



**CALIFORNIA WORKFORCE INVESTMENT BOARD
WIA Employment Training Provider List (ETPL)
Ad Hoc Committee**



MEETING NOTICE

**Thursday, May 23, 2013
1:30 p.m. to 3:30 p.m.**

Tim Rainey
Executive Director

**California Workforce Investment Board
Conference Room
777 12th Street, Suite 200
Sacramento, CA 95814
(916) 324-3363**

Edmund G. Brown, Jr.
Governor

Mike Rossi
Chair

AGENDA, Amendment 1

Additional Meeting Locations

South Bay Workforce Investment Board
11539 Hawthorne Boulevard, Suite 500
Hawthorne, CA 90250
Sheryl Singh: 310 970 7700

Division of Apprenticeship Standards
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Jan Reza: 415-355-5468

Riverside Workforce Investment Board
1325 Spruce Street, 5th Floor, Room 5A
Riverside, CA
Rilla Jacobs: 951 955 3053

Fresno Regional Workforce Investment Board
2125 Kern Street, Suite 207
Fresno, CA 93721
Matt Leedy: 559 490 71421

- 1. Welcome and Opening Remarks**
- 2. Action:** Approve February 4, 2013 Meeting Summary
- 3. Discussion:** Review of DRAFT ETPL Policy Revision
- 4. Discussion:** Next Steps
- 5. Other Business**
- 6. Public Comment**

Participants are encouraged to attend the meeting in one of the 5 locations identified in this agenda. For future reference, locations not included in the agenda will not participate in the discussions.

Webex Link

Meeting Number: 740 302 020
Meeting Password: cwib777
Conference Call: 866-748-2780
Participant Code: 6132541

Meeting conclusion time is an estimate; meeting may end earlier subject to completion of agenda items and/or approved motion to adjourn. In order for the State Board to provide an opportunity for interested parties to speak at the public meetings, public comment may be limited. Written comments provided to the Committee must be made available to the public, in compliance with the Bagley-Keene Open Meeting Act, §11125.1, with copies available in sufficient supply. Individuals who require accommodations for their disabilities (including interpreters and alternate formats) are requested to contact the California Workforce Investment Board staff at (916) 324-3425 at least ten days prior to the meeting. TTY line: (916) 324-6523. Please visit the California Workforce Investment Board website at <http://www.cwib.ca.gov> or contact Daniel Patterson for additional information. Meeting materials for the public will be available at the meeting location.

**Issues and Policies Committee
Eligible Training Provider List (ETPL) Ad Hoc Committee
Meeting Summary February 4, 2013**

Attendance:

Stewart Knox, NoRTEC
Patricia Rey, EDD
Kris Stadelman, NOVA
Joanne Wenzel, BPPE
Diane Ravnik, DAS
Jan Vogel, South Bay WIB
John Harden, SETA
Deborah Hennessy, SETA
Pablo Artaza, Technical College
Alma Perez, Senate Labor Committee
Carol Padovan, DOL Region VI

Staff

Daniel Patterson, CWIB
Shelly Green, CWIB
Tom Bates, CWIB
Jessica Dailey

Introduction

Mr. Patterson opened the meeting and reviewed the agenda. The following provided overviews of the organization as it relates to the ETPL.

Joanne Wenzel: Bureau of Private Postsecondary Education (BPPE).

Diane Ravnik: Department of Industrial Relations Division of Apprenticeship Standards

Patricia Rey: Employment Development Department (EDD) ETPL Unit.

Joanne Wenzel reviewed the [BPPE's website](#) and provided an overview of its mission and their role and discussed the state legislation that reconstituted the BPPE. Below are highlights from her presentation:

- The BPPE, implemented in the BPPE Act of 2009, provides oversight of private postsecondary education providers
- AB 2296 passed and changed performance reporting requirements.
- All private postsecondary education institutions need approval from BPPE to operate in California. All potential providers must apply to BPPE to be granted approval to operate or to be given an exemption to BPPE registration.
- Because of the backlog, it is taking up to 12 months to approve a school's application to BPPE. If instances exist where a training provider that is directly

related to job placement is having delays in approval, to inform BPPE and they will try and expedite their application.

- If a provider is waiting for approval of their application to BPPE, another provider should be selected for the training.
- Jan Vogel stated that there was a previous definition that if a training program costs \$2,500 or less they would be exempt from the registration process.
- The BPPE representation disagreed. This position was also confirmed by the Department of Labor. There is no minimum dollar threshold for a WIA funded training program to be listed on the ETPL in either WIA or the Regulations.
- There was a discussion as to what sort of providers might be exempt from registering with BPPE. The BPPE website does program providers and determine if vendors are exempt or non-exempt entities. An example given of an exempt vendor in the private sector was Goodwill Industries.
- The BPPE Act of 2009 requires institutes to file performance fact sheets and school catalog annually.
 - A template does exist for reporting, however it appears institutions are filing their own formatted reports, thus not providing the required information. The institute report is then denied. Suggest template is formally announced and made easy to locate, so all fact sheets are submitted correctly.

Diane Ravnik provided a presentation of the DAS program. A copy of the presentation can be found [here](#). Below are highlights:

- The programs under DAS have been in Statute since 1939, continuously for 74 years.
- All apprenticeship programs include 144 hours of classroom time and have provide in excess of 2000 hours of On the Job Training (OJT).
- All apprenticeship programs must be reviewed and approved by the Local Education Agency (LEA).
- All apprentices that are accepted into contract must comply with contract.
- Employer must provide reasonable and continuous employment. The employer must also show a graduating wage scale as skill and education are obtained.
- Performance Requirements for apprenticeship programs are governed by statute 3073.1. Self-audits are required annually.
- Ms. Ravnik cited a couple of Sections within 3073.1.
 - Section D requires audits of all apprenticeship programs after 1 year.
 - Section G triggers an audit when building trade graduation rates are less than 50 percent of the average completion rate for that specific trade.
 -
- Carol Padovan added that registered apprenticeship State programs differ from Federal registered programs and clarification is needed because different rules apply.

- Pablo Artaza stated that all students interested in technical schools need to review the institutions that are available towards their interest by looking at the respective institution's fact sheet.

Patricia Rey provided a summary of the activities\responsibilities EDD performs related to the publishing and management of the ETPL. A copy of her presentation can be found [here](#). A brief summary follows:

The EDD;

- Provides state policy and procedures for the ETPL
- Local boards also have local policies and policies for listing providers on the list.
- Disseminates ETPL to Local Boards and One-Stop Centers
- Reviewed the approval process and appeals process.

Mr. Patterson introduced the topic of Initial Eligibility for ETPL, reviewed the materials provided in the agenda packet on this subject and opened the floor for discussion. The following are highlights of the input received:

- Jan Vogel of South Bay focuses primarily on placement rather than completion. This works because they can monitor the increase or decrease and then seek out information to determine why. They have set the bar for their completion rate to be 70 percent. If 50 percent, provider goes on probation.
- Stuart Knox of NoRTEC agreed. They too gauge their success by using entered-employment and concurs with Mr. Vogel the 50 percent completion outcome is reasonable.
- The Committee wants to establish a level of integrity for initial eligibility and continue subsequent eligibility at the same standard as the initial.
- The Committee also voiced the need to set guidelines and amend the current subsequent eligibility waiver enabling the State an avenue to remove a provider from the ETPL if they are not demonstrating success.
- There are no rules or regulations in place to protect the State or Local Areas from removing a vendor from the list. If the committee is successful, the subsequent waiver could be eliminated.
- The cost for a vendor/provider to register with the BPPE is typically \$5,000. If not registered while providing services, the vendor/provider is subject up to a \$50,000 fine. The registration process usually takes up to a year.
- The BPPE reviews financial data on a newly vendor/provider that is going through the registration process.

Next Steps

- Staff is to develop the new policies based on this input and set up another meeting to achieve our goals by July 1, 2013.

Workforce Investment Act Eligible Training Provider List Policy and Procedures

May 2013

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Special requests for services, aids, and/or special formats need to be made by calling (916) 654-8055 (Voice). TTY users, please call the California Relay Service at 711.

Workforce Investment Act Eligible Training Provider List Policy and Procedures

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POLICY AND PROCEDURES

I. PURPOSE

This policy and procedure govern the operation of the statewide Eligible Training Provider List (ETPL) in California. They address the activities of the Governor, Local Workforce Investment Boards (local board) and their One-Stop Centers, and those training providers who wish to offer services to individuals whose training is funded by the Workforce Investment Act (WIA).

II. BACKGROUND

A. WIA Requirements

1. The Governor must establish procedures for use by local boards in determining the initial eligibility of other public or private providers of training services to be included in the statewide ETPL.
2. The WIA emphasizes informed customer choice, performance accountability, and continuous improvement. One of the primary means that WIA employs to achieve these goals is the ETPL.
3. The State is required to develop and operate the ETPL in partnership with local boards. The ETPL is designed to gather and display useful information on training providers, their services, and the quality of their programs.
4. The local boards accept applications from training providers for listing, determine if the applicant meets State and local criteria for listing, and forward to the State information on those providers who meet these criteria.
5. When an ITA is to be issued for an eligible participant, regardless of the cost of the training, the training provider must be selected from those listed on the ETPL. The exceptions to this are found in Section III below.
6. The State will accept the information forwarded by local boards on training providers, compile a single state list (the ETPL), and disseminate the ETPL with cost information to the One-Stop delivery system.
7. A One-Stop Center may issue an Individual Training Account (ITA) to an adult to fund training after it has determined that core and intensive services are insufficient for that customer's needs. The individual can then compare the offerings on the ETPL, and, with the advice of One-Stop staff, select the most appropriate training program.
8. Local boards shall provide participants eligible for an ITA, access to the complete statewide ETPL and shall not use a locally developed training list as a substitute to this policy and procedure.

9. Local boards should provide ITAs for training programs that support a career path for the client in demand industries/sectors identified through the regional economic analysis included in their local strategic plan or where it can be demonstrated that there is a demand for skilled workers in the field of employment being sought by the client. Additionally, local boards are encouraged to work with their local/regional employers and education providers to ensure that training programs being listed on the ETPL provide credentials/certificates and/or skills that are valued by the employer community of the local/regional economy.

10. Definition of a Program of Training Services

Applications must be submitted for each unique program of training services. A “program of training services” is defined in 20 CFR Section 663.508 as: *“One or more courses or classes, that upon successful completion, leads to 1) a certificate, an associate degree, or baccalaureate degree or 2) the skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.”* In addition, each program is considered unique by its goals and curriculum, or by the requirements of the regulatory agency.

B. State Approach – Guiding principles for the development of the ETPL Policy and Procedures

In cooperation with stakeholders, the State has adopted the following guiding principles for implementation of the ETPL.

1. Simplicity: Avoid imposing burdens that would inhibit the participation of quality training providers.
2. Customer Focus: The policies and procedures must support individuals who seek career and occupational training information and career advisors who assist customers eligible for training services.
3. Quality: The intent is to list the widest range of quality training programs that meet industry-valued skill attainment standards in priority sectors. Information must be accurate, transparent, accessible, and user-friendly.
4. Respect for Local Autonomy: The policy should remain supportive of the autonomy that the WIA has otherwise granted to the local boards.

III. GENERAL PROVISIONS

A. Types of Training to Which These Procedures Apply

In order for a provider of training services to receive Title I-B WIA ITA funds, its program(s) must be listed on the ETPL. These programs may provide training

services, such as:

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; and
6. Job readiness skills, adult education and literacy activities provided in combination with any other training service outlined above.

There are some training programs that are exempt from direct application to the ETPL or are subject to special ETPL policy provisions. On-the-Job Training and Customized Training (as defined by the WIA) are exempt from the ETPL. Contract training providers that do not charge clients directly for their services must be listed on the ETPL, but are subject to different criteria specified in their contract with the local board.

IV. APPLICATION POLICY AND PROCEDURES

This section covers general application policies and procedures that govern initial eligibility.

A. Application Procedure

1. Local Boards

- a) In accordance with State policy and procedures, each local board will determine its procedures for accepting applications from providers for initial eligibility. Local boards may reach agreement to authorize one local board to act on their behalf in making determinations for initial eligibility. Local board procedures must incorporate all of the data elements required for completion of the ETPL Training Provider and Program Application forms required for initial eligibility. These forms are included in this directive along with line item instructions for completing them.
- b) Local policies must ensure that all private postsecondary educational entities have applied to the Bureau of Private Postsecondary Education (BPPE) and received an authorization to operate before they can be determined eligible to be listed on the ETPL. Local boards cannot grant exemptions to private postsecondary training providers from the BPPE registration requirements.

2. Providers

- a) Applications for initial eligibility must be initiated by the training

provider and submitted to a local board, or the local board's designee. Once a provider's programs have been accepted to the ETPL, eligible participants from any local area may select from them, provided that the program is either linked to employment opportunities in the local area or in another area to which the individual is willing to relocate. All local area policies concerning ITA expenditures limits apply.

- b) Applications must be submitted in the time and manner determined by the local board.

3. Providers Headquartered Outside of California

- a) Providers headquartered outside of California who do not have in-state training facilities may apply to any local board. Applications must include all information required by the State of California. Out-of-state programs are eligible for listing on California's ETPL if the applying provider is eligible to receive funds under the Higher Education Act, or the program operates is approved by the California Department of Apprenticeship Standards (CDAS).

B. Local Board Responsibilities for Data Verification

1. Local boards must ensure that the data supplied by providers for initial eligibility are complete, accurate, and up-to-date.
2. The local boards must have agreements with training providers the local boards submit for listing on the ETPL that include provisions requiring providers to maintain sufficient records and to make these records available for monitoring or audit by either the local board or the State.

C. Application Data Elements/Formats

1. The ETPL system is based on a standard set of data elements accumulated on all eligible providers. These elements are incorporated into an ETPL Application Format that may be used by local boards to collect information from training providers who wish to be listed on the ETPL. If local boards choose to use a different format, they must incorporate all of the data elements on the Standard ETPL Applications for Initial Eligibility. Local boards can supplement the information on the Standard ETPL Application format, but should do so with the guiding principles in mind.
2. All local board data submissions to the State must be in the standard submission format specified by EDD and comply with file structure and data coding requirements.

D. Dissemination of the ETPL

1. The EDD will make the ETPL available to all local boards in the State on each working day. The EDD will update the ETPL as soon as possible within the 30-day period allowed by WIA.

2. To facilitate dissemination of the ETPL to all interested partners and customers throughout the State, the EDD will make it available on the Internet at <http://etpl.edd.ca.gov/wiaetplindx.htm>
3. The local boards are responsible for ensuring that all One-Stop centers in their areas have access to the most recent version of the ETPL and make it available to their customers.
4. The local boards must ensure that One-Stop Centers in their areas display to their customers all of the “public” data elements on the ETPL system. However, a local board may display any additional information to their customers that the local board considers appropriate.

V. INITIAL ELIGIBILITY POLICY AND PROCEDURES

- A. Initial eligibility is based on the provider/program’s authority or authorization to operate and performance outcomes. Providers are required to submit performance outcomes for the programs they want to list and it will be considered in making initial eligibility determinations. Providers must meet one of the following criteria in order to have their program listed on the ETPL:
 1. Postsecondary institutions eligible under Title IV of the HEA and offering programs leading toward an associate degree, baccalaureate degree or certificate
 2. Programs that are registered under the NAA and registered with the Department of Labor (DOL) and those apprenticeship programs that are registered and approved by the CDAS
 3. Accreditation by an institution recognized by the federal Department of Education
 4. Approval by the California Department of Education
 5. Approval by the Chancellor’s Office of the California Community Colleges (CCCCO)
 6. Approval, registration, or exemption of the program by the BPPE

In addition to the above criteria, a program that has been substantially modified in goals and/or curriculum shall be considered a new program subject to an initial eligibility determination only if the regulatory body over the program has required that it be submitted to that body for approval as a new program.

- B. Performance Criteria for Initial Eligibility for Private Postsecondary Education Providers

1. All private postsecondary education providers must meet the minimum performance criteria as established below. These performance levels shall be verified with the annual performance levels reported to the BPPE. The priority sector information must be verified with the State Board and/or local board.
 - Entered employment rate of 70% percent

Definition of Entered Employment (Placement) Rate

“California Code of Regulations - Title 5. California Code of Regulations Division 7.5” Section 74112(b-e)

(e)(2) Placement is measured six months from the graduation date of each student. Reporting of placement rates shall include for each educational program: the number of students who began the program, the number of graduates as defined in subdivision (b), graduates available for employment, graduates employed in the field and placement rate(s).

(3) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in subsection 74112(b)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.

(4) Graduates employed in the field shall be reported for those graduates employed in the field in a single position that averages under 32 hours per week and those employed in the field in a single position that averages at least 32 hours per week.

2. Training must be for occupations in priority sectors based on State plan and/or local area plans. Training must result in industry recognized credential, certificate, or degree, including all industry appropriate licensing and/or certification requirements. Training programs and /or entities must have industry appropriate accreditation status.

3. New Programs:

A new program (one that has not enrolled any students and therefore has no performance to report) can be approved to be listed on the ETPL by a local board. The new program must meet all other eligibility criteria. The initial period of performance shall not exceed a maximum of 23 months.

C. Procedures for Initial Application for Listing on the ETPL

1. Each local board must submit nominations for listing on the ETPL to the EDD.
2. The EDD will accept nominations for the ETPL from local boards on any working day of the year. These nominations must be in the format specified by EDD and be accompanied by all the required data elements.

3. The EDD will accept daily any changes to data displayed for providers and programs already listed on the ETPL and will update the ETPL as necessary on any working day of the year.
 4. Each local board is responsible for providing updated information on the providers of programs listed through that local board and for informing EDD of any changes to the administrative, provider, or program data elements in order to keep the ETPL information current.
 5. The EDD will aggregate the local lists into a statewide list to produce the ETPL and will make the statewide list available through the Internet and the California Workforce Services Network.
 6. The EDD will update the ETPL within the 30-day limit allowed in WIA to incorporate initial listings, de-listings, and changes in administrative, provider, or program data elements for programs already on the ETPL.
- D. Special Procedures for Registered Apprenticeship Programs Approved by CDAS
1. The CDAS maintains a centralized data system that lists the state registered apprenticeships and their individual performance outcomes. These programs represent significant employment and training opportunities and shall be incorporated into the ETPL by the inclusion of a link to their data system.
- A. Performance Criteria for Use of State Registered Apprenticeships and Use of ITAs
1. All state registered apprenticeships must meet the minimum performance standards as established below in order for the participant to receive financial assistance through an ITA or supportive services funded by the WIA. Training must be for occupations in priority sectors based on State plan and/or local area plans.
 - Apprenticeship Completion Rate of 70% percent

Definition of Completion Rate: State-registered apprenticeship programs, which have had at least two (2) graduating classes, which have had an annual apprentice completion rate of at least 70% of the average completion rate, for two (2) consecutive years for the applicable trade or occupation, as verified by the State Division of Apprenticeship Standards
- E. Special Procedures for Programs Offered by the California Community College Community College (CCCCO) System:
1. The CCCCCO maintains a centralized system that lists programs offered by

the individual community college campuses. This listing will only include those programs, certificate or degree programs that are in the priority sectors identified by the State Board. These programs shall be incorporated into the ETPL by the inclusion of a link to their data system. This listing will be reviewed and updated on an annual basis by the State Board.

Performance Criteria for Use of California Community College Programs or Courses of Study and Use of ITAs

2. Training must be for occupations in priority sectors based on State plan and/or local area plans. Training must result in industry recognized credential, certificate, or degree, including all industry appropriate licensing and/or certification requirements. Training programs and /or entities must have industry appropriate accreditation status.

VI. DENIAL, DE-LISTING AND APPEALS

A. Denial for Initial Listing and Delisting of Programs/Providers

1. Reasons for Denial

- a. The application from a provider is not complete or not submitted within required timeframes.
 - b. The applicant fails to meet the minimum criteria for initial listing specified in this procedure (refer to Section V. A. and B.).
 - c. The applicant intentionally supplied inaccurate information.
 - d. The provider has been found to have substantially violated any WIA requirements.
 - e. The private postsecondary provider has not registered with BPPE, received approval to operate in California and has not complied with the BPPE Annual Performance Reporting requirement. [Title 5 California Code of Regulations Division 7.5](#)
 - f. No WIA participants have enrolled in the program during the previous 3 year program years (1 July through June 30).
2. If a local board denies a provider's application for listing on the ETPL, the local board must, within 30 days of receipt of the application, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process.
 3. If EDD denies a provider's program listing on the ETPL, EDD must within 30 days of receipt of the nomination from a local board, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process. In addition, EDD must inform the local board that

nominated the program of the denial and the reason(s) for the denial.

B. Penalties.

1. If EDD, in consultation with the appropriate local board, determines that a provider intentionally supplied inaccurate information, EDD shall terminate the eligibility of the provider, remove them from the ETPL and deny their eligibility to receive any funds under WIA Section 133(b) for at least two years.
2. If it is determined that an eligible provider substantially violates any WIA requirement, EDD or the local board working with EDD may terminate the eligibility of the provider to receive any funds for a period of time under WIA Section or take other such action as EDD or the local board deems appropriate.

C. Appeals to Local Boards

This procedure applies only to appeals by training providers to local boards based on the denial of a provider's application for initial listing on the ETPL or the de-listing of a program already listed on the ETPL.

2. Each local board must have a written appeal process that includes the following required provisions:
 - a. A provider wishing to appeal a decision by a local board must submit an appeal to the local board within 30 days of the issuance of the denial notice. The appeal must be in writing and include a statement of the desire to appeal, specification of the program in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official.
 - b. The first step in any local board appeal process must be an informal meeting between the local board staff and the appealing provider. The purpose of this meeting is to forestall the appeal process if there is an easy solution to the dispute.
 - c. The local board procedures must include the opportunity for appealing 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 before the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to present oral and written arguments; to request documents relevant to the issues(s), and to be represented.
 - d. A local board must notify providers of its final decision on an appeal within 60 days of receipt of the appeal. This period includes a hearing if

requested by the provider.

D. Appeals to EDD

1. A provider may appeal to EDD if it has exhausted the appeal process of a local board and is dissatisfied with the local board's final decision.
2. A provider wishing to appeal to EDD must submit a written appeal within 30 days from either the issuance of a denial notice or the provider's notification of a local board's final decision on an appeal. The request for appeal must include a statement of the desire to appeal, specification of the program in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official. A provider appeal should be addressed to:

ETPL APPEAL
Workforce Services Division, MIC 69
P.O. Box 826880
Sacramento, CA 94280-0001

3. The EDD will promptly notify the appropriate local board when EDD receives a request for appeal and when a final decision has been rendered.
4. The EDD will administratively review an appeal, make a preliminary decision, and notify the provider. The EDD can either uphold or reverse the appealed decision, or EDD can refer the appeal to the California Unemployment Insurance Appeals Board (CUIAB). The EDD will also refer an appeal to the CUIAB if the provider requests a hearing in writing within 15 days of the issuance of EDD's preliminary decision. The CUIAB will schedule a hearing with an administrative law judge whose decision will be issued within 60 days of the appeal being referred to the CUIAB or within 30 days of the closing of the record.
5. The administrative law judge shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten calendar days before the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to present oral and written arguments; to request documents relevant to the issues(s) and to be represented. The decision of the CUIAB administrative law judge is the final administrative decision.

SUBSEQUENT ELIGIBILITY POLICY AND PROCEDURES

A. Programs Subject to Subsequent Eligibility Determination

1. All programs provided by private postsecondary education providers and California Community Colleges must be determined eligible to remain on the ETPL beyond the initial period of eligibility. This determination is called “subsequent eligibility”. After the period of initial eligibility, each program listed on the ETPL will be re-evaluated for eligibility each calendar year thereafter.

B. Sources of Data for Subsequent Eligibility

1. Data to support the determination of subsequent eligibility for private postsecondary education programs will be obtained from the training providers annually.
 - a) As part of its mandate through the passage of the BPPE Act of 2009, the BPPE is charged with the collection and dissemination of performance data from all training providers subject to its authority. Accordingly, all providers approved to operate by BPPE must also file an annual report card, which includes important consumer information on the overall success of the programs registered with them. These reports shall be the basis and evidence to support the subsequent eligibility determination for private postsecondary training providers.
 - b) Local workforce investment boards will be required to submit documentation on certificate and/or credential attainment and placement for all WIA enrolled participants who utilize ITAs for training through Community College programs. This documentation is to be collected through the CWSN systems.

C. Criteria for Subsequent Eligibility

1. Private Postsecondary Education Providers

- a) In order to be determined eligible under A.1 above, programs must be for occupations in priority sectors based on State plan and/or local area plans. Training must result in industry recognized credential, certificate, or degree, including all industry appropriate licensing and/or certification requirements. Training programs and /or entities must have industry appropriate accreditation status
- b) In addition, the program must meet the following performance target during the period of initial eligibility:
 - Entered employment (placement) in training-related occupation rate of 70%

c) Entered Employment (Placement) Rates Definition

“California Code of Regulations - Title 5. California Code of Regulations Division 7.5” Section 74112

(2) Placement is measured six months from the graduation date of each student. Reporting of placement rates shall include for each educational program: the number of students who began the program, the number of graduates as defined in subdivision (b), graduates available for employment, graduates employed in the field and placement rate(s).

(3) Placement rate shall be calculated as follows: the number of graduates employed in the field as defined in subsection 74112(b)(3) divided by the number of graduates available for employment as defined in section 94928(d) of the Code.

(4) Graduates employed in the field shall be reported for those graduates employed in the field in a single position that averages under 32 hours per week and those employed in the field in a single position that averages at least 32 hours per week.

2. Community College Programs

a) In order to be determined to be eligible under A.1 above, programs must be for occupations in priority sectors based on State plan and/or local area plans. Training must result in industry recognized credential, certificate, or degree, including all industry appropriate licensing and/or certification requirements. Training programs and /or entities must have industry appropriate accreditation status.

b) In addition, the programs must meet the following performance target during the period of initial eligibility for WIA participants:

- Certificate or credential attainment rate of 70% percent
- Entered employment in training-related occupation rate of 70% (for WIA enrolled participants);

Entered Employment (Placement) Rates Definition

Of those who are not employed at the date of participation - The number of adult participants who are employed in the first quarter after the exit quarter divided by the number of adult participants who exited during the quarter.

3. CDAS Approved Apprenticeship Programs

a) The apprenticeships registered with the CDAS will not be subject to the subsequent eligibility determination. This policy establishes a minimum performance standard that must be consistently met by the apprenticeship programs to continue to be eligible to receive WIA funding.

D. Delisting of a Provider and/or Program

1. A provider and/or program can be removed from the ETPL for any of the following reasons:

- a) It is determined that the program does not meet the minimum criteria for initial listing specified in this procedure (see Section V.A-B). For example, a program can be de-listed if its eligibility depended on accreditation, and the accreditation was lost [WIA Section 122(c)(6)
- b) It is determined that the applicant intentionally supplied inaccurate information
- c) The provider is found to have substantially violated any WIA requirements
- d) No WIA participants have enrolled in the program during the previous 3 program years (July 1 through June 30).
- e) It is determined that they provider did not comply with BPPE's annual reporting requirement.
- f) If a local board de-lists a program from the ETPL, the local board must, within ten days of its decision, inform the provider in writing and include the reason(s) for the denial and complete information on the appeals process.
- g) If EDD de-lists a program from the ETPL, EDD must, within ten-days of its decision, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process. In addition, EDD must inform the local board where the provider applied of the denial and the reason(s) for the denial.

E. Penalties.

- 1. If EDD, in consultation with the appropriate local board, determines that a provider intentionally supplied inaccurate information, EDD shall terminate the eligibility of the provider, remove them from the ETPL and deny their eligibility to receive any funds under WIA Section 133(b) for at least two years.
- 2. If is determined that an eligible provider substantially violates any WIA requirement, EDD or the local board working with EDD may terminate the eligibility of the provider to receive any funds for a period of time under WIA Section or take other such action as EDD or the local board deems appropriate.

F. Appeals to Local Boards

- 1. This procedure applies only to appeals by training providers to local boards based on the denial of a provider's application for initial listing on the ETPL or the de-listing of a program already listed on the ETPL.
- 2. Each local board must have a written appeal process that includes the following required provisions:
 - a. A provider wishing to appeal a decision by a local board must submit an appeal to the local board within 30 days of the issuance of the denial

notice. The appeal must be in writing and include a statement of the desire to appeal, specification of the program in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official.

- b. The first step in any local board appeal process must be an informal meeting between the local board staff and the appealing provider. The purpose of this meeting is to forestall the appeal process if there is an easy solution to the dispute.
- c. The local board procedures must include the opportunity for appealing 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 before the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to present oral and written arguments; to request documents relevant to the issues(s), and to be represented.
- d. A local board must notify providers of its final decision on an appeal within 60 days of receipt of the appeal. This period includes a hearing if requested by the provider.

G. Appeals to EDD

1. A provider may appeal to EDD if it has exhausted the appeal process of a local board and is dissatisfied with the local board's final decision.
2. A provider wishing to appeal to EDD must submit a written appeal within 30 days from either the issuance of a denial notice or the provider's notification of a local board's final decision on an appeal. The request for appeal must include a statement of the desire to appeal, specification of the program in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official. A provider appeal should be addressed to:

ETPL APPEAL
Workforce Services Division, MIC 69
P.O. Box 826880
Sacramento, CA 94280-0001

3. The EDD will promptly notify the appropriate local board when EDD receives a request for appeal and when a final decision has been rendered.
4. The EDD will administratively review an appeal, make a preliminary decision, and notify the provider. The EDD can either uphold or reverse the appealed decision, or EDD can refer the appeal to the California Unemployment Insurance Appeals Board (CUIAB). The EDD will also refer an appeal to the CUIAB if the provider requests a hearing in writing within 15 days of the issuance of EDD's preliminary decision. The CUIAB will schedule a hearing with an administrative law judge whose decision will be issued within 60 days

of the appeal being referred to the CUIAB or within 30 days of the closing of the record.

6. The administrative law judge shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten calendar days before the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to present oral and written arguments; to request documents relevant to the issues(s) and to be represented. The decision of the CUIAB administrative law judge is the final administrative decision.

H. Subsequent Determination Calendar

September	Private postsecondary trainings providers subject to BPPE approval, submit their Annual Report
December	EDD provides lists of providers by local area, to local boards for review and subsequent eligibility determination
March	Local boards complete the local review of training providers and subsequent eligibility determination and forward the list to EDD
March\April	Local boards shall notify the providers that have been delisted and provide information on appeal procedures.
April\May	EDD shall verify with BPPE that reporting requirements have been satisfied, retain all providers that meet the performance criteria and delist all providers that do not meet the performance requirements.
May\June	EDD shall notify the providers that have been delisted due to noncompliance with BPPE reporting requirements and provide information on the appeal process.
June	EDD will update the ETPL and republish the list.