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# SAN JOAQUIN COUNTY WORKNET EMPLOYMENT AND ECONOMIC DEVELOPMENT DEPARTMENT POLICIES AND PROCEDURES DIRECTIVE

DIRECTIVE NO.	EFFECTIVE DATE	APPLICABILITY	PAGE
D-59	August 30, 2022	CMD, GMD, EMD, FMD	1 of 2
SUBJECT: <b>ELIGIBLE TRAINING PROVIDER LIST</b>			

## I. PURPOSE

This policy provides guidance and establishes the procedures applicable to the training providers and programs listed on the San Joaquin County Eligible Training Provider List (ETPL) under the Workforce Innovation and Opportunity Act (WIOA).

## II. GENERAL INFORMATION

WIOA Section 122 requires states to establish and maintain a list of training providers who are eligible to receive WIOA Title I, subtitle B funds for training services. An America's Job Center of California<sup>SM</sup> (AJCC) may issue an Individual Training Account (ITA) to a WIOA Title I, subtitle B eligible individual (adult, dislocated worker, or out-of-school youth age 16-24) to fund training services.

The Employment Development Department (EDD) is the entity responsible for publishing, disseminating, and maintaining the comprehensive California (CA) ETPL with performance and cost information. In addition, the EDD is responsible for ensuring programs meet the eligibility criteria and establish performance levels; removing programs that do not meet the program criteria or established performance levels; and taking enforcement actions against providers that intentionally provide inaccurate information, or that substantially violate the requirements of WIOA.

EEDD is responsible for carrying out the procedures outlined by EDD; working with the state to ensure there are sufficient numbers and types of providers of training services with expertise in assisting individuals with disabilities, and adults in need of adult education and literacy activities; developing and maintaining a local ETPL; and ensuring the dissemination of the CA and San Joaquin County ETPLs through the AJCCs, including in formats accessible to individuals with disabilities.

### References:

- WIOA (Public Law 113-128), Section 122

- Title 20 Code of Federal Regulations (CFR) Part 677: "Performance Accountability Under Title I of the Workforce Innovation and Opportunity Act" (Uniform Guidance), Sections 677.150 and 677.230
- Title 20 CFR Part 680: "Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act" (DOL Exceptions), Sections 680.200, 680.210, 680.230, 680.300, 680.310, 680.320, 680.330, 680.340, 680.350, 680.410, 680.420, 680.430, 680.450, 680.460, 680.470, 680.480, 680.490, 680.500, 680.520 and 680.530
- State of California Employment Development Department, Workforce Services Directive WSD21-03 - ETPL Policy and Procedures

### III. POLICY

This policy establishes the requirements for developing and maintaining the San Joaquin County ETPL, specifically: additional eligibility requirements, requirements for programs leading to credentials or certificates or training-related employment, timelines for initial and continued eligibility review, the process for delisting training providers or programs, the appeal process, grievance and complaint procedures related to the ETPL, payment conditions and recovery of WIOA training funds, maintenance of provider records and program eligibility documents, documentation of participant attendance, ETPL coordinator roles and responsibilities, and conflicts of interest related to the CA or San Joaquin County ETPL.

### IV. PROCEDURE

The ETPL Policy and Procedures (Attachment 1) provides guidance and resources for developing and maintaining the San Joaquin County ETPL.

### V. QUESTIONS REGARDING THIS DIRECTIVE

May be referred to the Executive Director of EEDD via Managers or designee.

### VI. UPDATE RESPONSIBILITY

The Executive Director of EEDD and/or designee shall be responsible for updating this directive, as appropriate.

### VII. APPROVED



PATRICIA VIRGEN  
EXECUTIVE DIRECTOR

PV:jl



**San Joaquin County Employment and Economic Development Department  
Eligible Training Provider List Policy and Procedures**

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# San Joaquin County Employment and Economic Development Department Eligible Training Provider List Policy and Procedures

## Introduction

This policy establishes the San Joaquin County Employment and Economic Development Department Eligible Training Provider List (ETPL) to support the creation of a list that ensures provider performance, job-driven training, informed consumer choice, continuous improvement, and cost-effective investment of public funds as well as provide sufficient consumer protection and oversight of training providers. All providers and programs approved for the San Joaquin County Eligible Training Provider List must meet all requirements set forth in State [ETPL Policy and Procedures](#) and the local requirements set forth by this policy, including:

- Additional eligibility requirements relating to local demand occupations, location, costs, reporting performance data, outcomes, and exemptions from California Education Code
- Training programs leading to credentials or certificates or training-related employment
- Timeline for initial and continued eligibility review
- Process for delisting training provider/programs from the local ETPL
- Appeal process
- Grievance and complaint procedures
- Payment conditions and recovery of WIOA training funds
- Maintenance of training provider and program eligibility documents
- Documentation of participant attendance
- Maintenance of records
- Local ETPL coordinator responsibilities
- Conflicts of interest

## Additional Eligibility Requirements

San Joaquin County Employment and Economic Development Department, on behalf of the Workforce Development Board (WDB), will adhere to the policies and procedures outlined by the State for the operation of the statewide Eligible Training Provider List (ETPL). Training providers who desire to provide training services to WIOA eligible clients enrolled through San Joaquin County Employment and Economic Development Department must also be placed on the San Joaquin County Employment and Economic Development Department ETPL. Providers and programs must meet all State and local criteria. Placement on either the State or San Joaquin County Employment and Economic Development Department ETPL does not guarantee program participant enrollment. San Joaquin County Employment and Economic Development Department's additional local criteria are:

### **Demand Occupations**

Approved programs must provide training for demand occupations as determined by the State, with priority given to these locally identified high-demand sectors:



1. Transportation and logistics
2. Healthcare
3. Manufacturing
4. Agriculture
5. Construction
6. Energy
7. Water/Wastewater

### **Location**

The provider's training site where the student will attend the program must be located within the borders of San Joaquin County or no more than 50 miles of the comprehensive WorkNet AJCC location. Participants traveling to training sites outside San Joaquin County must have adequate, reliable transportation available.

### **Costs**

Total tuition, fees, and expenses must not exceed current ITA tuition limit unless other means are offered to reduce the costs at no cost to the participant. For the purposes of an ITA with San Joaquin County Employment and Economic Development Department, tuition is defined as costs to the organization to develop curriculum, enroll participants, and provide instruction. Administration fees, enrollment and registration fees shall be included as part of tuition. Fees and expenses are defined as costs external to the provider, such as permits, licensing exams, supplies, and materials necessary to successfully complete the program. San Joaquin County Employment and Economic Development Department does not make payments in advance of a participant attending training, nor does it make payments if a participant does not attend training.

All training providers applying to be on the San Joaquin County Employment and Economic Development Department ETPL must provide their institution's refund policy for review. Prior to accepting the training institution's refund policy, San Joaquin County Employment and Economic Development Department must verify the refund policy is in accordance with the San Joaquin County Employment and Economic Development Department policy and procedures directive for recovery of WIOA tuition and training refunds.

### **Reporting Performance Data**

The CA ETPL policy requires training providers to report aggregate (all students) performance data for each program year. To ensure accurate reporting and determination of program eligibility, the San Joaquin County Employment and Economic Development Department requires this data will be entered into CalJOBS by July 15<sup>th</sup> of the new program year.

### **Outcomes**

For placement on the San Joaquin County Employment and Economic Development Department ETPL, programs must lead to a postsecondary credential or certificate. Programs that lead to Training-Related Employment may also be approved for the San Joaquin County Employment and Economic Development Department ETPL, but participant enrollment will be granted on a case

by case basis and limited to participants with a letter guaranteeing a full year's employment at completion at or above the median wage in the field.

### **Additional Requirements for Training Providers Deemed Exempt Per California Education Code (CEC) Section 94874 and Not Regionally Accredited by an Accrediting Institution**

In accordance with State ETPL policy, the San Joaquin County Employment and Economic Development Department will require training providers deemed exempt per California Education Code (CEC) Section 94874 and not regionally accredited by an accrediting institution to provide documentation establishing the exemption as well as the following:

- Verification of the instructor's credentials or experience.
- Ensure the financial stability of the training provider.
- Annual inspection of the schools or training programs.
- Ensure actual instruction is taking place.
- Ensure instructional equipment and instruction meet current industry standards.

Training providers deemed exempt per California Education Code (CEC) Section 94874 exemptions (a), (d), (f), or (h) of CEC Section 94874 are not eligible for the CA ETPL or San Joaquin County Employment and Economic Development Department ETPL.

### **Training Programs Leading to Credentials or Certificates or Training-Related Employment**

For placement on the San Joaquin County Employment and Economic Development Department ETPL, training programs must lead to at least one of the following: 1) credentials and/or certificates valued by employers, or 2) training-related employment as a result of gaining measurable technical skills for a specific occupation. This requirement ensures that training programs lead to high-quality jobs, as described in the California Unified Strategic Workforce Development Plan. Job quality serves the workforce development system and broader public sector by protecting investments in training.

A postsecondary credential is an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state or federal government, or an Associate or Bachelor's degree. A recognized postsecondary credential is based on the attainment of measurable technical or industry/occupational skills necessary to obtain employment or advance within an industry/occupation. These technical or industry/occupational skills are generally based on standards developed or endorsed by employers or industry associations. The following are types of recognized postsecondary credentials:

- Associate degree
- Bachelor's degree
- Occupational licensure (e.g. Certified Nursing Assistant license)
- Occupational certificate, including Registered Apprenticeship and Career and Technical Education educational certificates
- Occupational certification (e.g. Automotive Service Excellence certification)
- Other recognized certificates of industry/occupational skills completion sufficient to qualify for entry-level or advancement in employment



Participants will only be considered for programs leading to training-related employment that do not also lead to a credential if they have a letter guaranteeing at least one year of full-time employment upon completion of training.

### Timeline for Initial and Continued Eligibility Review

The timeline for program initial and continued eligibility on the San Joaquin County Employment and Economic Development Department ETPL is the same as that of the CA ETPL. Initial eligibility applies to a program previously not listed on the CA ETPL under the WIOA or the WIA. Continued eligibility applies to all training programs listed on the CA ETPL at any time under the WIOA or WIA and whose initial eligibility has expired. A training program's initial and continued eligibility is valid for 365 days after the program is approved for the ETPL. Programs listed on the San Joaquin County Economic Development Department ETPL will be reviewed for continued eligibility annually.

#### **Initial Eligibility**

Once the training provider enters the program into CalJOBS, San Joaquin County Employment and Economic Development Department is responsible for reviewing the program information and either denying their inclusion on the CA ETPL, or nominating them for review by the State ETPL Coordinator through the CalJOBS approval process. Training programs will be reviewed and nominated or denied within 30 days of the completed application date.

In accordance with State ETPL policy, after reviewing to ensure the provider/program meets eligibility criteria, the San Joaquin County Employment and Economic Development Department can nominate the training provider/program to the state for review. If nominating the provider to the State ETPL Coordinator, the signed CA ETP Assurances Form (WSD 21-03, Attachment 4) must be uploaded to the documents section of the Provider Profile in CalJOBS.

The State ETPL Coordinator will review providers within 30 days of their nomination by the San Joaquin County Employment and Economic Development Department. The EDD will review the provider/program's information to ensure it meets all initial or continued eligibility requirements outlined in this Directive. If eligible, the State ETPL Coordinator will approve the provider/program for the CA ETPL and notify the San Joaquin County Employment and Economic Development Department ETPL Coordinator. At that time, the program will be reviewed to determine initial eligibility for placement on the San Joaquin County Employment and Economic Development Department ETPL.

#### **Continued Eligibility**

Continued eligibility applies to all training programs listed on the CA ETPL at any time under the WIOA or WIA and whose initial eligibility has expired. A training program's initial and continued eligibility is valid for 365 days after the program is approved for the ETPL. Since programs can be reviewed year-round, all active training programs on the CA ETPL will be evaluated annually by San Joaquin County Employment and Economic Development Department no earlier than 60 days, and no later than 30 days prior to the program's eligibility expiration date to ensure they continue to meet eligibility to be retained on the CA ETPL. At that time, the program information



will be reviewed to determine continued eligibility for placement on the San Joaquin County Employment and Economic Development Department ETPL.

### Process for Delisting Training Providers or Programs

To ensure the integrity of the CA ETPL, the San Joaquin County Employment and Economic Development Department or the EDD will remove a training provider or program from the CA ETPL and San Joaquin County Employment and Economic Development Department ETPL at any time for the items below:

1. The training provider will be immediately removed for any of the following reasons until such time as they meet continued eligibility. A provider who has been removed from the list for any of the following reasons is liable to repay all Adult and Dislocated Worker training funds received during the period of noncompliance:
  - a. The training provider has lost its accreditation or its approval to operate from its regulating agency.
  - b. A private postsecondary training provider no longer meets the exempt criteria per CEC Section 94874, or the provider's Verification of Exemption by BPPE (if required by the EDD) expired or is revoked, and the provider does not have a new Verification of Exemption, or BPPE Approval to Operate.
  - c. The nonprofit Community Based Organization no longer qualifies under Section 501(c)(3) of the Federal Internal Revenue Code.
  - d. The apprenticeship program is no longer registered with the DOL under the National Apprenticeship Act, or is no longer approved by DIR DAS. The State ETPL Coordinator is responsible for removing apprenticeship programs.
  - e. The pre-apprenticeship program no longer has a Letter of Commitment from a DOL registered or DIR DAS approved apprenticeship program, or no longer leads to an industry-recognized postsecondary credential.
  - f. It is determined the provider sub-contracted instruction of the program to another entity without approval from WASC or BPPE.
  - g. The provider is not in compliance with WIOA Section 188.
2. A training provider will be immediately removed for a period of no less than two years for any of the reasons listed in this section. A provider who has been removed from the list for any of the following reasons is liable to repay all Adult and Dislocated Worker training funds received during the period of noncompliance:
  - a. The state identifies the San Joaquin County Employment and Economic Development Department and training provider are participating in pay-to-play activities (commonly known as kickbacks) that include, but are not limited to: The San Joaquin County Employment and Economic Development Department received monetary or gift exchanges for (or in the hope for) referrals to a specific training provider, and/or exchanges of money or gifts to have the training provider listed on ETPL. As part of the annual on-site monitoring of San Joaquin County Employment and Economic Development Departments, if it is determined the San Joaquin County Employment and



Economic Development Department is engaging in pay-to-play activities, a corrective action is required, and failure to take timely action to be in compliance may result in decertification of the San Joaquin County Workforce Development Board.

- b. It is determined the training provider falsely reported information.
  - c. The training provider substantially violated a provision of Title I of WIOA, or its implementing regulations.
  - d. The training provider's top level leadership (e.g. owner, CEO, Director, etc.) is convicted of violating any federal or state law associated to the operation of the institution.
3. The EDD, in coordination with the San Joaquin County Employment and Economic Development Department, can remove a provider for any of the following reasons. Reactivation to the list is at the discretion of the State ETPL Coordinator and the San Joaquin County Employment and Economic Development Department:
- a. It is determined the provider is not serving or providing value to WIOA participants, and is listed on the CA ETPL solely for other purposes, such as the utilization of Workers' Compensation Supplemental Job Displacement Benefit vouchers.
  - b. The provider has not served at least one Title I, subtitle B enrollment during the previous two program years. See "Training Provider Continued Eligibility Criteria" for requirements to be reinstated to the ETPL.
  - c. The provider's CalJOBS profile and/or program information is inaccurate or incomplete.
  - d. The training provider has not demonstrated a good faith effort in providing the ETP Report data to the EDD.
  - e. The provider no longer wishes to be listed on the CA ETPL.
4. In an effort to safeguard WIOA funds, the training provider will be suspended from the CA ETPL if the training provider is under any federal, state, or local investigation. During the period of suspension, no new enrollments may occur, but the training provider can continue to serve existing WIOA-funded enrollments. Once the investigation is complete, a review of the findings by the state will determine if the provider can be reinstated to the CA ETPL.
5. If a training provider no longer meets the additional requirements of San Joaquin County Employment and Economic Development Department, the provider and programs will be removed from the San Joaquin County Employment and Economic Development Department ETPL.

If a training provider/program is removed from the CA ETPL, the EDD must inform the San Joaquin County Employment and Economic Development Department of the denial and the reason(s) for the delisting within 30 days of the removal. The San Joaquin County Employment and Economic Development Department must in turn inform the training provider in writing with the reason(s) for the delisting, and provide information on the San Joaquin County Employment and Economic Development Department appeal process within 30 days of receipt of the EDD's decision. A copy

of the written notification provided to the provider must be uploaded to the document section of the Provider Profile in CalJOBS within 10 business days of issuance.

All training provider/programs removed from the CA ETPL must be removed from the local ETPL immediately upon notification from the EDD, as any new enrollments into a training program not eligible to be on the CA ETPL will result in disallowed costs.

It is the responsibility of the EDD and the San Joaquin County Employment and Economic Development Department to work together to ensure any participants currently enrolled in a training program removed under items 1 and 2 experience minimal disruption. If the training provider or program is removed due to items 1, 3, or 4, any participants already enrolled (attended at least one day of instruction) can continue participation in the program until the training is complete, but no new enrollments may occur.

If a training provider goes out of business while a participant is enrolled in a training program, San Joaquin County Employment and Economic Development Department will provide comparable training opportunities in coordination with the Bureau of Private Postsecondary Education (BPPE) [Office of Student Assistance and Relief](#).

## Appeal Process

If a training provider or program is denied listing on or delisted from the ETPL, and the provider wishes to appeal the decision, the training provider must appeal to the San Joaquin County Employment and Economic Development Department in writing within 30 days of the issuance of the denial or delisting notice. The appeal must include a statement of the desire to appeal, specification of the training program(s) in question, the reason(s) for the appeal (i.e. grounds), documentation supporting the grounds for the appeal, and the signature of the appropriate training provider official. Appeals to the San Joaquin County Employment and Economic Development Department can be submitted to:

San Joaquin County Employment and Economic Development Department  
6221 West Lane, Suite 105  
Stockton, CA 95201  
Attn: ETPL Coordinator  
Email: [jlutzow@sjcworknet.org](mailto:jlutzow@sjcworknet.org), cc: [pvirgen@sjcworknet.org](mailto:pvirgen@sjcworknet.org)

If an appeal is submitted and includes the required information and documentation:

1. An initial informal meeting will be held between the San Joaquin County Employment and Economic Development Department staff and the training provider within 15 days of the appeal's submission. The purpose of this meeting is to identify if there is a simple solution to resolve the dispute.
2. If the informal meeting is unable to resolve the dispute, a hearing will be held. 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 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, request documents relevant to the proceedings, and have legal representation.

3. The hearing officer's final decisions must be made within 60 days of receipt of the appeal, and the training provider and the San Joaquin County Employment and Economic Development Department both notified in writing of the final decision.
4. A copy of the final decision must be emailed to the State ETPL Coordinator (wsbetpl@edd.ca.gov), and the San Joaquin County ETPL Coordinator must upload the final decision to the Provider Profile section of CalJOBS.

## Grievance and Complaint Procedures

The Workforce Innovation and Opportunity Act (WIOA), 20 Code of Federal Regulations (CFR) Proposed Rules, Section 683.600, requires that recipients of WIOA funds establish and maintain hearing and appeal procedures for handling program related grievances/complaints, except for grievances related to Job Corps. WIOA Proposed Rules 20CFR 683.600 defines the requirements for both the local and State grievance procedures.

The San Joaquin County WorkNet/America's Job Center of California (AJCC), in compliance with WIOA federal regulations and State directives, has established a grievance/complaint procedure for the prompt review, impartial consideration and equitable disposition for complaints (administrative and/or Equal Employment Opportunity) presented by a complainant in any WorkNet Center under WIOA §181(c) (1). This does not cover complaints concerning fraud and abuse or alleged discrimination due to participant disabilities.

- At all levels of the grievance/complaint process, complainants have the right to be represented, at their own expense, by a person or persons of their choosing.
- All complainants have the right to technical assistance provided at no cost by WorkNet/AJCC.
- Grievances/complaints must be filed within **one year** of the alleged violation. All grievances/complaints, amendments and withdrawals must be in writing.

### I. Filing the Grievance/Complaint

Grievances/complaints must be in writing, signed and dated. The date the grievance/complaint is received by WorkNet, its service providers, One-Stop partners or subrecipients, shall be considered the date of filing. The grievance/complaint shall be considered a request for hearing. WorkNet/AJCC shall issue a written decision within sixty (60) days of the filing date.

#### A. Complaint Information

1. The grievances/complaints must provide the following in the original filing:
  - a. The full name, telephone number and mailing address of the complainant;
  - b. Full name, telephone number and mailing address of the agency and person involved (respondent);

- c. A statement of allegations in a clear and concise statement of the facts, including dates and any supporting documentation available;
- d. What the complainant believes are the violation(s) of the Act, regulations, labor standards, grants or agreements, to the best of the complainant's knowledge;
- e. Grievances/complaints against individuals, including participants or staff shall indicate how those individuals did not comply with the WIOA law, regulation or contract; and
- f. Remedy sought by the complainant.

B. Timeline for filing original complaint

1. Any absence of the required information shall constitute grounds for dismissal of the grievance/complaint.
2. The written complaint must be made within one year of the alleged occurrence.
3. Complaints alleging discrimination on the basis of a participant's disability must be filed within 180 days of occurrence.
4. A complainant has the right to withdraw their grievance/complaint in writing at any time prior to the formal hearing.
5. Grievances/complaints may be amended to clarify issues, but not to add new allegations.
6. All complaints submitted to WorkNet/AJCC must be mailed to:  
Stockton WorkNet Center, Attention: Patricia Virgen, 6221 West Lane, Suite 105, Stockton, CA 95210.

C. Informal resolution of the complaint

1. WorkNet/AJCC shall notify the complainant and the respondent of the opportunity for an informal resolution.
2. Respondents must make good faith efforts to resolve all grievances/complaints prior to the scheduled hearing. Failure on the part of either party to exert good faith efforts shall not constitute a basis for dismissing a grievance or complaint, nor shall it be considered to be a part of the facts to be judged in the resolution process.
3. WorkNet/AJCC shall ensure that any grievance/complaint not resolved in the informal resolution process, shall be provided a formal hearing, regardless of the merit of the grievance/complaint.
4. When a complaint has been resolved through the informal resolution process, WorkNet/AJCC shall attempt to contact the complainant and have them provide a written withdrawal of the complaint within 10 days of the receipt of the notice of resolution or impasse where a complainant decides not to proceed to an administrative hearing.



D. Hearing process

Complainant may have representation if desired. Both parties shall have the opportunity to examine relevant records and documents, to present written or oral testimony and to call and/or question witnesses. The hearing shall be recorded either mechanically/electronically or by a court reporter. If an informal resolution is not possible between the complainant and respondent, WorkNet/AJCC must notify the complainant in writing of the next formal procedural step in the grievance process.

II. **Notice of Hearings**

In the event a decision cannot be reached through the informal resolution process, WorkNet/AJCC shall:

- A. Conduct a hearing by an impartial independent hearing officer within thirty (30) days of the filing a grievance/complaint.
- B. Notify the complainant and respondent of the "Notice of Hearing" not less than ten (10) days prior to the date of the hearing by certified mail (return receipt requested). The time of the hearing may be earlier if mutually agreed to by both parties.
- C. The following information shall be included in the written Notice of Hearing;
  1. Grievances/complaint case number, name of complainant, name of respondent, date of grievance/complaint;
  2. Date, time and location of the hearing before an impartial hearing officer and an opportunity to present evidence; and
  3. A statement of the alleged violation(s). These statements must accurately reflect the content of the grievance or complaint as submitted by the complainant. However, clarifying notes may be added to assure that the grievance or complaint is addressed accurately.
- D. A request for a five-day postponement may be granted either party upon a showing of good cause to the Hearing Officer, provided the hearing is still conducted within 30 days of the filing of the grievance/complaint.

III. **Rules of the Hearing**

- A. Shall be held in an informal manner;
- B. The presentation of both written and oral testimony will be allowed:
- C. Both parties may present witnesses and the right to cross-examine the witness; and
- D. Both parties have the right to examine all relevant records and documents submitted.

- E. The hearing will be recorded electronically or by a court reporter.

#### **IV. Decision**

- A. The decision shall be made not later than 60 days after the filing date (Note: Time spent in informal resolution efforts may not extend this time limit) and must include:
  - 1. The names of the parties involved;
  - 2. A statement of the alleged violation and any related issues;
  - 3. A statement of facts;
  - 4. The decision on the issue and the reasons for the decision;
  - 5. Description of the corrective action, if necessary to comply with the decision; and
  - 6. Notification that an adverse decision may be appealed by the complainant to the State Review Panel; and
  - 7. Notice of the right to file a complaint with the ORC Regional Office pursuant to §144(c) of Public Law 97-300, within 10 days of the receipt of the decision when any party disagrees with the decision.
- B. The decision shall be delivered to all parties by first class mail.
- C. If the decision is not issued within 60 calendar days of the date of the filing of the complaint, or if either party is dissatisfied with the local hearing decision, either party has the right to file an appeal with the State.

A State hearing may be requested by submitting a written notice of appeal to:  
Chief, Compliance Review Office, MIC 22-M, Employment Development  
Department, PO Box 826880, Sacramento, CA 94280-0001

- D. If the State Review Panel has issued an adverse decision regarding a grievance or complaint, or has not issued a decision within 60 days of receipt of a local level appeal, request for EDD review, or grievance or complaint, the complainant may file an appeal with the Secretary.

This appeal process applies to grievances and complaints that originated at the local or state level. Appeals of an adverse decision must be filed within 60 days of receipt of the adverse decision from the State Review Panel. In cases where the State Review Panel did not issue a decision, the complainant must file an appeal within 120 days of either of the following:

- 1. The date on which the complainant filed the appeal of a local level decision or request for EDD review with the state.
- 2. The date on which the complainant filed the grievance or complaint with the state.



All appeals to the Secretary must be sent to the DOL National Office via certified mail with return receipts requested. Copies of the appeal must simultaneously be provided to the DOL Employment and Training Administration (ETA) Regional Administrator and the respondent. Mailing addresses for the DOL National Office and ETA Regional Administrator are included below:

**DOL National Office**

Secretary of Labor

Attn: Assistant Secretary of ETA

U.S. Department of Labor

200 Constitution Avenue, NW Washington, DC 20210

**ETA Regional Administrator**

Office of Regional Administrator

U.S. Department of Labor

P.O. Box 193767 San Francisco, CA 94119-3767

3. Grievances or complaints filed directly with the Secretary that were not previously filed with the Local Area and/or state will be remanded to the Local Area or state, as appropriate. The Secretary shall issue a final determination no later than 120 days after receiving the appeal.

**V. Retaliation**

No individual shall be denied service or otherwise incur retaliation because of him/her exercising his/her right under the law to file a complaint or grievance.

**Payment Conditions and Recovery of WIOA Training Funds**

To facilitate invoicing, billing, and payment San Joaquin County Employment and Economic Development Department has developed an invoicing checklist for training providers and upon request will provide a contact within the department to assist with clarification.

**Tuition**

San Joaquin County Employment and Economic Development Department will pay an eligible training provider's price for tuition less applicable Federal Pell Grants, other grants, other funding, and Trade Adjustment Assistance (TAA) funds, or the tuition limit established by the San Joaquin County Workforce Development Board (WDB), whichever is least. Tuition includes initial administration, registration, and admission fees. An eligible training provider's price for program tuition shall not exceed the price identified on the ETPL and ETPL costs. A provider's program tuition listed on the ETPL must match the cost of a member of the general public enrolling in the program without assistance from WIOA as shown in the provider's brochure or catalog available on their website. If San Joaquin County Employment and Economic Development Department

and the provider work out a different cost, then the case manager will update the cost information in the training activity code to reflect the different cost.

### **Method of Payment**

Progress payments shall be made toward the price paid for tuition based upon actual attendance of the participant in classroom training at the hourly rate identified on the ITA. The hourly rate is based on dividing the price to be paid for tuition by San Joaquin County Employment and Economic Development Department on behalf of the participant identified on the ITA by the total course/program hours of instruction to be paid by San Joaquin County Employment and Economic Development Department as identified on the ITA. Payment for attendance shall be made as course/program hours of instruction are completed. Any remaining balance in the tuition price to be paid by San Joaquin County Employment and Economic Development Department shall be paid once the participant successfully completes training and receives an applicable Credential, Certificate or Diploma/Degree. Payment for total hours of instruction shall not exceed the price to be paid for tuition by San Joaquin County Employment and Economic Development Department on behalf of the participant identified on the ITA.

### **Invoicing**

Billing for attendance shall be submitted to San Joaquin County Employment and Economic Development Department monthly and be supported by a copy of the participant's signed attendance record. Billing forms shall include the participant's name, last 4 digits of the participant's social security number, ITA number, total hours of instruction billed, rate per hour identified on the ITA, the total amount of billing, the period covered by the billing, and the balance to date.

Final billing shall include a copy of the participant's signed attendance record and Credential, Certificate or Diploma/Degree. Billing forms shall include the participant's name, WIOA application number, ITA number, total hours of instruction billed, rate per hour identified in the ITA, the total amount of billing, identification of any remaining balance in the tuition price, the period covered by the billing, and the balance to date.

### **Fees and Expenses**

San Joaquin County Employment and Economic Development Department will pay eligible training provider's price for fees and/or expenses less applicable Federal Pell Grants, other grants, other funding, and Trade Adjustment Assistance (TAA) funds. Fees include items external to the provider such as state license exam fees, memberships, special room rentals, and entrances. Expenses include such items as books, materials, special transportation, and parking passes. For the purpose of the ITA, an eligible training provider's price for fees and expenses shall not exceed the price identified on the ETPL. A provider's program fees and expenses listed on the ETPL must match the cost of a member of the general public enrolling in the program without assistance from WIOA. This information must be available on the provider's brochure or website.



## **Method of Payment**

Price for fees and expenses shall be paid to eligible training provider on a cost reimbursement basis.

## **Invoicing**

Billing for fees and expenses shall be itemized and include appropriate support documentation. Expenses may be billed as the participant receives these items. Any cost for any item not acknowledged by the participant shall not be paid. The bill shall include all of the following:

- List of items provided to the participant as expenses
- Cost per item
- Date item(s) were received by the participant
- Participant check off that indicates item(s) were received
- Participant signature verifying that items were received

## **Federal Pell Grants and Other Grant Assistance Programs**

Grant assistance, including Federal Pell Grants established under title IV of the Higher Education Act of 1965, must be utilized for training services prior to funds authorized under the ITA. Funds authorized under the ITA may be used to provide assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants. Funds authorized under the ITA may be used while a participant's application for a Federal Pell Grant is pending, except that if such participant is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to San Joaquin County Employment and Economic Development Department from such Federal Pell Grant.

## **Repayment of Funds and Waiver**

All training providers applying to be on the San Joaquin County Employment and Economic Development Department ETPL must provide their institution's refund policy for review. Prior to accepting the training institution's refund policy, San Joaquin County Employment and Economic Development Department must verify the refund policy addresses early termination of the participant from the training program. Eligible training providers shall promptly report participant completion of training, job placement, termination from training, or other status change. Such reports will be on San Joaquin County Employment and Economic Development Department-approved forms and shall be submitted to San Joaquin County Employment and Economic Development Department within two (2) working days of the event becoming known to the eligible training provider.

In no event shall any payment by San Joaquin County Employment and Economic Development Department constitute a waiver by San Joaquin County Employment and Economic Development Department of any material breach of the ITA or any default which may then exist on the part of eligible training provider, nor shall such payment impair or prejudice any remedy available to San Joaquin County Employment and Economic Development Department with respect to the

material breach or default. San Joaquin County Employment and Economic Development Department expressly reserves the right to demand, of eligible training provider, the repayment of any funds disbursed under the ITA which was not expended in accordance with the terms of the ITA. San Joaquin County Employment and Economic Development Department does not make payments in advance of a participant attending training, nor does it make payments if a participant does not attend training.

San Joaquin County Employment and Economic Development Department staff responsible for the ETPL Provider contracts management will obtain the designated ETPL Provider's standard policy for the amount of tuition that must be paid to enroll or accept a participant (e.g. administrative or registration fee).

San Joaquin County Employment and Economic Development Department staff will also obtain and verify the refund policy of ETPL Providers for early termination of the participant from the training program to ensure the refund policy includes:

- Percentage of the advanced payment to be returned upon non-completion of courses.
- Turnaround time of refund.
- Time spent in training before a refund will no longer be honored.
- Requirement for the training institution to immediately notify San Joaquin County Employment and Economic Development Department if a WIOA participant drops out of a training program during the time period when tuition can be refunded.

San Joaquin County Employment and Economic Development Department designated case manager is responsible for the following:

- Check at least monthly with the ETPL Providers to verify participants assigned to their caseload are still in the training program.
- Determine, for any participant assigned to their caseload, if a refund is due for early termination of a participant's training.
- Notify supervisor and San Joaquin County Employment and Economic Development Department Fiscal unit if a refund is due for early termination of a participant's training by submitting a Pre-Encumbrance/Change of Status Form.
- Modify the training cost in participant's file to ensure revised training cost are allocated appropriately.

San Joaquin County Employment and Economic Development Department Fiscal staff is responsible for the following:

- Initiate payment of invoices from the training institution for each participant.
- Collect any outstanding tuition/training refunds which are due from the training institution in accordance with the ITA.



## Maintenance of Training Provider Records and Program Eligibility Documents

Eligible training providers shall retain all records pertaining to activities performed under an ITA for a three-year period from the date of final payment, or the records are audited, whichever is longer. If, prior to expiration of the three-year period, any litigation or audit is begun or a claim is instituted involving the ITA, the eligible training provider shall retain all records beyond the three-year period until the litigation, audit findings, or claim has been fully resolved.

San Joaquin County Employment and Development Department, the State of California, United States Department of Labor (DOL), Comptroller General of the United States, or any other duly authorized representatives shall have access to any books, documents, papers, and records (including computer records) of eligible training provider or subcontractor of eligible training provider which are directly pertinent to the ITA of a WIOA participant within five days, in order to conduct audits and examinations and to make excerpts, transcripts, and photocopies. This right also includes access to personnel of eligible training provider and subcontractors of eligible training provider for the purpose of interviews and discussions related to such documents.

San Joaquin County Employment and Economic Development Department will maintain all training provider and program eligibility documents for five years (either physical or electronic), and will provide them to the EDD within five business days, if requested.

## Documentation of Participant Attendance

Eligible Training Providers will document participant attendance by maintaining attendance records signed by the participant. Electronic signatures created in accordance with the policy of the California Secretary of State will be allowable. San Joaquin County Employment and Economic Development Department case management staff will maintain at least monthly contact with training providers and participants to verify participants remain in training.

Eligible Training Providers shall provide monthly training progress reports and promptly report participant completion of training, job placement, termination from training, or other status change. Reports will be on San Joaquin County Employment and Economic Development Department forms and shall be submitted to San Joaquin County Employment and Economic Development Department within two working days of the event becoming known to Eligible Training Provider.

## ETPL Coordinator Responsibilities

Training providers may contact the San Joaquin County Employment and Economic Development Department ETPL Coordinator with questions regarding the application process and eligibility (initial and continued). For basic ETPL information and a list of Local ETPL Coordinators, training providers should refer to the EDD's [Eligible Training Provider List](#) located on the EDD website.

The San Joaquin County Employment and Economic Development Department ETPL Coordinator will provide technical assistance to all training providers with programs located within the Local Workforce Development Area (Local Area) seeking to be listed on the CA ETPL.



Providers and programs will be reviewed and approved or denied for initial eligibility in a timely manner:

- The review will include eligibility for the CA ETPL in accordance with requirements outlined in the active California ETPL Policies and Procedures directive.
- The review will include eligibility for the San Joaquin County Employment and Economic Development Department ETPL in accordance with requirements outlined in the San Joaquin County Employment and Economic Development Department ETPL policy.

Providers and programs will be reviewed for approving or denying continued eligibility in a timely manner:

- The review will include eligibility for the CA ETPL in accordance with requirements outlined in the active California ETPL Policies and Procedures directive.
- The review will include eligibility for the San Joaquin County Employment and Economic Development Department ETPL in accordance with requirements outlined in the San Joaquin County Employment and Economic Development Department ETPL policy.

Providers will be notified if they or their programs are removed from the CA and/or San Joaquin County Employment and Economic Development Department ETPL. If after review, the San Joaquin County Employment and Economic Development Department determines the training provider/program does not meet the requirements to be listed on the CA ETPL, the San Joaquin County Employment and Economic Development Department will inform the training provider in writing with the reason(s) for the denial, and provide information on the appeal process within 30 days of receipt of the application. A copy of the written notification provided to the provider must be uploaded to the documents section of the Provider Profile in CalJOBS within 10 business days of issuance.

If the San Joaquin County Employment and Economic Development Department nominates a provider/program to the state for review, but upon review, the State ETPL Coordinator denies the training provider/program listing on the CA ETPL, the EDD will inform the San Joaquin County Employment and Economic Development Department of the denial and the reason(s) for the denial within 30 days of receipt of the nomination. The San Joaquin County Employment and Economic Development Department must in turn inform the training provider in writing with the reason(s) for the denial, and information on the San Joaquin County Employment and Economic Development Department appeal process within 30 days of receipt of the EDD's decision. A copy of the written notification provided to the provider must be uploaded to the document section of the Provider Profile in CalJOBS within 10 business days of issuance.

If the training provider is able to rectify the issue that caused the denial, the San Joaquin County Employment and Economic Development Department can review the information and resubmit to the State ETPL Coordinator for review.

The training provider's request to be on the CA ETPL must be denied if the training provider fails to provide complete information, intentionally provides inaccurate information, or has substantially violated any WIOA requirement(s). If the EDD, in consultation with the San Joaquin County Employment and Economic Development Department, determines a training provider



intentionally supplied inaccurate information or violated any WIOA requirement(s), the EDD or the San Joaquin County Employment and Economic Development Department shall deny the training provider's application for the CA ETPL, and the training provider is not allowed to be reconsidered for inclusion on the CA ETPL for at least two years.

If approved for inclusion on the CA ETPL, but the San Joaquin County Employment and Economic Development Department ETPL Coordinator determines the training provider/program does not meet San Joaquin County Employment and Economic Development Department ETPL requirements, the San Joaquin County Employment and Economic Development Department must inform the training provider in writing with the reason(s) for the denial, and information on the San Joaquin County Employment and Economic Development Department appeal process within 30 days of receipt of the application. A copy of the written notification provided to the provider must be uploaded to the documents section of the Provider Profile in CalJOBS within 10 business days of issuance.

### Conflicts of Interest

San Joaquin County Employment and Economic Development Department is committed to maintaining the highest of standards of ethical conduct and guarding against problems arising from real, perceived, or potential conflicts of interest. All partners at all levels of participation with the San Joaquin County Workforce Development Board, funded by the Workforce Innovation and Opportunity Act (WIOA), are expected to read, understand and apply this policy to ensure system integrity.

Grantees, subrecipients and contractors funded under WIOA must implement codes of conduct and conflict of interest policies and procedures as stipulated in WIOA law, regulations and guidance, Office of Management and Budget (OMB) Circulars, State regulations and State WIOA policies. A conflict of interest policy is required to ensure that individuals or representatives of organizations entrusted with public funds will not personally or professionally benefit from the award, administration, or expenditure of such funds. Eligible training providers are prohibited from paying referral fees to San Joaquin County Employment and Economic Development Department staff, including America's Job Center of California<sup>SM</sup> (AJCC) operator staff. All decisions made by the Local Board regarding eligible training providers and their programs must be in compliance with WIOA Section 107(h).

In addition, the WDB recognizes that by its very composition, conflicts of interest and issues concerning the appearance of fairness may arise. Therefore, it is essential for the WDB members to be aware and err on the side of caution when potential or real conflict or fairness matters occur.

It is the administrative policy of the department that no employee, officer or agent shall participate in the selection, award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. It is the policy of this department to establish proper protocols to eliminate conflict of interest or the appearance of conflict of interest and adhere with the policies and procedures set forth in this directive.



The Employment and Economic Development Department shall make sure that conflict of interest and/or the appearance of conflict of interest is minimized through the development of proper protocols, policies and procedures that include, but are not limited to the following requirements:

1. Each grant recipient and subrecipient must maintain a written code of standards or conduct governing the performance of persons engaged in the award and administration of WIOA contracts and sub grants.
2. No individual in a decision-making capacity shall engage in any activity if a conflict of interest (real, implied, apparent, or potential) is involved. This includes decisions involving the selection, award, or administration of a sub grant or contract supported by Workforce Innovation and Opportunity Act (WIOA) or any other federal funds.
3. Recipients of Federal awards must disclose in writing any potential conflict of interest to the Department.
4. A WDB member or a member of a WDB committee cannot cast a vote or participate in any decision-making about providing services by such member (or by any organization that member directly represents) or on any matter that would provide any direct financial benefit to the member, that member's immediate family or to the member's organization.
5. Before any public discussions regarding the release of a Request for Proposal, or any matter regarding the release of funding or the provision of services, a WDB member or a member of a WDB committee must disclose any real, implied, apparent, or potential conflicts of interest before engaging in the discussion. The minutes of the meeting should reflect the disclosure.
6. Officers, employees, or agents of the WDB shall not solicit gratuities, favors, or anything of monetary value from service providers or vendors, independent contractors or other providers of services. Officers, employees, or agents of the WDB and Service Providers will not accept gifts or gratuities from organizations (and their employees) or individuals conducting business with the County or the WDB.
7. Officers, employees, or agents of San Joaquin County Employment and Economic Development Department and Service Providers violating any provisions of these standards are subject to the administrative, criminal and civil sanctions provided in the California Political Reform Act, Government Code sections 87100 et seq.
8. Individuals shall not use for their personal gain, for the gain of others, or for other than officially designated purposes, any information obtained as a result of their committee, board or working relationships with the WDB where that information is not available to the public at large, or divulge such information in advance of the time decided by the WDB for its release.
9. America's Job Center of California (AJCC) one-stop Operators must disclose any potential conflicts of interest arising from relationships with training providers and other service providers.
10. Any organization that has been selected or otherwise designated to perform more than one function related to WIOA must develop a written plan that clarifies how



the organization will carry out its multiple responsibilities while demonstrating compliance with WIOA, corresponding regulations, relevant Office of Management and Budget circulars, and this conflict of interest policy, This plan must limit conflict of interest or the appearance of conflict of interest, minimize fiscal risk, and develop appropriate firewalls within that single entity performing multiple functions. The plan must be agreed to by both the WDB and the County Board of Supervisors.

11. Membership on the WDB, or being a recipient of WIOA funds to provide training or other services, is not itself a violation of conflict of interest provisions of WIOA or corresponding regulations.