ELIGIBLE TRAINING PROVIDER

WIOA training provider requirements increase accountability and transparency through reporting, biennial review, and performance outcomes. WIOA requires DLR, on behalf of the Governor of South Dakota and in consultation with the South Dakota Workforce Development Council (WDC), to establish criteria and procedures regarding training provider eligibility to receive WIOA Title I funds. These funds are for the provision of training services directed towards high-demand occupations and training programs allowing WIOA Title I participants to earn a credential within two years after beginning their studies.

The purpose of the Eligible Training Provider List (ETPL) is to provide guidance and establish criteria for organizations wishing to receive funding under WIOA Title I to provide training services. Tuition assistance for WIOA Title I participants is determined on an individual need and availability of funding.

ROLES AND RESPONSIBILITIES

South Dakota Department of Labor and Regulation (DLR) is responsible for:

- Identifying eligibility criteria, including high-demand occupations for WDC consideration.

- Developing, maintaining, and disseminating the ETPL as the official list of training providers and training programs in South Dakota.

- Removing programs that do not meet established program requirements and performance levels or fail to report required data.

- Ensuring training providers have the expertise to assist individuals with disabilities and those in need of adult education and literacy activities.

- Communication with the United States Department of Labor (U.S. DOL) Office of Apprenticeship (OA) state director to develop a mechanism to contact all Registered Apprenticeship sponsors with the State to allow them to indicate interest.

Approved training providers are responsible for:

- Submitting accurate and timely performance data and cost information for both initial eligibility and continued eligibility.

- Coordinating financial aid, grants, and scholarships with WIOA Title I resources and ensure WIOA Title I funds do not duplicate funds otherwise available to the participant.

- Ensuring WIOA Title I funds are used for required tuition, fees, and books only.

- Ensuring the distribution of participant funds is communicated with DLR staff.

- Coordinating with DLR staff to create tutoring options for WIOA Title I participants who could benefit from services.

- Proactively collaborate and communicate with DLR staff to secure all documentation required for WIOA Title I participants to receive financial assistance. Documentation will include, but will not be limited to, progress reporting forms, attendance records, information release forms, midterm, quarter, and semester grades, and invoices.

- Understanding and agreeing to the Conditions and Assurances outlined in [Form 10B](#) of the [DLR WIOA Manual](#).

- Retaining documentation verifying the accuracy of its submitted program performance reports and provides access to the documentation for four years after the program year.

- Acknowledging if the program is approved, the information contained in the application, including performance requirement information, will be available for the public to view on the DLR website and [trainingproviderresults.gov](#).

PROVIDER ELIGIBILITY

Types of Entities Eligible to Apply - §680.410(d)

Providers of training services are required to be on the South Dakota ETPL to receive WIOA Title I Adult, Dislocated Worker, and Youth funding for training services. Training services are provided through Individual Training Agreements (ITA). Eligible training providers allowed to receive funding through an ITA:

- Institutions of higher education with programs leading to a recognized postsecondary credential.
- Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50).
- Eligible providers of Adult Education and Literacy activities under WIOA Title II if such activities are provided in combination with training services.
- Public and private providers of a program of training services, which may include community-based organization and joint labor-management organizations
- A local workforce development board, if it meets the conditions of WIOA sec. 107(g)(1).

Registered Apprenticeship Program Providers - §680.450(b) §680.460(c) §680.470(a-e)

Under WIOA Title I, Registered Apprenticeship Programs are automatically *eligible* for placement on the state-approved ETPL. Registered Apprenticeship Program (RAP) sponsors seeking ETP inclusion must either be based in South Dakota or have an established partnership with a South Dakota business and must provide the following information in the application:

- Occupations included within the RAP;
- Name and address of the RAP sponsor;
- Names and addresses of the Related Instruction provider(s) and the location(s) of instruction if different from the program sponsor's address;
- Method and length of instruction;
- Number of active apprentices.

RAPs are not subject to the same application and performance information requirements, a period of initial eligibility, or initial eligibility procedures as other providers due to the detailed application and vetting procedures required by the U.S. DOL Office of Apprenticeship (OA). RAP status verification is conducted every two years, at a minimum, with U.S. DOL OA. RAPs in good standing with OA will remain on the ETPL until the:

- Program has been deregistered by a finding of the U.S. DOL.
- Program sponsor has notified the State that it no longer wants the program to be included on the list.
- Program sponsor has intentionally provided inaccurate information.
- Program has violated any provision of Title I of WIOA or the WIOA regulation, including 29 CFR §38 for no less than two years.

Note: Pre-apprenticeship programs do not receive the same WIOA exceptions allowed for RAPs. Pre-apprenticeship programs seeking initial or continued eligibility to the ETPL must follow the same process requirements as other non-RAP training providers, as described in this policy. - §680.470(f)

Reciprocity - §680.520(a-b)

DLR may enter into a reciprocal or other agreement with another state. Training in another state will only be considered for an eligible participant if:

- Similar training is not available in South Dakota; and
- There is employment for the participant in South Dakota upon completion of training as verified by the employer; and
- The training provider is active and in good standing on the ETPL in the state of the provider's physical address; and
- The training provider has completed the *Initial Application Process*; and
- All other conditions for training eligibility, as identified in the DLR WIOA Manual, are met and justified.

A DLR Program Specialist **must approve all ITA's** with out-of-state training providers **prior to a commitment of funding**. Current agreements can be viewed on the [Eligible Training Providers and Programs](#) page. For more information on establishing an agreement with DLR, email DLRETPL@state.sd.us.

Exempt Training Providers - §680.530(a)
Providers of On-the-Job training (OJT), customized training, incumbent worker training, internships, paid or unpaid Work Experience, or transitional jobs are not subject to the requirements applicable to entities listed on the ETPL and are not included on the state list of eligible providers and programs.

Equal Opportunity
Eligible training providers are subject to the equal opportunity and nondiscrimination requirements contained in WIOA sec. 188 and implementing regulations of 29 CFR §38.

PROGRAM ELIGIBILITY

Types of Programs Eligible - §680.420(a-d)
A program must provide one or more courses or classes leading to one or more of the following:
- Industry-recognized certificate or certification
- Certificate of completion of a registered apprenticeship
- License recognized by the Federal government, State of South Dakota, another state with which South Dakota has a reciprocal agreement
- Community or technical college certificate of completion
- Associate degree
- Baccalaureate degree
- Secondary school diploma or its equivalent
- Employment
- Measurable skill gains toward a credential described above or employment

Programs Not Eligible
Programs associated solely with job readiness, basic skills, career exploration, and reading literacy programs will not be eligible for inclusion on the ETPL.

INITIAL APPLICATION PROCESS

§680.450(a-b)(e)(g-h)

Initial Program Application Requirements
To be considered for inclusion on the ETPL, a training provider must create a Training Provider account in [SDWORKS](#). Once DLR has activated the account, providers must submit an application for each training program, including an application for each delivery style (online, in-person, hybrid). The training provider must submit a complete program application in SDWORKS, including information regarding:
- Institution Type;
- Contact Information;
- Federal Employer Number/FEIN;
- Website;
- Program description;
- Classification of Instructional Programs (CIP) code;
- Information on training services that lead to a recognized postsecondary credential or a secondary school diploma or its equivalent;
- College's or company's accreditations (national or State) *if applicable*;

- Verifiable information about performance for the most recent twelve (12) month period that includes one of the following[1]:
  - Completion Rate
  - Entered Employment Rate
  - Median Earnings
  - Credential Attainment Rate
- Training programs offered in partnership with businesses must provide one of the following; *if applicable*:
  - a letter of support from a local employer or employers;
  - evidence of the existence of an employer-based advisory committee;
  - letter of support by an industry association or organization; or
  - letter of support from a local economic development organization.
- Information addressing the alignment of training with in-demand industry sectors or occupations;
- Program prerequisites;
- Necessary program equipment;
- Class time, length, form, and mode of delivery;
- Program duration;
- Location(s) where the program is offered;
- Program costs;
- Agree to accept the terms and conditions of DLR Conditions and Assurances; and
- Provider Payment Authorization form.

Initial Program Review Process

Prospective training providers may apply at any time on a year-round basis; eligibility will be open and rolling. All applications must be submitted through SDWORKS and use the SDWORKS Guide for Training Providers. Providers must submit separate applications for each individual program. If multiple training delivery formats (in-person only, online-only, hybrid) are available, an application must be submitted for each delivery format.

A DLR Program Specialist will review initial program applications to verify *Initial Program Application Requirements* are completed. The training provider contact will be informed via email of approval or denial status, or if additional information is needed, within 45 days of submission*.

Once approved, training providers and/or programs will be listed on the ETPL. The initial eligibility period expires the following July 31. The provider must then apply for continued eligibility on a biennial basis by July 31 at the end of the eligibility period, except Registered Apprenticeship Programs.

TUITION REFUND

If a DLR participant receives tuition assistance and is eligible for a refund from the training provider, the training provider must reimburse DLR for its fair share. DLR will apply this reimbursement to the grant which paid for the tuition. Under no circumstances will funds be returned to a participant without the Department's written permission.

CONTINUED ELIGIBILITY PROGRAMS

§680.460(a)(f)(g)(i)

Continued Program Application Requirements

After the initial or conditional eligibility period, providers must submit an application to meet continued eligibility requirements, as authorized by WIOA sec. 122. The training provider must review and update the continued eligibility program in SDWORKS in accordance with the SDWORKS Guide for Training Providers and include information on:
- A training provider's prior eligibility status or status of an existing program
- Accurate program cost information (including tuition & fees)
- Accurate consumer information in SDWORKS

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[1] ***Note:*** *Training providers unable to supply initial performance documentation requirements may receive conditional approval from DLR until a determination can be made based on additional performance data. The conditional approval letter will outline the approval expiration*

- The availability of training services through the State
- Performance reports for the previous program year submitted within the required reporting period
- Meet minimum performance standards
- Performance accountability measures
- Ability to offer industry-recognized certificates and/or credentials
- Ability of the providers to provide training services that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities
- The degree to which the program relates to in-demand industry sectors and occupations in the State
- The ability of the training provider to provide training services to individuals who are unemployed, underemployed, incumbent workers, and individuals with barriers to employment
- Any additional information requested by DLR.

Continued Eligibility Review Process

Providers must submit continued eligibility applications by July 31 of the biennial period. DLR Program Specialist will review the continued application to verify *Continued Eligibility Application Requirements* are completed. The training provider contact will be informed via email of approval or denial status, or if additional information is needed, within 45 days of submission.

REPORTING AND PERFORMANCE REQUIREMENTS

Program Performance

All providers must meet reporting and performance requirements for continued eligibility. Data collected in the ETP performance will be made accessible to the public via the WIOA Annual Report and shared by U.S. DOL at trainingproviderresults.gov. This information will also be distributed to job seekers throughout the WIOA system.

Training Provider Reporting Period

Each approved training provider must submit program performance reports on an annual basis, based on the Program Year (July 1 to June 30) to DLR for each approved program using the data template supplied by DLR. Data must be **submitted no later than July 31** after the end of each program year for the 12-month period beginning July 1 of the previous year. This 12-month period is the "reporting period."

EXAMPLE: *On July 31, 2020, the training provider submits a program performance report for each of its approved programs for the reporting period beginning July 1, 2019, ending June 30, 2020.*

Required Reporting Elements

1. *Total Number of Individuals Served* – The **total number** of students (WIOA and non-WIOA) in the program of study in the reporting period.

2. *Total Number of Individuals Exited* – The total number of students (WIOA and non-WIOA) who **completed, withdrew, or transferred** from this program of study in the reporting period.

3. *Total Number of Individuals Completed* – The total number of students (WIOA and non-WIOA) who **completed (did not withdraw or transfer out)** from this program of study in the reporting period.

4. *Credential Attainment Rate* – The total number of students (WIOA and non-WIOA) who completed the training program **AND** attained a credential associated with the program of study within one year after exit. This includes all students who attained a recognized postsecondary credential during the program or with one year after exit **OR** attained a secondary school diploma or its equivalent, and who were also employed or enrolled in an education or training program leading to a postsecondary credential within one year after training program exit.

5. *Social Security Number* - Include the social security numbers of students (WIOA and non-WIOA) for the purpose of direct UI wage record match or supplemental wage information conducted by DLR.

- *Employment Rate 2nd and 4th Quarter After Exit* – The total number of students (WIOA and non-WIOA) from the training program who are found to be employed.

- *Median Earnings 2nd Quarter After Exit* – Total quarterly earnings, for the total number of students (WIOA and non-WIOA) who are employed in the second quarter after exit.

- *Average Earnings 2nd and 4th Quarters After Exit* – Average earnings of students (WIOA and non-WIOA) in the training program who are in unsubsidized employment during the second and fourth quarters after exit.

Minimum Performance Requirements
Program performance is collected for DLR to evaluate program effectiveness and monitor compliance. DLR has established the minimum performance standards to meet the State's lowest negotiated performance rate of the Adult, Dislocated Worker, or Youth program established with U.S. DOL for the biennial program year. Registered Apprenticeship Programs are not required to submit performance information.

Program performance is based on **all student** outcomes for the **Employment Rate 2nd Quarter After Exit, Employment Rate 4th Quarter After Exit, Median Earnings 2nd Quarter After Exit, and Credential Attainment Rate.**

Programs that **fail three out of four elements for two consecutive years** must be removed from the ETPL as stated in the Conditions for Removal. Training programs with less than ten total students are exempt from the conditions of removal due to insufficient performance requirements. Providers removed for one of these reasons may reapply for initial eligibility by demonstrating compliance with all requirements under WIOA law.

PERSONAL IDENTIFIABLE INFORMATION & CONFIDENTIALITY

To comply with federal reporting requirements, the collection of Personally Identifiable Information (PII) (e.g., Social Security Numbers on WIOA and non-WIOA program participants) is required to derive performance outcomes such as employment and earnings. PII and other sensitive information must be protected. DLR and training providers must take the steps necessary to ensure all PII's obtained from participants and/or other individuals in the ITA invoicing process is secure to protect such information from unauthorized disclosure. All PII data must be processed in a manner that will protect the confidentiality of the records/documents and is designed to prevent unauthorized persons from retrieving such records by computer, remote terminal, or any other means.

The Federal Educational Rights and Privacy Act
The Federal Educational Rights and Privacy Act (FERPA) generally applies to postsecondary institutions that are eligible training providers. Most postsecondary institutions are also recipients of federal funds under a program administered by the U.S. Department of Education. However, some private providers of training services may not be recipients of funds administered by the U.S. Department of Education, including Pell Grants or student loans funded under Title IV of the Higher Education Act of 1965. Those providers would generally be excluded from FERPA requirements. Compliance with ETPL reporting requirements does not violate the privacy requirement set forth in FERPA. Per TEGL 7-16, joint guidance issued by the U.S. Departments of Labor and Education, the FERPA audit or evaluation exception permits PII disclosure from education records for WIOA performance accountability purposes.

CONDITIONS FOR REMOVAL

§680.450(A-B)(E)(G-H)

If a training program fails to meet the minimum performance requirement for two consecutive years, it will be removed from the ETPL. Training programs with less than ten total students are exempt from the conditions of removal due to insufficient performance requirements. Providers removed for one of these reasons may reapply for initial eligibility by demonstrating compliance with all requirements under WIOA law.

An approved program will be removed from the ETPL if a training provider does not supply annual reporting and performance requirements by the date indicated in the *Training Provider Reporting Period* section. If a training provider supplies false performance information, misrepresent cost or services, or substantially violates requirements of WIOA

law or regulations, the provider will be removed from the ETPL for a period of at least two years. Providers may be required to repay all WIOA Title I funds received during the period of non-compliance.

If a training provider or program of training services is removed from the ETPL while WIOA participants are enrolled, the participant may complete the program unless the provider or program has lost authorization to operate in South Dakota.

APPEAL PROCESS

§683.630(B)

If a training provider is denied from inclusion on the ETPL or terminated from eligibility, the provider has the option to appeal. A written request for appeal and a statement of justification, explaining why the provider should be included on the ETPL, must be submitted via e-mail to DLRETPL@state.sd.us within 15 business days after notification of ineligibility or termination. Written appeals should not exceed one page.

The training provider will be contacted within 15 business days of DLR's receipt of the appeal to schedule a hearing with the ETPL appeals board. The board will consist of a DLR Labor Program Specialist, the Workforce Training Director, and a WDC member. The Board will issue a final decision within 60 business days of the date of the hearing. If denied, a program will be unable to reapply through the ETPL eligibility process for two years from the date of final notification by the ETPL Appeals Board.