



DEPARTMENT OF
CAREER SERVICES

Workforce Issuance

100 DCS 14.100.5

☒ **Policy** ☐ **Information**

To: Chief Elected Officials
MassHire Workforce Board Chairs
MassHire Workforce Board Directors
MassHire Career Center Directors
MassHire Fiscal Officers
MassHire DCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
MassHire Department of Career Services

Richard Jeffers, Director
Department of Unemployment Assistance

Date: October 16, 2020

Subject: **Massachusetts Eligible Training Provider List (MA ETPL) Initial and Subsequent Eligibility Process - Revised**

Purpose: To notify MassHire Workforce Development Boards, MassHire Career Center Operators and other workforce partners of policy guidance and instruction in establishing procedures related to the review of applications for initial and subsequent eligibility from training organizations wishing to provide training services under the Workforce Innovation and Opportunity Act of 2014 (WIOA). The Trade Adjustment Assistance Program (TAA), the Massachusetts Training Opportunities Program (TOP/Section 30), and Registered Apprentice Programs will follow the

An equal opportunity employer/program.

Auxiliary aids and services are available upon request to individuals with disabilities.

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same protocols as described below unless otherwise noted. Please note that individual courses are approved by each agency program separately; approval from one agency program does not constitute approval from all.

Revision:

This policy has been revised to apply an Entered Employment/Placement Rate that is flexible in accordance with the state's Unemployment Rate (UR) to ALL programs/fund sources (the flexibility was formerly permitted only for the TOP/Section 30 program). MassHire Workforce Boards may re-determine course eligibility based upon this criteria retroactive to July 1, 2020.

Background: The State Workforce Agencies (MDCS and DUA) and the MassHire Workforce Development Boards (Local Boards) must establish procedures for the training providers and course approval for initial and subsequent eligibility, effective July 1, 2015, that are compliant with the MA ETPL requirements.

Action

Required: The State Workforce Agency and each Local Board must ensure that processes for initial and subsequent eligibility adhere to the policy and procedural framework described in this issuance.

Effective: Immediately

References: Workforce Innovation and Opportunity Act, Section 122, Identification of Eligible Providers of Training Services.

WIA Communication 04-68, Process for Determination of Training Course Initial and Subsequent Eligibility for the Provision of Training Services to Individual Training Account Recipients under Title I of the Workforce Investment Act <http://www.mass.gov/massworkforce/docs/issuances/policy/2004/0468.pdf>

WIA Communication 14-52, Subsequent Eligibility for ITA Training Provider Courses <http://www.mass.gov/massworkforce/docs/issuances/policy/2014/1452.pdf>

Training and Employment Guidance Letter 13-16 (TEGL 13-16): Guidance on Registered Apprenticeship Provisions and Opportunities in WIOA.

Training and Employment Guidance Letter 03-18 (TEGL 03-18): ETP Reporting Guidance Under WIOA.

Training and Employment Guidance Letter 08-19 (TEGL 08-19): WIOA Title I Provider Eligibility and State List of ETPs and Programs,

Inquiries: Please send questions related to this policy to PolicyQA@MassMail.State.MA.US with reference to this Issuance number and description.

I. OVERVIEW

Section 122(a)(1) of the Workforce Innovation and Opportunity Act requires that, “Except as provided in subsection (h), the Governor, after consultation with the State board, shall establish criteria, information requirements, and procedures regarding the eligibility of providers of training services to receive funds provided under section 133(b) for the provision of training services in local areas in the State.” (referred to...as ‘initial eligibility’).”

Additionally, Section 122(c)(2) requires “Renewal procedures.--The procedures established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services” (referred to...as ‘subsequent eligibility’).”

The workforce system established under the Workforce Innovation and Opportunity Act of 2014 (WIOA) emphasizes provider financial and programmatic integrity, system performance, informed customer choice and continuous improvement.

As the Commonwealth’s designated Workforce Agency and administrator of WIOA programs, the MassHire Department of Career Services (MDCS) is responsible for maintaining the Statewide List of Eligible Training Service Providers/Courses. As required by WIOA, MDCS must ensure that Massachusetts providers meet the following:

A. Financial Stability and Capacity: Providers must show evidence of overall financial stability and the capacity to administer funding following accepted accounting practices. Additionally, training providers will be evaluated on the following:

- a. Registered and issued a certificate of good standing with the Massachusetts Department of Unemployment Assistance (DUA).
- b. No outstanding citations from the Office of the Attorney General, Fair Labor Practice or Consumer Protection Division within the prior 5 years.
- c. No willful or repeat violations issued by the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA).
- d. An active workers’ compensation insurance policy and not debarred via the MA Department of Industrial Accidents (Businesses Issued Stop Work Orders by the Department of Industrial Accidents).
- e. A Certificate of Good Standing from the Massachusetts Department of Revenue
- f. Not listed on the Federal Government's Excluded Parties List System
- g. Not listed on the Division of Capital Asset Management and Maintenance Debarred Contractor's List
- h. Not listed on the Office of the Attorney General Vendor Debarment List
- i. Not listed on the Contractors Suspended or Debarred by MassDOT

B. Programmatic Capacity: Providers must show evidence of programmatic capacity. License by oversight/accreditation organizations such as the MA Dept. of Education, MA

Board of Higher Education, the New England Association of Schools and Colleges or other recognized accrediting agencies satisfies the requirement of evidence of program capacity. Eligible providers include:

- a. Massachusetts public colleges or universities accredited by the Massachusetts Department of Higher Education that offer training programs leading to a recognized post-secondary credential.
- b. Institutions of higher education that offer training programs leading to a recognized post-secondary credential that are accredited by the New England Commission of Higher Education, Inc. (NECHE) or the Higher Learning Commission (HLC) that accredits degree-granting colleges and universities in the North Central region of the United States.
- c. Vocational / technical or public schools accredited by the Massachusetts Department of Elementary and Secondary Education offering training programs leading to a recognized post-secondary credential.
- d. Private Massachusetts providers of training services licensed or exempted from licensure by the MA Division of Professional Licensure's Office of Private Occupational School Education (DPL) or other authorizing or accrediting board or agency.
- e. Private Massachusetts providers of training services that have documented exemption from licensure.
- f. Adult Basic Education (ABE) /English for Speakers of Other Languages (ESOL) providers approved by the Massachusetts Department of Elementary and Secondary Education.
- g. Non-Massachusetts private or public providers licensed and/or accredited in the state of business registration (home state) or appearing on the home state's Eligible Training Provider List.
- h. Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50 at seq.). Note: Sponsors of apprenticeship programs registered with the Division of Apprentice Standards (DAS), the State Apprenticeship Agency in Massachusetts, or with the US Department of Labor Office of Apprenticeship (USDOL/OA), are automatically eligible for inclusion on the Massachusetts ETPL. Sponsors are not subject to the same application and performance information requirements or to a period of initial eligibility or the initial eligibility procedures as other MA ETPL applicants due to the rigorous application and vetting process required for registered programs. The application process to become a registered apprenticeship program is similar to the process outlined in Section A "Financial Stability and Capacity", above, and does not need to be replicated by MDCS for ETPL approval. [*Pre-apprenticeship programs do not have the same automatic ETPL approval as sponsors of registered apprenticeship programs. Industry Recognized Apprenticeship Programs (IRAPs) do not receive the same ETP exceptions that WIOA allows for RAPs. Therefore, IRAPs seeking addition to the Massachusetts ETP List must follow the same process requirements as other training providers that are not RAPs]. Massachusetts DAS will notify registered apprentice program sponsors by letter of ETPL automatic eligibility. The letter of eligibility provides the sponsor with a list of required information and the link to Training Pro.

C. Verifiable Performance: Training providers (except sponsors of registered apprenticeship programs) must provide the most recent available and verifiable performance data on all course participants. At a minimum, outcome data must be from performance within the previous two (2) years. Training providers must give sufficient explanation if performance data are not available (for example, a course not previously offered).

WIOA performance data from the previous years will be made available on the ETPL website for each course as reported to the USDOL/ETA annually.

Performance must meet these minimums:

1. Completion Rate: 70%
 2. Placement Wage: State Minimum Wage
 3. Entered Employment/Placement Rate: placement rate is as follows depending upon the state's Unemployment Rate (UR):
 - UR at or below 7.0%, then placement rate must be at least 70%
 - UR at or below 8.0%, then placement rate must be at least 60%
 - UR above 8.0%, then placement rate must be at least 50%
- ABE, ESOL and HISET (high school equivalency) courses must meet a minimum Completion Rate of 70%. These courses are considered remedial and do not provide credentials leading to employment.
- Approval of courses for TOP/Section 30 (DUA) and Trade (MDCS) program participants may be handled on an individual basis due to particular circumstances.

D. Meeting Customer Needs: The process for determining initial and subsequent eligibility of providers' training programs is an integral part of the strategy for achieving consumer choice. Local Boards, using an application process and criteria established in partnership with the State will identify training providers whose performance qualifies them to receive funds under workforce programs.

In an effort to streamline and integrate workforce programs, provider and course approvals for the Trade Program (TAA) and Training Opportunities Program (TOP/ Section 30) will be included in the processes described within this policy, where applicable. Trade and TOP/Section 30 course submissions are approved centrally by MDCS and DUA, respectfully.

The statewide list of training programs is compiled based on the eligible provider programs as determined by MDCS and Local Boards during the initial eligibility review/approval process and the subsequent eligibility process. Only those provider training programs appearing on the Statewide List of Eligible Training Service Courses/Providers are authorized for Individual Training Accounts (ITA) training services for WIOA Title I participants. The Trade Program and the

Training Opportunities Program, upon customer request, will work with training providers directly to gather additional required documentation to place them on approved vendor lists.

If the training program is approved by any of the Commonwealth's Local Boards, the training program will be included on the MA ETPL. Programs not approved by any Local Board for ITA, or by MDCS or DUA, are excluded from the MA ETPL.

The MA ETPL includes information on training providers, descriptions of training programs, local workforce areas in which the programs are eligible, and performance and cost information about the training programs. The MA ETPL is available to the public through the JobQuest web application.

E. State Appeal Process for Denied Training Providers: The Appeal Process is defined in MassWorkforce Issuance 100 DCS 03.108, 07/01/2015, Unified Workforce System Complaint and Appeal Process and any subsequent revisions.

Note that TOP/Section 30 and Trade course denials are not appealable. Training providers can update and resubmit course information at any time and receive a new eligibility determination based on the new/additional information. Sponsors of registered apprentice programs receive automatic approval and subsequent removal from the list requires a request to MDCS from the sponsor or from DAS when the program is no longer registered or in compliance.

II. INITIAL AND SUBSEQUENT ELIGIBILITY APPLICATION PROCESS

A. Training Provider Application Process

Prospective training providers must apply for course eligibility approval status for their programs electronically utilizing TrainingPro, an on-line training provider registration and course application program. It is designed to enable prospective providers to simultaneously apply for course approval for the following:

- WIOA Title I Individual Training Accounts (ITAs)
- Trade Adjustment Assistance Programs (TAA)
- Training Opportunities Program (TOP/Section 30)

Note: TAA requires completion of an additional Request for Resources (RFR) in order to meet TAA approval requirements and establish a contract with the State for providing TAA training. Access RFR at <https://www.commbuys.com/bso/>. The information on the additional RFR is reviewed by the Executive Office of Labor and Workforce Development (EOLWD) Administration and Finance (ANF), Contracts and Procurement Department.

Local Boards are authorized to review provider applications for WIOA ITA, only.

Training providers can access TrainingPro at <https://web.detma.org/provider/prl.asp>.

(*Note: Sponsors of registered apprenticeship programs will automatically be approved due to the vetting required before approval as a sponsor. Sponsors are not subject to the local eligibility review process outlined in Section III below.)

B. Timeline

Prospective training providers may apply at any time on a year-round basis. Eligibility will be open and rolling; however, provider and course approvals will end on a fiscal year basis, i.e., June 30, regardless of when providers apply. TrainingPro will be available at the beginning of each June for providers to reapply. (The State reserves the right to review training providers and courses at any time and to place providers or courses in hold status, if necessary, to resolve questions or concerns regarding a provider or course, or to remove a provider or course from the MA ETPL.)

III. LOCAL ELIGIBILITY REVIEW PROCESS

On an annual basis, the State (MDCS) will approve training providers that meet the requirements of financial stability and programmatic capacity described in Section I A, B, and C above. Local Boards will review and approve training courses/programs submitted by approved training providers.

Each Local Board must develop and maintain procedures to determine the eligibility of a training provider's courses/programs in an objective and consistent manner. Each Local Board must define its own procedures, consistent with the requirements of this policy directive.

Review by the Local Board assures that there will be access to training throughout the State.

A. Appointment of Reviewers

Procedures must include identification of the types of individuals who will review and determine eligibility of providers' courses/programs. Local Boards must consider and comply with their procurement requirements and procedures when appointing one or more reviewers. All reviewer(s) are subject to all WIOA and State conflict of interest requirements.

B. Use of State Minimum Criteria

Procedures must clearly describe how reviewers will apply any local policies related to the following factors:

- a. Quality programs related to in-demand industries and occupations as determined by the Local Board.

- b. Quality training programs that lead to industry recognized credentials and certificates.
- c. Documented performance meeting state minimums: Completion Rate: 70%; Entered Employment Rate: 60%; and Placement Wage: State minimum wage.
- d. Quality training programs that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities.

Note: Local areas should notify MDCS at any time regarding questions or concerns about the programmatic or fiscal capacity of a provider on the MA ETPL.

C. Local Performance Criteria

Each Local Board may set higher levels of performance than the State minimum as criteria for training providers on the MA ETPL to provide services in their local area.

Procedures must describe how reviewers will apply local performance standards in an objective and consistent manner. Applicants may not be penalized for failure to provide performance information if it is not available. However, as part of the application process a prospective provider must provide an explanation as to why the performance information is not available.

D. Review Timeline

Local Board designated reviewers must complete the review and determine the eligibility of a training course/program within 30 days following the date the training provider was approved by the State.

Local reviewers must regularly review all ITA training programs in “pending” status for the local area and a determination should be entered within the 30-day period. It is expected that each Local Board will establish a regular and timely review process to assure compliance with the 30-day standard.

- a. It is recommended that, at a minimum, Board reviewers conduct weekly searches for ITA courses in “pending” status so courses are made available on the MA ETPL timely.
- b. It is recommended that, at a minimum, Trade Program reviewers conduct weekly searches for Trade courses in “pending” status.
- c. It is recommended that, at a minimum, TOPs reviewers conduct weekly searches for TOP/Section 30 courses in “pending” status.

The reviewer will submit a brief explanation of the reason for denial of any training course/program in MOSES.

If, after 90 days, the Local Board has not made a determination on a training course/program submitted for ITA consideration, the training program will automatically be defaulted to “No Action Taken” in the MOSES database for ITA determinations only.

Only training courses/programs approved by the Local Board are eligible for funding in WIOA by the Local Board.

As cited earlier, training program applications not approved by any local area will be excluded from the MA ETPL.

E. Appeal Process for Denied Training Course/Programs

Each Local Board must establish an appeal process consistent with requirements in Mass-Workforce Issuance, 100 DCS 03.108, 07/01/2015, Unified Workforce System Complaint and Appeal Process and any subsequent revisions.

IV. THE STATEWIDE ELIGIBLE PROVIDER LIST

The MA ETPL will be accessible to all MassHire Career Centers and their customers and to all Local Boards and to the public through JobQuest. The MA ETPL includes information on training providers, descriptions of training programs, local workforce areas in which the programs are eligible, and performance and cost information about the training programs.

If the training program has been approved by any of the Commonwealth’s Local Boards, the training program will be included on the MA ETPL. The exception is automatic approval for sponsors of Apprenticeship programs registered with Massachusetts DAS or USDOL Office of Apprenticeship. Programs not approved by any Local Board for ITA, or by MDCS or DUA, are excluded from the MA ETPL.

Please note, at any time, if information becomes available to MDCS via DAS, OA or any other viable source, which would require the need to suspend or end a provider’s eligibility or course(s) approval, MDCS will take action to do so and notify the vendor and any other appropriate parties (i.e. local areas and/or TOPS Unit at DUA).

V. ITA SUBSEQUENT ELIGIBILITY

A. MDCS Annual Subsequent Eligibility Procedures

On June 1 of each fiscal year, MDCS will identify all approved training providers with courses having an end date that falls between April 1 and June 30 and also had at least one course enrollment since the previous July 1 (the start of the fiscal year). The training provider and course approval date(s) will be extended for an additional year, if:

- Training providers meet the fiscal, programmatic integrity and performance standards outlined in Overview sections A, B, and C above in a timely manner.
- MDCS will not update any course approval for subsequent eligibility that does not meet the above criteria.
- Prior to actually performing the annual course subsequent eligibility for WIOA course approval, MDCS will distribute to each Local Board the following:
 - A list of all previously approved ITA courses for the local area that have been reviewed by MDCS for subsequent eligibility determination. The list will specifically indicate which of those courses MDCS intends to approve for subsequent eligibility and those it does not intend to approve for subsequent eligibility.
 - Reports that the Local Board may use to review eligibility performance statistics based on data provided by the training provider and training provider performance for WIOA participants.

This “Subsequent Eligibility” communication will be forwarded to each Local Board no later than 2 weeks prior to the date that MDCS intends to perform the actual subsequent eligibility update in the MOSES database. The communication will specifically reference the date on which MDCS plans to perform the statewide “subsequent eligibility” update.

If at any time the information provided by the training provider is found to be deliberately falsified, this will constitute a substantial violation of the ETPL requirement and the training provider and their courses will be removed from the ETPL and appropriate legal actions will be taken.

B. Local Area/Program Annual Subsequent Eligibility Procedures

Each Local Board, Trade and the TOP/Section 30 Program will designate a representative (or representatives) to review the subsequent eligibility communication from MDCS to assess the consistency of the planned course/provider subsequent eligibility update to be performed by MDCS (described above) with local or programmatic approval standards (related to local performance criteria such as completion rate, entered employment rate, etc.).

If a MDCS “subsequent eligibility” update decision (to either approve or not approve) for a specific course is found to be inconsistent with local policy, the designated local reviewer will make appropriate changes to the course status for that course in MOSES. This status change must be completed immediately following the date on which MDCS completes its “subsequent eligibility” update. As stated above, the communication forwarded to the Local Board will specifically identify the date on which MDCS plans to perform the update.