

COMMONWEALTH OF VIRGINIA
Virginia Board of Workforce Development

Policy Number:	13-02
Effective Date:	August 1, 2014
Title:	Occupational Skills Training Policy (replaces policy 00-7)

Purpose:

This policy establishes rules governing Workforce Investment Act (WIA) funded occupational skills training, as required by WIA Section 122. This policy is applicable to providers of occupational skills training services for adults, dislocated workers and other populations covered by waiver authority, as defined by WIA.

References:

- P.L. 105-220, Workforce Investment Act, Sections 122, 123, and 134.
- Federal Register, April 15, 1999 (Volume 64, No. 72), U.S. Department of Labor Workforce Investment Act; Interim Final Rule 20 CFR, Part 663, Subpart E.
- WIA [Section 122 \(c\) \(5\) waiver](#) granted to Virginia by USDOL, dated December 2012.
- Virginia Workforce Network [Policy 00-8](#) – Virginia’s Training Voucher System under WIA
- Virginia Workforce Network [Policy 02-04](#) – Incumbent Worker Training
- Virginia Workforce Letter [05-08](#) – Individual Training Accounts for Out-of-School Youth
- Virginia Workforce Letter [08-11](#) – Adult and Dislocated Worker Work Experience
- Virginia Workforce Letter [12-04](#) – Entrepreneurship and Self-Employment Training
- Code of Virginia § 23-276.1 - § 23-276.12, § 23-276.14, § 23-276.2, and § 23-276.4

Customer Choice Requirement:

Occupational skills training shall be provided in a manner that respects customer choice in the selection of training for regionally in-demand occupations, while also ensuring prudent use of public funds in the selection of such providers.

Types of Occupational Skills Training:

For the purpose of this policy, a program of occupational training leads to: 1) a workforce credential including an industry recognized certification, license, apprenticeship credential, college certificate, associate degree, or baccalaureate degree, 2) the vocational or technical skills or competencies needed for a specific job or jobs, an occupation, occupational group or generally for many types of jobs or occupations as recognized and identified in collaboration with employers prior to training, or 3) training that leads to self-employment. As used in this policy, training shall mean those activities which are described in WIA Section 134(d)(4)(D). These training activities may include:

1. Occupational skills training
2. On-the-job training;
3. Programs that combine workplace training with related instruction, which may include cooperative education programs, internships, and apprenticeships;
4. Training programs operated by the private sector;
5. Skills upgrading and retraining;
6. Entrepreneurial training;
7. Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and,
8. Adult education and literacy activities provided in combination with any of the services described in 1-7.

This policy is not intended to address intensive services, supportive services, or other similar services. While employability skills, or “soft” skills, training is often cited by employers as a critical competency for employment and retention in an occupation, such education is not included in the definition of training provided by WIA. However, employability or soft skills training is allowable under WIA, and is specifically addressed by other policies.

Occupational Skills Training Provided Through a Contract:

Generally, occupational training for individual participants is handled through an Individual Training Account (ITA). However, occupational skills training may be provided through a contract with a training provider for an individual or group of eligible customers. This method may be used, in accordance with applicable procurement policy, if the requirements for customer choice are met and if the training meets one of the following criteria:

1. On-the-job training provided by an employer;
2. Customized training;
3. The local board determines there are an insufficient number of eligible providers of training services in the local area involved to meet the workforce needs of local business and industry.
4. The local board determines that there is a training service program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve special participant populations that face multiple barriers to employment, including one or more of the following categories:
 - a. Individuals with substantial language or cultural barriers;
 - b. Individuals who are ex-offenders;
 - c. Individuals who are homeless;
 - d. Individuals with a disability;
 - e. Individuals who are veterans; or,
 - f. Other such populations as defined by a Local Workforce Investment Board.

Occupational Skills Training Provided Through Individual Training Accounts:

Occupational skills training may also be provided through the use of individual training accounts, which shall be provided to eligible individuals as defined by the Workforce Investment Act (see Virginia Workforce Network [Policy 00-8](#) for additional details)

Eligible Training Provider List for Individual Training Accounts:

WIA legislation requires that in order to provide occupational skills training supported through Individual Training Accounts, training providers and their specific programs must be included on the state maintained eligible training provider list. WIA sets forth the requirements and general process by which training programs can be included on the state eligible training provider list, which is maintained for the purpose of assisting customers who have been determined eligible for a WIA individual training account by validating that all listed providers and their programs have met minimum state standards. It is important to note that the requirement to be included on the state eligibility list for training providers paid through individual training accounts does not apply to training provided through a contract.

Local Workforce Investment Boards have the responsibility, under federal law, for reviewing and approving training providers and their programs, and then providing required information to the state WIA administrative entity for inclusion of that provider in the state-maintained Eligible Training Provider system of record. The state, through the Virginia Community College System's Workforce Development Services Division, is responsible for maintaining the statewide list of WIA training providers that have been locally approved.

Training providers are required to submit an initial application for approval with at least one local workforce investment board to initiate the process of placement on the state eligible training provider list. A training provider approved by any local workforce investment board has reciprocal approval as an eligible training provider with all workforce investment boards. However, there are ultimately multiple factors used in determining a training solution tailored to individual and local workforce needs and resources.

Initial Approval Process:

There are four categories of providers who can apply for approval to be included on the state maintained eligible training provider list:

1. A postsecondary educational institution that is eligible to receive federal funds under Title IV of the Higher Education Act of 1965 and that provides a program that leads to certification or license or college certificate, associate degree, or baccalaureate degree.
2. A postsecondary school that offers formal instructional programs with curricula designed primarily for students who have completed the requirements for a high school diploma or its equivalent. Such schools include programs of academic-vocational, vocational, and continuing professional education that may lead to a certification or licensure. This category excludes avocational and adult basic education programs.
3. An entity that carries out related instruction under the Virginia Voluntary Apprenticeship Act or,
4. A provider of a program of occupational training services that under Section 23-276.2 of the Code of Virginia is exempt from certification as a postsecondary school such as a professional or occupational training program regulated by another state or federal governmental agency other than the State Council of Higher Education for Virginia (SCHEV), any school, institute, or course of instruction offered by any trade association or any nonprofit affiliation of a trade association on subjects related to the trade, business, or profession represented by such association,

Providers and programs operating in Virginia under all categories shall submit an application for approval to the local board for the localities in which the provider desires to offer training to WIA customers. This application must include the information outlined in Attachment A. **Also, programs and providers under categories 1 and 2 must be certified to operate or must have program approval from an applicable state agency ([a list of such agencies/entities can be found here](#))** in order to be considered for approval by a local workforce investment board to offer training services to WIA customers through the individual training account method. As noted previously, this requirement does not apply to programs and providers offering training services to WIA customers through a contract.

Distance and Online Training Providers (no in-person training):

Workforce Investment Act funds may be used for programs that are conducted in a completely online format. In these instances, training providers must follow the same initial approval process as outlined above for training providers operating programs in Virginia.

Annual Renewal and Program Update Process:

To ensure the state eligible training provider list includes current information, the list must be updated on an annual basis. The local workforce investment board shall determine the process for such annual updates, ensuring that at a minimum, the information outlined in Attachment B is maintained and kept current with the VCCS System Office. Local areas should also factor state and locally-defined performance elements into the subsequent approval process. The annual renewal and program update requirement does not apply to programs and providers offering occupational skills training to WIA customers through a contract, although it remains critically important that local boards assess and report the outcomes of all training provided through WIA funds, whether through individual training accounts or a contract for training.

Virginia is currently operating under a waiver granted by the U.S. Department of Labor which postpones the implementation of data collection during the years following initial eligibility determination for Eligible Training Providers as described in WIA Section 122. The rationale for this waiver is that it helps to ensure high levels of continued participation in education and training and customer access to a wider array of training options; however, it is expected that all local WIBs will assure quality, as measured through participant outcomes, of all training providers that the local WIB adds or maintains on the state Eligible Training Provider list.

Out-of-State Training Providers (in-person training):

Workforce Investment Act funds may also be used for approved programs from other states. Approved providers and programs based in other states are not required to complete an application for approval in Virginia. In order for an eligible customer to obtain training through an out-of-state provider, the local workforce investment board must first agree to use the provider and the provider's program. If the local workforce investment board agrees, it must then enter into a formal written agreement with the specific training provider before an individual training account can be used by the customer. Additionally, the training provider must be listed on a state maintained eligible training provider list from another state. Eligible training provider lists in other states can be located here: <http://www.careeronestop.org/wiaprovidersearch.asp>.

Attachment A - Initial Approval Application Information

Providers and programs operating in Virginia under all categories shall submit an application for approval to the local board for the localities in which the provider desires to offer training to WIA customers. This application must include the information outlined below. **Also, programs and providers under categories 1 and 2 must be certified by an applicable state agency ([a list of such agencies/entities is provided below](#))** in order to be considered for approval by a local workforce investment board to offer training services to WIA customers through the individual training account method. As noted previously, this requirement does not apply to programs and providers offering training services to WIA customers through a contract.

- 1) Contact information
- 2) Evidence of certification to operate unless training provider is exempt from state statutory requirement for certification or is recognized as a training provider through the Virginia Voluntary Apprenticeship Act
- 3) Evidence of approval to license (if applicable)
- 4) Evidence of employer demand for training program
- 5) Training curriculum/skills
- 6) Courses or classes & descriptions
- 7) Credential to be issued
- 8) Duration of training
- 9) Training program costs
- 10) Evidence of ability to collect and report performance outcome data
- 11) *Any other information required by the local WIB*

List of Certification/Accreditation Agencies/Entities:

The following State agencies can provide approval for Occupational Skills Training programs (please note this is not an all-inclusive list):

- [Criminal Justice Services Department](#)
- [Department of Health Professions](#) (DHP)
- [Department of Medical Assistance Services](#) (DMAS)
- [Department of Motor Vehicles](#)
- [Department of Professional and Occupational Regulation](#) (DPOR)
 - a. Board for Barbers and Cosmetology
 - b. Board for Contractors
 - c. Fair Housing Board
 - d. Real Estate Board
 - e. Real Estate Appraisers Board
 - f. Tradesmen
 - g. Board for Waste Management Facility Operators
 - h. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals
- [State Council of Higher Education for Virginia](#) (SCHEV)
- [Virginia Board of Pharmacy](#)
- [Virginia Board of Nursing](#)

Attachment B - Annual Renewal and Program Update Format

To ensure the state eligible training provider list includes current information, the list must be updated on an annual basis. The local workforce investment board shall determine the process for such annual updates, ensuring that at a minimum, the information outlined below is maintained and kept current with the VCCS System Office. Local areas should also factor locally-defined performance elements into the subsequent approval process.

- 1) Evidence of certification to operate
- 2) Evidence of approval to license
- 3) Contact information (if any changes)
- 4) Employer demand
- 5) Enrollment (current/projected)
- 6) Outcomes (completion & employment)
- 7) *Any other information required by the local WIB*

Attachment C - Accuracy of Information and Appeals Process

I. Enforcement

The Commonwealth has the responsibility for maintaining the statewide certified training provider list and as such, will have final responsibility to ensure that the list is accurate and is an honest reflection of the training opportunities available in Virginia.

A. ACCURACY OF INFORMATION- If after consultation with the WIB involved, it is determined that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information, the Commonwealth may terminate the eligibility of the provider to receive WIA funds for any program for a period of time that is not less than 2 years [Section 122 (f) (1)].

B. NONCOMPLIANCE- If the Commonwealth, or the WIB working with the Commonwealth, determines that an eligible provider substantially violates any requirement under this Act, the Commonwealth, or the WIB working with the Commonwealth, may terminate the eligibility of such provider to receive WIA funds for the program involved or take such other action as the Commonwealth or WIB determines to be appropriate [Section 122 (f) (2)].

C. REPAYMENT- A provider whose eligibility is terminated under paragraph (A) or (B) for a program shall be liable for repayment of all WIA funds received for the program during any period of noncompliance [Section 122 (f) (3)].

D. CONSTRUCTION- These penalties shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties [Section 122 (f) (4)].

II. Appeal Process for Denial of Placement on or Subsequent Removal from an Eligible Training Provider List

Section 122 (g) of the Workforce Investment Act (WIA) requires that the Commonwealth of Virginia have in place a procedure for training services providers to appeal denial of eligibility by the WIB, a termination of eligibility or a denial of eligibility for an on-the-job training provider by a one-stop operator. Such a process must, at a minimum, include an opportunity for a hearing and the prescription of appropriate time limits to ensure a prompt resolution of the matter.

Process

The training provider shall have thirty (30) calendar days from the date the denial notification was provided to file a request for reconsideration to the WIB. The appeal request must be submitted in writing and signed. At a minimum, the appeal must identify the training program and location(s) denied and must clearly state the reasoning for the appeal. Within thirty (30) calendar days of receipt of the request for reconsideration, the WIB shall review the request and issue a written decision that either upholds or reverses the original.

Attachment D – Exemptions

§ 23-276.2 of the Code of Virginia allows the following exemptions from certification:

1. Public institutions of higher education in Virginia
2. Educational offerings or activities that meet the following:
 - a. A nursing education program or curriculum regulated by the Board of Nursing;
 - b. A professional or occupational training program regulated by another other state or federal governmental agency;
 - c. Those courses or programs of instruction given by or approved by any professional body that are principally for continuing or professional education and for which no degree credit is awarded;
 - d. Those courses or programs offered through approved multistate compacts, including, but not limited to, the Southern Regional Education Board's Electronic Campus;
 - e. Those courses offered and delivered by a postsecondary school that is accredited by an entity recognized by the U.S. Department of Education for accrediting purposes, if such courses are provided, solely on a contractual basis for which no individual is charged tuition and for which there is no advertising for open enrollment;
 - f. Any school, institute or course of instruction offered by any trade association or any nonprofit affiliate of a trade association on subjects related to the trade, business or profession represented by such association;
 - g. Any public or private high school accredited or recognized by the Board of Education;
 - h. Tutorial instruction delivered and designed to supplement regular classes for students enrolled in any public or private school or to prepare an individual for an examination for professional practice or higher education.
 - i. Religious Institutions whose primary purpose is to provide religious or theological education.

§ 23-276.4 C of the Code of Virginia allows institutions of higher education formed, chartered or established in the Commonwealth, that have maintained a main or branch campus continuously for at least 20 calendar years under the same ownership and are fully accredited by an accrediting agency that is recognized by the United States Department of Education to be exempt from certification.

Postsecondary institutions that to not meet any of the exempt categories are required to certify.