



DEC 21 2018

The Honorable Chris Sununu
State House
107 North Main Street
Concord, New Hampshire 03301

Dear Governor Sununu:

Thank you for your waiver request on October 1, 2018, 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 New Hampshire will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by New Hampshire 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 performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and 122 and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.

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 New Hampshire 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 2019 budgets to give governors more decision-making authority to meet the workforce needs of their states.

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:

Jacqueline Heuser, WIOA Director, Division of Economic Development/Office of Workforce Opportunity

Tim Martin, Acting Boston Regional Administrator, Employment and Training Administration

Amanda Poirier, Federal Project Officer, Employment and Training Administration



STATE OF NEW HAMPSHIRE
DEPARTMENT OF BUSINESS AND ECONOMIC AFFAIRS
OFFICE OF WORKFORCE OPPORTUNITY

172 Pembroke Road Concord, New Hampshire 03301
Phone: 603-271-2341 www.nheconomy.com

October 1, 2018

Tim Martin
Regional Administrator
U.S. Department of Labor
Employment and Training Administration
John F. Kennedy Federal Building
Room E-350 Boston, MA 02203

Dear Mr. Martin,

New Hampshire is seeking a waiver from the requirements outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the State's Eligible Training Providers List (ETPL). Please find the attached waiver request from New Hampshire.

If you have any questions or we can be of further assistance, please let us know.

Sincerely,

A handwritten signature in cursive script that reads "Jacqueline Heuser".

Jacqueline Heuser, WIOA Director
Division of Economic Development/Office of Workforce Opportunity
Department of Business and Economic Affairs

CC: Amanda Poirier, Federal Project Officer

State of New Hampshire
NH Department of Business and Economic Affairs
Office of Workforce Opportunity (OWO)

Request for Waiver
Eligible Training Provider List (ETPL)

The New Hampshire Department of Business and Economic Affairs, Office of Workforce Opportunity, the state administrative entity for the Workforce Innovation Opportunity Act, seeks a waiver through June 30, 2020 from the requirements outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the State's Eligible

New Hampshire recognizes the importance of monitoring provider performance, however many training providers do not have existing staff to perform the data gathering processes required to submit program information and performance measures for all students. Even with additional assistance from the state requiring training providers to report on all individuals instead of just WIOA funded participants places an additional burden that is a disincentive for training providers to register for the Eligible Training Providers List. For many of the programs that have been approved the data for the number of WIOA supported students is insufficient to determine re-certification for subsequent eligibility. Furthermore, training providers either do not have the capacity to report or are hesitant to report information on all participants because it may conflict with the Family Educational Rights and Privacy Act (FERPA).

This will cause a decrease in eligible training providers and it would go against the intent and spirit of WIOA to provide informed customer choice and significantly limit customer choice. It will be difficult to ensure local areas have sufficient numbers and diversity of training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs.

Granting this waiver will allow the State to continue to work on offering a more robust Eligible Training Provider List and more effectively address customer and employer needs. In consultation with the state's small training provider community we are committed to fulfilling the requirements of the Act and will continue in accordance with New Hampshire's plan to monitor provider performance.

Actions to Remove Barriers: There are no state or local statutory or regulatory barriers to implementing the requested waiver.

Goals to be achieved as a Result of the Waiver:

1. Reduce the burden on training providers to submit performance information to the state which may not be readily accessible to the provider and reduce time and expense spent

on reporting. Reducing this time and expense requiring training providers to report on all customers will allow the program to focus on providing quality training and outcomes for WIOA participants.

2. Ensure that local areas have sufficient numbers and diversity of training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs. More training providers will allow greater utilization of ETPL by individuals pursuing training via ITAs, and this will allow NH Works staff to respond quickly and efficiently to immediate local job seeker and employer needs.
3. More training providers may lead to lower cost and more robust demand-driven training options.
4. Eligible providers will be less susceptible to transmitting sensitive data on all students, such as social security numbers, that may conflict with FERPA and leave students open to identify theft and privacy considerations.

Description of Programmatic Outcomes:

The purpose for requesting this waiver is to reduce the burden on training providers to require the collection and reporting of performance related data on all students participating in training programs listed on the State's Eligible Training Providers List (ETPL). We are very concerned that a strict enforcement of reporting requirements for all students would drastically reduce the limited number of training providers available to our customers.

New Hampshire is a rural state consisting of a Single Workforce Innovation Opportunity Area and 12 one-stop centers. Currently, the number of training providers that have been approved under the Initial Eligibility guidelines is 59. Collectively, these providers are approved for approximately 1,246 programs. Providers include NH's community colleges, a significant number of public and private for-profit schools, colleges and universities, Adult Education and non-profit community-based organizations.

The vast majority of providers do not have internal systems or capacity to produce the "all students" performance data and are susceptible to potential violations of student privacy if transmitting data for all students. Granting this waiver will allow the State to continue to work on offering a more robust Eligible Training Provider List and more affectively address customer and employer needs.

Description of Individuals Impacted by the Waiver:

The waiver will positively impact all customers. Individual customers will continue to have choices in selecting training programs that meet their skill development needs. Employers will be assured that they are receiving a skilled and trained workforce. Additional time will allow the state to evaluate effective measures of training provider performance. Training providers will be given the opportunity to develop meaningful measures of student experiences and outcomes.

Description of the Process to Monitor Progress: The NH Department of Business and Economic Affairs, Office of Workforce Opportunity (OWO), will be the entity responsible to implement and monitor the goals and action plans outlined in this request. OWO will ensure

those goals described above are consistent with established objectives of federal and state regulations.

Notification to Key Stakeholders and Public Comment on This Waiver Request: We are a single state Workforce Board, and the “Eligible Training Provider Report on All Students Waiver Request” was approved by the State Workforce Innovation Board. We will publish on the www.nhworks website for 60 days a copy of this waiver for purposes of ensuring meaningful public comment by business, organized labor, training providers, trainees, and potential trainees. All feedback and correspondence will be kept on file at the Office of Workforce Opportunity for review upon request.

Timeline: It is the State’s intention to implement the requirement for Eligible Training Providers to report on all students by June 30, 2020 or seek to request a waiver extension



STATE OF NEW HAMPSHIRE
DEPARTMENT OF BUSINESS AND ECONOMIC AFFAIRS
OFFICE OF WORKFORCE OPPORTUNITY

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SWIB APPROVAL - Eligible Training Provider Report on All Students Waiver Request

The New Hampshire Department of Business and Economic Affairs, Office of Workforce Opportunity, the state administrative entity for the Workforce Innovation Opportunity Act, seeks a waiver through June 30, 2020 from the requirements outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the State's Eligible

The Office of Workforce Opportunity recognizes the importance of monitoring provider performance, however many training providers do not have existing staff to perform the data gathering processes required to submit program information and performance measures for all students. Even with additional assistance from the state requiring training providers to report on all individuals instead of just WIOA funded participants places an additional burden that is a disincentive for training providers to register for the Eligible Training Providers List. For many of the programs that have been approved the data for the number of WIOA supported students is insufficient to determine re-certification for subsequent eligibility. Furthermore, training providers either do not have the capacity to report or are hesitant to report information on all participants because it may conflict with the Family Educational Rights and Privacy Act (FERPA).

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Granting this waiver will allow the State to continue to work on offering a more robust Eligible Training Provider List and more effectively address customer and employer needs. In consultation with the state's small training provider community we are committed to fulfilling the requirements of the Act and will continue in accordance with New Hampshire's plan to monitor provider performance.

With the approval of the State Workforce Innovation Board, OWO will draft and submit a formal request for a waiver to address this issue.

Date Approved: October 1, 2018

Authorized by: Dick Anagnost, Chair State Workforce Innovation Board

Signature: _____