



JAN 28 2019

The Honorable Mike DeWine
Governor
State of Ohio
77 South High Street, 30th Floor
Columbus, Ohio 43215

Dear Governor DeWine:

Thank you for Ohio's waiver request dated October 25, 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 Ohio will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Ohio 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 Ohio 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:

Cynthia C. Dungey, Director, Ohio Department of Job and Family Services
Christine Quinn, Chicago Regional Administrator, Employment and Training Administration
Carl Stahlheber, Federal Project Officer, Employment and Training Administration



**Department of
Job and Family Services**

John R. Kasich, Governor
Cynthia C. Dungey, Director

October 25, 2018

Christine Quinn
Regional Administrator, Employment & Training Administration
United States Department of Labor
230 South Dearborn Street, 6th Floor
Chicago, IL 60604

Dear Ms. Quinn,

The State of Ohio is hereby requesting the waiver of a statutory requirement in the Workforce Innovation and Opportunity Act (WIOA) as permitted under WIOA section 189(i)(3)(B). Waiving the requirement to collect and report student counts and performance data on all individuals participating in training programs listed on the state's eligible training provider list (ETPL) would ensure that a sufficient assortment of providers offering a wide variety of job-driven training options remain available to WIOA participants.

Some training providers have raised concerns over administrative burdens associated with gathering and reporting data on all individuals they train, which currently would prevent them from remaining on the ETPL. For the WIOA vision of consumer choice to be fully realized, and for employers to recruit the talented workforce they need to remain globally competitive, the number and variety of training options must not be lessened by data collection roadblocks. For the providers that do not have systems in place to capture the information on all students they have trained, this waiver authority will enable them to continue serving as WIOA providers until the data can be obtained.

The attached waiver plan provides further details on this request. If the waiver is granted, Ohio's WIOA Combined State Plan will be revised to incorporate this change.

We thank you for considering this request. If you have any questions, please contact Ryan Thompson, Assistant Deputy Director, at (614) 644-5739 or Ryan.Thompson@jfs.ohio.gov.

Sincerely,

Cynthia C. Dungey
Director

Attachment

CC: Carl Stahlheber Bruce Madson John B. Weber
Ryan Thompson Julie Wirt Daniel Rizo-Patron

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Ohio WIOA Program Waiver Plan

Waiver of Requirement that Eligible Training Providers Collect Performance Data for All Individuals

The ability to request waivers of statutory or regulatory requirements that will improve the workforce system is authorized by the Workforce Innovation and Opportunity Act (WIOA) section 189(i)(3) and at 20 CFR parts 679.600 - 679.640.

1. Statutory or regulatory requirement to be waived

As the state workforce agency, the Ohio Department of Job and Family Services (ODJFS) is seeking a statewide waiver of the requirement to collect and report the number of individuals engaging in and exiting from the programs of study listed on the state's eligible training provider list (ETPL), and the outcome data for the primary indicators of performance for all individuals in such programs, as mandated in WIOA §§ 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 - 680.530.

Specifically, ODJFS requests waiver authority to report a "0" in the eligible training provider performance report for the nine data elements related to all individuals in training (*i.e.*, data elements 120 through 128 on form ETA 9171) for programs of study where the data is not currently available.

The passage of WIOA resulted in new standards for tracking the quality of eligible training providers and informing consumers of performance outcomes associated with each training program. Pursuant to the WIOA requirements, ODJFS implemented numerous changes, including:

- Replacement of the state's legacy ETPL database with a new portal known as the *Ohio Workforce Inventory of Education and Training (WIET) system*;
- Creation of new data fields for providers to input their levels of performance achieved on the primary indicators of performance for all trainees engaging in each program;
- Implementation of new [policy guidance](#) explaining the WIOA criteria and process for eligible training providers to become listed and renew their programs in WIET; and
- Issuance of frequent communications with training providers regarding the new requirements including a guidebook to help them navigate WIET.

Within calendar year 2019, ODJFS will implement additional WIET system enhancements to begin collecting the number of individuals enrolling in and completing each program of study. Despite these efforts to streamline and modernize the ETPL system and to achieve the WIOA vision of informed customer choice, some training providers have reported that they are struggling to provide the performance data required for all students in all programs. Their challenges fall within several categories:

- Excessive administrative costs associated with tracking former students, surveying their employment outcomes, and reporting the data for each training program, especially for programs where the percentage of WIOA participants is minute;
- Concerns with the protection of sensitive information (i.e., Social Security Numbers) that would need to be gathered on all students to conduct wage record matches, leaving the students vulnerable to identity theft and privacy breaches; and
- Questionable accuracy of performance data if it is based on self-reported student surveys, anecdotal data, and potentially low response rates.

Not all training providers are faced with these challenges. Where the data is available, ODJFS will comply with the WIOA requirement to collect and report performance data on all individuals accessing training programs in the WIET system. However, for providers unable to provide the performance data on all students, ODJFS would use the waiver authority, if granted, to enable them to continue serving as eligible training providers as appropriate, under the condition that ODJFS and the provider work to enact systems and strategies to enable eventual compliance with the WIOA reporting mandates.

2. Actions undertaken to remove state or local statutory or regulatory barriers

There are no known state or local barriers delaying implementation of this waiver. If the waiver is granted, ODJFS would move quickly to update state policy and the WIOA Combined Plan to align with the terms of the waiver. For purposes of selecting programs of training services, a local workforce development board (local board) may supplement the state's criteria and information requirements for the eligible training providers it will utilize. This local authority will not be diminished by the waiver, enabling a local board to continue requiring its eligible training providers to report performance outcomes for all individuals if the local board deems this information to be necessary for informed customer choice and the achievement of local performance indicators.

3. Projected programmatic outcomes resulting from waiver implementation

The programmatic outcomes expected to result from waiver implementation include:

- Maintaining or increasing the number and diversity of training programs available on the ETPL;
- Reporting primary performance data for all programs for which it is available;
- Increasing the capacity to gather and report student counts and training program performance data where it is currently unavailable pursuant to WIOA mandates; and
- Strengthening relationships between training providers and the public workforce system through compromise and collaboration.

4. State strategic goal(s) and Department of Labor priorities supported by the waiver

The state combined plan identifies the alignment of training to business needs as a primary strategic goal for accomplishing WIOA's primary purposes. Approval of the waiver would enhance this goal by ensuring that numerous and varied training programs remain available for participant selection, resulting in a well-prepared workforce possessing the widest possible array of technical skills that employers need to compete globally.

The Department of Labor priority of ensuring customer choice in the selection of training programs and providers is also supported by this waiver. If the list of available programs is

diminished by removing many that are unable to provide data on all individuals, then the participants' choices of potential training options would be diminished as well.

Finally, the state and federal goal of serving disadvantaged populations and individuals with multiple barriers is supported by the waiver by ensuring that training providers with limited resources to track former student outcomes will focus their time and resources on ensuring successful outcomes for WIOA-funded participants rather than data collection tasks.

5. Individuals, groups, or populations benefitting from the waiver

Ohio provides training services to about 5,000 Adults, 3,000 Dislocated Workers, and 7,000 Youth annually. Most participants in training receive occupational skills training from an eligible training provider on the state's ETPL and would therefore benefit from this waiver by having access to a wide variety of in-demand training programs, which might otherwise be reduced if the providers who are unable to comply with all-individual reporting mandates must be removed from the ETPL.

6. Monitoring waiver implementation, including collection of waiver outcome data

If the waiver is granted, ODJFS will monitor the entries in the WIET system and the program performance measures to evaluate the following outcomes:

- The number and diversity of training programs available in WIET, which should not decrease after the waiver is granted;
- The percentage of WIOA participants in training who receive a recognized postsecondary credential and retain employment in the second and fourth quarters after exit, which should not decrease due to this waiver (or else the waiver flexibility may have compromised the quality of the training services); and
- The percentage of providers that are unable to provide program performance data for all students, which should decrease as performance tracking methods improve.

Annually, ODJFS will evaluate the appropriateness and effectiveness of the waiver based on these measures and provide updates in each WIOA annual report while the waiver is in effect.

7. Notice to Local Boards and Public Comment

ODJFS meets monthly and communicates frequently with local board staff and has informed them of this waiver request by email and in a statewide webinar. A week-long public comment period was offered to gather input on this waiver request from the workforce development community.

In accordance with the WIOA Regulations at 20 CFR 676.143(c), the modification to the Combined State Plan to implement this waiver will also be posted for public review and comment on the ODJFS clearance website for at least two weeks. An email alert about the opportunity to comment on the revised plan will be sent to a statewide list of workforce directors, American Job Center operators, WIOA providers, and other stakeholders. Any comments received during this process and the ODJFS response to such comments will be included in the Combined Plan modification package.