

subsection (h), as determined in accordance with paragraph (3), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of career services described in section 3174(c)(2) of this title applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

(2) Shared services

The costs described under paragraph (1) may include costs of services that are authorized for and may be commonly provided through the one-stop partner programs to any individual, such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, referrals to other one-stop partners, and other similar services.

(3) Determination and guidance

The method for determining the appropriate portion of funds and noncash resources to be provided by the one-stop partner for each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination, for purposes of the memorandum of understanding, of an appropriate allocation of the funds and noncash resources in local areas, consistent with the requirements of section 3111(d)(6)(C) of this title.

(Pub. L. 113-128, title I, §121, July 22, 2014, 128 Stat. 1481.)

Editorial Notes

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in subsecs. (b)(1)(B)(ii), (d)(2)(B)(ii), (e)(1)(E), and (h)(2)(D)(ii)(I), is act June 6, 1933, ch. 49, 48 Stat. 113, which is classified generally to chapter 4B (§49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsecs. (b)(1)(B)(iv) and (f), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of this title. Part C of title I of the Act is classified generally to part C (§741) of subchapter I of chapter 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Older Americans Act of 1965, referred to in subsecs. (b)(1)(B)(v) and (h)(2)(D)(i)(II), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. Title V of the Act, known as the Community Service Senior Opportunities Act, is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsecs. (b)(1)(B)(vi) and (h)(2)(C)(ii), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short

Title note set out under section 2301 of Title 20 and Tables.

The Trade Act of 1974, referred to in subsec. (b)(1)(B)(vii), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978. Chapter 2 of title II of the Act is classified generally to part 2 (§2271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(1)(B)(ix), is subtitle B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short title note set out under section 9901 of Title 42 and Tables.

Section 60532 of title 34, referred to in subsec. (b)(1)(B)(xii), was repealed by Pub. L. 115-391, title V, §504(a), Dec. 21, 2018, 132 Stat. 5233.

The Social Security Act, referred to in subsec. (b)(1)(B)(xiii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This Act, referred to in subsecs. (b)(1)(C)(i) and (f)(2), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(B)(vi), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to chapter 129 (§12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (g)(1), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

§3152. Identification of eligible providers of training services

(a) Eligibility

(1) In general

Except as provided in subsection (h), the Governor, after consultation with the State board, shall establish criteria, information requirements, and procedures regarding the eligibility of providers of training services to receive funds provided under section 3173(b) of this title for the provision of training services in local areas in the State.

(2) Providers

Subject to the provisions of this section, to be eligible to receive those funds for the provision of training services, the provider shall be—

(A) an institution of higher education that provides a program that leads to a recognized postsecondary credential;

(B) an entity that carries out programs registered 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.); or

(C) another public or private provider of a program of training services, which may include joint labor-management organizations, and eligible providers of adult education and literacy activities under subchapter II if such activities are provided in combination with occupational skills training.

(3) Inclusion in list of eligible providers

A provider described in subparagraph (A) or (C) of paragraph (2) shall comply with the criteria, information requirements, and procedures established under this section to be included on the list of eligible providers of training services described in subsection (d). A provider described in paragraph (2)(B) shall be included and maintained on the list of eligible providers of training services described in subsection (d) for so long as the corresponding program of the provider remains registered as described in paragraph (2)(B).

(b) Criteria and information requirements

(1) State criteria

In establishing criteria pursuant to subsection (a), the Governor shall take into account each of the following:

(A) The performance of providers of training services with respect to—

(i) the performance accountability measures and other matters for which information is required under paragraph (2); and

(ii) other appropriate measures of performance outcomes determined by the Governor for those participants receiving training services under this part (taking into consideration the characteristics of the population served and relevant economic conditions), and the outcomes of the program through which those training services were provided for students in general with respect to employment and earnings as defined under section 3141(b)(2) of this title.

(B) The need to ensure access to training services throughout the State, including in rural areas, and through the use of technology.

(C) Information reported to State agencies with respect to Federal and State programs involving training services (other than the program carried out under this part), including one-stop partner programs.

(D) The degree to which the training programs of such providers relate to in-demand industry sectors and occupations in the State.

(E) The requirements for State licensing of providers of training services, and the licensing status of providers of training services if applicable.

(F) Ways in which the criteria can encourage, to the extent practicable, the providers

to use industry-recognized certificates or certifications.

(G) The ability of the providers to offer programs that lead to recognized postsecondary credentials.

(H) The quality of a program of training services, including a program of training services that leads to a recognized postsecondary credential.

(I) The ability of the providers to provide training services to individuals who are employed and individuals with barriers to employment.

(J) Such other factors as the Governor determines are appropriate to ensure—

(i) the accountability of the providers;

(ii) that the one-stop centers in the State will ensure that such providers meet the needs of local employers and participants;

(iii) the informed choice of participants among training services providers; and

(iv) that the collection of information required to demonstrate compliance with the criteria is not unduly burdensome or costly to providers.

(2) State information requirements

The information requirements established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State, to enable the State to carry out subsection (d), with respect to participants receiving training services under this part in the applicable program, including—

(A) information on the performance of the provider with respect to the performance accountability measures described in section 3141 of this title for such participants (taking into consideration the characteristics of the population served and relevant economic conditions), and information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program, to the extent practicable;

(B) information on recognized postsecondary credentials received by such participants;

(C) information on cost of attendance, including costs of tuition and fees, for participants in the program;

(D) information on the program completion rate for such participants; and

(E) information on the criteria described in paragraph (1).

(3) Local criteria and information requirements

A local board in the State may establish criteria and information requirements in addition to the criteria and information requirements established by the Governor, or may require higher levels of performance than required for the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) for the provision of training services in the local area involved.

(4) Criteria and information requirements to establish initial eligibility

(A) Purpose

The purpose of this paragraph is to enable the providers of programs carried out under subpart 3 to offer the highest quality training services and be responsive to in-demand and emerging industries by providing training services for those industries.

(B) Initial eligibility

Providers may seek initial eligibility under this paragraph as providers of training services and may receive that initial eligibility for only 1 fiscal year for a particular program. The criteria and information requirements established by the Governor under this paragraph shall require that a provider who has not previously been an eligible provider of training services under this section (or section 122 of the Workforce Investment Act of 1998 [29 U.S.C. 2842], as in effect on the day before July 22, 2014) provide the information described in subparagraph (C).

(C) Information

The provider shall provide verifiable program-specific performance information based on criteria established by the State as described in subparagraph (D) that supports the provider's ability to serve participants under this part.

(D) Criteria

The criteria described in subparagraph (C) shall include at least—

- (i) a factor related to indicators described in section 3141 of this title;
- (ii) a factor concerning whether the provider is in a partnership with business;
- (iii) other factors that indicate high-quality training services, including the factor described in paragraph (1)(H); and
- (iv) a factor concerning alignment of the training services with in-demand industry sectors and occupations, to the extent practicable.

(E) Provision

The provider shall provide the information described in subparagraph (C) to the Governor and the local board in a manner that will permit the Governor and the local board to make a decision on inclusion of the provider on the list of eligible providers described in subsection (d).

(F) Limitation

A provider that receives initial eligibility under this paragraph for a program shall be subject to the requirements under subsection (c) for that program after such initial eligibility expires.

(c) Procedures

(1) Application procedures

The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds provided under section 3173(b) of this title for the provision of train-

ing services. The procedures shall identify the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of such eligibility based on the criteria, information, and procedures established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.

(2) Renewal procedures

The procedures established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services.

(d) List and information to assist participants in choosing providers

(1) In general

In order to facilitate and assist participants in choosing employment and training activities and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section to offer a program in the State (and, as appropriate, in a local area), accompanied by information identifying the recognized postsecondary credential offered by the provider and other appropriate information, is prepared. The list shall be provided to the local boards in the State, and made available to such participants and to members of the public through the one-stop delivery system in the State.

(2) Accompanying information

The accompanying information shall—

(A) with respect to providers described in subparagraphs (A) and (C) of subsection (a)(2), consist of information provided by such providers, disaggregated by local areas served, as applicable, in accordance with subsection (b);

(B) with respect to providers described in subsection (b)(4), consist of information provided by such providers in accordance with subsection (b)(4); and

(C) such other information as the Governor determines to be appropriate.

(3) Availability

The list and the accompanying information shall be made available to such participants and to members of the public through the one-stop delivery system in the State, in a manner that does not reveal personally identifiable information about an individual participant.

(4) Limitation

In carrying out the requirements of this subsection, no personally identifiable information regarding a student, including a Social Security number, student identification number, or other identifier, may be disclosed without the prior written consent of the parent or student in compliance with section 1232g of title 20.

(e) Opportunity to submit comments

In establishing, under this section, criteria, information requirements, procedures, and the

list of eligible providers described in subsection (d), the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, information requirements, procedures, and list.

(f) Enforcement

(1) In general

The procedures established under this section shall provide the following:

(A) Intentionally supplying inaccurate information

Upon a determination, by an individual or entity specified in the procedures, that a provider of training services, or individual providing information on behalf of the provider, violated this section (or section 122 of the Workforce Investment Act of 1998 [29 U.S.C. 2842], as in effect on the day before July 22, 2014) by intentionally supplying inaccurate information under this section, the eligibility of such provider to receive funds under subpart 3 shall be terminated for a period of time that is not less than 2 years.

(B) Substantial violations

Upon a determination, by an individual or entity specified in the procedures, that a provider of training services substantially violated any requirement under this subchapter (or title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], as in effect on the day before July 22, 2014), the eligibility of such provider to receive funds under subpart 3 for the program involved shall be terminated for a period of not less than 2 years.

(C) Repayment

A provider of training services whose eligibility is terminated under subparagraph (A) or (B) shall be liable for the repayment of funds received under chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 [29 U.S.C. 2861 et seq.], as in effect on the day before July 22, 2014, or subpart 3 of this part during a period of violation described in such subparagraph.

(2) Construction

Paragraph (1) shall be construed to provide remedies and penalties that supplement, but shall not supplant, civil and criminal remedies and penalties specified in other provisions of law.

(g) Agreements with other States

States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept individual training accounts provided in another State.

(h) On-the-job training, customized training, incumbent worker training, and other training exceptions

(1) In general

Providers of on-the-job training, customized training, incumbent worker training, internships, and paid or unpaid work experience opportunities, or transitional employment shall not be subject to the requirements of subsections (a) through (f).

(2) Collection and dissemination of information

A one-stop operator in a local area shall collect such performance information from providers of on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience opportunities, and transitional employment as the Governor may require, and use the information to determine whether the providers meet such performance criteria as the Governor may require. The one-stop operator shall disseminate information identifying such providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.

(i) Transition period for implementation

The Governor and local boards shall implement the requirements of this section not later than 12 months after July 22, 2014. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers eligible to provide training services under chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 [29 U.S.C. 2861 et seq.], as such chapter was in effect on the day before July 22, 2014, may continue to be eligible to provide such services until December 31, 2015, or until such earlier date as the Governor determines to be appropriate.

(Pub. L. 113-128, title I, §122, July 22, 2014, 128 Stat. 1492.)

Editorial Notes

REFERENCES IN TEXT

The National Apprenticeship Act, referred to in subsec. (a)(2)(B), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 50 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (f)(1)(B), (C), and (i), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Title I of the Act was classified principally to chapter 30 (§2801 et seq.) of this title. Chapter 5 of subtitle B of title I of the Act was classified generally to part E (§2861 et seq.) of subchapter II of chapter 30 of this title. For complete classification of this Act to the Code, see Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

§ 3153. Eligible providers of youth workforce investment activities

(a) In general

From the funds allocated under section 3163(b) of this title to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth work-