TECHNICAL ASSISTANCE

Date:	August 26, 2021
Contact:	INTraining@dwd.in.gov
Program:	ETPL
Subject:	DWD Technical Assistance 2020-17, *Change 1* Workforce Innovation and Opportunity Act (WIOA) INTraining and Eligible Training Provider List (ETPL) Procedural Guidance

Purpose

This guidance focuses on the eligibility requirements for training provider locations and programs to be included on the INTraining list and how those programs may become eligible for and maintain inclusion on the ETPL. This guidance is intended to supplement DWD Policy 2020-16, issued 06/28/2021.

Change Summary

The "In-demand Metrics" section has been updated to clarify the types of accredited post-secondary programs of study.

Rescission

- DWD Technical Assistance 2020-17 Workforce Innovation and Opportunity Act (WIOA) INTraining and Eligible Training Provider List (ETPL) Procedural Guidance

References

- WIOA Sec. 122
- 20 CFR § 680.400 – 680.530
- TEGL 3-18 Eligible Training Provider (ETP) Reporting Guidance under the Workforce Innovation and Opportunity Act (WIOA)
- TEGL 8-19 Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs
- DWD Policy 2020-16 INTraining and Eligible Training Provider List (ETPL) Eligibility and Establishment Under the Workforce Innovation and Opportunity Act (WIOA) Title I

Content

It is **important** to note the distinction between the **INTraining list** and the **ETPL.**

- **INTraining list:** Contains all training provider applicants whose training programs meet the basic application standards set by the Indiana Department of Workforce Development (DWD).

- **ETPL:** Contains a subset of the INTraining providers whose training programs meet additional demands and performance criteria set by the Indiana Department of Workforce Development (DWD) per the Workforce Innovation and Opportunity Act (WIOA). These training programs are eligible for WIOA funding through the local WorkOne office.

Provider Location and Program Application Requirements

The INTraining initial application process consists of two application types: Provider Location and Program. Training providers are responsible for providing timely and accurate information.

Step One: Provider Location Application
Training providers must complete and submit a provider location application through the INTraining portal. A separate provider location application is required for each training location the entity wishes to seek approval.

The provider location application requires information about the provider and training location. Required information will include, but is not limited to:

A. Address for training location
B. Contact information for training location
C. Provider type
D. Accreditations and licenses, if applicable

Provider locations will be subject to clearance checks, which must be passed to receive approval. Pass/fail determination will be at the discretion of DWD. Clearance checks may include, but is not limited to:

A. Indiana Department of Revenue
B. Indiana Secretary of State
C. DWD Unemployment Insurance Tax
D. Office of the Indiana Attorney General
E. Better Business Bureau
F. Any relevant accrediting bodies, which may include, but are not limited to:
   a. Indiana Department of Health
   b. Indiana State Board of Nursing
   c. Office for Career and Technical Schools
   d. Board for Proprietary Education
   e. Indiana Professional Licensing Agency
   f. Department of Natural Resources

Step Two: Program Application
Once the provider location application has been approved, the training provider must complete a

program application for <u>each</u> training program[1] it seeks to have included on the INTraining list. Programs must be offered to the general public to be eligible for consideration. Required information will include, but is not limited to:

    A. Description of the program of training services
    B. Information concerning whether the training provider is in a partnership with a business for the program of training services
    C. Program related costs
    D. Information addressing the alignment of training with in-demand industry sectors and occupations
    E. Confirmation of compliance with 29 CFR Part 38, "Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act" Final Rule (January 3, 2017)[2]

If the training provider fails to complete either the provider location or program application or fails to provide any information being requested by DWD within sixty (60) days of submitting the application or of being notified of the omitted information, the provider location and/or program applications will be denied[3].

Upon satisfactory submission and approval of a provider and program application, the program will appear on the INTraining website. At this time, the system will automatically review the program specifics to determine whether the program is eligible to receive WIOA Title I funding and therefore be included on the ETPL.

Initial ETPL Eligibility

Under WIOA, DWD has set specific requirements a program must meet to be eligible to receive WIOA funding and be listed as an ETP. Initial eligibility consists of meeting two requirements:

- In-demand metrics
- Performance metrics

Training providers are responsible for providing timely and accurate information. The Governor's Workforce Cabinet (GWC) in consultation with DWD reserves the right to review and reestablish the initial and continued eligibility requirements on an annual basis.

In-demand Metrics
When determining a program's eligibility to receive WIOA funding, DWD will consider the demand of the occupations the program trains towards. Indiana uses a scoring formula to rate occupations for both short-term and long-term outlooks to determine if the occupation is an in-demand occupation in a particular region. The formula considers the following characteristics: total job openings, growth openings, percentage change, real-time online job postings, labor market information, and wages. The

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[1] A single program application may be associated with several provider (or training) locations. A new program application is needed for different program types or when commensurate programs have different details (i.e., course length, tuition, work experiences, etc.).

[2] 29 CFR 38

[3] For more information on denials, go to the Conditions for Denial section of this document.

final score results in a rating of one (1) through five (5) for each occupation, one (1) being least in-demand and five (5) being highly in-demand. The Indiana Career Ready INDemand website can be found at www.indianacareerready.com. Programs can qualify to be funded regionally or statewide.

A. Lead to an in-demand occupation in the region[4] and
    i. Occupations are based upon the Classification of Instructional Programs (CIP) code to Standard Occupational Classification (SOC) crosswalk listed on the program application[5]
    ii. Identified occupations must meet the INDemand threshold—a 3 (or higher) flame ranking
    iii. INDemand data is updated annually on INTraining at the beginning of every program year (July 1st)[6]
B. Lead to a post-secondary credential
    i. Industry Recognized Certification
    ii. Licensure
    iii. Apprenticeship
    iv. Accredited Post-Secondary Program of Study
        i. Accredited short-term certificate (< Associate degree)
        ii. Associate degree
        iii. Bachelor's degree
        iv. Master's degree
        v. Doctoral degree

Industry Recognized Certifications
Industry Recognized Certifications must be listed on the Indiana's List of Promoted Industry Certifications list. To be included on the list, a certification must be both recognized and valued by industry, must have transference to post-secondary training programs and/or must lead to quality employment. More information can be found at https://www.in.gov/dwd/2852.htm. Review requests are covered in the Review of Regional Demand or Industry Recognized Certification section.

Performance Metrics
When determining a program's eligibility to receive WIOA funding, the State will consider the performance outcomes of the program. If a program does not have available data at the time of initial application, the program will receive a one-year data waiver. Programs can qualify to be regionally or statewide funded. Programs must meet the following minimum performance criteria:

A. Best of 2nd or 4th Quarter Completers Employment Rate greater than 30%; or
B. 50% or greater Credential Rate of all students served; or
C. Annual Total Completer's Median Earnings equal to or above $10/hour.

If a program has been denied inclusion on the ETPL for failure to meet the required in-demand and/or performance criteria, the provider and program will remain on the INTraining list but will be removed from the ETPL. This renders them ineligible to receive WIOA funding and prompts the removal of the funding icon until both in-demand and performance criteria have been met.

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[4] For information on an in-demand determination review request, please go to the Review of Regional Demand or Industry Recognized Certification section.
[5] The CIP or SOC codes may be updated throughout the year as new codes are released by the regulatory body.
[6] The INDemand data will be updated each July utilizing April's bi-annual (every 2 years) report.

Indiana has set performance criteria to denote those programs that meet exceptional performance metrics. Programs must meet the following criteria to receive this designation:

A. Best of 2nd or 4th quarter completers employment rate greater than 60%; and
B. Credential rate of all students served greater than 80%; and
C. Annual total completer's median earnings equal to or above $15/hour.

Continued Eligibility Requirements for INTraining and the ETPL

In accordance with WIOA, DWD has set specific requirements a training provider must meet or complete to maintain their eligibility on either list. Continued eligibility consists of meeting and completing four requirements: in-demand metrics, performance metrics, annual review, and federal performance reporting.

Programs are reviewed on an individual basis and must meet all requirements for initial or continued eligibility. Training providers are responsible for providing timely and accurate information. The GWC in consultation with the DWD reserves the right to review and reestablish the initial and continued eligibility requirements on an annual basis.

To maintain ETPL eligibility, in-demand metrics and performance metrics, as listed above in the Initial Eligibility for the ETPL section, must continue to be met.

Annual Review

To maintain INTraining or ETPL inclusion, all training providers must complete an annual review of each provider location and program to ensure that the WIOA Title I-financially assisted program is conducted in a nondiscriminatory way according to WIOA Section 188 and 29 CFR Part 38. The annual review due date is based upon the provider location or program application's initial approval date; therefore, training providers may have to complete an annual review multiple times if they have separate locations and/or programs that were approved at different times throughout the year.

An annual review includes the training provider reviewing and making any necessary updates on the provider location or program application. The training provider will receive a sixty (60) day notification prior to the annual review due date informing them of the deadline for submission of the review and any updates. Upon submission, the updated program information will be reviewed by DWD staff. If the training provider does not complete the annual review by its due date, the application will be placed into an "Information Requested" status. If the training provider fails to complete the annual review within sixty (60) days of the program being placed into "Information Requested" status, the program application will be denied. The training provider may immediately re-apply[7].

During the annual review time, training providers should ensure the user account list is up-to-date, accurate and all current users are active. This list is used for all INTraining communications, and it is the training provider's responsibility to ensure there is at least one active user at all times. DWD and INTraining staff are not responsible for maintaining this list or submitting communications to any individuals not listed under the active user accounts.

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[7] For more information on denials, please go to section Conditions for Denial in this document.

Federal Performance Reporting

To maintain INTraining or ETPL inclusion, all training providers must complete the annual federal performance reporting. Under WIOA, each state is required to submit student-level data for all training programs to the United States Department of Labor (USDOL) on an annual basis. Student-level data should be reported at the beginning and end of each cohort and <u>must</u> be reported by the **July 31st** deadline for that reporting period. The following requirements apply to federal performance reporting:

A. Student-level data **must** be reported before or during the open federal performance reporting time period of **July 1st through July 31st**.
B. Training providers are required to submit student-level data to DWD via the [INTraining portal](#) annually.
C. Student-level data must be reported under the program location in which the student was enrolled.
D. Training providers must report student-level data for every program location that was in "Staff Approved" status at <u>any time</u> during the reporting program year.
   i. **If the program did not serve any students, the training provider is still required to complete federal performance reporting.** The training provider will be able to indicate 'no students were served' during the reporting program year.
E. Student-level data must be submitted for **all** students, <u>regardless of funding sources.</u>
F. Training providers <u>must</u> submit the following data elements in their federal performance reporting:
   i. First name
   ii. Last name
   iii. Full social security number (or last four digits of the SSN)
   iv. Address (only if <u>full</u> SSN is not available)
   v. Date of Birth
   vi. Gender
   vii. Race
   viii. Course Start Date
   ix. Course End Date
   x. Enrollment Status
   xi. Name of Assessment(s) (if applicable)
   xii. Assessment(s) Pass/Fail (if applicable)
   xiii. Deceased
   xiv. Incarcerated

Any program that does not successfully complete their reporting of appropriate program year student-level data by the July 31st deadline, will be placed into a **"Pending Data"** status and will **not** be fundable for a **minimum of six (6) months**. The training provider will still be obligated to submit student-level data during the six (6) month unfunded time frame. During and following the "Pending Data" status, the following rules apply:

A. **Training provider <u>completes</u> student-level data reporting during the pending data timeframe**—the program will move to "Suspended" status for the remainder of the six (6) month time period and will remain unfunded. At the end of the suspension, a funding

determination will be made[8].

B. **Training provider <u>does not complete</u> student-level data reporting during the pending data time frame**—the program will be terminated for two (2) years. **Please note:** A new duplicate program application <u>will not</u> be accepted during the termination period. If a duplicate program is submitted, the new program will be denied[9].

Provider Responsibilities

In addition to meeting and maintaining eligibility requirements, training providers are obligated to adhere to the following responsibilities:

A. Ensure instructor credentials meet the minimum qualifications:
   i. Possess a two-year degree from an institution recognized by the United States Department of Education or national accrediting body in the major area they are assigned to teach; or
   ii. Possess practical experience of not less than two years in the major area they are assigned to teach and professional licensure or industry-recognized certification in the field.
   iii. All faculty applications to teach in the school must be accompanied by transcripts, letters, and documents supporting the application.
   iv. These requirements do not supersede any requirements set by another oversight agency that may be more stringent than that of INTraining.
B. In addition, and separate to the INTraining portal record, training providers must maintain a paper or digital record of all eligible participants using the following guidelines:
   i. Must contain copies of any documentation that pertains to the participant's eligibility, including all attendance records and any earned credential documentation.
   ii. Must be kept in a secured area with limited access, as these files contain Personally Identifiable Information (PII).
   iii. Must be kept for a minimum of 3 years.
C. Ensure the training facility and program meets ADA compliance.
   i. For additional resources on ADA requirements, please refer to the following documents: ADA Compliance Standards, ADA checklists, WIOA Equal Opportunity Regulations, and WIOA Equal Opportunity Reference Guide.
D. Maintain at least one active email address that is regularly checked.
E. Respond within **5 business days** to **all** communications from DWD including phone calls, emails, online surveys, or requests for other documentation to assist the Department with ongoing program quality assurance measures.

Monitoring

Monitoring activities will include application and portal review, site-visits, and review of student records. DWD reserves the right to visit any training provider at any time on-site and unscheduled or request provider kept participant records for the purpose of program monitoring. Monitoring activities may include, but are not limited to:

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[8] For more information, please go to section Initial and Continued Eligibility Requirements in this document.
[9] For denial terms, please go to section Conditions for Denial in this document.

A. Site visits (scheduled or unscheduled)
B. Staff or student interviews (scheduled visits only)
C. Classroom observation
D. Review of full participant records
E. Review of resources, tools, and curriculum
F. Review of program cost[10]
G. Review of instructor credentials
H. Review of ADA compliance
I. Review of any requirements related to the INTraining and ETPL policy[11]
J. Financial records
K. Review of EO compliance

DWD reserves the right to place INTraining providers and/or ETPs or programs on an improvement plan or to remove such training providers or programs from INTraining or the ETPL. Reasons for placement on an improvement plan or removal from INTraining or the ETPL may include, but are not limited to:

A. Poor performance
B. Misuse of funding
C. Loss of ETPL fundable status
D. Falsification of documentation
E. Observations or findings from monitoring activities, etc.

DWD Determinations

Conditions for Denial
DWD reserves the right to deny a training provider, provider location, or program from the INTraining or ETPL. Reasons may include, but are not limited to:

A. Failure to submit a completed application
B. Failure to submit requested information
C. Failure to complete annual review
D. Failure to meet in-demand metrics[12]
E. Failure to meet performance metrics
F. Failure to attain or retain required state licensure, certification, accreditation, or authorization to operate from the appropriate state oversight agency

If the training provider location or program is denied and removed from the INTraining list for any of the above reasons, the training provider may re-apply once the issue has been resolved. If the training provider location is only denied from the ETPL for any of the above reasons, the provider or program application will automatically be re-evaluated as new information is received. A denial is not appealable.

If a training provider location or program is denied and removed from the ETPL while WIOA participants

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[10] DWD reserves the right to request an itemized list of program costs outside of what is requested on the application. If the training provider submits a program cost increase, the training provider may be required to submit a justification.
[11] DWD Policy 2020-16 INTraining and Eligible Training Provider List (ETPL) Eligibility and Establishment Under the Workforce Innovation and Opportunity Act (WIOA) Title I
[12] For information on a review request, please go to section Review of Regional Demand or Industry Recognized Certification.

are enrolled and have already begun their training, the participants may complete the program unless the provider or program has lost state licensure, certification, accreditation, or authorization to operate from the appropriate state oversight agency. If the provider has lost its authority to operate, DWD will make every effort to find alternative, comparable training for the participant.

Conditions for Termination

DWD reserves the right to terminate a training provider, provider location, or program from the INTraining or ETPL. Reasons may include, but are not limited to:

A. Failing to complete student-level data reporting requirements
B. Intentionally supplying inaccurate information
C. Misrepresenting costs or services
D. Substantially violating WIOA statutes or regulations
E. Barred by the federal government from receiving federal funds

If the training provider location or program is terminated for any of these reasons, the provider must wait at least two (2) years before re-applying. The training provider is liable to repay all WIOA adult and dislocated worker training funds received during the period of non-compliance. A termination is appealable[13].

Requirment and Eligibility Exceptions

Apprenticeships

United States Department of Labor (USDOL) Registered Apprenticeship Programs (RAPs)[14] are automatically eligible to be included on the ETPL and are exempt from federal, state, and local ETP eligibility and federal performance reporting requirements. The RAP will automatically be included on the ETPL once the program sponsor opts in and has provided the following information to DWD:

A. Occupations included within the RAP
B. The name and address of the RAP sponsor
C. The name and address of the Related Technical Instruction (RTI) provider, and the location of instruction if different than the program sponsor's address
D. The method and length of instruction
E. The number of active apprentices

RAPs will remain on the ETPL until:

A. The RAP sponsor notifies DWD it no longer wants to be included on the list
B. The program becomes deregistered under the National Apprenticeship Act
C. The program is determined to have intentionally supplied inaccurate information
D. A determination is made that the RAP substantially violated any provision of Title I of WIOA or the WIOA regulations, including nondiscrimination and equal opportunity provisions of 29 CFR part 38

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[13] For more information on appeals, please go to section Review of Termination.

[14] Industry Recognized Apprenticeship Programs (IRAP) do not receive the same ETP exceptions that WIOA allows for RAPs; therefore, IRAPs seeking to be added to the ETPL must follow the same process requirements as other training providers that are not RAPS.

Review of Determination

This section provides guidance on which INTraining and ETPL decisions are eligible for review and how to request such a review.

Review of Regional Demand or Industry Recognized Certification
The Local Workforce Development Board (LWDB) may request a review of the occupational demand determination or certification on behalf of the training provider if a program has been denied inclusion on the ETPL in a region for lack of occupational demand i.e.. the occupation (has a one (1) or two (2) flame ranking and/ or the Industry Recognized Certification is not listed on Indiana's List of Promoted Industry Certifications.

The LWDB must submit a letter of support including one or more of the following supporting documents:

A. **Job Orders**. This may be submitted for demand review. Regional job listings through reputable sources. The number of non-duplicative regional job orders should be no less than five openings over four months, or fifteen openings in a twelve-month period.

B. **Employer Surveys**. This may be submitted for demand review. Employer surveys that demonstrate occupational shortages. These surveys may be conducted by the LWDB, chambers of commerce, economic development entities, business and trade organizations, DWD, or academic institutions. The surveys must support an annual demand of fifteen (15) or more job openings and a median wage above the 40th percentile for that region.

C. **Targeted Industries**. This may be submitted for demand review. Identified occupations within targeted industries are to be determined by the local board and identified in its local plan, through coordination with chambers of commerce, economic development entities, and business and trade organizations. These industries should be identified in economic development plans whose objectives are to attract or expand specific industry sectors within the region. It should be demonstrated that occupations within these industries would result in an annual demand of fifteen (15) or more, and a median wage above the 40th percentile for that region.

D. **Industry Support**. This must be submitted for certification review. Letters of endorsement from regional employers demonstrating the need for the skills attained within the certification, its value to quality employment, the type of job it prepares an individual for, total number of job openings, and its ability to address a critical regional employment need.

The letter of support and supporting documentation must be submitted electronically to **INTraining@dwd.in.gov**. The GWC or its designee will evaluate the request for review and all supporting documentation to determine whether the occupation should be considered an in-demand occupation or the certification should be considered industry recognized in the region for the purpose of inclusion on the ETPL. This decision will be final.

Review of Termination

Training providers may request a review by DWD for any provider location or program that has been

terminated. A training provider may request up to three reviews by DWD: administrative review, appeal of administrative decision, and objection to the Department Review Committee's decision.

Administrative Review

The request for an administrative review of termination from INTraining or the ETPL **must** be submitted electronically **to INTraining@dwd.in.gov within 10 business days** of the date of notice of its termination. The request for review must include the following:

   A. Name of training provider
   B. Program location ID, if applicable
   C. Justification for review
   D. Any documentation to support the provider's justification

The DWD Associate Chief of Workforce Education and Training will select an Administrative Review Committee comprised of three DWD staff members who were not involved in the initial decision. This committee will conduct a review and send notice of its decision to the parties within thirty (30) business days of receiving the request for an administrative review.

Appeal of Administrative Review Decision

An appeal of the administrative review decision must be submitted electronically to INTraining@dwd.in.gov within 15 business days of the date of the Notice of Administrative Review decision. The request for an appeal of the administrative decision must include the following:

   A. Name of training provider
   B. Program location ID, if applicable
   C. Copy of Administrative Review Decision
   D. Justification for appeal
   E. Any documentation to support the appeal's justification

A Department Review Committee, designated by the DWD Commissioner, that has not been involved in the initial or the Administrative Review decision and are not Workforce Division team members, shall facilitate the appeal process. The Department Review Committee will schedule an administrative hearing not more than 60 business days after DWD receives the written request for appeal[15]. All appeal hearings will be held *de novo*, and the Workforce Education and Training Department will bear the burden of proof. Indiana Rules of Trial Procedure will govern the administrative proceedings. The Department Review Committee will issue a decision within 90 business days of the completion of the hearing.

Objection of the Department Review Committee's Decision

Not more than 15 days after the issuance of a written decision by the Department Review Committee, any party adversely affected by the order may file an objection to the decision in writing to the DWD Commissioner and request that the Commissioner review the decision. The party must identify the basis of the objection with reasonable particularity. No later than 30 after the objection is filed with the Commissioner, the Commissioner shall issue a final decision affirming, modifying, or dissolving the Department Review Committee's decision. The Commissioner may remand the matter, with or without

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[15] Only appeal requests received by DWD within fifteen (15) business days of the date of notice of the Administrative Review Decision shall be scheduled for an administrative hearing. All other requests will be denied.

instructions, to the Department Review Committee for further proceedings. The Commissioner is the ultimate authority (as defined by IC 4-21.5-1-15) for DWD.
A party may contest the decision of the ultimate authority by filing a petition for judicial review consistent with the requirements of I.C. 4-21.5- 5 et seq.

Additional Information

Questions regarding the content of this publication should be directed to **INTraining@dwd.in.gov**.