



MAR 12 2019

The Honorable Brian P. Kemp
Governor of Georgia
203 State Capitol
Atlanta, GA 30334

Dear Governor Kemp:

Thank you for your waiver request on January 7, 2019, regarding certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the statewide workforce development system (copy enclosed). This letter provides the Employment and Training Administration's (ETA) official response to the State's request and memorializes that Georgia will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Georgia and ETA. This action is taken under the Secretary's authority to waive certain requirements of WIOA Title I, Subtitles A, B, and E, and Sections 8 – 10 of the Wagner-Peyser Act in WIOA Section 189(i).

Requested Waiver: Waiver of the obligation of eligible training providers (ETPs) to collect and report on the performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and (B) and 122(d)(2)(A) and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.430(b)(5).

ETA Response: The State's request to waive the obligation of ETPs to collect and report performance data on all students in a training program is approved through June 30, 2020. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Georgia to implement its plan to improve the workforce development system. The State must provide information regarding how the Governor will take into account the outcomes of all students in an ETP program of study, with respect to their employment and earnings, as required for the demonstration of continued eligibility in 20 CFR 680.460(f)(1)(iii) and WIOA Section 122. The State will continue to collect and report data for all WIOA-funded participants in accordance with all statutory and regulatory requirements, including WIOA Sections 116 and 122, and as specified at 20 CFR 677.230 and 680.460. While ETA recognizes the importance of informing consumer choice through the provision of quality data on training outcomes, we also recognize that the systems and willingness to collect the required performance data from providers may discourage training provider participation, which is a critical component of the workforce development system.

ETA is available for further discussion and to provide technical assistance to the State to support achieving its goals. The Department of Labor proposed additional flexibility in its Fiscal Year 2018 and 2019 budgets to give governors more decision-making authority to meet the workforce needs of their states and will continue to propose these additional flexibilities in future fiscal years.

If you have questions or wish to explore additional flexibility, feel free to contact my office at 202-693-2772.

Sincerely,



Molly E. Conway
Acting Assistant Secretary

Enclosure

cc:

Joe Dan Banker, Assistant Commissioner, Office of Workforce Development
Les Ranc, Atlanta Regional Administrator, Employment and Training Administration
Rachel Floyd-Nelson, Federal Project Officer, Employment and Training Administration



Les Range, Regional Administrator
Employment & Training Administration
U.S. Department Labor
61 Forsyth Street SW, Room 6M12
Atlanta, Georgia 30303

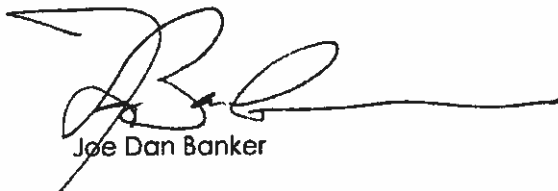
Dear Mr. Range,

The State of Georgia is submitting a modification request to our Workforce Innovation and Opportunity Act (WIOA) Combined State Plan. This request is submitted in accordance with WIOA Section 189(i)(3)(B) and the Workforce Agency Regulations at 20 Code of Federal Regulations 679.620. The attached document details the waiver requested by the State of Georgia. The waiver request was posted for public comment from November 13, 2018 to January 2, 2019. There were no public comments.

This waiver will allow Georgia to provide greater flexibility and increase capacity to respond to participant's training needs. This request is being made under the Secretary's authority at WIOA Section 189(i)(3)(B) to waive certain requirements of WIOA Title I, Sections 116 (related to performance) and 122 (related to the Eligible Training Provider List). In order to officially submit this waiver information to the federal portal, Georgia requests the state plan portal remain open or to re-open Georgia's state plan in the portal if needed.

Your review and consideration of the attached waiver request is appreciated. Please contact me with any questions.

Sincerely,



Joe Dan Banker

Assistant Commissioner, Office of Workforce Development

cc: Governor Nathan Deal

Kristin Laarhoven, Executive Director

WIOA State Plan 2018 Modification Waiver Request

The State of Georgia

The State of Georgia's Office of Workforce Development (OWD) is seeking a waiver of the required collection and reporting of performance data on all students participating in training programs listed on the state's Eligible Training Providers List (ETPL), as outlined in the WIOA at Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530. Under WIOA section 116(d)(4)(A) and 20 CFR 677.230(a)(5), Eligible Training Providers must report performance data with respect to all individuals engaging in a program of study (or the equivalent). While OWD recognizes the value and importance of monitoring provider performance, requiring ETPs to produce data on all individuals above and beyond WIOA-funded participants places an undue burden on ETPs to collect, enter, and report excessive data. This is especially burdensome when:

1. ETPs have many students of whom only a small percentage are WIOA participants, and;
2. ETPs do not have the existing staff to perform the required data gathering process, and cannot justify hiring the additional staff.

The federal requirements are creating a hardship for many training providers resulting in a decreased number of programs applying for inclusion to the ETPL. This leads to Georgia having a less robust list of training providers, thereby significantly limiting consumer choice.

Furthermore, ETPs and OWD are concerned that providing data on all individuals engaging in a program of study (or the equivalent) instead of WIOA-funded participants only may conflict with the Family Educational Rights and Privacy Act (FERPA), which protects the privacy of student education records. Generally, schools must have written permission from the parent or eligible student to release any information from a student's education record (34 CFR 99.30). Releasing student information on individuals who are not workforce system participants without their explicit consent may be in violation of federal law and compromise their personally identifiable information (PII). However, under this waiver, ETPs in collaboration with Local Workforce Development Boards, will continue to collect and report performance data for all WIOA-funded participants in accordance with WIOA section 116(d)(4)(A) and as specified at 20 CFR 677.230.

This request is submitted in accordance with the Secretary's waiver authority outlined in Section 189(i)(3)(B) of WIOA and 20 CFR 679.620. This waiver request will assist Georgia to further develop its workforce while continuing to focus on innovative strategies for a demand-driven workforce.

Actions to Remove Barriers:

There is currently no state or local statutory or regulatory barrier to implementing the requested waiver. The State of Georgia regulations and policy statements are in compliance with current federal law.

Strategic Goals of Requested Waiver:

Reduction of reporting burden of ETPs – Reporting performance data on all individuals engaging in a program of study (or the equivalent) consumes considerable time and expense. Reducing ETPs' reporting requirements to include only WIOA-funded participants would save considerable time and expense to allow ETPs to focus on education and training outcomes.

Ensure protection of non-WIOA participants' PII – Training providers do not currently have a method to match students with data sources to calculate employment outcomes. This process increases the liability for a potential breach of PII of non-WIOA participants.

Programmatic Outcomes from Implementation of the Waiver:

The reduction of the reporting burden fosters a wider variety of training offerings for individuals utilizing Individual Training Accounts (ITAs) via the public workforce system.

A wider variety of training programs can lead to lower cost and more robust demand-driven training options.

Greater utilization of the ETPL by individuals pursuing training via ITAs in Georgia related to jobs that are in-demand by employers now and in the future.

Stronger partnerships and relationships between training providers and the public workforce system.

Enhanced ability of local boards to respond quickly and efficiently to immediate local job seeker and employer needs.

Individuals, groups or populations impacted by the Waiver:

The reduction of reporting burden on ETPs will have a significant impact on multiple populations of the public workforce system, including, but not limited to:

1. Individuals who access training services in Georgia via ITAs,
2. Georgia OWD staff,
3. Local Workforce Development Boards,
4. American Job Center staff, and
5. the staff and administrators of ETPs.

Monitoring Waiver Implementation:

Annual WIOA on-site programmatic reviews will include an evaluation of the impact of the waiver on local programs to ensure programmatic goals and outcomes are being met.

Additionally, State staff involved with the administration of the ETPL and performance reporting will periodically examine the effectiveness of this waiver. This strategy ensures

that the goals described above, as well as those outlined in the State's Unified Plan, are consistent with established objectives of the WIOA and federal and state regulations.

Notice to Local Boards and Public Comment:

Concurrent with the submission of this waiver request, the state will notify all 19 local Workforce Development Board directors of the state's intent of this request. Upon approval of the waiver, Georgia OWD will issue a Policy Statement notifying all local Workforce Development Boards that this practice will be implemented effective immediately.

Local Workforce Development Boards will be provided a copy of this waiver request and given the opportunity to contact the Office of Workforce Development prior to submission of the State Unified WIOA Plan modification to discuss and have input on the waiver request. All local boards will also have access to the draft Unified Plan and opportunity to comment during the public review and comment period.

This waiver request will be included in the Unified Plan submission and subject to public comment within the Plan guidelines and the WIOA requirements outlined in WIOA regulations at 20 CFR 676.130(d).

Georgia will collect and report information about waiver outcomes in the State's WIOA Annual Report.