

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



July 30, 2021

The Honorable Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

Thank you for your waiver request submission to the U.S. Department of Labor (Department) 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 (enclosed). The waiver request was received on May 21, 2021. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that New York will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by New York 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 requirement at 20 CFR 683.110(c)(1) and (2), which limits the period of local WIOA Adult, Dislocated Worker, and Youth funds availability to the program year (PY) of allotment and the succeeding year.

ETA Response: ETA approves the State's waiver request, through June 30, 2022, to permit the State to make local WIOA PY 2019 funds available to local areas for a three-year expenditure period. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of New York's to implement its plan to improve the workforce development system.

The State must report its waiver outcomes and implementation of the approved waiver in the WIOA Annual Report. ETA will use this information to assess continued waiver approval and to identify promising practices that may be adopted more widely. ETA is available to provide technical assistance to you in support of your goals. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,

A handwritten signature in blue ink, appearing to read "Suzan G. LeVine".

Suzan G. LeVine
Acting Assistant Secretary

Enclosure

cc: Roberta Reardon, Commissioner, New York Department of Labor
Leo Miller, Northeast Regional Administrator, ETA
Minnie Holleran, Federal Project Officer, ETA



Andrew M. Cuomo, Governor
Roberta Reardon, Commissioner

May 21, 2021

Mr. Leo Miller
Regional Administrator
U.S. Department of Labor
Employment and Training Administration
25 New Sudbury St
Room E-350
Boston, MA 02203

Dear Mr. Miller:

New York State (NYS) respectfully submits the attached modification request to the NYS Workforce Innovation and Opportunity Act (WIOA) Combined Plan. The request is being submitted in accordance with WIOA and guidance provided at <https://www.doleta.gov/wioa/waivers/>.

The waiver will assist New York State (NYS) and our Local Workforce Development Boards in recovering from the unprecedented effects of the COVID-19 pandemic. These effects include significant reductions in customer traffic, and decreased spending on WIOA programs. As the State reopens, an influx of customers who will require WIOA services and programs is expected and this waiver will help ensure they receive the services they need.

The review and timely consideration of this waiver request are appreciated. Please contact NYS with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Orville M. Abrahams".

Orville M. Abrahams
Deputy Commissioner for Workforce Development

Waiver of the requirement that Workforce Innovation and Opportunity Act (WIOA) Grant Funds allocated to a local area for any Program Year (PY) are available for expenditure only during that PY and the succeeding year.

Statutory and/or regulatory requirements to be waived

Language that requires WIOA Title I and Wagner-Peyser Act Funds allocated by a State to a local area to be available for expenditure only during that PY and the succeeding PY, and that any funds not expended by a local area in this two-year period must be returned to the State, identified in 20 CFR section 683.110 (c)(1) and (2) and WIOA section 189 (g)(2)(A).

Actions undertaken to remove state or local barriers

There are no identified statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

This waiver will allow local areas access to WIOA PY19 funding for an entire third year through June 30, 2022. With the unprecedented circumstances of the COVID-19 pandemic, many local areas have seen Career Centers close, significant reductions in customer traffic, and decreased spending on WIOA programs. As the New York State (NYS) economy opens back up, the State anticipates an influx of customers who will require WIOA services and programs. To address the financial demand of this influx, the State believes the local areas should have PY 2019 WIOA funding. This will allow local areas to continue to offer training programs, on-the-job training (OJT) programs, and virtual seminars for WIOA customers and prevent any denials to these programs based on the lack of available funding.

Alignment with USDOL policy priorities

This waiver would allow the NYS workforce development system to continue to provide WIOA programs and services to individuals and businesses during the COVID-19 emergency.

Individuals impacted by the waiver

This waiver will directly impact eligible WIOA Title I participants within local areas where this waiver is utilized, including adults, dislocated workers, and in-school and out-of-school youth. The waiver would also positively impact people in these local areas who are not WIOA participants but who have an economic relationship with recipients. These include businesses, residents, and other individuals and entities affected by the COVID-19 pandemic.

Process for monitoring progress and the collection and reporting of outcomes related to the waiver

If this waiver request is approved, NYS Department of Labor (NYSDOL) Financial Oversight and Technical Assistance (FOTA) staff will monitor Local Workforce Development Boards (LWDBs) to ensure funding is utilized properly and fully accrued by June 30, 2022, so there is no remaining balance on the final WIOA PY19 close-out report due to USDOL by October 31, 2022.

Notice to affected local boards

Should the waiver be granted, NYSDOL would issue an electronic notice that will be disseminated to the workforce development community in the State (including LWDB Directors and Chairs).

Public Comment

This waiver request was posted for public comment on the NYSDOL website for a 10-day comment period. One comment in support was received and did not require any change to the waiver.