



NOV 14 2019

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

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Dear Governor Cuomo:

Thank you for your waiver request received on September 6, 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 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 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: ETA approves, through June 30, 2020, the State's request to waive the obligation of ETPs to collect and report performance data on all students in a training program. 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 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 20 CFR 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 its goals. The Department of Labor proposed additional flexibility in its Fiscal Year 2018, 2019, and 2020 budgets to give governors more decision-making authority to meet the workforce needs of their states and anticipates proposing these additional flexibilities in future fiscal years. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,



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John Pallasch

Assistant Secretary for Employment and Training

Enclosure

cc: Roberta Reardon, Commissioner, New York Department of Labor  
Leo Miller, Boston/Philadelphia Regional Administrator, Employment and Training Administration  
Richard Chavez, Federal Project Officer, Employment and Training Administration

WE ARE YOUR DOL



Andrew M. Cuomo, Governor  
Roberta Reardon, Commissioner

September 6, 2019

Mr. Timothy Martin  
Acting Regional Administrator  
U.S. Department of Labor  
Employment and Training Administration  
25 New Sudbury St  
John F. Kennedy Federal Building, Room E-350  
Boston, MA 02203

Dear Mr. Martin:

New York State (NYS) respectfully submits the attached waiver 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 in easing the reporting burden placed on training providers approved to be listed on the NYS Eligible Training Provider List (ETPL), by requiring them to collect and report performance data on only those students funded with WIOA dollars. The waiver will allow training providers in NYS to focus on training students/participants, while maintaining WIOA's requirement that providers collect and report performance data in a meaningful way.

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

Sincerely,

A handwritten signature in blue ink that reads "Karen A. Coleman". The signature is written in a cursive style.

Karen A. Coleman  
Deputy Commissioner for Workforce Development and  
Governor's Office Advisor for Workforce Policy and Innovation

**Waiver of the requirement for Eligible Training Providers to collect and report performance data for all students enrolled in training.**

Statutory and/or regulatory requirements to be waived

Workforce Innovation and Opportunity Act (WIOA) Section 116(d)(4)(A) and 122; 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.400- 680.530.

Actions undertaken to remove state or local barriers

~~There are no State or local statutory or regulatory barriers to implementing the proposed waiver.~~

Goals and expected programmatic outcomes of waiver

The waiver will ease the reporting burden placed on training providers approved to be listed on the New York State (NYS) Eligible Training Provider List (ETPL) by requiring them to collect and report performance data on only those students funded with Workforce Innovation and Opportunity Act (WIOA) dollars. It is expected that the proposed change will lead to increased participation of providers on the ETPL, and an increase of performance reporting by those providers for the more limited universe of students/participants. Both outcomes will bolster customer choice. The waiver will also lead to stronger partnerships and improved relationships between training providers and the public workforce system, including the Local Workforce Development Boards (LWDB). Finally, the waiver would lead to the possibility that provider performance data could be verified through the NYS case management system, the One Stop Operating System (OSOS). NYSDOL previously has not used OSOS to verify performance data since OSOS is limited to WIOA participants and there is no way for NYSDOL to verify information provided for non-WIOA students, which is the vast majority of students in most training providers, such as community colleges.

Alignment with USDOL policy priorities

The waiver would allow training providers in NYS to focus on training student/participants rather than the reporting burden of collecting data on all students, while maintaining WIOA's requirement that providers collect and report performance data in a meaningful way (i.e. reporting on WIOA participants).

Individuals impacted by the waiver

Individuals who participate or who wish to participate in training services via Individual Training Accounts, NYS Workforce Development Staff, and training providers will benefit from this waiver.

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

New York State Department of Labor (NYSDOL) staff involved with the administration of the ETPL and performance reporting will periodically examine the effectiveness and impact of this waiver. This strategy will use the goals outlined above as guidance

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 was received, but did not require any change to the waiver.

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