

W2F-WDB Policy 11

To: All work2future providers of services
From: San Jose Silicon Valley Workforce Development Board
Effective Date: July 1, 2015 Rev. 2020
Reference: Workforce Innovation Opportunity Act
SUBJECT: Eligible Training Provider Appeals Policy



OPERATIONAL DIRECTIVE

work2future Workforce Development Board
5730 Chambertin Dr. San Jose, CA 95118
408-794-1200

EXECUTIVE SUMMARY

The purpose of this guidance is to establish the appeal process for denial or termination of eligibility as a training provider's participation and the initial and subsequent eligibility of a training provider's programs in the approved Eligible Training Provider's List (ETPL)

POLICY AND PROCEDURES

A. Appeal of San José Silicon Valley Workforce Development Board (work2future)'s Denial

- i. If work2future denies a training provider's initial application for listing on the ETPL, work2future will notify the provider in writing within 30 days from the date of determination. The written notification must include the detailed reasons for the denial and complete information of the appeals process.

B. Reasons for the Denial of Application for Initial Eligibility

- i. work2future may deny eligibility if the data entered into the CalJOBSSM system by a training provider is not complete or not submitted within the required time frame.
- ii. work2future may deny eligibility if an applicant fails to meet the minimum criteria for initial listing specified in this policy.
- iii. work2future or the State may deny eligibility if it is determined that the applicant intentionally supplied inaccurate information (WIOA Section 122(f)(1)(B)).
- iv. work2future or the State may deny eligibility to a training provider who has been found to have substantially violated any WIOA requirements (WIOA Section 122(f)(1)(B)).

C. Reasons for Delisting of a Training Provider or program:

- i. The private postsecondary provider approved by BPPE has not complied with the BPPE Annual Performance Reporting requirement. [Title 5 California Code of Regulations Division 7.5](#)
- ii. A WIOA participant has not enrolled in the training program during the previous two (2) Program Years (July 1 through June 30). The nominating Local Boards' determination to retain a provider eligible for delisting under this criteria will be given priority over this provision.
- iii. The school has lost its accreditation from WASC.

- iv. The provider has not achieved the minimum performance criteria for subsequent eligibility and has not been approved for a waiver of subsequent eligibility by the Local Board.

D. Reactivating Programs Removed from the List

- i. If a program is removed from the list, the training provider can request that the program be reactivated once the program has met the minimum performance standards approved by the State Board.

E. Penalties

- i. If the EDD, in consultation with the nominating Local Board, determines that a provider intentionally supplied inaccurate information, the EDD or the Local Board working with the EDD shall terminate the eligibility of the provider; remove them from the ETPL; and deny their eligibility to receive any funds under WIOA Section 133(b) for at least two (2) years.
- ii. If it is determined that an eligible provider substantially violated any WIOA requirement(s), the EDD or the Local Board working with the EDD shall terminate the eligibility of the provider for at least two (2) years, or take other such action as deemed appropriate.

F. Appeals to work2future:

- i. Any training provider wishing to appeal a decision by work2future must submit a written appeal within 30 days of the denial notice. The appeal must be addressed to the work2future Director, and delivered via electronic mail to henry.morado@sanjoseca.gov.
- ii. The appeal must include a statement of the desire to appeal, specification of the program(s) in question, the reason(s) for the appeal (i.e. grounds), and the signature of the appropriate provider official. The training provider may choose to rely on the written appeal or an in-person appeal hearing can be scheduled.
- iii. There will be an Initial informal meeting between the Local Board staff and the provider. The purpose of this meeting is to identify if there is a simple solution to resolve the dispute.
- iv. If no resolution results from the initial informal meeting, there will be an opportunity for providers to have a hearing. The hearing officer shall be an impartial person. The hearing officer shall provide written notice to the concerned parties of the date, time, and place of the hearing at least ten (10) calendar days in advance of the scheduled hearing. Both parties shall have the opportunity to present oral and written testimony under oath; to call and question witnesses; to request documents relevant to the proceedings; and to have legal representation.
- v. Final decisions will be made within 60 days of receipt of the appeal and the provider and the Local Board notified in writing of the final decision.

G. Appeals to EDD

- i. A provider may appeal to the EDD if it has exhausted the local appeal process and is dissatisfied with the Local Board's final decision.
- ii. A provider wishing to appeal a local decision to the EDD must submit a written appeal within 30 days from a Local Board's final decision on an appeal. The request for appeal must include a statement of the desire to appeal; specification of the program in question; the reason(s) for the appeal (i.e. grounds); and the signature of the appropriate provider official. A provider appeal should be addressed to the following:

Attn: ETPL APPEAL
Central Office Workforce Services Division, MIC 50
P.O. Box 826880
Sacramento, CA 94280-0001

- iii. The EDD will promptly notify the appropriate Local Board when the EDD receives a request for appeal and when a final decision has been rendered.
- iv. The EDD will administratively review an appeal, make a preliminary decision, and notify the provider. The EDD can either uphold or reverse the appealed decision.

INQUIRIES

If you have any questions, regarding this appeals process please contact, Monique Melchor, work2future Director at Monique.Melchor@sanjoseca.gov