

**Vermont State Workforce Development Board
Policy Committee Meeting Agenda
Wednesday, November 28, 10:30 am – 11:30 am
Vermont Department of Labor, Montpelier, VT**

- 10:30 am Call to Order
- 10:35 am Introduction
- 10:40 am Committee Charge
- 10:50 am Priorities/Work Plan
- Committee Recommendation Procedure
 - ETP Procedure Amendment
- 11:20 am Future Meeting Schedule
- 11:30 am Adjournment

**Vermont State Workforce Development Board
Policy Committee Minutes
November 28, 2018
10:30 am – 11:30 am
Vermont Department of Labor, Montpelier, VT**

Committee members in attendance: Comm. Lindsay Kurrle and Sec. Michael Schirling (represented by Comm. Joan Goldstein)

Committee members in attendance by phone: Diane Dalmasse (represented by Hugh Bradshaw), Pat Elmer, Sec. Daniel French (represented by Dep. Sec. Heather Bouchey), Scott Giles, Adam Grinold, Melissa Hersh, Dick Marron, and John Russell

Committee members not in attendance: Sen. Alison Clarkson, Sec. Al Gobeille, and Jeff Wimette

Governor's and State Agency & Department staff in attendance: Sarah Buxton and Sophia Yager

Governor's and State Agency in attendance by phone: Dustin Degree

Guests in attendance by phone: Mary Branagan

Vice Chair Lindsay Kurrle called the meeting to order at 10:36 am.

Committee Charge:

Sarah Buxton (Department of Labor) gave an overview of the Committee's charge: The Policy Committee is charged with reviewing and recommending policies related to WIOA program implementation, One-Stop operations, Board governance and operation, and other workforce system policies, as necessary.

Chair Dick Marron indicated that clarification may be needed to differentiate between the duties of the Policy Committee and the Operating Committee. Ms. Buxton explained that the Policy Committee may choose to evaluate the charge of the Operating Committee as laid out in the Board Governance Document and recommend changes in responsibilities. Per Melissa Hersh's suggestion, this question was added to a list of priority items for future Committee meetings. Other items include:

- Other amendments to the Board Governance Document (list of standing committees, rename the Policy and Operating Committees, allow non-Board members to serve on committees, etc.)- possibly conduct a section-by-section review of the document
- Other amendments to the WIOA ETP Procedures (including career pathways language, reevaluate the reapplication period, performance reporting requirements, etc.)
- Undertaking the work of One-Stop recertification (rather than creating an annual ad hoc committee)
- Evaluate workforce development inventory and develop a "dashboard" of metrics

Priorities/Work Plan:

Policy 1: Committee and work group composure, member appointment, meeting procedure, and authority (see attached)

Discussion:

- Ms. Hersh suggested clarification around which language in Article § IV of the Board Governance Document is being replaced and which language will remain (see attached) and suggested explicitly listing all standing committees in Article § IV.

Vice Chair asked for a motion to accept the proposal for Policy 1 as written. Motion moved by Comm. Goldstein; seconded by Ms. Hersh; approved unanimously by voice vote.

Policy 2: amendment of WIOA ETP procedures to create a process to add registered apprenticeships to the VT ETPL (see attached)

Vice Chair asked for a motion to accept the proposal for Policy 2 as written. Motion moved by Comm. Goldstein; seconded by Dep. Sec. Bouchey; approved unanimously by voice vote.

Both amendments will be recommended in a memo from the Committee to the full Board and will be up for approval by the full Board at its meeting on December 6, 2018.

Future Meeting Schedule

The Committee agreed that future Committee meetings shall occur quarterly, roughly three weeks before each quarterly full Board meeting.

Vice Chair asked for a motion to adjourn. Motion moved by Comm. Goldstein; seconded by Mr. Bradshaw; approved unanimously by voice vote.

The meeting adjourned at 11:20 am.

Respectfully Submitted by Dustin Degree.

Dustin Degree, Executive Director, Vermont State Workforce Development Board

To: Policy Committee of the State Workforce Development Board (Dick Marron, Chair; Lindsay Kurrle, Vice-Chair; Alison Clarkson; Diane Dalmasse; Pat Elmer; Daniel French; Scott Giles; Al Gobeille; Adam Grinold; Melissa Hersh; John Russell; Michael Schirling; and Jeff Wimette)
Cc: Dustin Degree, Frank Cioffi
From: Sarah Buxton
Re: Overview of Policy Committee Responsibilities and Upcoming Meeting
Date: November 21, 2018

This memo is intended to aid committee members in preparing for and participating in the inaugural meeting of the State Workforce Development Board's Policy Committee scheduled for **Wednesday, November 28th at 10:30am.**

Background: The State Workforce Development Board (SWDB) is required to assist the Governor in achieving the "State's strategic and operational vision and goals as outlined in the [WIOA] State Plan." In order to fulfill this function and others, the Board voted to create a Policy Committee on January 4, 2018. The committee is charged with reviewing and recommending policies related to WIOA program implementation, One-Stop operations, Board governance and operation, and other workforce system policies, as necessary.

Under federal and state regulation, the Board is required to provide policy and programmatic recommendations in specific instances. Because of its comprehensive membership, the SWDB carries subject matter expertise across a range of interests related to supporting Vermont's labor force. When the Board takes an action – particularly with regard to state policy – it should reflect consideration of the different interests and perspectives represented by its membership. In making the initial Policy Committee appointments, Board leadership sought to carry the valuable expertise and perspectives of the whole Board into a smaller group that would be able to function more effectively. After learning more about the work that needs to be done, you may decide – as the Policy Committee – to recommend changes in your structure, membership or charge.

Attached to this memo (Attachment 3), is a copy of the Board's governance document. It will serve as a starting point for committee discussion, along with a specific (time-sensitive) piece of federally required policy described below (Attachment 4). During your first meeting, you will be asked to vote on two policy recommendations. The first will clarify a process in the Board's governance document (a.k.a. bylaws) for Board committees to operate and act in relation to the whole Board. The second is to amend the "Eligible Training Provider List Procedures," previously approved by the Board, to include a federally required provision for including apprenticeship programs on the list.

Policy 1. Amendment to WIOA Governance Document; Committee Authority (Attachment 1)

Strikes Article § IV and inserts more a more detailed description of how committees and workgroups are composed and appointed. It also describes how meetings are conducted and the authority that committees hold.

Policy 2. Amendment to Eligible Training Provider Procedures; Apprenticeships (Attachment 2)

Strikes Section 6 of the WIOA Eligible Training Providers Procedures and inserts a description of how registered apprenticeship program sponsors are notified of their eligibility to be listed on the ETPL, offered an opportunity to decline listing, sets out continued listing eligibility, and describes their exemption from performance reporting.

Attachment 1

State Workforce Development Board Policies

DRAFT

Policy 1: Amendment to WIOA Governance Document; Committee Authority

Effective Date: December 6, 2018

Recommended by: State Workforce Development Board Policy Committee on [DATE]

Adopted by SWDB: December 6, 2018

BACKGROUND

The Workforce Innovation and Opportunity Act of 2014 (WIOA) required states to create a State Workforce Development Board, setting out its membership, functions, and authority in 20 C.F.R. §679. In 2013, Vermont's legislature adopted similar language, codified at 10 V.S.A. §541a. The Governor subsequently appointed members to the State Workforce Development Board, a modified version of the previous State Workforce Investment Board. The Board adopted a governing document titled "WIOA Governance Document," that serves as the basis for conducting its business. In the fall of 2017, the federal Employment and Training Administration (ETA) conducted a comprehensive review of Vermont's implementation of WIOA, including Development Board. The review revealed a need for the Board to become more active in the development and approval of WIOA Title I policies that are carried out by the Vermont Department of Labor.¹

In January 2018, the Board established several committees to support the Board in carrying out its statutory duties. The current governance document is vague about the authority of committees and the procedures they are to follow. This policy recommends an amendment to Article IV to clarify these concerns.

POLICY RECOMMENDATION

Strike the section titled "Authority" of Article IV of the WIOA Governance Document and replace it with the following:

Article IV – Committees

Appointment. *The Chair, in consultation with the Commissioner of Labor, may assign one or more members to standing or ad hoc committee, subcommittees, or workgroups to carry out the work of the Board. At the recommendation of the Commissioner of Labor, and with the approval of the Operating Committee, the Chair may appoint non-members to standing or ad hoc committees, subcommittees, or workgroups, for the purpose of adding subject-matter expertise or another important attribute to the group.*

Committee Composition and Term Limits. *Standing or ad hoc committees shall have a named chair and vice-chair, appointed by the Board chair, in consultation with the Commissioner of Labor. Committee or workgroup size shall be set by the full board when the committee or workgroup is created and may be modified upon*

¹ While WIOA Title II and Title IV programs (administered by Agency of Education and Division of Vocational Rehabilitation, respectively) were not reviewed, they also include provisions that include Board involvement.

recommendation by the Policy Committee. Committee or workgroup members shall serve at the pleasure of the Board Chair.

Meeting Procedure: Standing and ad hoc committees shall conduct meetings in accordance with Robert's Rules of Order and in compliance with Vermont's Open Meeting Laws. A majority of members present, including virtual presence, shall constitute a quorum. Minutes of each meeting shall be recorded, publicly posted, and submitted to members of the full board before the next full board meeting. Workgroups are not required to adhere by these requirements.

Authority. Standing or ad hoc committees shall report to the full board and submit recommendations for approval during formal committee reports at full board meetings, except when the standing or ad hoc committee acts on behalf of the Board for a specific purpose.

Attachment 2

State Workforce Development Board Policies

DRAFT

Policy 2: Amendment to Eligible Training Provider Procedures;
Apprenticeships

Effective Date: December 6, 2018

Recommended by: State Workforce Development Board Policy Committee on [DATE]
Adopted by SWDB: December 6, 2018

BACKGROUND

Under WIOA Title I, participants in need of training services to enhance their job readiness or career pathway may access career training through a list of state-approved providers and their state-approved training programs. The eligible training provider list (ETPL) must be made publicly available with specific information related to credential, cost, and quality to underscore WIOA's emphasis on informed customer choice, job-driven training, provider performance, and continuous improvement. Registered apprenticeship programs that are registered with the Vermont Department of Labor are automatically eligible to be included in the ETPL. All programs must be informed of their eligibility and provided with an opportunity to consent to their inclusion, before being placed on the ETPL.

Governors and state boards were required to implement the eligible training provider (ETP) provisions of WIOA by July 22, 2015. Vermont appears to have made that deadline, including the adoption of ETPL procedures, and subsequently amended the procedures in December 2016.

In the fall of 2017, the federal Employment and Training Administration (ETA) conducted a comprehensive review of Vermont's implementation of WIOA, including the maintenance of the ETPL. They found that the WIOA Training Providers Eligibility Procedures did not include a description of how registered apprenticeship sponsors are notified of their eligibility and provided an opportunity to consent to being placed on the list.

In the spring of 2018, all registered apprenticeship sponsors were notified of their eligibility status and provided an opportunity to "opt-out" of being listed on the ETPL. No sponsor opted out of being listed and they have all been subsequently included on the list.

POLICY RECOMMENDATION

Strike Section 6: Registered Apprenticeship Programs of the WIOA Training Providers Eligibility Procedures and insert the following:

Section 6: Registered Apprenticeship Programs:

Pursuant to section 122(a)(3) of WIOA, apprenticeship programs registered with the Vermont Department of Labor, Apprenticeship Division are automatically eligible to be included on the ETPL. Sponsors will be notified of their eligibility when they become recognized and offered an opportunity to decline being listed. Absent an

affirmative response indicating that they do not wish to be listed, the program will be added to the list within 30 days of recognition.

Registered apprenticeship programs are not required to submit initial or continued eligibility applications under these procedures. Once an apprenticeship program is registered on the ETPL, the program will remain on the ETPL until the program is no longer registered with the Vermont Department of Labor or until the provider notifies the Apprenticeship Division, in writing, of the intention to be removed from the list.

Pursuant to section 122(a)(3) of WIOA and 20 C.F.R. § 677.230(b), registered apprenticeship programs are not required to do either of the following: submit performance information in order to be included on the ETPL; or comply with the ETP performance report required by section 116(d)(4) of WIOA. However, a registered apprenticeship program may voluntarily submit performance information to the Vermont Department of Labor, in which case the Department must include this information on the ETPL.

Vermont State Workforce Development Board

WIOA Governance Document

Article I — STATEMENT OF AUTHORITY

The Vermont State Workforce Development Board (hereinafter Board) is established by the federal Workforce Innovation and Opportunity Act, Public Law No. 113–128, and Vermont Statute, 10 V.S.A. chapter 22A.

Article II — DUTIES

The Board advises the Governor on the development and implementation of a comprehensive, coordinated and responsive statewide workforce education and training system.

Under Section 101(d) of the WIOA, the Board assists the Governor in the following functions:

- The development, implementation, and modification of the State plan.
- Review of statewide policies, statewide programs, and of recommendations on actions required to align workforce development programs in a manner that supports a comprehensive and streamlined workforce development system, including the review and provision of comments on the State plan, if any;
- The development and continuous improvement of the workforce development system, including:
 - Identification of barriers and means for removing barriers to better coordinate, align, and avoid duplication among the programs and activities carried out through the system.
 - Development of strategies to support the use of career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment (including individuals with disabilities), with workforce investment activities, education, and supportive services to enter or retain employment.
 - Development of strategies for providing effective outreach to, and improved access for, individuals and employers who could benefit from services provided through the workforce development system.
 - Development and expansion of strategies for meeting the needs of employers, workers, and job seekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations.
 - Development and continuous improvement of the One-Stop Center delivery system, including providing assistance to the One-Stop Operator, One-Stop partners and providers with planning and delivery services, including training services and supportive services, to support effective delivery of service to workers, job seekers and employers.
 - Development of strategies to support staff training and awareness across programs supported under the workforce development system.
- Development and updating of comprehensive state performance accountability measures, including state adjusted levels of performance, to assess the effectiveness of the core programs in the state.
- Identification and dissemination of information on best practices, including best practice for:

- Effective operation of One-Stop Centers, relating to the use of business outreach, partnerships, and service delivery strategies, including strategies for serving individuals with barriers to employment.
- Effective training programs that respond to real-time labor market need; and
- Effective use of direct assessment and prior learning assessment to measure an individual's prior knowledge, skills, competencies and experiences, and evaluate such skills and competencies for adaptability, to support efficient placement into employment or career pathways.
- Development and review of statewide policies affecting the coordinated provision of services through the state's One-Stop delivery system, including the development of:
 - Objective criteria and procedures for use in assessing the effectiveness and continuous improvement of One-Stop Centers.
 - Guidance for the allocation of One-Stop Center infrastructure funds.
 - Policies relating to the appropriate roles and contributions of entities carrying out One- Stop partner programs within the One-Stop Delivery System, including approaches to facilitating equitable and efficient cost allocation in the system.
- Development of strategies for technological improvements to facilities, access to, and quality of services and activities provided through the One-Stop delivery system, including such improvement to:
 - Enhance digital literacy skills.
 - Accelerate the acquisition of skills and recognized post-secondary credentials by participants.
 - Strengthen the professional development of providers and workforce professionals.
 - Ensure technology is accessible to individuals with disabilities and individuals residing in remote areas.
- Development of strategies for aligning technology and data systems across One-Stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures, including the design and implementation of common intake, data collection, case management information, performance accountability measurement and reporting processes, and the incorporation of local input into such design and implementation to improve coordination of services across One-Stop partner programs.
- Preparation of required annual reports.
- Development of the statewide workforce and labor market information system.
- Development of other policies that may promote statewide objectives for, and enhance the performance of, the workforce development system in the state.

In addition to the functions required under section 101(d) of the WIOA, the Board is tasked with the following duties:

- Conduct regular public engagement process in the State that brings together employers and potential employees, including students, unemployed or under-employed, and incumbent employees seeking further training, to provide feedback and information concerning their workforce education and training needs; and

- Maintain familiarity with the federal Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes and engage and coordinate with economic development planning and processes occurring throughout the State.

Article III — MEMBERS

Members

Board membership is established by the WIOA, Section 101, and 10 V.S.A. §541a.

Member Resignation

Any member, in his or her capacity as a Board member may resign such position by providing verbal or written notice to the Governor, Chair of the Board, or Commissioner of Labor. The effective date of any resignation shall be the time specified in the statement of resignation, or immediately if no time is specified.

Member Replacement

In the event of a vacancy on the Board, a new member shall be appointed by the Governor, ensuring that said appointment is compliant with statutorily-designated seat allocation.

Any member of the Board may be replaced by the Governor for the following:

- (i) receipt of notification of resignation;
- (ii) failure to attend at least 50% of the regularly scheduled meetings of the Board within a two year period;
- (iii) failure of a member to continue to hold the qualifications that were the basis for his or her initial appointment; or
- (iv) failure to represent the Board in a manner deemed appropriate by the Chair, including violating the conflict-of-interest provisions of this document.

Member Representation

Members of the Board shall be individuals with policymaking authority within the organization, agency or entity the member represents.

Proxy

If provided by statute, the use of vote by proxy may be permitted. However, any authorized designee shall have policymaking authority within the organization, agency or entity as required by this document. Any authorized designee shall be entitled to the same voting privileges enjoyed by other members of the Board.

Article IV — COMMITTEES

Authority

The Chair, in consultation with the Commissioner of Labor, may:

- (i) assign one or more members to work groups to carry out the work of the Board; and
- (ii) appoint one or more members of the Board and/or non-members of the Board to one or more task forces for a discrete purpose and duration.

Operating Committee

There shall be an Operating Committee consisting of the following members who are appointed by the Chair, unless otherwise indicated:

- (i) the Chair of the Board;
- (ii) a Vice-Chair who shall be from among the business members of the Board;
- (iii) five business members;
- (iv) the Secretary of Commerce and Community Development, or designee;
- (v) the Commissioner of Labor, or designee;
- (vi) the Secretary of Education, or designee;
- (vii) the Secretary of Human Services, or designee;
- (viii) one member from the higher education community; and
- (ix) one member from the adult or high school career technical education community.

The Operating Committee is primarily responsible for: (1) conducting certain activities, as listed below, on behalf of the full Board between meeting dates, and (2) for addressing urgent and/or time-sensitive business when a regular or special meeting cannot occur in time to meet the deadline. All decisions of the Operating Committee shall be reported in writing to the full Board within 10 workdays. In all cases, the Operating Committee shall publish notice of its meetings in accordance with Vermont Open Meeting law, 1 V.S.A. §§ 310–314. The Operating Committee may conduct meetings in the same manner as outlined in Article 5 of this document. A quorum of the Operating Committee shall be seven members. The Chair may be counted as one of the seven in a quorum, and may vote in all matters.

The activities that the Operating Committee may engage in, on behalf of the Board, include, but may not be limited to:

- (i) Participating in meetings and activities that promote the work of the Board, such as marketing and advocating for the goals of the Board, WIOA and Vermont's workforce system;
- (ii) Reviewing and responding to state and federal legislative proposals that impact Vermont's workforce system, as necessary;
- (iii) Overseeing the performance of the WIOA Core Partners relative to their state and federal performance measures, and when necessary, providing necessary approval for the submission of documents or reports;
- (iv) Approve the draw-down of federal funding, if necessary; and,
- (v) When in the opinion of the Board Chair or Governor, immediate action is warranted, in an emergency, or in the case of an urgent or time-sensitive matter, when a regular or special meeting cannot occur in time to meet the deadline, the Operating Committee may act and make decisions on behalf of the Board; however, no decision of the Operating Committee may amend, alter or repeal this governance document or any resolution or vote of the Board that, by its terms provides that it is not able to be amended or repealed by a committee. Any decision of the Operating Committee under this emergency section shall be communicated in writing to the Board within three business days.

Youth Council

Pursuant to Section 107(b)(4)(ii) of the WIOA, there shall be a Youth Council. This Council shall consist of members appointed by the Chair. The purpose of the Council is to provide information and to assist with planning, operational and other issue relating to the provision of services to youth.

Article V — MEETINGS

Frequency

The Board shall meet at least three times annually and shall hold additional meetings at the call of the Chair.

Notice

Notice of regular or special meetings shall be provided to all members no less than 10 days before the beginning of the meeting. All meetings of the Board shall be publically announced in advance and open and accessible to the public. Notice of each meeting shall state the date, time, location and agenda of the meeting.

All meetings shall comply with Vermont's Open Meeting Laws, 1 V.S.A. §§ 310–314.

Quorum

A majority of members shall constitute a quorum, and to be valid any action taken by the Board shall be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

The Board may conduct any duly-warned meeting in person or through the use of any means of communication, including electronic, telephone conferencing, tele-communication, video and/or audio- conferencing, or other Board-approved means provided that members may participate and simultaneously or sequentially communicate with each other during the meeting. Members participating in such meeting(s) are deemed to be present and may also vote during these meetings.

Minutes

Minutes of the meeting shall be recorded by staff of the Vermont Department of Labor. The Chair, or Vice-Chair if designated by the Chair, shall review and correct such minutes. Minutes shall be presented and approved by the Board at the next regular meeting. The minutes shall be made available upon request to any member of the public. Minutes shall be delivered electronically to each member of the Board and to the Chairs of the Vermont House Committees on Education and on Commerce and Economic Development, and to the Senate Committees on Education and on Economic Development, Housing and General Affairs.

Executive Session

The Board is permitted to meet in executive session only in compliance with Vermont's Open Meeting Laws. An executive session may only meet to the extent necessary and for the purpose authorized.

Reimbursement

Legislative members of the Board shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406. Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a non-legislative member of the Board shall be eligible for per diem compensation of \$50.00 per day for attendance at a meeting of the Board, and for reimbursement of mileage expenses, which shall be paid by the WIOA funds through the Vermont Department of Labor.

Article VI — CONFLICT OF INTEREST

A member of the Board shall not:

- (A) vote on a matter under consideration by the Board:
 - (i) regarding the provision of services by the member, or by an entity that the member represents; or
 - (ii) that would provide direct financial benefit to the member or the immediate family of the member;
- or

(B) engage in any activity that the Governor or Chair determines constitutes a conflict of interest.

Article VII — SUPPORT

The Vermont Department of Labor, through federal WIOA funds or through State General Funds specifically allocated for such purposes, shall provide fiscal and administrative staff to the Board, as the Chair deems reasonable and necessary.

Article VIII — SUNSHINE PROVISIONS

The Board shall make available to the public, on a regular basis through open meetings, information regarding activities of the Board, including information regarding membership, minutes and the State Plan.

Article IX — MISCELLANEOUS

Approval of the Governor

Where provided by the WIOA or other applicable federal or state laws, certain strategic plans, recommendations, and decisions of the Board are subject to approval by the Governor. In such instances, the Chair of the Board shall convey the appropriate documents to the Governor in a timely manner.

Amendment of Bylaws

These bylaws may be amended at any regular scheduled meeting of the Board by a two-thirds vote of the members present, provided that the specific language proposed to be amended is included with the agenda for the meeting. Proposed changes must be submitted in writing to the Chair not less than 20 days prior to the meeting. Any amendment must be in compliance with any applicable state or federal laws and regulations. Any proposed notification of amendment(s) to the Bylaws shall be submitted to Board members 10 days prior to the meeting where the amendments will be voted upon.

Severability

If any provision of these Bylaws is held to be invalid, such provision shall be fully severable. The remaining provisions shall remain in full force and effect and shall not be affected by the illegal or invalid provision or by its severance.

VERMONT DEPARTMENT OF LABOR WIOA
TRAINING PROVIDERS ELIGIBILITY
PROCEDURES

Updated December 2016

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Section 1: Purpose:

The Workforce Innovation and Opportunity Act (WIOA) section 122 requires States to approve a training provider's eligibility before WIOA funds can be used to pay for the provision of training services. The State, in consultation with the State Workforce Development Board (SWDB), is charged with developing the process for determining how training providers may qualify for inclusion on Vermont's Eligible Training Provider List (ETPL). The procedures outlined in this document will provide information on the eligible training provider application process. The ETPL will be made available to the SWDB, WIOA participants, and members of the public.

Section 2: Qualifications:

To be eligible to receive funds for the provision of training services, a provider shall be one of the following:

- (1) An institution of higher education that provides a program that leads to a recognized post-secondary credential;
- (2) An entity that carries out programs registered with the Vermont Department of Labor, Apprenticeship Division; or
- (3) Another public or private provider of a program of training services, which may include joint labor-management organizations, and eligible providers of adult education and literacy activities under title II of WIOA if such activities are provided in combination with occupational skills training.

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

- (1) A recognized post-secondary credential¹, secondary school diploma or its equivalent;
- (2) Employment; or
- (3) Measurable skill gains toward such a credential or employment.

Section 3: Identification of Respective Roles:

The State of Vermont is designated as a single State local area and, therefore, the State Workforce Development Board operates as both the State and local workforce development board. The State has designated the Vermont Department of Labor (VDOL) to assist in carrying out the process and procedures for determining the eligibility of training providers. All applications for addition to the ETPL shall be submitted to the Vermont Department of Labor for approval. Training providers approved under these procedures shall be included on the ETPL. The VDOL shall notify the SWDB of any updates to the ETPL at each SWDB meeting.

¹ WIOA § 3(52) defines 'recognized postsecondary credential' to include an associate or baccalaureate degree, an industry-recognized certificate or certification, a registered apprenticeship certificate, or a recognized State or Federal license.

Section 4: Initial Eligibility Procedures:

To be included on the Vermont ETPL, all training providers and programs, not previously eligible to provide training services, shall provide the required information to the VDOL. The VDOL shall review the application, make a determination of approval, and notify the applicant of the determination within 30 days of receiving the completed application. The VDOL shall notify the applicant of the final determination in writing, including, in the case of a denial, reasons for the final determination and a statement that the provider may appeal the decision as provided in these procedures. The applicant may appeal the determination of the VDOL using the appeals procedures outlined in section 10 of this document.

Applicants approved under this section will receive initial eligibility for one (1) fiscal year. If the applicant wishes to continue providing training services, the applicant shall apply for continued eligibility as provided in this document.

The following information is required for an initial eligibility determination:

- 1) A completed application²;
- 2) A copy of the provider's refund, equal employment opportunity and accessibility policies;
- 3) A current class schedule; and
- 4) Any additional information requested by the VDOL.

An initial eligibility determination will be decided for each training provider on a **program by program** basis and be based on the following criteria:

- A training provider's prior eligibility status or status of existing programs.
- The ability of the training provider to meet minimum performance levels based on the State Plan's performance measures required by the U.S. Department of Labor.
- Compliance with Vermont labor laws, such as workers' compensation, unemployment insurance, wage and hour, and nondiscrimination.
- The degree to which the program relates to in-demand industry sectors and occupations in the State.

Section 5: Continued Eligibility Procedures:

All training providers shall annually apply to remain on the ETPL by submitting a completed application along with the required information. The VDOL shall review the application, make a determination of approval, and notify the applicant of the determination within 30 days of receiving the completed application. The VDOL shall notify the applicant of the final determination in writing, including, in the case of a denial, reasons for the final determination and a statement that the provider may appeal the decision as provided in these procedures. The applicant may appeal the determination of the VDOL using

²In regards to the application, an initial training provider should provide any accurate information related to the requested performance measures and certify to the VDOL the ability to meet the minimum performance levels and accurately submit the

required information.

the appeals procedures outlined in section 10 of this document. Any training provider that does not apply to remain shall be removed from the ETPL.

The following information is required for a continued eligibility determination:

- 1) A completed application;
- 2) Performance Reports for the past two years, as applicable; and
- 3) Certification that the following have not changed from previous years: the provider's refund, equal employment opportunity and accessibility policies, and the class schedule. If changes have occurred new copies shall be provided.
- 4) Any additional information requested by the VDOL.

A continued eligibility determination will be decided for each training provider on a **program by program** basis and be based on the following criteria:

- A training provider's prior eligibility status or status of existing programs.
- The performance of training providers on the performance accountability measures relating to the State Plan and the training provider's individual performance measures established by the VDOL.
- The availability of training services throughout the State.
- Information reported to State Agencies with respect to Federal and State programs involving training services, including the adult education and vocational rehabilitation programs.
- The degree to which the program relates to in-demand industry sectors and occupations in the State.
- Compliance with State licensing requirements, where applicable.
- The ability of the training provider to offer quality programs that lead to post-secondary credentials.
- The ability of the training provider to provide training services to individuals who are unemployed, underemployed, incumbent workers and individuals with barriers to employment.
- Demonstrated ability of the training provider to submit timely and accurate performance reports.
- Continued compliance with Vermont labor laws, such as workers' compensation, unemployment insurance, wage and hour, and nondiscrimination.
- A training provider's ability to meet the State Plan's performance measures required by the U.S. Department of Labor.

Section 6: Registered Apprenticeship Programs:

Pursuant to section 122(a)(3) of the WIOA, apprenticeship programs registered with the Vermont Department of Labor, Apprenticeship Division are automatically eligible to be included on the ETPL. Although registered apprenticeship programs are automatically eligible, the program will not be included on the ETPL unless the program provider notifies the Apprenticeship Division of its intention to be included on the ETPL.

The Apprenticeship Division will notify every apprenticeship program, registered as of the date of enactment of these procedures, to determine whether the program provider wants to be included on the ETPL. New apprenticeship programs that want to be included on the ETPL shall indicate this intention

on

the apprenticeship program application. Once an apprenticeship program is registered on the ETPL, the program will remain on the ETPL until the program is no longer registered with the Apprenticeship Division or until the provider notifies the Apprenticeship Division, in writing, of the intention to be removed from the list.

Registered apprenticeship programs are not required to submit initial or continued eligibility applications under these procedures. Registered apprenticeship programs are required to comply with all laws and rules regarding apprenticeship programs and labor laws in the State of Vermont.

Pursuant to section 122(a)(3) of the WIOA and 20 C.F.R. § 677.230(b), registered apprenticeship programs are not required to do either of the following: submit performance information in order to be included on the ETPL; or comply with the ETP performance report required by section 116(d)(4) of the WIOA. However, a registered apprenticeship program may voluntarily submit performance information to the State, in which case the State must include this information in the performance report.

Section 7: On-the-Job Training, Customized Training, Incumbent Worker Training, and Other Training Exceptions:

Pursuant to section 122(h) of the WIOA, providers of on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience opportunities, or transitional employment, as those terms are defined in WIOA, are not subject to the procedural requirements outlined in this document. Providers of these programs should consult with the VDOL, Workforce Development Division about the process to be identified as eligible providers of training services. If eligible, these programs shall submit such performance information and meet performance criteria as determined by the VDOL.

Section 8: Additional Requirements:

Eligible Training Providers are subject to applicable requirements in the WIOA as well as any applicable Federal and State laws and regulations, including the requirement to submit performance reports as required by WIOA section 116(d)(4).

Section 9: Enforcement:

Upon a determination by the VDOL that a training provider, or individual providing information on behalf of the provider, intentionally supplied inaccurate information or substantially violated any requirements of WIOA, any VDOL rule or regulation, or any State or Federal labor law, eligibility shall be terminated for a period of not less than 2 years. A training provider whose eligibility is terminated under this section shall be liable for the repayment of funds received during the period of violation. This section is construed to provide remedies and penalties that supplement, but shall not supplant, any additional civil and criminal remedies and penalties.

The VDOL shall notify a training provider in writing when the Department opens an investigation under this section. The notification shall include a brief description of the nature of the investigation and a

reference to the applicable laws and rules, including these procedures.

The VDOL shall notify a training provider in writing upon a final determination of an investigation under this section. The notification shall include a detailed description of the investigation, reasons for the final determination, a reference to the applicable laws and rules, including these procedures, any penalties, including eligibility status and repayment amounts, and a statement that the provider may appeal the determination as provided in this document.

Any training provider determined to violate this section may appeal the determination of the VDOL as provided in section 10 of this document.

Section 10: Appeals:

Within 15 calendar days after receipt of a denial or termination of eligibility, a training provider may file a written request to receive an appeal by a formal hearing. The VDOL Commissioner will appoint a Hearing Officer (HO), or similar entity, to oversee any complaint hearing, and will ensure that the HO has the qualifications, skills, and abilities to fairly, accurately, and without bias, assess the information and determine the facts. A hearing shall be scheduled on a date and time mutually acceptable to the parties, but no later than 30 days after receiving the written request for a hearing. The hearing shall include an opportunity for the applicant to submit written and verbal information to the presiding HO. The hearing shall be conducted in a fair and impartial manner. The Hearing Officer shall issue a decision within 60 calendar days from the date of the hearing informing both parties (the complainant and respondent) of the decision. The decision of the HO or presiding entity shall be final.

Section 11: Waiver from Additional Information Request:

If the VDOL requests additional information as part of the application, other than what is required by the WIOA or applicable regulations, a training provider may request, in writing to the VDOL Commissioner, a waiver from the additional information request. To be granted a waiver, a training provider must be able to demonstrate that providing the information would be unduly burdensome or costly. If the Commissioner determines that the provider has demonstrated such extraordinary costs or undue burden, the VDOL shall provide access to cost-effective methods for the collection of information. Nothing in this section permits a training provider to request a waiver from any required information.

Section 12: Out-of-State Providers:

An out-of-state training provider wishing to provide training services within the State of Vermont shall comply with the procedures outlined in this document. Any out-of-state training provider wishing to offer Vermont WIOA participants training services outside of Vermont should contact the VDOL, Workforce Development Division for further information.