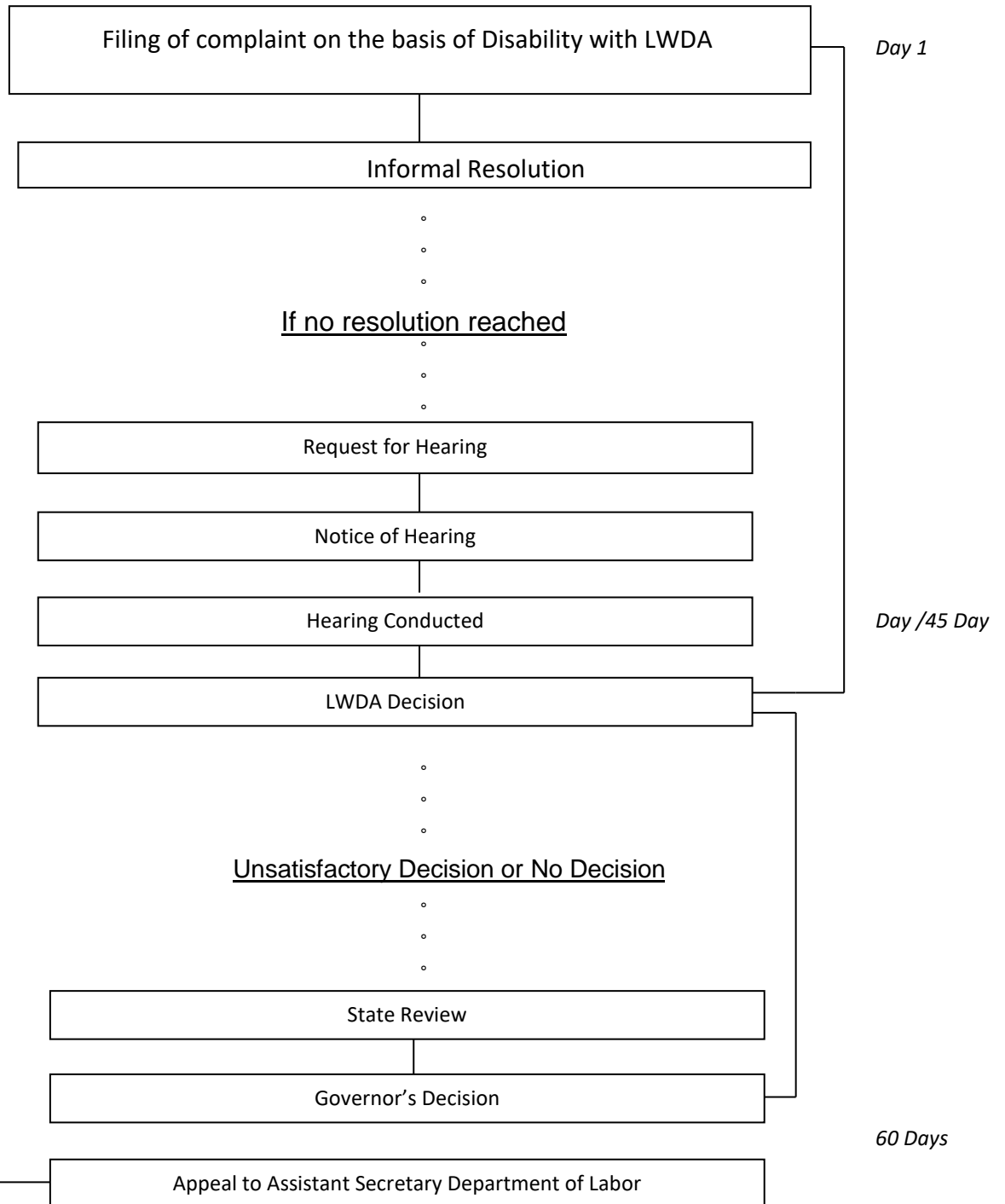


2. The Complainant must file his/her appeal as a request for review directly with the Chief WID within ten (10) calendar days after the receipt of the Santa Ana LWDA's decision.
3. The Chief-WID, shall issue a decision no later than thirty (30) calendar days after receipt of the request for review.
4. After the complainant has received a decision or no decision has been received from the Director of Employment Development Department (on behalf of the Governor), the complainant has the right to appeal his/her complaint within thirty (30) calendar days to the Office of Civil Rights (OCR) with the Department of Labor.

# PROCEDURES FOR HANDLING COMPLAINTS ON BASES OF DISABILITY

No later than  
180 days of  
alleged  
discrimination

Filed within 30  
days of  
LWDA/State  
Decision or 90  
days from date of  
initial filing of  
complaints



## GLOSSARY OF WIOA TERM

AGE DISCRIMINATION ACT – A law passed by Congress in 1975 which prohibits discrimination on the basis of age by any program or activity receiving Federal Funds.

APPLICANT – An individual who applies to a subrecipient or contract for services provided under WIOA and who has not yet transitioned to the status of participant.

ASSESSMENT – Services designed to determine each participant's employability, aptitudes, abilities and interests and to develop a plan to achieve the participant's employment and related goals; also to identify the available employment and training activities appropriate for the participant. Testing and counseling may also be used during assessment process.

CHARGING PARTY (CP), COMPLAINANT, GRIEVANT, OR AGGRIEVED PERSON – The person who charges that he/she has been discriminated against under Department of Justice nondiscrimination and civil rights regulations and/or guidelines.

DISCRIMINATION – In general, a failure to treat all equally, whether intentional or unintentional; the effect of an action, policy or practice which selects an individual or class of persons to receive unequal treatment.

ELIGIBLE NON-CITIZEN – Lawfully admitted permanent resident, aliens, lawfully admitted refugees, and parolees and other individuals authorized by the Attorney General to work in the United States.

EMPLOYER – An employer subject to the provisions of the Civil Rights Act of 1964, as amended, including state and local governments and any Federal agency subjects to the provisions of Section 717 of the Civil Rights Act, as amended; and any Federal contractor or subcontractor covered by executive Order 11246, as amended.

GRIEVANCE – An allegation that something imposes an illegal obligation or burden or denies some equitable or legal right, or causes injustice .

INDIVIDUAL WITH A DISABILITY – Any individual who has a physical or mental disability that constitutes or results in a substantial challenge to employment.

INTAKE – Includes screening to determine eligibility; to select from eligible applicants those individuals who are most in need and can benefit from program services; to complete procedural requirements necessary to enroll an individual into the program and to refer those not enrolled to other programs.

JOINT COMPLAINT – A complaint of employment discrimination covered by Title VII or the Equal Pay Act and by Title VI or Title IX. Individual "joint complaints" are normally investigated by EEOC unless OCR has a compelling reason to investigate. "Joint complaints" alleging discrimination in employment and other practices and pattern or practice "joint complaints" are normally investigated by OCR.

JURISDICTION – Authority to investigate and resolve complaints against an institution subject to a law or statute which has been assigned to OCR for enforcement, i.e., Title VI, Title IX, etc.

PARTICIPANT – Any applicant who has: (1) Been determined eligible for participation upon intake; and (2) Who is receiving subsidized employment, training or services (except post-termination services) funded under the Act, following intake, except for an individual who receives only outreach and/or intake and assessment services.

## ADDITIONAL INSURED ENDORSEMENT

Insurance Company \_\_\_\_\_

This endorsement modifies such insurance as is afforded by the provisions of Policy # \_\_\_\_\_ relating to the following:

1. The City of Santa Ana, 20 Civic Center Plaza, Santa Ana, California 92702; its officers, employees, agents and volunteers are named as additional insureds ("additional insureds") with regard to liability and defense of suits arising from the operations and uses performed by or on behalf of the named insured.

2. With respect to claims arising out of the operations and uses performed by or on behalf of the named insured, such insurance as is afforded by this policy is primary and is not additional to or contributing with any other insurance carried by or for the benefit of the additional insureds.

3. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. With respect to the additional insureds, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days written notice has been given to the City of Santa Ana, 20 Civic Center Plaza, Santa Ana, California 92702.

(Completion of the following, including countersignature, is required to make this endorsement effective.)

Effective \_\_\_\_\_, this endorsement form as a part of

Policy # \_\_\_\_\_

Issued to \_\_\_\_\_

Named Insured

Countersigned by \_\_\_\_\_

Authorized Representative