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RULE PROPOSALS

**LABOR AND WORKFORCE DEVELOPMENT
CENTER FOR OCCUPATIONAL EMPLOYMENT INFORMATION**

42 N.J.R. 1476(a)

Proposed New Rules: N.J.A.C. 12:42-2

[Click here to view Interested Persons Statement](#)

Eligible Training Provider List

Authorized By: Harold J. Wirths, Commissioner, Department of Labor and Workforce Development.

Authority: *N.J.S.A. 34:1-20; 34:1A-3(e); and 34:15C-10.2a.*

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-147.

A **public hearing** on the proposed new rules will be held on the following date at the following location:

Wednesday, August 11, 2010
10:00 A.M. to 12:00 Noon
New Jersey Department of Labor and Workforce Development
John Fitch Plaza
13th Floor Auditorium
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609) 292-2789 if you wish to be included on the list of speakers.

Submit written comments by September 17, 2010 to:

David Fish, Regulatory Officer
Office of Legal and Regulatory Services
P.O. Box 110, 13th Floor
Trenton, New Jersey 08625-0110
Fax: (609) 292-8246

[page=1477] If you need this document in Braille, large print or audio cassette, please contact the Office of Marketing at (609) 292-7832 or NJ Relay (TTY) 1-800-852-7899.

The agency proposal follows:

Summary

The Department is proposing new rules at N.J.A.C. 12:42-2 in order to comply with 29 U.S.C. §2842, also known as Section 122 of the Federal Workforce Investment Act (WIA) and 20 CFR 663.500 et seq., the regulations promulgated by the United States Department of Labor (USDOL) in accordance with Section 122 of WIA. In addition, the proposed new rules would comply with N.J.S.A. 34:15C-10.2. Federal law, Federal regulations and State law each require the establishment and maintenance of a Statewide list of approved training providers, also known as the Eligible Training Provider List (ETPL). The proposed new rules would set forth the procedures to be followed by the State, by the local workforce investment boards and by training provider applicants relative to initial and subsequent certification for inclusion on the ETPL. The proposed new rules would also set forth the procedures for removal of approved training providers from the ETPL.

A summary of the proposed new sections follows:

N.J.A.C. 12:42-2.1 would set forth the purpose and scope of the new subchapter. The purpose would be to establish rules governing the State's eligible training provider certification process, for placement on the ETPL, as required by Section 122 of WIA. The subchapter would apply to all "training providers" as that term would be defined within the proposed new subchapter.

N.J.A.C. 12:42-2.2 would set forth definitions of the words and terms used within the proposed new subchapter.

N.J.A.C. 12:42-2.3 would establish the initial ETPL certification process for an "exempt training provider," which would be either (1) a postsecondary educational institution that is eligible to receive Federal funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate degree, baccalaureate degree or certificate; or (2) an entity that carries out programs under the National Apprenticeship Act of August 16, 1937.

N.J.A.C. 12:42-2.4 would establish the initial ETPL certification process for a "non-exempt training provider," which would be a training provider not defined within N.J.A.C. 12:42-2.3 as an "exempt training provider."

N.J.A.C. 12:42-2.5 would set forth the procedure for submission by a training provider of an application for initial ETPL certification.

N.J.A.C. 12:42-2.6 would establish the procedure for the making of a determination with regard to an application by a training provider for initial ETPL certification.

N.J.A.C. 12:42-2.7 would set forth exceptions to the ETPL certification requirements, which exceptions would apply to on-the-job or customized training providers.

N.J.A.C. 12:42-2.8 would address application by an approved training provider for subsequent eligibility for inclusion on the ETPL. That is, approved training providers must, on an annual basis, establish continuing eligibility for inclusion on the ETPL. Proposed new N.J.A.C. 12:42-2.8 would also set forth the procedures for establishing continuing eligibility and for ensuring continued listing on the ETPL.

N.J.A.C. 12:42-2.9 would establish the procedure for the making of a determination with regard to a training provider's application for subsequent eligibility for inclusion on the ETPL.

N.J.A.C. 12:42-2.10 would address the adoption of performance standards for the purpose of determining initial and subsequent eligibility for inclusion on the ETPL.

N.J.A.C. 12:42-2.11 would address the development and maintenance of the ETPL. It would indicate that the Assistant Commissioner shall maintain the ETPL, would describe the ETPL and would explain what information must accompany the ETPL, namely, the performance, training services and cost information contained in the local lists as required by N.J.A.C. 12:42-2.8(e)

N.J.A.C. 12:42-2.12 would describe the required dissemination of the ETPL.

N.J.A.C. 12:42-2.13 would establish the right of the Assistant Commissioner to inspect and monitor training providers in order to ensure compliance with the subchapter. The proposed new section would also require that training providers retain participant records for a period of three years from the date the participant completes a program.

N.J.A.C. 12:42-2.14 would contain the standard for and the procedure whereby the Assistant Commissioner may deny or terminate the ETPL certification of a training provider, thereby resulting in the non-placement of the training provider on the ETPL or removal of the training provider from the ETPL.

N.J.A.C. 12:42-2.15 would indicate that a training provider whose ETPL certification is terminated is liable for repayment of all funds described in 29 U.S.C. §2842(a) received for the program during any period of noncompliance.

N.J.A.C. 12:42-2.16 would address the appeal procedure for training providers who are denied ETPL certification or who are removed from the ETPL.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The proposed new subchapter would have a positive social impact in that it would clearly communicate to the local workforce investment boards and to the training provider community uniform standards and procedures for inclusion of training providers on the ETPL, for determination of subsequent eligibility for inclusion on the ETPL, for denial of training provider applications for inclusion on the ETPL, for removal of training providers from the ETPL and for the appeal by training providers of denials or terminations/removals. The proposed new subchapter would also have a positive social impact on those seeking training services within the State in that it would assist in ensuring inclusion on the ETPL only of those training providers that meet the performance standards established by the State and by the local workforce investment boards. The proposed new subchapter would also assist the prospective recipient of training services in making an informed decision in his or her selection of a training provider, since the subchapter would require that the ETPL be widely disseminated throughout the State and be accompanied by comprehensive performance, training services and cost information. In addition, the proposed new subchapter would benefit the State and the local workforce investment boards, in that it would provide the tools necessary for enforcement of performance standards and for removal of training providers from the ETPL who do not meet those standards. Finally, the proposed subchapter would further the overall social objectives of the WIA, namely, to facilitate workforce investment activities through Statewide and local workforce investment systems, which increase the employment, retention and earnings of participants, increase occupational skill attainment by participants and, as a result, improve the quality of the State's workforce, thereby enhancing the productivity and competitiveness of the nation.

Economic Impact

The proposed new subchapter would have a positive economic impact on those who are seeking occupational training in that it would establish a system for maintenance of an ETPL within the State designed to ensure informed choice by job training seekers, thereby hopefully getting them back to work more quickly, giving them the tools necessary to retain a new job and, at the very least, helping to ensure the effective use of their limited training dollars. For training providers who meet the announced performance standards, the proposed new subchapter would have a positive economic impact in that it would establish the procedure whereby they can become listed on the ETPL, which would, in turn, make them eligible to receive appropriate WIA funds and would serve as a means to inform prospective trainees about the availability of their services. The proposed new subchapter would carry with it a certain cost to training providers in terms of staff time devoted to completion of applications for initial ETPL certification and subsequent eligibility, as well as the maintenance and reporting of performance, training services and cost information. However, Federal law and regulations dictate that the State must require training providers to apply for inclusion on the ETPL, that training providers must meet certain performance standards and that training providers maintain and report certain information. This is all an integral part of the workforce investment system envisioned by [page=1478] the Federal government and which the State is required by law and regulation to implement.

With regard to the economic impact on the State and on the local workforce investment boards, maintaining the ETPL in the manner set forth in the proposed new subchapter will obviously require considerable work by both; however, the ETPL is an important component of the workforce investment system for which both the State and local areas already receive funding from the Federal government. Both the State and local areas are expected to use some portion of

the monies allotted to them by the Federal government for administration of WIA on the functions required to be performed under the proposed new subchapter.

Federal Standards Statement

The proposed new subchapter would not exceed standards or requirements imposed by Federal law. Specifically, the proposed new subchapter is entirely consistent with 29 U.S.C. §2842 and 20 CFR 663.500 et seq. Consequently, no Federal standards analysis is required.

Jobs Impact

The proposed new subchapter would have no impact on either the generation or loss of jobs.

Agriculture Industry Impact

The proposed new subchapter would have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed new subchapter would require as a condition to inclusion on the ETPL that training providers, some of which may be small businesses, as that term is defined by the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., maintain records and submit reports regarding performance, training services and cost, as discussed in the Summary above. This is a vital component of the ETPL and related consumer report card process, which is required by Federal law and regulation, as well as by State law, and which is being applied uniformly to all training providers, large and small. The proposed new subchapter also imposes compliance requirements on training providers, which may include small businesses, namely that they continue to meet the published performance standards or else risk being removed from the ETPL. The Department does not anticipate that professional services will be required in order to comply with the proposed new subchapter.

Smart Growth Impact

The proposed new subchapter would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed new subchapter would not evoke a change in the average costs associated with housing. The basis for this finding is that the proposed new subchapter pertains to the ETPL and has nothing whatsoever to do with housing.

Smart Growth Development Impact

The proposed new subchapter would not evoke a change in the housing production within Planning Areas 1 or 2 or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed new subchapter pertains to the ETPL and has nothing whatsoever to do with housing production, either within Planning Areas 1 or 2 or within designated centers, or anywhere in the State of New Jersey.

Full text of the proposed new rules follows:

SUBCHAPTER 2. ELIGIBLE TRAINING PROVIDER LIST

12:42-2.1 Purpose and scope

(a) This subchapter establishes rules governing the State's eligible training provider certification process, for placement on the Statewide Eligible Training Provider List (ETPL), as required by 29 U.S.C. §2842 (also known as Section 122 of the Federal Workforce Investment Act or Section 122 of WIA).

(b) This subchapter is applicable to training providers, as that term is defined within N.J.A.C. 12:42-2.2.

12:42-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Adult" means "adult" as that term is defined in *29 U.S.C. §2801(1)*.

"Assistant Commissioner" means the Assistant Commissioner of Labor, Planning and Analysis, within the New Jersey Department of Labor and Workforce Development, or his or her designee.

"Commission" means the State Employment and Training Commission created pursuant to *N.J.S.A. 34:15C-2*.

"Commissioner" means the Commissioner of the New Jersey Department of Labor and Workforce Development or his or her designee.

"Department" means the New Jersey Department of Labor and Workforce Development.

"Dislocated worker" means "dislocated worker" as that term is defined in *29 U.S.C. §2801(9)*.

"Labor demand occupation" means "labor demand occupation" as that term is defined in *N.J.S.A. 34:15B-35*.

"One-Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a workforce investment board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility, as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

"Program of training services" means one or more courses or classes, or a structured regimen, that upon successful completion, leads to:

1. A certificate, an associate degree, baccalaureate degree; or
2. The skills or competencies needed for a specific job or jobs, an occupation, occupational group or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

"State Eligible Training Provider List" or "ETPL" means the Statewide list of eligible training providers maintained pursuant to *N.J.S.A. 34:15C-10.2*.

"Training provider" means an entity, which is eligible to receive WIA Title I-B funds to provide training services to eligible adult and dislocated workers, including:

1. A postsecondary educational institution that:
 - i. Is eligible to receive Federal funds under Title IV of the Higher Education Act of 1965 (*20 U.S.C. §§1070 et seq.*); and
 - ii. Provides a program that leads to an associate degree, baccalaureate degree or certificate;
2. An entity that carries out programs under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; *50 Stat. 664*, chapter 663; *29 U.S.C. §§50 et seq.*);
3. Other public or private providers of a program of training services;
4. Local workforce investment board, if they meet the conditions of *29 U.S.C. §2832(f)(1)*, also known as WIA section 117(f)(1); or

5. Community-based organizations and other private organizations providing training under *20 CFR 663.430*.

"Training services" means those services, which are described in *29 U.S.C. §2864(d)(4)(D)*, also known as WIA section 134(d)(4)(D), and which are provided to eligible adult and dislocated workers.

"Workforce Investment Act" or "WIA" means *29 U.S.C. §§2801 et seq.*

12:42-2.3 Initial ETPL certification process for exempt training providers

(a) An exempt training provider is one of the following:

1. A postsecondary educational institution that:

i. Is eligible to receive Federal funds under Title IV of the Higher Education Act of 1965 (*20 U.S.C. §§1070 et seq.*); and

ii. Provides a program that leads to an associate degree, baccalaureate degree or certificate; or

2. An entity that carries out programs under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; *50 Stat. 664*, chapter 663; *29 U.S.C. §§50 et seq.*).

[page=1479] (b) In order to receive initial certification for inclusion on the ETPL, an exempt training provider, as defined in (a) above, shall submit an application to the local workforce investment board for the local area in which the exempt training provider desires to provide training services, at such time, in such manner and containing such information as the local workforce investment board may require.

(c) Each local workforce investment board shall develop local application requirements for initial certification of exempt training providers, as defined in (a) above, for inclusion on the ETPL.

12:42-2.4 Initial ETPL certification process for non-exempt training providers

(a) A non-exempt provider is a training provider not defined within N.J.A.C. 12:42-2.3 as an exempt training provider.

(b) Each training provider applicant for initial certification on the ETPL under this section shall provide the following information to the local workforce investment board for the local area in which the training provider desires to provide training services:

1. The name, mailing address and physical address of the training facility;

2. The name of the program(s) of training services for which the training provider receives WIA funding and for which the training provider is applying for inclusion on the ETPL;

3. The total hours of instruction associated with each program of training services;

4. The cost of each program of training services, including tuition, fees, books and any required tools, uniforms, equipment or supplies;

5. A description of the skill set that will be acquired through each program of training services;

6. A list of labor demand occupations in which the skill sets, listed pursuant to (b)5 above, may be utilized; and

7. An outline of the course or program curriculum, including criteria for successful completion.

(c) Each training provider applicant that provides training on the date of application through a program for which the training provider applicant is seeking certification for placement on the ETPL, shall include in its application to the lo-

cal workforce investment board, the following verifiable performance information, or appropriate portion of verifiable performance information, for each trainee enrolled in the program(s) of training services sought to be included on the ETPL:

1. Participant's Social Security number.

i. For individuals who do not have a Social Security number, the training provider applicant may substitute and alternate method of identification, except that, at the time of start into employment, the alternate code shall be cross-referenced with the individual's valid Social Security number;

2. Participant's gender;

3. Participant's date of birth;

4. Participant's date of enrollment;

5. Participant's date of completion;

6. Participant's date of termination;

7. Date that participant started in job;

8. Date that participant applied for a license;

9. Participant's licensing examination result;

10. Date that participant was issued a license; and

11. Any credential issued to the participant.

(d) Each training provider applicant that provides training on the date of application through a program for which the training provider applicant is seeking certification for placement on the ETPL, shall include in the application all information required under N.J.A.C. 12:42-2.9(a) (relating to determination of subsequent eligibility), where applicable.

(e) Each local workforce investment board shall provide to each training provider applicant the current objective performance standards and measures jointly established by the Commission and the State Board of Education pursuant to N.J.S.A. 34:15C-10.2f or levels of performance required by the local workforce investment board, if higher than those established by the Commission and the State Board of Education pursuant to N.J.S.A. 34:15C-10.2f.

(f) Each training provider applicant shall agree to provide any other information deemed appropriate for evaluation purposes by the Commission, the Department and the State Department of Education pursuant to N.J.S.A. 34:15C-10.2d.

(g) Any other information required for submission under (f) above shall be incorporated by the local workforce investment board into its ETPL certification application and communicated directly to the applicant training provider.

12:42-2.5 Application submission

(a) Each application for initial ETPL certification shall be submitted to the local workforce investment board in the local area in which the provider of training services desires to provide training.

(b) In addition to the requirements set forth in N.J.A.C. 12:42-2.3 and 2.4, each training provider applying for initial ETPL certification shall show, where applicable, that it has obtained approval from an "authorized government agency," as that term is defined within N.J.S.A. 34:15C-10.2b.

12:42-2.6 Initial ETPL certification determination

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(a) A local workforce investment board shall provide a written notice of determination of acceptance or rejection of an initial application to an applying training provider within 90 calendar days of the receipt of the completed initial certification application.

(b) Each local workforce investment board shall determine the circumstances under which it will grant reconsideration to a training provider applicant of an initial certification determination.

(c) Upon the local workforce investment board's acceptance of an initial application to an applying training provider, the local workforce investment board shall submit the completed application and accompanying program-specific performance, training services and cost information, where applicable, to the Assistant Commissioner.

(d) The Assistant Commissioner shall within 30 days after the date upon which he or she receives the application from the local workforce investment board determine whether the training provider applicant meets the current objective performance standards and measures jointly established by the Commission and the State Board of Education pursuant to N.J.S.A. 34:15C-10.2f or levels of performance required by the local workforce investment board if higher than those established by the Commission and the State Board of Education pursuant to N.J.S.A. 34:15C-10.2f.

12:42-2.7 Exceptions to training provider ETPL certification requirements

(a) On-the-job or customized training providers are not subject to the training provider certification requirements.

(b) In order to be eligible to receive WIA funding, on-the-job or customized training providers shall provide to one-stop operators, such performance information as may be required by the Assistant Commissioner.

(c) One-stop operators in a local area must collect the performance information required under (b) above and disseminate a list of providers that have met such criteria, along with the relevant performance information about them, through the one-stop delivery system.

(d) Training providers determined to meet the criteria established pursuant to (b) above are considered to be identified as eligible providers of training services.

12:42-2.8 Application for subsequent eligibility determination

(a) Each training provider on the ETPL shall, from the date of initial ETPL certification, annually establish continuing eligibility to receive funds made available under 29 U.S.C. §2863(b) of WIA for the provision of training services.

(b) In order to establish continuing eligibility, each training provider shall annually submit an application to the local workforce investment board for the local area in which the training provider provides training services in the manner prescribed by the local workforce investment board.

(c) Each training provider applying to establish continuing eligibility under this section shall establish that it continues to possess approval from an "authorized government agency," as that term is defined within N.J.S.A. 34:15C-10.2b.

[page=1480] (d) Each training provider applying to establish continuing eligibility under this section shall be in full compliance with applicable State and Federal law and regulations.

(e) Each training provider applying to establish continuing eligibility under this section shall provide verifiable program-specific performance, training services and cost information.

1. The verifiable program-specific information shall consist of the following:

i. The program completion rates for all individuals participating in the applicable program conducted by the training provider;

ii. The percentage of all individuals participating in the applicable program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in an occupation related to the program conducted; and

iii. The wages at placement in employment of all individuals participating in the applicable program.

2. The training services information for all participants who received assistance under 29 U.S.C. §2864 of WIA to participate in the applicable program shall consist of the following:

i. The percentage of participants who have completed the applicable program and who are placed in unsubsidized employment;

ii. The retention rates in unsubsidized employment of participants who have completed the applicable program, six months after the first day of the employment;

iii. The wages received by participants who have completed the applicable program, months after the first day of the employment involved; and

iv. Where appropriate, the rates of licensure or certification, attainment of academic degrees or equivalents or attainment of other measures of skills, of the graduates of the applicable program.

3. Cost information shall consist of information on program costs (such as tuition and fees) for participants in the applicable program.

(f) The Assistant Commissioner and the local workforce investment board may accept from the training provider program-specific performance information, which is consistent with the requirements for eligibility under Title IV of the Higher Education Act of 1965 for purposes of enabling the training provider to fulfill the applicable requirements of this section if the information is substantially similar to the information otherwise required.

12:42-2.9 Determination of subsequent eligibility

(a) Each local workforce investment board shall annually establish minimum requirements for subsequent eligibility.

(b) Upon receipt of an application for subsequent eligibility determination under N.J.A.C. 12:42-2.8, each local workforce investment board shall make a determination of acceptance or rejection of that application based on the criteria set forth in this subchapter and in the manner prescribed in (f) below.

(c) When determining subsequent eligibility, local workforce investment board shall consider the following factors:

1. The specific economic, geographic and demographic factors in the local areas in which training providers seeking eligibility are located;

2. The characteristics of the populations served by training providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable;

3. Current and projected occupational demand within the local area;

4. The performance of a training provider of a program(s) of training services, including the extent to which the annual standards of performance established by the local workforce investment board have been achieved;

5. The program cost of training services;

6. The involvement of employers in the establishment of skill requirements for the training program; and

7. The feedback of employers who employ individuals who have recently completed WIA-funded training to verify that the training provided produced the expected skills.

(d) Each training provider, in developing programs of training services and establishing performance criteria for successful course completion, shall use in descending order:

1. Skill standards recognized or conditionally recognized by an appropriate State agency;
2. Industry-endorsed skill standards, or
3. Skill requirements determined by employers.

(e) A local workforce investment board may require enhancements to programs or courses in order to meet local industry needs.

(f) A local workforce investment board shall provide written notice of a determination of acceptance or rejection of a subsequent eligibility application to an applying training provider within 30 calendar days of the receipt of the completed subsequent eligibility determination application.

(g) The local workforce investment board shall determine the circumstances under which reconsideration may be afforded to a training provider whose application for subsequent eligibility determination has been denied by the local workforce investment board.

(h) Upon the local workforce investment board's acceptance of an application for continuing eligibility, the local workforce investment board shall submit the completed application and accompanying program-specific performance, training services and cost information to the Assistant Commissioner.

(i) The Assistant Commissioner shall within 30 days after the date upon which he or she receives the application from the local workforce investment board determine whether the training provider applicant meets the performance levels described in N.J.A.C. 12:42-2.8(e).

12:42-2.10 Standards of performance

(a) The Assistant Commissioner shall annually adopt the objective performance standards and measures jointly established by the Commission and the State Board of Education pursuant to N.J.S.A. 34:15C-10.2f for training providers and programs on the ETPL.

(b) Each local workforce investment board shall adopt local performance standards after the Assistant Commissioner's annual publication of State performance standards.

(c) Local workforce investment board standards established under (b) above shall meet or exceed the standards adopted by the Assistant Commissioner.

(d) Each local workforce investment board shall notify the Assistant Commissioner upon adoption of local performance standards.

(e) Until the local workforce investment board notifies the Assistant Commissioner of the existence of local standards, the local workforce investment board's local performance standards shall be considered by the Assistant Commissioner to be consistent with State performance standards for purpose of determining initial or subsequent eligibility.

12:42-2.11 Development and maintenance of ETPL

(a) The Assistant Commissioner shall maintain the ETPL, which shall be a list of all eligible training providers and programs in the State.

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(b) The ETPL shall be a compilation of the eligible providers and programs identified or retained by the local workforce investment boards, which training providers and programs have not been removed pursuant to N.J.A.C. 12:42-2.14.

(c) The ETPL shall be accompanied by the performance, training services and cost information contained in the local lists as required by N.J.A.C. 12:42-2.8(e).

12:42-2.12 Dissemination of ETPL

(a) The Assistant Commissioner shall disseminate the ETPL and accompanying performance, training services and cost information to the One-Stop Career Centers throughout the State.

(b) The ETPL and accompanying performance, training services and cost information shall be made widely available via the internet, as well as through the One-Stop Career Centers, to customers seeking information on training outcomes, as well as participants in employment and training activities funded under WIA and other programs.

(c) The ETPL and accompanying performance, training services and cost information shall be updated at least annually.

(d) The ETPL and accompanying performance, training services and cost information shall form the primary basis of the consumer reports system (also known in New Jersey as the "consumer report card," as that term is used within N.J.S.A. 34:15C-10.2f) that provides for informed customer choice.

[page=1481] 12:42-2.13 Inspection and monitoring

(a) The Assistant Commissioner may conduct performance verification throughout the year and may require training providers to submit additional information to resolve performance reporting anomalies or irregularities.

(b) Training providers shall retain participant program records for a period of three years from the date the participant completes the program.

(c) The Assistant Commissioner or a representative(s) of the Assistant Commissioner shall have the right to enter, without delay and at reasonable times, the establishment of any training provider on the ETPL in order to investigate possible violations of this subchapter.

(d) Training providers shall permit the Assistant Commissioner or a representative(s) of the Assistant Commissioner to question privately any employee or managerial executive and review all records relating to the requirements of this subchapter.

12:42-2.14 Denial or termination of ETPL certification

(a) The Assistant Commissioner may deny or terminate the ETPL certification of a training provider, thereby resulting in the non-placement of the training provider on the ETPL or removal of the training provider from the ETPL, if the ETPL applicant training provider or ETPL certified training provider or an officer, partner, director, stockholder or agent of same has at any time:

1. Intentionally supplied inaccurate information under this subchapter to a local workforce investment board or the Assistant Commissioner, in which case the training provider shall be ineligible for ETPL certification for a period of no less than two years;
2. Violated any requirement under 29 U.S.C. §2801 et seq., P.L. 2005, c. 354 or this subchapter; or
3. Failed to meet the performance levels adopted by the Assistant Commissioner or the local workforce investment board.

12:42-2.15 Repayment

A training provider whose ETPL certification is terminated under N.J.A.C. 12:42-2.14(a)1 or 2 shall be liable for repayment of all funds described in 29 U.S.C. §2842(a) received for the program during any period of noncompliance described in N.J.A.C. 12:42-2.14(a)1 or 2.

12:42-2.16 Appeals

Any appeal of a determination of either a local workforce investment board or the Assistant Commissioner under this subchapter shall be handled in accordance with the procedures set forth in N.J.A.C. 12:42-1, Workforce Investment Act (WIA): Non-criminal complaint/grievance, hearing and review procedures at the local area, State and Federal level.