**Workforce 3One**

**Transcript of Webinar**

**WIOA Eligible Training Provider Provisions**

**The First Year Q&A Session**

**Wednesday, August 5, 2015**

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ERIC BELLINO: OK. So I'm going to turn it over to Heather Fleck, and she's going to go over the moderators and speakers for today.

HEATHER FLECK: Great. Thank you, and welcome, everyone. I'm Heather Fleck here in the Employment and Training Administration in the Office of Workforce Investment. Thank you for joining us. Today I'm joined by Amy Ambrose, Laura Ginsburg, and Christina Eckenroth, and we're going to have a live Q&A session. Hopefully you've all had a chance to view our prerecorded webcast that we posted several days ago.

I know we recently gave an updated communication. Perhaps it was a little unclear. That was already recorded. So hopefully you've all had a chance to review that, also look at our guidance that we released many weeks ago on the eligible training provider provisions. That was TEGL 41-14, and if you haven't had a chance to read that, please, please do so.

So we know this is a complex topic and we do expect a lot of questions and concerns and comments to come in over the next many months as we all work to implement the Workforce Innovation and Opportunity Act. Some of your questions we will definitely be able to answer today. We're first going to tackle the ones that were submitted to us through the WIOA e-mail inbox. So we have a lot of answers already prepared, and thank you to those of you who took the opportunity to do that.

And then hopefully we'll have enough time to take your live questions and answers – answer those that we can. Some may be ones that we'll want to deliberate on a little bit here either with our program staff or even some with our attorneys, and we'll do our best to address those questions through follow-up sessions or posting them on the question and answers that we have on our WIOA webpage. But be assured we are here to help you and support you in implement these provisions in partnership.

So we do have about 45 minutes scheduled for the questions and answers today. I want to make sure everyone understands that the performance report and reporting piece of eligible training providers, the eligible training provider reports are not covered today and they are not covered in the TEGL we issued. Separate guidance and technical assistance will be going out on that particular topic, and I would note that out for public comment right now is the template on those training provider reports.

So please, if you're interested in that, I urge you to go to regulations.gov, look up the post, the Federal Register notice and materials there, and take a look at the template and offer your comments through the public comment process. So those of you that did submit questions in advance on the performance piece of eligible training providers, we'll not be able to address those today. But rest assured that over time those questions will be addressed.

AMY AMBROSE: Heather, we're getting some requests for more volume.

MS. FLECK: OK. Sorry. We'll do our best to speak up as much as possible. I apologize for that. Just a quick comment on the final regulations. As you know, the comment period for the notice of proposed rulemaking has closed. The Departments of Labor and Education are working closely together to review and analyze all those comments and to develop a final regulation. We cannot address anything about the regulation specifically today. So all of our discussion today is relying on the program guidance that we have issued to the system.

So with that I think we'll begin the session, and we're going to kick it off with several questions that we received on apprenticeship. And I turn it over to Laura Ginsburg.

LAURA GINSBURG: Well, hello, everyone. And we have about four questions on apprenticeship today that have already come in. Of course if you have any more, please put them into the chat section and we will try to get to them.

So our first question is, "What can the state workforce system do if the registered apprenticeship sponsor uses a training provider that is not on the eligible – is not on the state's eligible training provider list?" So an example was given of a community college that had previously been on the ETPL but was kicked off of it, no longer on it.

"Would the registered apprenticeship program have to change the training provider? Are there any measures that a state could do so that the registered apprenticeship sponsor could still have the ITA funds used for training at the college?"

So under WIOA states are permitted to use ITA funds for training when the outside training provider is not on the ETPL. It's the registered apprenticeship sponsor that is on the eligible training provider list. So whatever training provider he or she is using, they do not have to be on the list. It's only the registered apprenticeship program. And this is under the model where the program, such as many of our manufacturing programs, use community colleges to provide the related instruction. We also have many of our joint labor management programs where the training is provided in house. So that was question number one.

Question number two, "Can a state require the registered apprenticeship program who want to be on the eligible training provider list be part of their labor exchange?" And the response is it's not permissible for the state to require registered apprenticeship programs to register with the labor exchange in order to be on the ETPL. In Section 122(a)(3) of WIOA it states that registered apprenticeships shall be included and maintained on the ETPL as long as the registered apprenticeship program maintains its registration.

Also in the proposed regulation 680.470(a), the department interpreted this provision to mean that all registered apprenticeship programs are automatically eligible to be included in the state list of eligible training providers as long as they would like to be. Therefore, because the program is automatically eligible, the state cannot condition eligibility to be on the ETPL on any other factors.

So then question number three, "How can the state make the registered apprenticeship programs accountable?" The requirement to submit WIOA performance accountability metrics such as those in WIOA Section 116 does not apply to registered apprenticeship programs. In WIOA Section 122(h) it exempts registered apprenticeship programs from the requirements in WIOA Section 122 A through F, which is where the governor receives authority to set up criteria information and requirements and procedures for the entities that want to be on the ETPL.

And specifically in 122(b)(2)(a) it requires the governor to take into account the performance accountability measures in WIOA Section 116. It does go on and on, many of these specific citations, but in the short of this is there are no requirements. However, the state can encourage consultation with the state and local boards, with ETA's Office of Apprenticeship, or the recognized state apprenticeship agency to establish voluntary reporting of performance information.

Therefore, while the governor can't require this information, the governor does have the authority to encourage it to be reported and registered apprenticeship programs that wish to report this or other information can do so.

So now, on to question number four.

MS. FLECK: Thank you, Laura. And now, Christina Eckenroth will address the next set of questions. Christina?

CHRISTINA ECKENROTH: Hi, everybody. So the next set of questions are submitted – were submitted to us prior to the webinar, and they are really revolve around implementing the eligible training provider list and questions about who can be on the list.

Question four, you can see there's two things happening here. One is a question about why providers of adult education and literacy activities who also provide a combination of occupational skills training would want to be on the list. And two, how would they be able to be on the list?

So number one, the answer is provider who wants to be eligible to receive ITA funds has to be on the ETP unless you're specifically exempted like apprenticeship. So that's why. There you go. If you want that option, you need to be on the list.

How would you meet the eligibility year performance requirement? That would depend on the governor's procedure. The state agency, the governor usually through a state agency, will have to develop the procedures around eligibility. And so if that is something that your state will be facing, you need to develop your procedures accordingly. So if you think there's a group of providers that would have unique circumstances, then you need to factor that into your procedure. OK.

Next question, question five. "Do youth providers need to be on the ETPL?" This is the easiest answer. No. Youth service providers are subject to different procedures that are specific to youth services. So no, they don't need to be on the ETPL to provide youth services.

Next question, removal of participants. "So if a provider hasn't had any WIOA participants for two years or there's no performance data to assess their continued eligibility, what do you do? How do you remove those providers? And if you're going to keep them on the list, what do you use to determine their performance? So can states remove such providers?"

This really goes back to your procedure. Yes. You could, if your procedure indicates you need to have the procedure requirements for eligibility you need to have a certain level of performance. If you're going to keep those providers on the list in your procedure, what should you put in place as alternate performance measures?

This is an excellent question and not one we have a direct answer for right now. So what we're going to do with this question is take it back and mull it over a bit more and respond at a later date. But we don't have a good answer for you specifically about what you would do if you wanted to keep those folks on the list. So we'll get back to you.

But I will mention, if you've watched our riveting recorded webinar regarding eligibility, there is a section about approving folks on the list and removing providers from the list. And the key point here is, if you remove anybody from the list, you have to be sure that you have a clear appeals process and that providers understand how they can appeal any of those kind of decisions.

OK. Our next question, timing of reports and reviews. So this commenter pointed out the cycle of timing, which is the continued eligibility is two years. Initial eligibility lasts one year. So how is that supposed to work? Under our current guidance it's pretty flexible. We have not – we've been silent on that. So under our current guidance it's up to the state on timing.

So for implementation we really haven't dictated anything. Now, all that's subject to change when the final regulations are published and you get final guidance. So hopefully you commented on those types of issues, but for right now we have left it flexible.

Now, the performance report. As Heather indicated we aren't going to speak to the performance report today, but I hope that you are aware that the performance reporting template, which includes eligible training provider performance template, is out for public comment. We can post up in the chat the direct link, but it's on regulations.gov. So please take a look at that and make comments. You have an opportunity through September to make comments on that report.

OK. Next question. This question regards apprenticeship programs, and I'm going to defer to Laura.

MS. GINSBURG: Thanks, Christina. In TEGL 41-14 it states that "pre-apprenticeship programs do not have the same automatic eligible training provider status under WIOA Title 1-B as to registered apprenticeship programs." The question, "Does it follow then that pre-apprenticeship programs have to follow the initial eligibility procedures in order to be placed on the ETPL?" Yes. Pre-apprenticeship programs do have to go through that initial eligibility procedure.

Registered apprenticeship programs have that exemption because they have already gone through very intense vetting through the DOL Office of Apprenticeship or the state apprenticeship agency to have their program registered. Pre-apprenticeship programs do not do that. We do not have any authority or jurisdiction over pre-apprenticeship programs. So they would be perceived as any training provider and therefore need to go through that vetting on the state and local level.

MS. ECKENROTH: So this question is – this is Christina, and this question is not really a question. It's just that folks were interested in knowing some more information about how other states are handling this. So these are three areas in which states – commenters were really interested in understanding how their partners are – their colleagues are dealing with this.

And that's how are you going to document a provider's partnership with business? So what's your procedure going to be around that? What about occupations that are in demand? So what data sources are your states going to be using? There is a vast array that could be used defensively. So what are people finding to be the most useful, what you have been doing or you're going to pursue something new?

And then the monitoring of providers and specifically this commenter wanted to know about business partnerships or the reported data on all students. Now, again, we're not going to get into the reporting requirements, but you're all aware about reporting data on all students for the annual report. How are people thinking about that?

So these are great questions, and I'm sure other folks have a lot of ideas that they would like to share or questions they would like to pose to their colleagues, and we have opportunities for you to do that. So if you have not done so, we encourage you to check out the Innovation and Opportunity Network. We're calling it ION and it's available at ion.workforce3one.org and we can share these links again.

But on ION you can start a discussion thread with folks and start exchanging ideas and practices. And we're also going to keep in mind the need for best practices as we initiate ongoing TA. So thank you very much for these comments and these represent what some folks are thinking. So please post these on the ION.workforce3one.org platform and start sharing.

OK. Next. Here's an example of what ION looks like, if you have not had the opportunity to be there – check that out yet. Please do that. The link's right there. If you run into any technical issues, you can contact Workforce3One. They can help you navigate that.

MS. FLECK: OK. We received – so now, we're going to cover the questions we received earlier today after we had prepped this PowerPoint. So we're not really done. The thank you is – we can leave it up there, but you're not going to – we didn't have the ability yet to put everything on a slide so that you could see the questions. So we will just read the questions now that we got earlier today and then turn to the ones that we're getting through – that are being submitted live today.

So Amy Ambrose is going to take a few of the ones that we got earlier.

MS. AMBROSE: Thank you. So our first question asked about the provisions for eligibility regarding public community and technical colleges, and this person wasn't specific, but they asked about automatic eligibility for these providers.

And the answer is that we do not have provisions in WIOA for automatic eligibility of community and technical colleges. However, an eligible provider was on the list under WIA. The governor is allowed to, with transition authority, keep those providers as eligible until December 31st, 2015 or to an earlier date, and after that those providers will have to go through an application procedure determined by the governor. So that's question one.

The second question related to community and technical colleges is, "Must they be eligible training providers, or can they opt out?" And the answer is that, yes. They could choose to opt out, if they didn't want to participate in the training dollars that are flowing through the individual training accounts. So that answers those two questions.

Now, the next one – okay. I think we already answered that. That had to do with pre-apprenticeship.

We did receive a question. This will also be referred for some peer-to-peer sharing. Someone asked that, "Many programs prepare individuals for an industry-recognized credential, but this credential's never sought out by the participant following training. Are there any best practices for encouraging participants to seek credentials beyond training?" This goes beyond the scope of topics that we wanted to address on this webinar, but I think it's helpful to refer back to ION, the ION resource as a way to perhaps post this question and share information.

OK. And along those lines also another question that asked about how willful areas will be monitoring their training providers and especially the accuracy of the data that's submitted on reports. And again, I would refer that question to listeners to share on the – a platform for consulting with each other.

The next question, "I'm looking for a list which would show WIOA certified training programs outside of Minnesota. Is there a national list or a resource where I could go for other states?" There isn't a national list that would include all of the programs nationwide, but you are free to visit state-by-state lists and to consult the training programs that are outside of Minnesota.

I believe the website where the federal government keeps links to each of these is career – help me out. What is it? Careeronestop.org. Careeronestop.org. So from that website you could surf to the other states to see what other training programs are available outside of Minnesota.

OK. OK. The next question is a question that has to do with registered apprenticeship again, and for that I'm going to refer back to Laura Ginsburg, unless she had already answered it. You didn't get this; right?

MS. GINSBURG: No.

MS. AMBROSE: OK.

MS. GINSBURG: Which one is it? OK. "Our company is currently going through the process of registering our programs as national registered apprenticeship for 10 to 15 occupations. My understanding is once that is complete, we will not have to register at the state and local level as an eligible training provider."

So this is actually to an employer, a national employer who's in the process of registering, and once you are registered and you are in the Office of Apprenticeship database, then, yes. You are eligible for the eligible training provider list. We are still working through the process for the states to place those programs on their list, and we will be issuing more guidance on that early this fall. So stay tuned. We will have more information on that one.

OK. The next question followed after that one, "Does becoming an eligible training provider mean that all the programs or courses we offer are eligible to students in a state if it meets the needs of in-demand occupations?" And the answer is that each program is going to have to qualify. An entire school and all of their programs doesn't immediately become on the eligible training provider list. It's a program-by-program eligibility process.

OK. OK. The next question is also about automatic eligibility, this time referring to for private for profit and non-profit higher education institutions such as University of Phoenix, DeVry University, Everest Institute, etcetera, that receive Title IV funds. And again, the answer is that WIOA does not provide for automatic eligibility. It's determined by the governor, and the governor's procedures may be streamlined. The governor has a series of factors that the criteria have to take into account, and there's not a provision for automatic eligibility.

OK. And the second question asks, "If they're not automatically registered, are they grandfathered until December 31st and then apply to be training providers?" And the answer is, if they are currently on the list under WIA for that state, they would be subject to the continued eligibility procedures of that state. And the longest they can remain grandfathered is December 31st or to an earlier date that the governor would decide.

OK. The next question asks about whether private for profit higher educational institutions would be required to apply separately for each campus, if they have several campuses. And this would depend on the application procedures of that state.

And the next question asks whether each program course offered would have to seek approval or if all courses are automatically approved. And generally, eligibility is on a program basis not a course basis. So the courses within that program would be eligible.

OK. And the next few questions we had – oh, I have one more, and this has to do with the reciprocity agreements that states can enter into so that participants can utilize training in a neighboring state. The question says, "I understand that border states can enter into a reciprocity agreement. Often we have participants who want to take advantage of a training provider in another state that is not a border state for various reasons, one being that the training provider offers distance learning. Would it be permissible to enter into a reciprocity agreement with that other state that is not a border state in these situations?"

And the answer is yes, as long as that state has entered into that reciprocity agreement and therefore those providers would be considered eligible in the state that you're in. And that's all I have for the e-mails that we received in advance.

We're going to take a breather a moment to collect our – (inaudible).

MS. FLECK: So we're going to start – thank you. We've been getting a lot of questions through the chat feature, and they're rolling in fast. So we're going to try to tackle at this point the ones that we feel confident in our answers. If your question is not addressed, it's because either it's not sort of germane to what we're covering today, or we need some more time to figure out the answer. So we're going to tackle the ones we can, and we have about 20 minutes or so available to do that. So I'm going to take the first set. This is Heather.

We did get a question – I'm going to start out one that we need clarified. Someone asked, "Can training providers use fourth-party vendors to deliver the training?" And we didn't quite understand the question. So if you want to submit and rephrase it a little more and resubmit it, that would be great.

The next one is one that I know a lot of people actually have a question on. "Can the state waive performance requirements for initial eligibility if the state has historically had a waiver for ETPL performance?" The answer is that at this time the department is not looking to waive these requirements. We are asking states to implement these provisions, and so at this time there are no waivers on the eligible training provider requirement. And Amy wants to add something to that.

MS. AMBROSE: Right. I just want to add that the information that's required for initial eligibility, pay attention to our guidance about that. And the factors that a governor can take into account regarding performance for initial eligibility are somewhat flexible. And you shouldn't – in the past a waiver was needed for a specific reason under WIA that doesn't apply to initial eligibility the way it's framed under WIOA. The commenter might be referring to the performance reporting requirements, and as we mentioned, that's a separate discussion for another time.

MS. FLECK: Thank you, Amy.

MR. : We have a follow-up for the fourth-party vendor question.

MS. FLECK: OK. So we'll get back to that one in a bit. We have a number to cover.

So here's a question. "Do training providers for older youth have to be on the eligible training provider list?" Earlier in the Q&A we answered questions about youth providers having to be on the eligible training provider list. So to the extent a youth is using an individual training account, they may purchase training from the eligible training provider list. So that's the criteria for when an older youth comes into play. If you've given them an ITA, then they shop off the eligible training provider list. So hopefully that clarifies that.

OK. And the next one is for Christina Eckenroth to answer. Christina, the question is, "Will guidance come out that explains how we need to re-determine" – I'm sorry – "re-determine eligibility after one year with limited performance data?"

MS. ECKENROTH: OK. So there have been a lot of questions coming into the chat about the performance report. So let me sort of separate what we're talking about. There are requirements for information from providers in order to be determined eligible and to continue their eligibility. So that's covered in our TEGL 41-14.

Several of you have thrown in questions about the required annual report – provider report to the state. That's separate and apart from determining eligibility. It's still pretty vital and I understand why you all have questions as talking about that but that's a separate set of reports.

So yes. In short there will be additional information and guidance to help folks figure out how they should collect and report of the required annual reports that ETA is requiring regarding the providers.

But for your eligibility and continued eligibility that's addressed performance issues in order to determine whether a provider or program is eligible or will remain eligible, that's covered in our TEGL, and we do make reference to other factors related to performance. So folks who are commenting on, hey, I don't have the WIOA performance outcomes on anybody for a period of time, in order to determine eligibility, that's correct. You can and you should, when forming your procedures or updating them, as the case may be – you should take into account what information you do have.

When you're talking about annual reports to the state from providers regarding the all-student performance and outcome of all students, the demographics of WIOA participants, that's separate, and we will provide you additional guidance. But those are two separate things. So I hope that I've clarified that a bit.

You do need provider performance in order to determine a provider and a program eligible and to determine if that program and provider should remain on your list. And annually, providers need to provide information that the state will make available regarding their performance, and that's covered in a separate section.

MS. FLECK: Thanks, Christina. Now, we have several questions that Amy is going to take, and then she's going to turn it over to Laura.

MS. AMBROSE: OK. The first question I'm going to talk about is, "Are exceptions available to allow training providers from the closest major metro area providing training?"

And yes. There are exceptions to allow for multiple areas to enter into a contractual agreement, if the local board determines that there are insufficient providers or that there is a training service program with demonstrated effectiveness offered by a community-based organization or other private organization to serve individuals with barriers to employment or if the local board determines that it would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations and as long as that contract does not limit customer choice.

So I'm reading to you basically straight from the TEGL but – and I know that's a little dry, but the bottom line is, yes. There are exceptions to meet the needs of rural areas.

OK. I have two questions that have to do with the reciprocity agreements between states. The first one wants to know, "Is the reciprocity assumed or does it require a formal agreement?" And the answer is it requires a formal agreement between the states.

The second question is asking, "Do these agreements undergo Department of Labor review at the federal level?" And the answer is no, that's not required.

The second question is, "Do governors and state boards review it?" I'm reading my friend's handwriting. I think that's the question. And I think the answer there is that it would depend on the state. I don't believe the law specifies that.

OK. And I should have done this together with the first question that I answered. "Is incumbent worker training also exempt from the ETP requirements?" And the answer is yes. These are among a family of training examples that include on-the-job training, customized training, and transitional employment that are exempt from the eligibility provisions of Section 122 in WIOA.

And for these programs the governor may require One-Stop operators in the local area to collect performance information and to disseminate that information, and providers that meet the governor's criteria for these exceptions are considered eligible providers of training services. There you have it.

MS. GINSBURG: OK. This is Laura, and we have a question on apprenticeship, which just went away. Could you bring it up again, please?

MS. FLECK: The question is, "If provider's registered apprenticeship is added to the EPL as required, must they be used?"

MS. GINSBURG: Right. But there were some other sub-questions there too that I think we should answer because I think they were really good. So the response is if the registered apprenticeship sponsors have that automatic ETPL status, it seems to me that they were put on there to be used.

That does not mean that you must use them, but I would certainly encourage that collaboration and partnership with registered apprenticeship programs. We are expanding registered apprenticeship like you would not believe right now. We have a goal of doubling the number of apprentices by 2020 and are expanding into all the high-growth industries right now, IT, healthcare, advanced manufacturing, transportation and logistics, energy, hospitality, insurance, you name it.

So we have a lot of very good robust programs, and it's built upon all of our programs in the construction trades and in manufacturing. So this is a real opportunity for our systems to work together. Placing individuals into registered apprenticeship is really placing them into a career with great upward mobility.

So I would look at it perhaps a different way than the questioner in that this is a great opportunity to partner with apprenticeship programs and don't look at it as is this another imposition on me in my work. This is really a great opportunity to expand and potentially improve your performance ratings.

MS. FLECK: Great. Thank you, Laura. Now, a question that we have is, "Can you clarify a disqualification for two years for not meeting performance, that a disqualification of course or program, that means disqualification of course or program not provider; correct?"

So I guess the question is who gets kicked off the list? Is it the provider overall or just the program? So to be clear, it is in the procedure that the governor sets how providers are removed from an eligibility status. So it could be – first of all, it's up to the governor and the state if they want to set a threshold of performance that the provider needs to meet, completely within the state's purview.

And then the criteria around which they get removed is also up to the governor to appoint. I think there's a few factors we lay out in the TEGL. Like if they're giving false information, for example, that's a reason to remove them. But performance-related is sort of up to the state to determine what the sort of – what requires – where does it trip the removal part, and it could just be the program. It could be the provider. It could be not at all, depending on your procedure. But remember the point of this is to have quality providers on the list.

A question is, "Where can we locate the proposed recording template?" So these are the reporting templates that we just announced are out for public comment. These are located on regulations.gov, and there's a docket number associated with them. We'll try to look it up and post it here in the next few minutes. I don't have the docket number handy that you need to search on. So look there.

Do you have more questions?

Male: Give us one second as we sort through these questions; okay?

MS. FLECK: OK. So we're going to pause just for a minute so that we've got more questions than we're able to sort through.

OK. So I didn't realize we were near the end of our time, but we're going to answer a couple more questions. So we did get a clarification on that question someone asked about a fourth-party vendor. So the example is, "The community college partners with an online training entity who in turn partners with another vendor for the training itself for the online training portal." So Amy is able to answer this question. May they be an eligible training provider?

MS. AMBROSE: Yes. It depends on the procedures of the state. Sorry about that. We accidentally hit the mute button. Yes. They may – depending on the procedures of the state, the online training provider is fine but the community college, when it makes its application, needs to be very clear about what this program of study is, what's all involved with it so that the state, within its procedures, can realistically evaluate whether it fits their criteria for becoming an eligible training provider.

MS. FLECK: OK. So we are out of time. We did get more questions than we were able to address today. We will do our best to sort through those questions, come up with answers, and either post them through a written question and answer or perhaps hold another one of these sessions to address your questions.

But thank you so much for your participation today. If you do have further questions, you can stay on a little longer and submit them through the chat feature or go to the WIOA e-mail box, which is WIOA –

MS. ECKENROTH: Which is dol.wioa@dol.gov.

MS. FLECK: OK, dol.wioa.dol.gov.

MS. ECKENROTH: @dol.gov.

MS. FLECK: @dol.gov. Oh, my gosh. It is on – it is in the – the webcast has it one of the slides. So you find it there since I garbled it, but yes. So thanks again. Like I said, we're here to support you in implementation. We do know these are complicated topics. Thank you very much, and thank you to the presenters.

(END)