



INNOVATE

WORKFORCE DEVELOPMENT

June 16, 2020

10:00 a.m.

Arkansas Division of Workforce
Services

VIA Zoom

(Webinar/Teleconference)

SOCIAL DISTANCING – COVID-19

Arkansas Workforce Development Board

Executive Committee



AGENDA

June 16, 2020

ARKANSAS WORKFORCE DEVELOPMENT BOARD EXECUTIVE COMMITTEE MEETING

10:00 A.M.

Call to Order..... Tom Anderson, Committee Chair

Agenda Item 1: ACTION

Approval of the State Funding Mechanism for
Partner Funding of an Arkansas Workforce Center..... Kris Jones, Employment Assistance
Division of Workforce Services

Agenda Item 2: ACTION

Approval of Eligible Training Provider (ETP)
Initial Eligibility Certification Procedure..... Kris Jones, Employment Assistance
Division of Workforce Services

Agenda Item 3: ACTION

Approval of the WIOA State Plan 2020-2023..... Kris Jones, Employment Assistance
Division of Workforce Services

Open Discussion..... Tom Anderson, Committee Chair

Announcements

Adjournment

**For Consideration of the
Arkansas Workforce Development Board
Executive Committee**

June 16, 2020

AGENDA ITEM 1 - ACTION: State Funding Mechanism for Partner Funding of an Arkansas Workforce Center

RECOMMENDATION: It is recommended that the Arkansas Workforce Development Board approve the State Funding Mechanism for Partner Funding of an Arkansas Workforce Center policy in accordance with 20 CFR 678 United States Department of Labor Final Rule and the Workforce Innovation and Opportunity Act (WIOA) Section 101(h).

The Governor must establish a mechanism for determining funding when the Local Workforce Development Areas cannot agree upon the funding method.

INFORMATION/RATIONALE: In accordance with the Arkansas Workforce Development Board By-Laws, the Executive Committee shall be formed and meet as needed between the quarterly board meetings.

The Executive Committee shall have the authority of the Board to act during the interim between Board meetings but shall defer to the Board, whenever practical, action on matters of major policy implications. Executive Committee decisions will be implemented immediately and will be ratified at the next full Board meeting.



ADWS Policy Number: WIOA I-B – 5.2 Effective Date: June 16, 2020

State Funding Mechanism for Partner Funding of an Arkansas Workforce Center

I. Purpose:

The purposes of this policy are to (1) outline the conditions that require the Arkansas Division of Workforce Services, as the WIOA administrative entity of the Governor of Arkansas and as the staff of the Arkansas Workforce Development Board, to impose a State Funding Mechanism for funding a local Arkansas Workforce Center and (2) to outline the process for appealing such a mechanism.

II. Reference:

WIOA § 101(h)
20 CFR Part 678

III. Background:

The local Workforce Development Board (LWDB), chief elected officials (CEOs), and Arkansas Workforce Center partners are responsible for agreeing upon the method of funding the Center and creating memorandums of understanding (MOUs) reflecting this agreement [WIOA § 101(h)(1)(A)(I); 20 CFR 678.715]. The procedure for appealing decisions made at the local level are outlined in AWDB Policy No. WIOA MOA-6.1 (*State of Arkansas Grievance, Complaint, and Appeal Procedure, Workforce Innovation and Opportunity Act Title I Activities*), sec. IV(E)(7). When such entities in the local area cannot agree upon such a method of funding, ADWS, as the administrative agent for the Governor, is responsible for determining the funding mechanism in accordance with WIOA § 101(h) and 20 CFR Part 678.

IV. Policy:

In the event that the local funding mechanism (LFM) has not been completed, signed, and submitted to the State, the State will be statutorily compelled to impose a state funding mechanism (SFM) as prescribed in WIOA § 121(h) and 20 CFR Part 678. The specific allocations of this mechanism will be transmitted to the local workforce development board (LWDB), the chief elected officials, (CEOs), and the One-Stop Required Partners.

Should any appeals arise as a result of the imposition of the SFM, ADWS will follow the following appeals process:

- 1) Upon receipt of the specific terms of a State infrastructure cost-allocation mechanism, any LWDB or One-Stop required partner may appeal for cause, within 21 calendar days, in writing (electronic or hardcopy) the State's determination regarding the portion of funds (or non-cash contributions the LWDB or required partner is to provide.
- 2) To be officially submitted, an official appeal letter must be sent to the Arkansas Division of Workforce Services Director and must fully contain evidence of the following:
 - a) An introduction identifying the appellant and designating the letter as a formal appeal,
 - b) Full citations from WIOA or the WIOA Final Rules in Titles 29 or Title 34 of the Code of Federal Regulations that support the appeal, and
 - c) Identify the basis for the appeal.
- 3) The appeal must be in writing (electronic or hardcopy) and addressed to:

Arkansas Division of Workforce Services
Agency Director
PO Box 2981
Little Rock, AR 72203

The Arkansas Division of Workforce Services Director will acknowledge receipt of the appeal and submit the appeal to the Appeals Tribunal, PO Box 8013, Little Rock, AR 72203. The Arkansas Appeals Tribunal will provide the appellant an opportunity to present their case. A determination will be made as quickly as feasible. Until the appeals process is completed, the appellant will remain liable for its contribution as originally determined in the SFM. If One-Stop partner's appeal to the imposition of the SFM is successful and results in a change to the One-Stop partner's infrastructure cost contributions, then the Local Workforce Area MOU must be updated to reflect the final One-Stop partner infrastructure-cost contributions.

**For Consideration of the
Arkansas Workforce Development Board
Executive Committee**

June 16, 2020

AGENDA ITEM 2 - ACTION: Eligible Training Provider Initial Certification Procedure

RECOMMENDATION: It is recommended that the Arkansas Workforce Development Board approve the Eligible Training Provider Initial Certification Procedure outlining the certification process for new Eligible Training Providers in accordance with Section 122 of the Workforce Innovations and Opportunity Act of 2014 (WIOA).

INFORMATION/RATIONALE: In accordance with the Arkansas Workforce Development Board By-Laws, the Executive Committee shall be formed and meet as needed between the quarterly board meetings.

The Executive Committee shall have the authority of the Board to act during the interim between Board meetings but shall defer to the Board, whenever practical, action on matters of major policy implications. Executive Committee decisions will be implemented immediately and will be ratified at the next full Board meeting.



ADWS Policy Number: WIOA I-B – 4.5 Effective Date: June 16, 2020

Eligible Training Provider Eligibility Certification Procedure

I. Purpose:

The purpose of this procedure is to outline the certification process for new eligible training providers in accordance with the federal Workforce Innovation and Opportunity Act of 2014.

II. Reference:

Workforce Innovation and Opportunity Act (WIOA), Section 122.

III. Procedure:

To be included on the Eligible Training Provider List (ETPL), providers must submit an electronic application to the Local Workforce Development Board (LWDB) for the area where they wish to provide training services. A separate electronic application must be submitted for each training program. Also, if applying for a training program to be offered at different training locations, a separate electronic application is required for each training location. Each training program must be on the current *Projected Employment Opportunities List*.

Providers who may apply to be included on the ETPL include:

- An institution of higher education that provides a program that leads to a recognized postsecondary credential.
- 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, if such activities are provided in combination with occupational skills training. These providers must have all appropriate licenses to operate in the State of Arkansas and will be required to submit copies of such licenses. The information will then be verified by the Arkansas Division of Workforce Services (ADWS).
- An entity that carries out programs under the National Apprenticeship Act will be included and maintained on the ETPL for so long as their program remains registered. These providers will be required to contact ADWS to make known their desire to be listed and provide documentation that verifies their program is a registered apprenticeship program certified by the U.S. Department of Labor, Office of Apprenticeship.

The first step of the process is to determine if a provider is qualified to apply using initial eligibility status. All provider/program combinations that have not been previously eligible under WIOA Section 122 or the Workforce Investment Act Section 122 may apply under these rules.

Projected Employment Opportunities:

All training must be directly linked to employment opportunities either in the local area or in an area to which the individual is willing to relocate. If a local area does not have a particular occupation on its projected employment opportunities list, they may send a participant to, or a customer may choose, a training provider/program not approved by their LWDB if that participant agrees in writing that s/he would be willing to relocate or commute to become employed in that occupation.

An occupation is considered an employment opportunity for a local area if it appears on the *Projected Employment Opportunities List* for the State or local area as published by the Labor Market Information (LMI) division of the Arkansas Division of Workforce Services. Occupations on an adjacent local area's list, including local areas in other states, may also be considered employment opportunities in the local area. If a local area would like to train in an occupation that is not on their local area's projected employment opportunities list, but is on the list of an adjacent area, they should contact the Labor Market Information division of the Arkansas Division of Workforce Services to have the occupation added within the Arkansas Consumer Report System web site. For local areas in other states, the LWDB must provide the adjacent area's projected employment opportunities list, along with the adjacent state's contact information and the training occupations before the occupations can be added to the Arkansas Consumer Report System.

In an effort to increase access to training for rural areas, training providers may be classroom based, online based, or outside of the state. Providers of all types are required to meet the same eligibility and performance criteria. A provider must be in statutory compliance with Arkansas laws in relation to operation as a training education institution.

Required Information for Initial Eligibility:

The information to be included on the initial application is described below.

1. A description of the training program to be offered, including the costs of tuition, books and fees.
2. The program completion rate for **all** individuals participating in the applicable program to be offered by the provider.

To calculate: The number of all participants who completed the program/course during the reporting period divided by the total number of all participants.

3. If the training provider is in a partnership with business/industry and an explanation of the partnership.
4. If the training program leads to a recognized postsecondary credential and a description of the credential.
5. If the program aligns with in-demand industry sectors and occupations.

The Initial Eligibility Certification Process:

1. Providers eligible to apply under this section will complete an online electronic application for “initial certification” through the automated Arkansas Consumer Report System (ACRS) located at www.arkansascrs.org. Providers must apply for each individual program. If multiple training locations exist, an application must be made for **each location**. Providers may make application to any or all Local Workforce Development Boards (LWDBs) at the same time.
2. The LWDBs will receive the application via Internet file if (1) The program’s CIP Code appears on the current *Projected Employment Opportunities List* for the State or Local Workforce Development Area, and (2) Required items are complete and meet minimum qualifications.
3. The LWDB will electronically approve or disapprove each application received via the Internet. The LWDB is responsible for ensuring that the provider’s performance information meets or exceeds the State minimum levels.
4. Upon approval by the LWDB, the provider will be automatically placed on the ACRS website as a WIOA Eligible Training Provider for the applicable program.

If the training provider does not have performance data because the training program is a new program, then the provider must submit the following information to the LWDB of application to include:

1. Written justification for the missing data, and
2. The process that will be used to track and record the required information for re-certification.

The LWDB may choose to waive the performance documentation requirement in this situation. The LWDB should submit in writing their intentions to do so to the Arkansas Division of Workforce Services LMI division for processing of the application to continue.

Required Information for Continued Eligibility:

The information to be included on the continued application is described below.

1. The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program
2. The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program
3. The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program
4. The percentage of program participants who obtain a recognized postsecondary credential or a secondary school diploma or its recognized equivalent, during participation in or within 1 year after exit from the program
5. Information on cost of attendance, including cost of tuition and fees, for program participants

6. Information on the program completion rate for program participants
7. A description of how the provider provides access to training services, including to rural areas, including the use of technology
8. A description of the degree to which training program(s) align with in-demand industries and occupations in the State, as identified in State and Local Plans
9. Any applicable state licensure requirements of training providers
10. A description of training provider's ability to offer industry-recognized certificates and/or credentials through the program
11. A description of training provider's ability to offer programs that lead to post-secondary credentials
12. A description of the quality of the program of training services including a program that leads to a recognized post-secondary credential
13. A description of the ability of the providers to provide training services that are physically and programmatically accessible for individuals who are employed and individuals with barriers to employment, including individuals with disabilities
14. The timeliness and accuracy of the eligible training provider's performance reports
15. Relevant information reported to State agencies on Federal and State training programs other than programs within WIOA Title I.

While we do not intend to limit customer choice nor decrease the number of available training providers, we will prioritize certain individual criteria elements listed above during our evaluation for continued eligibility. Our primary focus will be placed upon the WIOA performance criteria, Numbers 1-4, followed by criteria Numbers 5-8. The remaining criteria elements will be given no special emphasis.

The Continued Eligibility Certification Process:

1. Providers eligible to apply under this section will complete an online electronic application for "continued certification" through the automated Arkansas Consumer Report System (ACRS) located at <https://www.workforce.arkansas.gov/acrs/>. Providers must apply for each individual program. If multiple training locations exist, an application must be made for each location. Providers may make application to any or all Local Workforce Development Boards (LWDBs) at the same time.
2. The LWDBs will receive the application via Internet file if (1) The program's CIP Code appears on the current Projected Employment Opportunities List for the State or Local Workforce Development Area, and (2) Required items are complete and meet minimum qualifications.
3. The LWDB will electronically approve or disapprove each application received via the Internet. The LWDB is responsible for ensuring that the provider's performance information meets or exceeds the State minimum levels.
4. Upon approval by the LWDB, the provider will be automatically placed on the ACRS website as a WIOA Eligible Training Provider for the applicable program.

Substantial Violation

Under WIOA, an institution commits a substantial violation when it: (1) fails to meet the state's procedure for timely and accurately submitting required information for annual ETP performance reporting, (2) fails to meet the state's procedure for timely and accurately submitting all required information for initial or continued eligibility, (3) intentionally provides false information, or (4) violates any provision of WIOA Title I or its regulations, including the nondiscrimination and equal opportunity provisions.

The State will take into account exceptional circumstances beyond the institution's control (e.g., natural disasters, unexpected personnel transitions, and unexpected technology-related issues) when determining if an institution committed a substantial violation for failing to timely and accurately submit required information. If it is determined that exceptional circumstances existed, then a substantial violation did not occur. If it is determined that an institution committed a substantial violation, the institution is prohibited from having its programs on the published ETPL for a minimum of two years and it is liable to repay any WIOA Youth, Adult, and Dislocated Worker Program funds it received during the period of noncompliance.

Registered Apprenticeship Programs

Registered Apprenticeship (RA) programs are an exception to the initial and continued eligibility certification processes. They are exempt from performance and reporting-related requirements. These programs have already gone through a rigorous assessment as part of the registration process with the U.S. Department of Labor, Office of Apprenticeship (DOLETA/OA). Inclusion of RA programs on the state Eligible Training Provider List (ETPL) enhances participants' awareness of the programs and provides local workforce systems with a mechanism to support this valuable training model. All RA programs listed on the ETPL will automatically be considered as a statewide demand occupation for as long as they have an unfilled opening(s). Local boards may not require additional criteria of RA programs.

To be listed on the state ETPL, a RA program should complete the ACRS Registered Apprenticeship Form and return it to the Arkansas Division of Workforce Services via mail, fax or email. The necessary contact information can be found on the bottom of the form. Once the completed form is received and reviewed for completeness, the RA program will be displayed on the Arkansas Consumer Report System (ACRS) website at: <https://www.workforce.arkansas.gov/ACRS/ETPApprenticeShipList.aspx>.

Notification and Appeal Procedures

If a provider of training services has its eligibility denied, are terminated due to substantial violations, failure to provide requested performance information without reasonable justification, or otherwise are removed for good cause, the training provider will be notified that their training program is being removed from the State's training provider list. This information regarding the decision will be submitted to the contact person listed on the training provider's account.

The training provider may appeal the denial or termination within twenty (20) business days from the date of receipt of notice of termination by submitting an appeal request to the ADWS Office of Employment Assistance, P.O. Box 2981, Little Rock, Arkansas 72203 or WIOA@arkansas.gov.

The State will review the appeal, provide the opportunity for a hearing, and issue a written decision/response within thirty (30) business days of the receipt of the appeal. The appeal will be heard by the Arkansas Appeal Tribunal, P.O. Box 8013, Little Rock, AR 72203.

**For Consideration of the
Arkansas Workforce Development Board
Executive Committee**

June 16, 2020

AGENDA ITEM 3 - ACTION: WIOA State Plan Approval

RECOMMENDATION: It is recommended that the Arkansas Workforce Development Board approve the Arkansas WIOA State Plan 2020-2023 as presented and recommended for approval by the United States Department of Labor (USDOL) Dallas Regional Office. Approved plans must be submitted through the USDOL on-line portal by June 30, 2020.

INFORMATION/RATIONALE: In accordance with the Arkansas Workforce Development Board By-Laws, the Executive Committee shall be formed and meet as needed between the quarterly board meetings.

The Executive Committee shall have the authority of the Board to act during the interim between Board meetings but shall defer to the Board, whenever practical, action on matters of major policy implications. Executive Committee decisions will be implemented immediately and will be ratified at the next full Board meeting.

The WIOA State Plan 2020-2023 can be located at:

<https://www.dws.arkansas.gov/programs/workforce-innovation/arkansas-workforce-development-board-meeting-dates/>