State Policy

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Eligible Training Providers, Change 2

REFERENCE

Federal and state laws, regulations, rules, and other guidance and documentation relied upon for development of this policy are cited in footnotes.

BACKGROUND

The Nebraska Eligible Training Provider List1 (ETPL) is a list of training providers that are qualified to receive WIOA Title IB funding for the provision of training services to eligible individuals through approved training programs, including Registered Apprenticeship programs.

CHANGES

Once finalized, this policy will establish the following material changes to the superseded and cancelled policy.

- Revisions have been made to Section I to clarify eligibility criteria for training providers and programs.
- Revisions have been made to Section II to refine eligibility processes, including:
  - submission of program-specific performance data in order to determine initial and continued program eligibility; and

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1 Nebraska’s ETPL is provided online through NEworks. To access the list, go to https://neworks.nebraska.gov. On the NEworks homepage under the Job Seekers column, click on Training Services > ETPL Approved Programs.
o minimum program-specific performance standards for initial and continued eligibility determinations.

- Provisions in Section III relating to Registered Apprenticeship programs have been revised to clarify:
  o automatic eligibility and minimal information requirements for inclusion of the programs on the Nebraska ETPL;
  o outreach practices to promote participation by Registered Apprenticeship programs in the ETPL; and
  o maintenance of the programs on the ETPL.

- Revisions have been made in Section IV to clarify requirements and rights relating to denial or termination of ETPL inclusion, including program removal processes and related appeal processes.

- Revisions have been made in Section V regarding program-specific performance reports.

- APPENDIX I now includes a definition for program of training services.

**ACTIONS**

Once finalized, this policy will supersede and cancel the State’s Eligible Training Providers, Change 1 policy (effective date September 10, 2022). Questions and comments on this draft policy may be submitted in writing to the WIOA policy mailbox at ndol.wioa_policy@nebraska.gov during the 30-day public comment period beginning on June 16, 2022 and ending July 16, 2022.

Training providers are subject to and must adhere to the following requirements and processes in order to be included on the Nebraska ETPL:

- eligibility requirements and processes, including program-specific performance data reporting requirements and minimum performance standards; and

- record retention requirements.

Sponsors of Nebraska Registered Apprenticeship programs and National Registered Apprenticeship programs are automatically eligible for inclusion on the Nebraska ETPL and subject to minimal requirements.

Local boards are subject to and must adhere to the requirements of Section VIII(b) and must ensure that local area staff, including service provider staff, are knowledgeable of the requirements and follow the consumer choice requirements described in Section VIII(b)(1).
POLICY

This policy has eight sections and one appendix.

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Section I. Eligibility criteria

Eligibility is based on the characteristics of training providers and training provider programs.

(a) Provider eligibility requirements

(1) Training providers that are not sponsors of Registered Apprenticeship programs

For training providers that are not sponsors or sponsoring intermediaries of Nebraska Registered Apprenticeship programs or sponsors of National Registered Apprenticeship programs, all criteria listed below must be met.

1. The training provider must provide information about its organization and information for its primary representative. ²

2. The training provider must be one of the following: ³
   a. Industry Recognized Apprenticeship program; ⁴
   b. postsecondary education institution; or
   c. other public or private provider of training, such as a:
      i. community-based organization;
      ii. joint labor-management organization; or
      iii. provider of Title II Adult Education and Family Literacy Act activities, provided the activities occur in combination with work-based training.

² 20 CFR § 680.430(a)
³ 20 CFR § 680.410(d); TEGL 8-19
⁴ Industry Recognized Apprenticeship programs and non-sponsoring intermediaries of Registered Apprenticeship programs are not automatically eligible for inclusion on the ETPL and are subject to the eligibility criteria and processes described in Section I and Section II [TEGL 8-19].
3. The training provider must have been in operation at least 12 months at the time of application. This is a State requirement, as permitted under WIOA Sec. 122(b)(1)(J).

4. The training provider must be authorized by accrediting or governing authorities to provide training services in Nebraska or to Nebraska residents.  
   a. For traditional postsecondary schools, such as four-year universities and colleges and community colleges, the governing authority is the higher education authority that accredited the school.
   b. For private postsecondary career schools operating in Nebraska or outside of Nebraska, the governing authority is the Nebraska Department of Education in accordance with the Nebraska Private Postsecondary Career School Act.

5. The training provider must provide information on its participation (or non-participation) in the Federal Pell Grant Program.

6. The training provider must:
   a. comply with the requirements of:
      i. WIOA Sec. 188 and 29 CFR Part 38, which prohibit discrimination on the basis of age, disability, sex, race, color, national origin, political affiliation or belief, or student status; discrimination against certain noncitizens; and assistance for facilities used for religious instruction or worship; and
      ii. the Americans with Disabilities Act, as amended;
   b. provide physical and programmatic accessibility to its programs for individuals who are employed and individuals with barriers to employment, including individuals with disabilities;
   c. submit timely and accurate program performance reports as required under Sections II(a), II(b), II(c), and V(a); and
   d. retain documentation verifying the accuracy of submitted program performance reports and provide access to the documentation as required under Section VI.

7. The training provider must not be debarred, suspended, or otherwise excluded from or ineligible for participation in Federal programs or activities.

(2) Training providers that are sponsors of Registered Apprenticeship programs

Registered Apprenticeship sponsors and programs are automatically eligible for inclusion on the ETPL and exempt from the eligibility requirements and processes described in Sections I and II.

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5 WIOA Sec. 122(b)(1)(E); 20 CFR § 680.460(f)(5)
6 Neb Rev. Stat. §§ 85-1601 – 85-1658 (Title 92, Chapter 41)
7 20 CFR § 683.285
8 20 CFR § 683.250(a)(4)
9 TEGLs 08-19 and 08-19 Change 1
Registered Apprenticeship sponsors and programs that are exempt include:

- sponsors and programs that have been approved by the US Department of Labor Nebraska Office of Apprenticeship;

- sponsoring intermediaries and programs that have been approved by the US Department of Labor Nebraska Office of Apprenticeship and:
  - provide the required related technical instruction; and
  - have signed participation agreements with Nebraska employers;

- sponsors and programs that have been approved by the US Department of Labor National Office of Apprenticeship and:
  - have an operational presence in Nebraska; or
  - provide on-line instruction that is available in Nebraska.

Note. Training providers who are Industry Recognized Apprenticeship programs and non-sponsoring intermediaries of Registered Apprenticeship programs are subject to all eligibility requirements and processes, program-specific performance requirements, and record retention and access requirements described in Section I(a)(1), II, V(a), and VI. It is important to note, however, that employers who sign participation agreements with non-sponsoring intermediaries pursuant to intermediary standards approved by the US Department of Labor Nebraska Office of Apprenticeship are automatically eligible for inclusion on the ETPL, because employers become sponsors of the Registered Apprenticeship programs based on their participation agreements with intermediaries.

(b) Program eligibility requirements

(1) Programs provided by training providers that are not sponsors of Registered Apprenticeship programs

(A) Initial eligibility for new programs

In addition to provider eligibility requirements described above in Section I(a)(1), the requirements listed below for initial eligibility for new programs must be met.¹⁰

1. The program must provide one or more courses or classes leading to one or more of the following outcomes:
   a. industry-recognized certificate or certification;
   b. license recognized by the Federal government, State of Nebraska, or another state;
   c. postsecondary diploma;

¹⁰ 20 CFR §§ 680.450(e) and 680.490; TEGL 8-19
d. associate or baccalaureate degree;

e. secondary-school diploma or its equivalent earned in conjunction with occupational skills training;

f. employment; or

g. measurable skills gains toward employment.

2. The training provider must submit a complete program application in NEworks for the program that includes:  

a. a thorough program description;

b. clear information about the provider’s business partnerships in relation to the program;

c. complete cost information for the program;

d. identification of all locations where the program is offered;

e. information addressing the program’s alignment with in-demand occupations in Nebraska; 

f. other information required in the NEworks program application.

3. The training provider must provide verifiable program-specific performance data required under Sections II(a), II(b), or II(c), as applicable, for the cohort of students that enrolled in the program of training services (i.e., program of study) during the previous full 12-month period that began on July 1 and ended on June 30, based on the following performance indicators:

a. employment rates at the second quarter after program exit;

b. employment rates at the fourth quarter after program exit;

c. median earnings at the second quarter after program exit; and

d. credential attainment rates.

It is important to note that initial eligibility may be granted for only one year starting on the date initial eligibility is granted. Before continued eligibility will be granted, the requirements described in the next section must be met.

11 TEGL 08-19
12 Data on in-demand occupations in Nebraska is provided by the Nebraska Department of Labor and is accessible at https://neworks.nebraska.gov/vosnet/gsipub/documentView.aspx?enc=oduMpwMRTIQnt7W7WO2/Ew==.
13 Performance reporting is required only for individuals enrolled in the program of training services (i.e., program of study) and is not required for individuals who elect to take an individual course that is part of the program [TEGLs 03-18 and 08-19 Attachment I].
14 TEGL 08-19, Attachment III
15 WIOA Sec. 122(b)(4)(B)
(B) Continued eligibility for current programs

In addition to provider eligibility requirements described above in Section I(a)(1), the requirements listed below for continued eligibility for current programs must be met.16

1. The program must provide one or more courses or classes leading to one or more of the following outcomes:

   a. industry-recognized certificate or certification;
   
   b. license recognized by the Federal government, State of Nebraska, or another state;
   
   c. postsecondary diploma;
   
   d. associate or baccalaureate degree;
   
   e. secondary-school diploma or its equivalent earned in conjunction with occupational skills training;
   
   f. employment; or
   
   g. measurable skills gains toward employment.

2. The training provider must submit a complete program application in NEworks for the program that includes:17

   a. a thorough program description;
   
   b. clear information about the provider’s business partnerships in relation to the program;
   
   c. complete cost information for the program;
   
   d. identification of all locations where the program is offered;
   
   e. information addressing the program’s alignment with in-demand occupations in Nebraska;18 and
   
   f. other information required in the NEworks program application.

3. The training provider must provide verifiable program-specific performance data required under Sections II(a), II(b), or II(c), as applicable, for the cohort of students that enrolled19 in the program of training services (i.e., program of study) during the previous full 12-

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16 20 CFR §§ 680.450(e) and 680.490; TEGL 8-19
17 TEGL 08-19
18 Data on in-demand occupations in Nebraska is provided by the Nebraska Department of Labor and is accessible at https://neworks.nebraska.gov/vosnet/gsipub/documentView.aspx?enc=oduMpwMRTIQnt7W7WO2/Ew==.
19 Performance reporting is required only for individuals enrolled in the program of training services (i.e., program of study) and is not required for individuals who elect to take an individual course that is part of the program [TEGLs 03-18 and 08-19 Attachment I].
month period that began on July 1 and ended on June 30, based on the following performance indicators:\textsuperscript{20}

\begin{enumerate}
\item employment rates at the second quarter after program exit;
\item employment rates at the fourth quarter after program exit;
\item median earnings at the second quarter after program exit; and
\item credential attainment rates.
\end{enumerate}

It is important to note that continued eligibility may be granted for only two years starting on the date continued eligibility is granted.\textsuperscript{21}

(c) Additional eligibility criteria that may be considered

In addition to the eligibility requirements described in Sections I(a)(1) and I(b)(1), NDOL may also consider the following factors when determining training provider and initial and continued program eligibility:\textsuperscript{22}

\begin{itemize}
\item NDOL's obligation to ensure access to training services throughout Nebraska and through the use of technology;
\item information reported to state agencies regarding Federal and state training programs other than programs authorized under WIOA Title IB;
\item encouraging the use of industry-recognized certificates and credentials;
\item quality of programs and ability of training providers to offer programs leading to postsecondary credentials; and
\item other factors NDOL may determine as appropriate.
\end{itemize}

(d) Training provider use of third parties to provide training

If a training provider contracts with a third party to provide training services for a program \textit{and} that third party awards the resulting credential, that third party must be authorized by accrediting or governing authorities to provide training services in Nebraska or to Nebraska residents.\textsuperscript{23}

\begin{enumerate}
\item For traditional postsecondary schools, such as four-year universities and colleges and community colleges, the governing authority is the higher education authority that accredited the school.
\end{enumerate}

\textsuperscript{20} TEGL 08-19, Attachment III
\textsuperscript{21} TEGL 08-19, Attachment II
\textsuperscript{22} WIOA Secs. 122(b)(1)(B) – (C) and (F) – (H); 20 CFR § 680.460(f)
\textsuperscript{23} WIOA Sec. 122(b)(1)(E); 20 CFR § 680.460(f)(5)
b. For private postsecondary career schools operating in Nebraska or outside of Nebraska, the governing authority is the Nebraska Department of Education in accordance with the Nebraska Private Postsecondary Career School Act.  

(e) Ineligible programs

The following types of programs are not eligible for inclusion on the ETPL:

- programs associated solely with occupations resulting in commission-only earnings; and
- programs that are not linked to employment opportunities in in-demand occupations in Nebraska.

(f) Excluded training services

The following training services funded with WIOA Title I adult, dislocated worker, and youth program funds are excluded from inclusion on the ETPL:

1. on-the-job training;
2. customized training;
3. incumbent worker training;
4. internships;
5. paid or unpaid work experiences; and
6. transitional jobs.

(g) Technical assistance

NDOL provides technical assistance to training providers upon written request regarding eligibility requirements. Requests for technical assistance must be submitted by email to ndol.wioa_policy@nebraska.gov.

Section II. Eligibility processes

(a) Initial eligibility application process: New training provider and new program

A training provider that wishes to apply for new training provider eligibility and new program eligibility must take the following actions.

1. On the NEworks sign-in page under “Option 3”, register for a new provider account (takes approximately 10 minutes). Contact the policy mailbox at ndol.wioa_policy@nebraska.gov for a video on how to register for a provider account.

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24 Neb Rev. Stat. §§ 85-1601 – 85-1658 (Title 92, Chapter 41)
25 20 CFR § 680.530(a)
2. Once the new account request is approved, access the NEworks sign-in page and sign into the provider account under “Option 1” using the username and password created during the account registration process.

3. Then, add a new education or training program (i.e., program of training services) by completing a program application.

   a. In addition to entering information about the program (program description, credential(s) to be earned, program costs and schedules, etc.), verifiable program-specific performance data must be uploaded for the cohort of all students that enrolled\textsuperscript{26} in the program of training services (i.e., program of study) during the previous full 12-month period that began on July 1 and ended on June 30, based on the following performance indicators:\textsuperscript{27}

      i. employment rates at the second quarter after program exit;
      ii. employment rates at the fourth quarter after program exit;
      iii. median earnings at the second quarter after program exit; and
      iv. credential attainment rates.

Contact the policy mailbox at ndol.wioa_policy@nebraska.gov for a video on how to add a new education or training program (i.e., program of training services) and upload program performance data.

As stated above, initial eligibility may be granted for only one year\textsuperscript{28} starting on the date initial eligibility is granted.

(b) Initial eligibility application process: Current training provider and new program

An approved training provider that wishes to apply for new program eligibility must take the following actions.

1. Access the NEworks sign-in page and sign into the provider account under “Option 1” using the username and password created during the account registration process.

2. Add a new education or training program (i.e., program of training services) by completing a program application.

   a. In addition to entering information about the program (program description, credential(s) to be earned, program costs and schedules, etc.), verifiable program-specific performance data must be uploaded for the cohort of all students that

\textsuperscript{26} Performance reporting is required only for individuals enrolled in the program of training services (i.e., program of study) and is not required for individuals who elect to take an individual course that is part of the program [TEGLs 03-18 and 08-19 Attachment I].

\textsuperscript{27} TEGL 08-19, Attachment III

\textsuperscript{28} WIOA Sec. 122(b)(4)(B)
enrolled\textsuperscript{29} in the program of training services (i.e., program of study) during the previous full 12-month period that began on July 1 and ended on June 30, based on the following performance indicators:\textsuperscript{30}

\begin{itemize}
  \item[i.] employment rates at the second quarter after program exit;
  \item[ii.] employment rates at the fourth quarter after program exit;
  \item[iii.] median earnings at the second quarter after program exit; and
  \item[iv.] credential attainment rates.
\end{itemize}

Contact the policy mailbox at ndol.wioa_policy@nebraska.gov for a video on how to add a new education or training program (i.e., program of training services) and upload program performance data.

As stated above, initial eligibility is limited to one year.\textsuperscript{31}

\textbf{(c) Continued eligibility application process: Current provider and current program}

Current training providers that wish to apply for continued eligibility for currently approved program must take the following actions during the 30-day period preceding expiration of the program’s eligibility, whether it be expiration of initial or continued eligibility.

1. Access the NEworks sign-in page and sign into the provider account under “Option 1” using the username and password created during the account registration process.

2. Review and update the education or training program application and submit the program application for review.

  b. In addition to reviewing and updating information about the program (program description, credential(s) to be earned, program costs and schedules, etc.), verifiable program-specific performance data must be uploaded for the cohort of all students that enrolled\textsuperscript{32} in the program of training services (i.e., program of study) during the previous full 12-month period that began on July 1 and ended on June 30, based on the following performance indicators:\textsuperscript{33}

\begin{itemize}
  \item[i.] employment rates at the second quarter after program exit;
  \item[ii.] employment rates at the fourth quarter after program exit;
\end{itemize}

\textsuperscript{29} Performance reporting is required only for individuals enrolled in the program of training services (i.e., program of study) and is not required for individuals who elect to take an individual course that is part of the program [TEGLs 03-18 and 08-19 Attachment I].

\textsuperscript{30} TEGL 08-19, Attachment III

\textsuperscript{31} WIOA Sec. 122(b)(4)(B)

\textsuperscript{32} Performance reporting is required only for individuals enrolled in the program of training services (i.e., program of study) and is not required for individuals who elect to take an individual course that is part of the program [TEGLs 03-18 and 08-19 Attachment I].

\textsuperscript{33} TEGL 08-19, Attachment III
iii. median earnings at the second quarter after program exit; and
iv. credential attainment rates.

As stated above, continued eligibility may be granted for only two years\(^{34}\) starting on the date continued eligibility is granted.

(d) Eligibility determinations

(i) New training provider

During review of an NEworks new provider account request, NDOL verifies the training provider meets eligibility requirements described in Section I(a)(1). NDOL will issue an eligibility determination to the training provider by email within 15 calendar days of the date of the new account request, absent extenuation circumstances.

(ii) Current training provider

As part of the review process for initial or continued eligibility for programs, NDOL verifies the training provider continues to meet eligibility requirements described in Section I(a)(1). If NDOL determines the training provider no longer meets eligibility requirements described in Section I(a)(1), NDOL will notify the training provider by email within 10 days of commencement of the review process for initial or continued eligibility for programs, absent extenuation circumstances.

(iii) Initial and continued eligibility for programs

Program applications for initial and continued eligibility are reviewed by NDOL based on the applicable requirements defined in Sections I(a), I(b), I(c), I(d), and I(e). Program eligibility determinations will not be completed until:

1. training provider eligibility has been verified for initial eligibility or reverified for continued eligibility; and
2. each submitted program application is fully complete, including uploaded program-specific performance data as described in Sections II(a), II(b), or II(c), as applicable.

NDOL will issue a program eligibility determination to the training provider by email within 30 days of the date of submission of a complete application, absent extenuation circumstances.

(e) Minimum program-specific performance standards for program eligibility determinations

Training provider programs must meet or exceed the following minimum program performance standards in order to receive initial eligibility and receive and maintain continued eligibility, as reported in the program-specific performance data uploaded in the program-specific program application in accordance with Sections II(a), II(b), and II(c):

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\(^{34}\) TEGL 08-19, Attachment II
at least 50 percent of all students who enrolled\textsuperscript{35} in the program of training services (i.e., program of study) are in unsubsidized employment during the second quarter after program exit;

at least 65 percent of all students who enrolled\textsuperscript{36} in the program of training services (i.e., program of study) are in unsubsidized employment during the fourth quarter after program exit;

median earnings at the second quarter after program exit for all students who enrolled\textsuperscript{37} in the program of training services (i.e., program of study) are at least 50 percent of the average of the State’s negotiated levels of performance for all Title I programs; and

credential attainment rates for all students who enrolled\textsuperscript{38} in the program of training services (i.e., program of study) are at least 50 percent of the average of the State’s negotiated levels of performance for all Title I programs.

(f) Technical assistance

NDOL provides technical assistance to training providers upon written request regarding eligibility processes, uploading of program-specific performance data, eligibility determinations, and minimum program-specific performance standards. Requests for technical assistance must be submitted by email to ndol.wioa_policy@nebraska.gov.

Section III. Registered Apprenticeship programs

(a) Nebraska Registered Apprenticeship programs

(1) Automatic eligibility

Registered Apprenticeship programs registered by the US Department of Labor Nebraska Office of Apprenticeship are automatically eligible for inclusion on the ETPL\textsuperscript{39} and are not subject to:

- eligibility requirements defined in Sections I(a)(1) and I(b)(1);
- eligibility processes defined in Sections II; or
- program-specific performance reporting requirements described in Section V(a).

\textsuperscript{35} Performance reporting is required only for individuals enrolled in the program of training services (i.e., program of study) and is not required for individuals who elect to take an individual course that is part of the program [TEGLs 03-18 and 08-19 Attachment I].

\textsuperscript{36} Ibid.

\textsuperscript{37} Ibid.

\textsuperscript{38} Ibid.

\textsuperscript{39} 20 CFR § 680.470(a)
(2) Outreach to non-participating Nebraska Registered Apprenticeship sponsors

On an annual basis, NDOL contacts the US Department of Labor Nebraska Office of Apprenticeship to obtain contact information (i.e., email addresses) for Nebraska sponsors of active Registered Apprenticeship programs, including sponsoring intermediaries of Nebraska Registered Apprenticeship programs. NDOL then contacts the sponsors of those programs by email:

- to promote participation in the Nebraska ETPL, providing information on the benefits of participation; and

- advises the sponsors that, if interested in participating, all that’s required is submission to the policy mailbox at ndol.wioa_policy@nebraska.gov:
  - a PDF version of the complete program standards (including all applicable attachments); and
  - the number of active apprentices.

NDOL may also request information on the cost of the related technical instruction (RTI) if the sponsor is not the provider of the RTI.40

(b) National Registered Apprenticeship programs

(1) Automatic eligibility

Sponsors and programs that have been approved by the US Department of Labor National Office of Apprenticeship and have an operational presence in Nebraska or provide on-line instruction that is available in Nebraska are automatically eligible for inclusion on Nebraska’s ETPL41 and are not subject to:

- eligibility requirements defined in Sections I(a)(1) and I(b)(1);
- eligibility processes defined in Sections II; or
- program-specific performance reporting requirements described in Section V(a).

(2) Outreach to non-participating National Registered Apprenticeship sponsors

(i) Direct contact with NDOL

Sponsors of National Registered Apprenticeship programs are not contacted by NDOL to promote participation in Nebraska’s ETPL. However, if the sponsors contact NDOL directly requesting inclusion in Nebraska’s ETPL, NDOL contacts the US Department of Labor Nebraska Office of Apprenticeship requests confirmation of registration status of the sponsor and program. If the sponsor’s and program’s status is confirmed by the US Department of Labor Nebraska Office of Apprenticeship and NDOL confirms the sponsor has an operational presence in Nebraska or

40 TEGL 8-19
41 20 CFR § 680.470(a); TEGL 8-19 Change 1
provides on-line instruction that is available in Nebraska, NDOL advises the sponsor that all that’s required is submission to the policy mailbox at ndol.wioa_policy@nebraska.gov:

- a PDF version of the complete program standards (including all applicable attachments); and
- the number of active apprentices in Nebraska.

NDOL may also request information on the cost of the related technical instruction (RTI) if the sponsor is not the provider of the RTI.42

(ii) Indirect contact with NDOL

If the National Office of Apprenticeship contacts NDOL on behalf of National Registered Apprenticeship programs that request inclusion in Nebraska’s ETPL, NDOL requests confirmation that the sponsors have an operational presence in Nebraska or provide on-line instruction that is available in Nebraska. If the National Office of Apprenticeship, confirms operational presence or availability of on-line instruction in Nebraska, NDOL advises the sponsor that all that’s required is submission to the policy mailbox at ndol.wioa_policy@nebraska.gov:

- a PDF version of the complete program standards (including all applicable attachments); and
- the number of active apprentices in Nebraska.

NDOL may also request information on the cost of the related technical instruction (RTI) if the sponsor is not the provider of the RTI.43

(c) Maintenance of Nebraska Registered Apprenticeship programs and National Registered Apprenticeship programs

Once included on the Nebraska ETPL, the Nebraska Registered Apprenticeship or National Registered Apprenticeship programs are maintained on the ETPL:44

- for as long as the program remains registered with the US Department of Labor Nebraska Office of Apprenticeship or the US Department of Labor National Office of Apprenticeship and the sponsor confirms biennially that the program should remain on the ETPL;
- until the sponsor contacts NDOL by email at ndol.wioa_policy@nebraska.gov and requests to be removed from the ETPL; or
- unless the sponsor’s or program’s eligibility is denied or terminated, as described in Section IV.

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42 TEGL 8-19  
43 TEGL 8-19  
44 20 CFR §§ 680.460(j) and 680.470(b)
Section IV. Denial or termination of eligibility

(a) Denial or termination by NDOL

NDOL is solely responsible for making determinations on the denial or termination of eligibility for inclusion on the ETPL and will do so based on:45

- the provisions of WIOA, its implementing rules and regulations, and other applicable laws, rules, and regulations;

- eligibility documentation that substantiates the determination; and

- any supplemental criteria and information and performance requirements established by a local board under local policy, if applicable.

(1) Reasons for denial or termination

1. NDOL must deny or terminate ETPL inclusion of any training provider or program that fails to meet eligibility requirements described in Sections I and II,46 including failure to submit timely, accurate, and verifiable program-specific performance data or meet minimum program-specific performance standards described in Sections II(a), II(b), or II(c) and II(e).

2. NDOL must deny or terminate ETPL inclusion of sponsors of Nebraska Registered Apprenticeships and National Registered Apprenticeships and their respective programs and when it is determined that the programs are no longer registered with the US Department of Labor Nebraska Office of Apprenticeship or the US Department of Labor National Office of Apprenticeship, as applicable, based on confirmation by the applicable registering authority. In the event that sponsors have more than one program, the sponsor will remain on the ETPL along with any programs that are still registered with the applicable registering authority.

3. NDOL must terminate the eligibility of a training provider, sponsor of a Nebraska Registered Apprenticeship program, or sponsor of a National Registered Apprenticeship program for a period of not less than two years and require repayment of Title I funds received by the provider or sponsor during the period of noncompliance, when it is determined through investigation by the Commissioner of Labor, Reemployment Services Division Director, and the NDOL Office of the General Counsel that the training provider or sponsor:47

   a. intentionally supplied inaccurate information, or an individual supplying information on behalf of the training provider or sponsor intentionally supplied inaccurate information;

   b. substantially violated any provision of WIOA Title I:48

45 20 CFR §§ 680.470(c) and 680.480
46 20 CFR § 680.480(c)
47 20 CFR §§ 680.460(l)(2), 680.470(c), and 680.480(b)
48 When determining a substantial violation, NDOL must take into account exceptional circumstances beyond the training provider's or sponsor's control, such as natural disasters, unexpected personnel transitions, and unexpected technology-related issues [20 CFR § 680.460(l)(2)].
i. including the requirement to adhere to the nondiscrimination requirements of WIOA Sec. 188 and 29 CFR Part 38;

ii. including the requirement to adhere to the requirements of the Americans with Disabilities Act, as amended; or

iii. by refusing to submit timely, accurate, and verifiable program-specific performance data as required under Sections II(a), II(b), II(c), and V(a) (does not apply to sponsors of Nebraska Registered Apprenticeship or National Registered Apprenticeship programs);

c. intentionally failed to retain or provide access to program-specific documentation, as required under Section VI.

4. NDOL may terminate the eligibility of a training provider or program for other substantial violations relating to the provisions of WIOA, its implementing rules and regulations, and other applicable laws, rules, and regulations, including requirements established by a local board under local policy.

5. For Nebraska Registered Apprenticeship and National Registered Apprenticeship programs on the ETPL, NDOL verifies the program’s registration status once every two years with Nebraska’s US Department of Labor State Office of Apprenticeship. Programs that are no longer registered will be removed from the ETPL and notified in writing of the reason for removal.

The remedies and penalties prescribed under WIOA and this policy, supplement but do not supplant other civil and criminal remedies and penalties in other provisions of law.

(2) Removal process based on conditions of ineligibility

In the event that NDOL determines that a training provider, sponsor of a Nebraska Registered Apprenticeship program, or sponsor National Registered Apprenticeship program is no longer eligible for ETPL inclusion based on the conditions described in Section IV(a)(1), paragraphs 1 and 2, NDOL will notify the training provider or sponsor by email that eligibility has been denied or terminated and provide:

- reason(s) for denial or termination based on applicable provisions of this policy;
- a copy of this policy; and
- supporting documentation provided to NDOL by the US Department of Labor Nebraska Office of Apprenticeship or the US Department of Labor National Office of Apprenticeship, as applicable.

The training provider or sponsor may appeal the decision to deny or terminate ETPL inclusion in accordance with Section IV(a)(4).

49 20 CFR § 680.460(j)

50 WIOA Sec. 122(f)(2)
(3) Removal process based on substantial violations

The Commissioner of Labor, Reemployment Services Division Director, and the NDOL Office of the General Counsel (collectively, the Review Panel) investigates allegations of substantial violations, based on conditions described in Section IV(a)(1), paragraphs 3 and 4, by:

- reviewing all available documentation allegedly supporting allegations of substantial violations, including applicable Federal statutes, rules, and regulations and the provisions of this policy, along with the submitted complaint and its supporting documentation, as available; and
- interviewing involved program staff and complainants, when possible.

Once the Review Panel reasonably determines the allegations of substantial violations are valid, NDOL issues written notice to the applicable training provider, Nebraska Registered Apprenticeship program sponsor, or National Registered Apprenticeship program sponsor of NDOL's intent to:

- remove the effected provider and/or program from the ETPL; and
- impose time-based and financial sanctions described in Section IV(a)(1), paragraph 3.

In its written notice, NDOL advises the provider or sponsor of its right to appeal.

(4) Appeal process

Training providers and sponsors of Nebraska Registered Apprenticeship and National Registered Apprenticeship programs may appeal denials or terminations of eligibility, including denial or termination of local eligibility by a local board. To appeal, the training provider or sponsor must submit a written request for a hearing to the Commissioner of Labor at the address provided below within 30 calendar days of notification of denial or termination.

Commissioner of Labor
Nebraska Department of Labor
PO Box 94600
Lincoln, NE 68509-4600

Absent extenuating circumstances, the Commissioner will assign a hearing officer and a hearing will take place within 30 calendar days of the Commissioner's receipt of the written request for a hearing. The hearing will include:

- a statement of the reasons why training provider or sponsor eligibility was denied or terminated; and
- an appeal by the training provider or sponsor describing why the decision should be reversed or a compromise established.

51 20 CFR §§ 680.480(d) and 683.630(b)
The Commissioner will render a final judgment that will include the length of time the training provider or sponsor remains ineligible, financial sanctions to be imposed, and conditions under which reinstatement of training provider or sponsor eligibility are justified.

A decision issued under this appeal process may not be appealed to the Secretary of Labor.52

(b) Denial or termination by local boards53

If a local board requires supplemental criteria and information from local training providers or has established levels of performance higher than those required by NDOL in Section II(e) based on local policy, as permitted under Section VIII(b), the local board may deny or terminate local eligibility for failure to meet those supplemental requirements or standards. Training providers may appeal a local board’s denial or termination of local eligibility, according to the procedures described above in Section IV(a)(4).

Section V. Program-specific performance reports54

(a) Training provider program-specific reports

As stated in Sections II(a), II(b), and II(c), training providers must upload program-specific performance data into NEworks program applications as part of the initial and continued eligibility processes. Failure to do so may result in denial or termination of eligibility, as described in Sections IV(a)(1) and IV(a)(2).

(b) State-level reports55

WIOA Secs. 116(d)(4) and 116(d)(6)(B) and 20 CFR § 677.230 require states to report performance information relating outcomes for individuals served by each approved program of training services (i.e., program of study) included on their respective ETPLs. States report this information annually through the ETP Performance Report (ETA-9171), as described in TEGL 03-18. The US Department of Labor publishes the results of the ETA-9171 ETP Performance Reports on the Training Provider Results website. Consumers can use the website to explore training programs and careers. The website allows users to compare programs of study nationally, within a state, and across similar fields of study. Consumers can also compare training provider performance outcomes and program costs and filter selections to programs that meet their needs, such as online-only, in-person, or blended learning programs. The website contains all output information states provide in the official ETA-9171 reports.

52 20 CFR § 683.630(b)(3)
53 20 CFR § 680.480(e)
54 20 CFR §§ 680.460(h)(1) and 680.490
55 TEN 24-19
Section VI. Records retention and access

Records pertaining to a program-specific performance data must be retained for a period of three years from the date of submission of the report, except under the following extenuating circumstances.

- If any litigation, claim, or audit relating to the training provider or program is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the performance report has been resolved and final action taken.

- When the training provider is notified in writing by a Federal agency or NDOL to extend the retention period.

The US Department of Labor and NDOL, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of a training provider which pertain to program-specific performance data, in order to make audits, examinations, excerpts, and transcripts.

The right of access also includes timely and reasonable access to the training provider's personnel for the purpose of interview and discussion related to such documents. These rights of access are not limited to the required retention period described above. The rights of access last as long as the records are retained by the training provider.

Section VII. Participants enrolled in ineligible programs

(a) Terminated programs

Any Title I participant who is enrolled in a program for which eligibility has been denied or terminated by NDOL pursuant to Section IV:

- is not permitted to complete the program with that training provider; and

- must be transitioned to another program on the ETPL, provided the participant wishes to continue with Title I training services and the case manager must assist the participant transition to that program.

(b) Withdrawn programs

If a Title I participant is enrolled in a program that has been voluntarily withdrawn from the ETPL by the training provider, ITA funds must not be used to pay for training services provided through the withdrawn program. If the participant wishes to:

- continue in the withdrawn program and the case manager must assist the participant with identification of non-ITA funding sources; or

56 2 CFR §§ 200.333 and 200.336(a) and (c)
• transition to another program on the ETPL and the case manager must assist the participant with transition to that program.

Section VIII. Roles and responsibilities

(a) NDOL

NDOL’s responsibilities regarding the ETPL are listed in Table 1.

Table 1. NDOL responsibilities

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Managing the ETPL</td>
</tr>
<tr>
<td>2. Clarifying NDOL’s and local boards’ roles and responsibilities</td>
</tr>
<tr>
<td>3. Establishing eligibility criteria, processes, and performance reporting requirements</td>
</tr>
<tr>
<td>4. Establishing a method for adding Registered Apprenticeship and National Registered Apprenticeship programs to the ETPL</td>
</tr>
<tr>
<td>5. Ensuring the development, maintenance, and dissemination of the ETPL</td>
</tr>
<tr>
<td>6. Providing an opportunity for interested members of the public, including local boards, to make recommendations and submit comments regarding the information requirements, eligibility criteria and processes, and performance reporting requirements</td>
</tr>
<tr>
<td>7. Verifying the status of Registered Apprenticeship and National Registered Apprenticeship programs once every 2 years</td>
</tr>
<tr>
<td>8. Ensuring training providers and their programs meet established eligibility criteria and adhere to the eligibility processes and performance reporting requirements defined in this policy</td>
</tr>
<tr>
<td>9. Receiving and reviewing applications and making eligibility determinations for training provider eligibility</td>
</tr>
<tr>
<td>10. Removing programs from the ETPL that fail to meet established requirements</td>
</tr>
<tr>
<td>11. Taking enforcement actions against training providers as defined in this policy</td>
</tr>
<tr>
<td>12. Establishing the appeals process for denied or terminated eligibility</td>
</tr>
<tr>
<td>13. Publication of state-level training provider program-specific performance reports on the Training Provider Results website through its submission of annual performance for ETPs.</td>
</tr>
</tbody>
</table>

(b) Local boards

The responsibilities of local boards regarding the ETPL are listed in Table 2.

Table 2. Responsibilities of local boards

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Carrying out procedures assigned by NDOL</td>
</tr>
<tr>
<td>2. Working with NDOL to ensure sufficient numbers and types of training providers are serving local areas, including training providers with expertise in serving individuals with disabilities and adults in need of education and literacy activities</td>
</tr>
<tr>
<td>3. Ensuring the dissemination and appropriate use of the ETPL in and throughout the local one-stop delivery system</td>
</tr>
<tr>
<td>4. Ensuring informed consumer choice, as described Section VIII(b)(1)</td>
</tr>
</tbody>
</table>

58 20 CFR §§ 680.340 and 680.430(c)
In addition to the responsibilities described in Table 2, local boards may take the actions described in Table 3 regarding training providers and programs.  

**Table 3. Permitted actions of local boards regarding NDOL’s ETPL**

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Making recommendations to NDOL on the process used in determining eligibility of training providers and programs</td>
</tr>
<tr>
<td>2. Requiring supplemental (not alternative) criteria and information from local training providers as criteria to become or remain eligible in the local area</td>
</tr>
<tr>
<td>3. Setting higher local levels of program performance for training providers than the minimum program-specific performance standards established by NDOL in Section II(e)</td>
</tr>
<tr>
<td>4. Supplementing the criteria and information requirements established by NDOL in order to support informed consumer choice and the achievement of locally established performance indicators, including:</td>
</tr>
<tr>
<td>a. information on training programs that are linked to in-demand occupations in the local area;</td>
</tr>
<tr>
<td>b. performance and cost information, including program performance and cost information, for the local outlet(s) of multi-site eligible training providers;</td>
</tr>
<tr>
<td>c. information that shows how programs are responsive to local requirements; and</td>
</tr>
<tr>
<td>d. other appropriate information related to the objectives of WIOA</td>
</tr>
</tbody>
</table>

It's important to note that local boards are not permitted impose additional requirements and criteria upon Nebraska Registered Apprenticeship and National Registered Apprenticeship programs beyond those established under WIOA, its implementing rules and regulations, and those articulated in this policy.  

(1) Consumer choice

Training services must be provided in a manner that maximizes informed consumer choice in a participant’s selection of a training provider available on the ETPL. The requirements for consumer choice are listed below.

1. The local board, through its one-stop centers, must make the ETPL available to one-stop customers.

2. An individual who has been determined eligible for training services may select a program from the ETPL only after consultation with a case manager.

3. **Consultation** with a case manager must include:

   a. either an interview, evaluation, or assessment and career planning informed by local labor market information and training provider performance information;

   b. appraisal of the participant’s need for training services based on an interview, evaluation, or assessment and career planning informed by local labor market

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59 20 CFR §§ 680.430(d) – (e) and 680.510  
60 20 CFR § 680.510(a)  
61 20 CFR § 680.340  
62 20 CFR § 680.220
information and training provider performance information or any other career service received; and

c. documenting the participant’s need for training services in the participant’s case file.

4. There is no requirement that career services be provided as a condition for receipt of training services. However, if career services are not provided before training, the case manager must document the circumstances that justify the decision to authorize training services without first providing the services described in paragraph 3 above.

5. Priority consideration must be given to programs that:
   a. lead to recognized postsecondary credentials; and
   b. align with in-demand occupations in the local area.

6. Unless the applicable Title I program has exhausted training funds for the program year, the case manager must refer the individual to the selected training provider on the ETPL and establish an ITA for the individual to pay for training.

7. The costs for training services paid through an ITA to a training provider must be funded by out-of-school youth, adult, or dislocated worker program funds, depending on the program in which the participant is enrolled or co-enrolled.
   a. In the event that NDOL has an active waiver from the US Department of Labor Employment and Training Administration, in-school youth programs may be used to funding an ITA.64

8. The local board, through the one-stop center, may coordinate funding for ITAs with funding from other Federal, state, local, or private job training programs or sources to assist the individual in obtaining training services, subject to requirements for coordination of WIOA training funds under 20 CFR § 680.230.

**DISCLAIMER**

This policy is based on NDOL’s reading of the applicable statutes, regulations, rules, and guidance released by the US Government and NDOL of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

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63 Refer to the State’s youth program policy for information regarding ITAs and in-school youth.
64 Local area administrative entity staff must confirm with NDOL the existence of an active waiver before authorizing use of ISY funds to establish ITAs for ISY.
APPENDIX I. Definitions

PURPOSE. Definitions in this appendix are provided as supplemental information that supports the provisions of the policy. The terms and phrases defined in this appendix should be read and understood in the context in which they are used in the policy and not as stand-alone information independent of that context.

1. business partnership

For purposes of determining the eligibility of a program, business partnership means an informal or formal partnership with regional or local employers that relates directly to the program. Information to be provided by a training provider about the business partnership includes:

- a description of the quality and quantity of employer partnerships; and
- the role of that partnership in relation to the program.

2. enrolled

The meaning of the term enrolled, with regard to a program of training services (i.e., program of study) that is included on the ETPL, is determined by each training provider in accordance with its organizational standards.

3. linked to in-demand occupations

The phrase linked to in-demand occupations refers to the alignment of a program with in-demand occupations in Nebraska.65

4. program of training services (or program of study)

A program of training services is one or more courses or classes, or a structured regimen that leads to:

- industry-recognized certificate or certification;
- license recognized by the Federal government, State of Nebraska, or another state;
- postsecondary diploma;
- associate or baccalaureate degree;
- secondary-school diploma or its equivalent earned in conjunction with occupational skills training;
- employment; or
- measurable skills gains toward employment.

65 Data on in-demand occupations in Nebraska is provided by the Nebraska Department of Labor and is accessible at https://neworks.nebraska.gov/vosnet/gsipub/documentView.aspx?enc=oduMpwMRTIQmt7W7WO2/Ew==.
5. recognized postsecondary credential\textsuperscript{66}

A recognized postsecondary credential is one of the following:\textsuperscript{67}

- industry-recognized certificate or certification;
- certificate of completion of an apprenticeship;
- license recognized by the Federal Government or State of Nebraska;
- associate degree; or
- baccalaureate degree.

\textsuperscript{66} Refer to the State’s performance accountability for detailed information on recognized postsecondary credentials. The State’s policy manual is accessible at https://dol.nebraska.gov/ReemploymentServices/Training/WIOA/Policies.

\textsuperscript{67} WIOA Sec. 3(52)