

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 subsec. (b)(1)(B)(vi), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended. Title V of the Act, known as the Older American Community Service Employment Act, is classified generally to subchapter IX (§ 3056 et seq.) of chapter 35 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 3001 of Title 42 and Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (b)(1)(B)(vii), 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)(viii), is Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 2 of title II of the Act is classified principally to part 2 (§271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of Title 19 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(1)(B)(x), is subtitle B (§§ 671-683) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, as amended, 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.

The Social Security Act, referred to in subsec. (b)(2)(B)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. 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.

The National and Community Service Act of 1990, referred to in subsec. (b)(2)(B)(iv), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127, as amended, 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.

This Act, referred to in subsec. (f)(2), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (b)(2)(B)(ii), (iii). Pub. L. 110-246, § 4002(b)(1)(B), (2)(R), made technical amendment to references in original act which appear in text as references to section 2015 of title 7.

2006—Subsec. (b)(1)(B)(vii). Pub. L. 109-270 substituted “career and technical education activities at the postsecondary level” for “postsecondary vocational education activities” and “Carl D. Perkins Career and Technical Education Act of 2006” for “Carl D. Perkins Vocational and Applied Technology Education Act”.

1998—Subsec. (b)(1)(B)(iv). Pub. L. 105-332, § 5(a)(1), inserted “(other than part C of title I of such Act and subject to subsection (f) of this section)” before semicolon.

Subsec. (f). Pub. L. 105-332, § 5(a)(2), added subsec. (f).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(R) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

**§ 2842. Identification of eligible providers of training services**

**(a) Eligibility requirements**

**(1) In general**

Except as provided in subsection (h) of this section, to be identified as an eligible provider of training services described in section 2864(d)(4) of this title (referred to in this section as “training services”) in a local area and to be eligible to receive funds made available under section 2863(b) of this title for the provision of training services, a provider of such services shall meet the requirements of this section.

**(2) Providers**

Subject to the provisions of this section, to be eligible to receive the funds, the provider shall be—

(A) 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 42 U.S.C. 2751 et seq.]); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate;

(B) 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.); or

(C) another public or private provider of a program of training services.

**(b) Initial eligibility determination**

**(1) Postsecondary educational institutions and entities carrying out apprenticeship programs**

To be initially eligible to receive funds as described in subsection (a) of this section to carry out a program described in subparagraph (A) or (B) of subsection (a)(2) of this section, a provider described in subparagraph (A) or (B), respectively, of subsection (a)(2) of this section shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time, in such manner, and containing such information as the local board may require.

**(2) Other eligible providers**

**(A) Procedure**

Each Governor of a State shall establish a procedure for use by local boards in the State in determining the initial eligibility of a provider described in subsection (a)(2)(C) of this section to receive funds as described in subsection (a) of this section for a program of training services, including the initial eligibility of—

(i) a postsecondary educational institution to receive such funds for a program not described in subsection (a)(2)(A) of this section; and

(ii) a provider described in subsection (a)(2)(B) of this section to receive such funds for a program not described in subsection (a)(2)(B) of this section.

**(B) Recommendations**

In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

**(C) Opportunity to submit comments**

The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

**(D) Requirements**

In establishing the procedure, the Governor shall require that, to be initially eligible to receive funds as described in subsection (a) of this section for a program, a provider described in subsection (a)(2)(C) of this section—

(i) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time and in such manner as may be required, and containing a description of the program;

(ii) if the provider provides training services through a program on the date of application, shall include in the application an appropriate portion of the performance information and program cost information described in subsection (d) of this section for the program, as specified in the procedure, and shall meet appropriate levels of performance for the program, as specified in the procedure; and

(iii) if the provider does not provide training services on such date, shall meet appropriate requirements, as specified in the procedure.

**(c) Subsequent eligibility determination**

**(1) Procedure**

Each Governor of a State shall establish a procedure for use by local boards in the State in determining the eligibility of a provider described in subsection (a)(2) of this section to continue to receive funds as described in subsection (a) of this section for a program after an initial period of eligibility under subsection (b) of this section (referred to in this section as “subsequent eligibility”).

**(2) Recommendations**

In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

**(3) Opportunity to submit comments**

The Governor shall provide an opportunity, during the development of the procedure, for

interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

**(4) Considerations**

In developing such procedure, the Governor shall ensure that the procedure requires the local boards to take into consideration, in making the determinations of subsequent eligibility—

(A) the specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located; and

(B) the characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable.

**(5) Requirements**

In establishing the procedure, the Governor shall require that, to be eligible to continue to receive funds as described in subsection (a) of this section for a program after the initial period of eligibility, a provider described in subsection (a)(2) of this section shall—

(A) submit the performance information and program cost information described in subsection (d)(1) of this section for the program and any additional information required to be submitted in accordance with subsection (d)(2) of this section for the program annually to the appropriate local board at such time and in such manner as may be required; and

(B) annually meet the performance levels described in paragraph (6) for the program, as demonstrated utilizing quarterly records described in section 2871 of this title, in a manner consistent with section 2871 of this title.

**(6) Levels of performance**

**(A) In general**

At a minimum, the procedure described in paragraph (1) shall require the provider to meet minimum acceptable levels of performance based on the performance information referred to in paragraph (5)(A).

**(B) Higher levels of performance eligibility**

The local board may require higher levels of performance than the levels referred to in subparagraph (A) for subsequent eligibility to receive funds as described in subsection (a) of this section.

**(d) Performance and cost information**

**(1) Required information**

For a provider of training services to be determined to be subsequently eligible under subsection (c) of this section to receive funds as described in subsection (a) of this section, such provider shall, under subsection (c) of this section, submit—

(A) verifiable program-specific performance information consisting of—

(i) program information, including—

(I) the program completion rates for all individuals participating in the applicable program conducted by the 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; and

(ii) training services information for all participants who received assistance under section 2864 of this title to participate in the applicable program, including—

(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, 6 months after the first day of the employment;

(III) the wages received by participants who have completed the applicable program, 6 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; and

(B) information on program costs (such as tuition and fees) for participants in the applicable program.

## **(2) Additional information**

Subject to paragraph (3), in addition to the performance information described in paragraph (1)—

(A) the Governor may require that a provider submit, under subsection (c) of this section, such other verifiable program-specific performance information as the Governor determines to be appropriate to obtain such subsequent eligibility, which may include information relating to—

(i) retention rates in employment and the subsequent wages of all individuals who complete the applicable program;

(ii) where appropriate, the rates of licensure or certification of all individuals who complete the program; and

(iii) the percentage of individuals who complete the program who attain industry-recognized occupational skills in the subject, occupation, or industry for which training is provided through the program, where applicable; and

(B) the Governor, or the local board, may require a provider to submit, under subsection (c) of this section, other verifiable program-specific performance information to obtain such subsequent eligibility.

## **(3) Conditions**

### **(A) In general**

If the Governor or a local board requests additional information under paragraph (2)

that imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information required under paragraph (1)(A)(ii), the Governor or the local board shall provide access to cost-effective methods for the collection of the information involved, or the Governor shall provide additional resources to assist providers in the collection of such information from funds made available as described in sections 2853(a) and 2863(a)(1) of this title, as appropriate.

### **(B) Higher education eligibility requirements**

The local board and the designated State agency described in subsection (i) of this section may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]) from a provider for purposes of enabling the provider to fulfill the applicable requirements of this subsection, if such information is substantially similar to the information otherwise required under this subsection.

## **(e) Local identification**

### **(1) In general**

The local board shall place on a list providers submitting an application under subsection (b)(1) of this section and providers determined to be initially eligible under subsection (b)(2) of this section, and retain on the list providers determined to be subsequently eligible under subsection (c) of this section, to receive funds as described in subsection (a) of this section for the provision of training services in the local area served by the local board. The list of providers shall be accompanied by any performance information and program cost information submitted under subsection (b) or (c) of this section by the provider.

### **(2) Submission to State agency**

On placing or retaining a provider on the list, the local board shall submit, to the designated State agency described in subsection (i) of this section, the list and the performance information and program cost information referred to in paragraph (1). If the agency determines, within 30 days after the date of the submission, that the provider does not meet the performance levels described in subsection (c)(6) of this section for the program (where applicable), the agency may remove the provider from the list for the program. The agency may not remove from the list an agency submitting an application under subsection (b)(1) of this section.

### **(3) Identification of eligible providers**

A provider who is placed or retained on the list under paragraph (1), and is not removed by the designated State agency under paragraph (2), for a program, shall be considered to be identified as an eligible provider of training services for the program.

### **(4) Availability**

#### **(A) State list**

The designated State agency shall compile a single list of the providers identified under

paragraph (3) from all local areas in the State and disseminate such list, and the performance information and program cost information described in paragraph (1), to the one-stop delivery systems within the State. Such list and information shall be made widely available to participants in employment and training activities authorized under section 2864 of this title and others through the one-stop delivery system.

**(B) Selection from State list**

Individuals eligible to receive training services under section 2864(d)(4) of this title shall have the opportunity to select any of the eligible providers, from any of the local areas in the State, that are included on the list described in subparagraph (A) to provide the services, consistent with the requirements of section 2864 of this title.

**(5) Acceptance of individual training accounts by other States**

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

**(f) Enforcement**

**(1) Accuracy of information**

If the designated State agency, after consultation with the local board involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) of this section for any program for a period of time, but not less than 2 years.

**(2) Noncompliance**

If the designated State agency, or the local board working with the State agency, determines that an eligible provider described in subsection (a) of this section substantially violates any requirement under this Act, the agency, or the local board working with the State agency, may terminate the eligibility of such provider to receive funds described in subsection (a) of this section for the program involved or take such other action as the agency or local board determines to be appropriate.

**(3) Repayment**

A provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all funds described in subsection (a) of this section received for the program during any period of noncompliance described in such paragraph.

**(4) Construction**

This subsection and subsection (g) of this section shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

**(g) Appeal**

The Governor shall establish procedures for providers of training services to appeal a denial

of eligibility by the local board or the designated State agency under subsection (b), (c), or (e) of this section, a termination of eligibility or other action by the board or agency under subsection (f) of this section, or a denial of eligibility by a one-stop operator under subsection (h) of this section. Such procedures shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

**(h) On-the-job training or customized training exception**

**(1) In general**

Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (e) of this section.

**(2) Collection and dissemination of information**

A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying 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) Administration**

The Governor shall designate a State agency to make the determinations described in subsection (e)(2) of this section, take the enforcement actions described in subsection (f) of this section, and carry out other duties described in this section.

(Pub. L. 105-220, title I, § 122, Aug. 7, 1998, 112 Stat. 965.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsections (a)(2)(A)(i) and (d)(3)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 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 1001 of Title 20 and Tables.

The National Apprenticeship Act, referred to in subsection (a)(2)(B), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, 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.

This Act, referred to in subsec. (f)(2), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

**§ 2843. Identification of eligible providers of youth activities**

From funds allocated under paragraph (2)(A) or (3) of section 2853(b) of this title to a local area, the local board for such area shall identify eligible providers of youth activities by award-