

## 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).

## REFERENCES

- Workforce Innovation and Opportunity Act (WIOA) Sections 122(f)(1)(B)) and 133(b)
- Title 5 California Code of Regulations Division 7.5
- Workforce Service Directive WSD21-03, *ETPL Policy and Procedures* (November 10, 2021)

## POLICY AND PROCEDURES

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

- If work2future denies a training provider for listing on the ETPL after an initial eligibility consultation, 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 about the appeals process.

### 2. Reasons for the Denial after Initial Eligibility Consultation

- work2future may deny eligibility if the data entered into the CalJOBS system by a training provider is not complete or not submitted within the required time frame.
- work2future may deny eligibility if a training provider fails to meet the minimum criteria for initial listing specified in this policy.
- work2future or the State of California Employment Development Department (EDD) may deny eligibility if it is determined that the training provider intentionally supplied inaccurate information.
- work2future or the EDD may deny eligibility to a training provider who has been found to have substantially violated any WIOA requirements.

- The EDD has denied a training provider per requirements of the ETPL Policy and Procedures.

### **3. Reasons for Delisting of a Training Provider or Program**

- The training provider previously approved by the Bureau for Private Postsecondary Education (BPPE) has not complied with the BPPE Annual Performance Reporting requirement.
- A WIOA participant has not enrolled in the training program during the previous two (2) Program Years (July 1 through June 30). work2future determination to retain a training provider on the ETPL will be given priority over this provision for delisting.
- The training provider has lost or is unable to provide proof of its regional school accreditation.
- The training provider has not achieved the minimum performance criteria for subsequent eligibility and has not been approved for a waiver of subsequent eligibility by work2future.
- The training provider has not met work2future/City of San Jose contractual agreement to provide proof of comprehensive liability insurance for new and existing training providers.

### **4. Reactivating Programs Removed from the List**

- 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 state performance standards.

### **5. Penalties**

- If the EDD, in consultation with work2future, determines that a training provider intentionally supplied inaccurate information, the EDD or work2future working with the EDD shall terminate the eligibility of the training provider; remove the training provider from the ETPL; and deny eligibility to receive any funds under WIOA Section 133(b) for at least two (2) years.
- If it is determined that an eligible training provider substantially violated any WIOA requirement(s), the EDD or work2future working with the EDD shall terminate the eligibility of the training provider for at least two (2) years or take other such action as deemed appropriate.

### **6. Appeals to work2future**

- 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 [work2future.MIS@sanjoseca.gov](mailto:work2future.MIS@sanjoseca.gov).
- 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 training provider official. The training provider may choose to rely on the written appeal or an in-person appeal hearing can be scheduled.
- There will be an initial informal meeting between work2future staff and the training provider. The purpose of this meeting is to identify if there is a simple solution to resolve the dispute.

- If no resolution results from the initial informal meeting, there will be an opportunity for the training provider 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.
- Final decisions will be made within 60 days of receipt of the appeal, and the training provider and work2future will be notified in writing of the final decision.

## **7. Appeals to EDD**

- A training provider may appeal to the EDD if it has exhausted the local appeal process and is dissatisfied with work2future's final decision.
- A training provider wishing to appeal a local decision to the EDD must submit a written appeal within 30 days from work2future'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 training provider official. A training 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

- The EDD will promptly notify work2future when the EDD receives a request for appeal and when a final decision has been rendered.
- The EDD will administratively review an appeal, make a preliminary decision, and notify the training provider. The EDD can either uphold or reverse the locally appealed decision.

## **Exceptions**

Any exceptions to this policy must be approved by the work2future-Director, Program Manager, or an authorized representative.

## **INQUIRIES**

Please contact the work2future Administrator on duty, [work2future.MIS@sanjoseca.gov](mailto:work2future.MIS@sanjoseca.gov), for any questions regarding this policy.