

DIRECTIVE

WORKFORCE SERVICES

Number: WSD14-7

Date: February 2, 2015
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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: ETPL INITIAL PROGRAM ELIGIBILITY WAIVER PROCESS

EXECUTIVE SUMMARY

Purpose

This directive publishes the Eligible Training Provider List (ETPL) initial program eligibility waiver process for Private Postsecondary Training Providers and the limited situations in which these waivers may be requested.

Scope

This directive applies to all Local Workforce Investment Areas.

Effective Date

This directive is effective on the day of issuance.

REFERENCES

- *Workforce Investment Act (WIA)* [Section 122](#)
- *Title 20 Code of Federal Regulations* [Section 663.500](#)
- *California Unemployment Insurance Code* [Section 14000-14530](#) “California Workforce Investment Act”
- *Workforce Services Directive* [WSD13-10](#) “Eligible Training Provider List Policy and Procedures”
- *Workforce Services Directive* [WSD14-2](#) “WIA Title 1B and W-PA State Level Performance Goals for PY 2014-15”
- *Workforce Services Information Notice* [WSIN12-64](#) “Private Postsecondary Educational Entities Must Register with the Bureau of Private Postsecondary Education (BPPE)”

STATE-IMPOSED REQUIREMENTS

This directive contains only state requirements.

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

FILING INSTRUCTIONS

Retain this directive until further notice.

BACKGROUND

To be eligible to receive WIA funds to provide training services to adults and dislocated workers, programs must be listed on the ETPL (with the exception of certain types of customized, cohort, and on-the-job training). In order to be listed on the ETPL, training providers must submit an application to their local board via the CalJOBSSM website. All new and existing training providers are required to register their institution and programs in [CalJOBSSM](#).

Prior to approving private postsecondary training providers to list programs on the ETPL, local boards shall ensure the provider has received an "Approval to Operate" from the BPPE. This information can be obtained on the BPPE website under the [Directory of Approved Institutions](#). Additionally, each program must meet the minimum performance standard referenced in *Workforce Services Directive* [WSD13-10](#).

The BPPE performance standard is 70 percent "entered employment rate." BPPE requires training providers to submit performance reports on a calendar year basis. Performance reports are due in September of each year and published in January of the following year. The base year for initial performance will be Calendar Year (CY) 2013.

The *BPPE Act Regulations* [Section 74112](#) provides the definition for performance and how it is calculated and includes exclusions for "graduates who, after graduation die, become incarcerated, are called to active military duty, are international students that leave the United States or do not have a visa allowing employment in the U.S., or are continuing their education in an accredited or bureau-approved postsecondary institution." This reference can be found in the [WIA ETPL Policies and Procedures Handbook](#) included with *ETPL Directive WSD13-10*. *ETPL Directive WSD13-10* also includes information on the performance standards for other providers (e.g. publicly funded providers who are exempt).

POLICY AND PROCEDURES

In limited circumstances, local boards may request an initial eligibility approval waiver (and a single year of subsequent eligibility) of a private postsecondary training program that does not meet the minimum 70 percent "entered employment (placement) rate" performance standard. This option is necessary to closely align the current ETPL policy with the new provisions in the *Workforce Innovation and Opportunity Act* (WIOA), *Section 122(b)* which allows for consideration of the characteristics of the population served and relevant economic conditions. This additional waiver request process will be in effect until such time as the *ETPL Directive WSD13-10* is updated to reflect the new requirements contained in the WIOA.

During the two year period of an approved waiver, the private postsecondary program must continue to meet all other requirements, including the following:

- Obtain “Approval to Operate” from the BPPE.
- Submit annual performance reports.
- Provide training for occupations in demand in the local area.
- Award credentials/certificates that are valued by the local/regional employer community.

To seek limited waiver approval for these programs, the local board shall ensure that the program meets the above requirements in addition to meeting the minimum waiver performance levels below:

- *Wagner-Peyser Act* State Level Performance Goal for the first waiver year - currently an entered employment rate of 54 percent (released in [WSD14-2](#) for PY 2014-15).
- *Workforce Investment Act* State Level Adult Performance Goal for the second waiver year (subsequent eligibility) currently an entered employment rate of 64.2 percent (released in *WSD14-2* for PY 2014-15).

A waiver will not be approved for a third year, as the program is expected to meet the minimum performance mandated by *WSD13-10* of a 70 percent “entered employment (placement) rate.” The chart below shows the BPPE Performance Dates, the date BPPE publishes performance, and the “entered employment rate” that must be met in order for training providers to be eligible to receive a waiver.

BPPE Performance Dates	BPPE Performance Published	Entered Employment Rate (Statewide average)
January – December 2013	January 2015	54% (baseline)
January – December 2015	January 2017	64.2% (progress)
January – December 2016	January 2018	70%

The local board shall complete the *Private Postsecondary Program Waiver Request* form (see attachment) and send the request to the attention of the California Workforce Investment Board (CWIB). The request must be supported by a publicly noticed Action of the local board. In addition, the attached waiver request form must explain why the provider is unable to achieve the state’s minimum performance standard of a 70 percent placement rate and actions the local board will take to ensure the continuous improvement of this rate during the waiver period. If the waiver request is submitted through email, the completed request must be scanned and attached due to the signature requirement. The CWIB will review and recommend action on the request and forward the waiver request to the Employment Development Department to carry out the administrative functions of the directive. If the waiver is approved, the Training Provider, with assistance from the local board’s ETPL Coordinator, must complete all data entry for the program into CalJOBSSM. The Central Office Workforce Services Division Program Support Unit will add the program to the ETPL upon receipt of the CWIB’s approval of the waiver request.

