

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



May 28, 2024

The Honorable Bill Lee
Governor of Tennessee
1st Floor, State Capitol
Nashville, TN 37243

Dear Governor Lee:

Thank you for your waiver request submission to the U.S. Department of Labor 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 requests were received March 5, 2024, as part of your recent WIOA State Plan submission. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Tennessee will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Tennessee and ETA. This action is taken under the Secretary of Labor'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 20 CFR 681.550 to allow WIOA individual training accounts (ITAs) for in-school youth (ISY).

ETA Response: ETA approves for Program Year (PY) 2024 and PY 2025, the State's request to waive the requirement limiting ITAs to only out-of-school youth (OSY), ages 16–24. In addition to these OSY, the State may use ITAs for ISY, ages 16–21. ETA reviewed Tennessee's waiver request and plan and has determined that the requirements requested to be waived impede the ability of the State to implement its plan to improve the workforce development system. Approval of this waiver should not impede the State's efforts to prioritize OSY, including outreach to the OSY population.

Requested Waiver: Waiver associated with the requirement at WIOA Section 129(a)(4)(A) and 20 CFR 681.410 that the State and local areas expend 75 percent of Governor's reserve youth funds and local formula youth funds on OSY.

ETA Response: ETA approves for PY 2024 and PY 2025, which includes the entire time period for which states are authorized to spend each of those Program Year fund allotments, the State's request to waive the requirement that the State expend 75 percent of Governor's reserve youth funds on OSY. ETA reviewed Tennessee's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Tennessee to implement its plan to improve the workforce development system. Tennessee may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

In addition, ETA approves for PY 2024 and PY 2025, which includes the entire time period for which states are authorized to spend each of those Program Year fund allotments, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. Tennessee may lower the local youth funds expenditure requirement to 50 percent for OSY. As a result of this waiver, ETA expects that the number of in-school youth (ISY) served will increase, and performance accountability outcomes for overall WIOA Youth (including both ISY and OSY) will remain steady or increase for the majority of the WIOA Youth performance indicators.

The State must report its waiver outcomes and implementation of the approved waivers 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,



José Javier Rodríguez

Enclosure

cc: Dawn Tawater, Tennessee Department of Labor & Workforce Development
Kimberly Staley, ETA Regional Administrator – Atlanta Region
Stephanie Holt, ETA Federal Project Officer

Tennessee 2024 State Plan Waivers

Please see following two (2) State of Tennessee Waiver Requests:

1. **Out-of-School Youth Expenditure, and**
2. **Individual Training Account for At-Risk In-School Youth**

#1 - Waiver Subject: Out-of-School Youth Expenditure Statutory and Regulatory Requirement:

Statutory and Regulatory Requirement:

Tennessee is seeking a waiver of Section 129(a)(4)(A) and 20 CFR 681.410 which requires not less than seventy-five percent (75%) of funds allocated to states under section 127(b)(1)(c) reserved under Section 128(a) and available for statewide activities under subsection (b) and not less than seventy-five percent (75%) of funds available to local areas under subsection (c) shall be used to provide youth workforce investment activities for out-of-school youth (OSY).

Background:

Tennessee has many initiatives that are supporting individuals in their pursuit of post-secondary education in order to propel themselves and their families to self-sufficiency and increased social mobility. TN workforce initiative Drive to 55 – the Drive to get 55 percent of Tennesseans equipped with a college degree or certificate by the year 2025 – has increased the higher education enrollments and demands all agencies to answer the call for support. TN Promise, one initiative under Drive to 55, offers high school graduates two years of tuition-free education for community or technical college. TN Pathways is the K-12 initiative under Drive to 55 and supports alignment among K-12, postsecondary, and industry to provide students with relevant education and training to jumpstart their postsecondary degrees and credentials.

Waiver Request:

Reducing the percentage of expenditures for out-of-school youth from seventy-five percent (75%) to fifty percent (50%) would allow the State and Local Workforce Development Boards (LWDBs) ability to meet the needs of In-school youth (ISY) in the local demographic area.

The State is requesting liganacy in the expenditure requirement for the specific barrier to effectively serve and assist in the success of our Governor's Drive to 55 initiatives (TN Reconnect and TN Promise), our Governor's Investment in Vocational Education (GIVE) Act, TN Department of Education (Carl D. Perkins Vocational and Technical Education) initiatives and other ISY focused initiatives.

Reason for the Request:

The seventy-five percent {75%} OSY expenditure requirement limits the ability of the State and local areas to:

- Consider local demographic needs and direct resources to youth population determined to have the highest need for that area.
- Effectively support TN Governor's initiatives and partner with State agencies.
- Prevent at-risk ISY from dropping out of school and from increasing the number of OSY in the State.

Actions Undertaken to Remove State or Local Statutory or Regulatory Barriers:

We would like to continue utilizing the flexibility of the waiver beyond program year 2022.

Currently, no state or local statutory or regulatory barriers exist. The State of Tennessee regulation and policy statements are in compliance with current federal law and/or approved waivers.

Goals and Outcomes:

As data collected becomes available the state will provide the latest outcome:

- The approval of this waiver would permit LWDBs the opportunity to determine how best to meet the educational and training needs of youth, regardless of school status, and specific to the population, geographical location, and economic and employment conditions of each LWDBs.
- Additionally, increasing support to ISY while maintaining a focus on serving OSY will help develop a larger pool of young people qualified

and prepared to meet the current and future needs of employers in their workforce areas and throughout the state

Individuals impacted by this Waiver:

- The ISY who will receive the services as described in WIOA Section 123; Section 129(c)(2) and 20 CFR 681.420.
- Tennessee's youth providers that will increase the number of ISY receiving services based on the demography of the ISY in the local workforce area and across TN.

Description of the Monitoring Process:

Tennessee Department of Labor and Workforce Development (TDLWD) and youth providers will be responsible for monitoring the increase of in-school participation rate during the annual monitoring on-site and desktop review.

Opportunity for Local Board and Public Comment on Waiver Request:

The waiver request will be included in TN's Combined State Plan and posted on the TDLWD's website for thirty (30) days and for public review and comment, and for comments from our partners. Consistent with general waiver request requirements, TDLWD is adhering to publication requirements to ensure the broadest participation possible including informing appropriate youth program partners such as schools, labor and community-based organizations.

Waiver #1 Feedback and Revisions requested Friday April 3, 2020:

1. **75 Percent OSY Expenditure Requirement** **The State must provide:**
 1. **More discrete projected outcome information;**

The approval of this waiver would permit LWDBs the opportunity to determine how best to meet the educational and training needs of youth, regardless of school status, and specific to the

population, geographical location, and economic and employment conditions of each LWDA. It is the goal that partnerships with the local workforce boards and school districts will increase by five percent over the duration of the waiver.

Additionally, increasing support to ISY while maintaining a focus on serving OSY will help develop a larger pool of young people qualified and prepared to meet the current and future needs of employers in their workforce areas and throughout the state. It is the goal that the success rate of in-school youth completing work-based learning programs increases 10 percent of the duration of the waiver. It is also the goal to steadily increasing services to in-school youth across the State through intentional partnerships by 10 percent over the duration of the waiver.

- 1.
2. **Evidence that the State met its goals (performance results) for its last waiver approval;**

The data regarding performance results for the last waiver approval would be available through the WIRED division.

- 1.
3. **Evidence that the state and/or local areas are in jeopardy of missing 75 percent OR information on past years' attempts to reach 75 percent. (If the data shows the State is spending it, what is the data behind the request?);**

The State currently has a waiver for program year 2022 and 2023 for a 50 percent expenditure rate for out-of-school youth. The State is meeting that requirement. The State is requesting this waiver to continue utilizing the 50 percent expenditure rate to allow for increased services to youth participating in early postsecondary opportunities, work-based learning programs and Governor driven initiatives such as Tennessee Reconnect and Drive to 55.

- 1.
4. **Description of how the State will continue to serve OSY;**

The State will continue to develop and maintain Statewide partnerships with organizations that have a heavy focus on the young adult population facing significant barriers to education and employment that will disseminate to local boards. For example, the State is currently delving into exploratory conversations with the TN Urban League, which are in the four major metropolitan areas of TN that houses the highest concentration of WIOA eligible youth. We are exploring how their connection and services can be shared with local boards in the area to assist with reaching and serving eligible youth, and they are participating in the Summer Youth Employment Program initiative as a partner.

#2 - Waiver Subject: Individual Training Account for At-Risk In-School Youth Statutory and Regulatory Requirement:

Tennessee is seeking a waiver of 20 CFR 681.550 and WIOA Section(c)(2)(D) that allows Individual Training Accounts (ITA) for in-school youth (ISY) ages 14-21.

Background:

Tennessee has served both in-school and out-of-school youth (OSY) since the inception of WIOA. With the economy of Tennessee improving and the unemployment data remaining at a low-level post-pandemic, workforce development can effectively use this situation to connect with employers to provide ITAs to at-risk ISY. This juncture of low unemployment in the state will enable the at-risk youth to cultivate their skills in a work- educational environment and give them direction of what they want to do once they leave school. The Individual Training Account provides the at-risk youth a wide variety of choices for skills development with an employer.

Including enrollment in a community college providing classroom training coupled with hands on experience for a successful employment in the area the youth will excel.

Waiver Request:

Request to allow Tennessee to provide ITAs to at-risk ISY and to provide work-based training opportunities, including pre-apprenticeships, along with high-quality occupational training.

Reason for the Request:

Youth determined at-risk by the educational institution are not given an opportunity to develop work-skills through the use of work-based training services. Providing ITAs for these at-risk youth will lead to a high school diploma or industry recognized credential and result in skills development including employment opportunities leading to self-sufficiency. It will also decrease the number of school drop-outs in the state. Providing ITAs to at-risk ISY will also allow for better service integration with TN's Governor initiatives such as Drive to 55, Governor's Investment in Vocational Education (GIVE) Act, and TN Department of Education (Carl D. Perkins Vocational and Technical Education) initiatives.

Actions Undertaken to Remove State or Local Statutory or Regulator Barriers:

TN applied for the waiver in June 2018 and US DOL ETA granted TN this waiver request for program years 2022 and 2023. TN would like to continue utilizing the flexibility of the waiver beyond program year 2023. Currently, no state or local statutory or regulatory barriers exist. The State of Tennessee regulation and policy statements are in compliance with current federal law.

Goals and Outcomes:

- Increase the number of at-risk youth receiving ITAs in work-based programs especially pre-apprenticeship programs
- Help companies to develop new skills based on the need of business to develop young talents
- Promote sufficient pre-apprenticeship programs that youth can access
- Positive impact on all youth to attend pre-apprenticeship or any of the work-based services needed to close the gap in talent shortage, while providing hands on experience for youth
- Creates a pipeline of well-educated skilled workers entering the workforce to strengthen the State's overall economy.

Individuals impacted by this Waiver:

- Tennessee's Local Workforce Development Boards (LWDBs) that provide quality pre- apprentice services tied to demand occupations in the area.
- At-risk youth who will be positively impacted and who will be given an additional avenue that will enrich their livelihood when entering the workforce.

Description of the Monitoring Process:

- Tennessee Department of Labor and Workforce Development (TDLWD) and LWDBs will be responsible for monitoring ITAs and the type of pre-apprentice services provided to at risk youth during the annual monitoring on site and desk top review.
- Ensure work-based training programs are high-quality and meeting industry needs in conjunction with Tennessee Department of Education (Pathways TN).

Opportunity for Local Board and Public Comment on Waiver Request:

The waiver request will be included in TN's Combined State Plan and posted on the TDLWD's website for thirty (30) days and for public review and comment, and for comments from our partners. Consistent with general waiver request requirements, TDLWD is adhering to publication requirements to ensure the broadest participation possible including informing appropriate youth program partners such as schools, labor, and community-based organizations. This waiver has is developed in consultation with LWDBs.

Waiver #2 Feedback and Revisions requested Friday April 3, 2020:

2. Youth ITAs The State must provide:

1. More discrete projected outcome information;

Increasing the number of youth pre-apprenticeships by 5 percent over the duration of the waiver.

Increasing the number of in-school youth participating in work-based learning and early postsecondary opportunities by 5 percent over the duration of the waiver.

Increasing the post-secondary credential attainment rate for in-school youth.

1.

2. Justification should be about program strategy where they are able to use the waiver and details of program design;

Providing ITAs to at-risk ISY will also allow for better service integration with TN's Governor in TN Department of Education (Carl D. Perkins Vocational and Technical Education) initiatives. The State intends to deepen the relationship with TN Board of Regents (TBR) and postsecondary institutions to support the academic needs of the students that are receiving income driven aid and continue to have unmet financial needs.

1.

3. As a renewal, how widespread is the use of this waiver and what are the performance results?;

Areas that have had strong in-school youth partnerships and services saw an increase in utilization of ITAs ISY as well as increase successful completion rates. The State continues to collect data as technical assistance is administered to other local workforce areas who are still developing partnerships that will allow the use of ITAs for ISY.

1.

4. **Our logic has been that ITAs wouldn't be used for youth younger than 18 or who don't have their HSD yet, but in the request, TN suggests that ITAs would be helpful for getting their HSD and for getting into a pre-apprenticeship program. Please provide clarity on how ITAs would be used for younger ISY if this waiver is approved.**

Under TN's Drive to 55 initiative, TN Reconnect and TN Promise provide federal aid for individuals pursuing a postsecondary degree. Tennessee Reconnect is specifically assisting adults (any age) that are returning to higher education and TN Promise is assisting high school students. In order to receive TN Promise, a youth has to apply and enroll in an eligible postsecondary institution while still in high school. In order to receive TN Reconnect, an individual must meet the independent student status via FAFSA which aligns to many of the eligibility barriers for the WIOA Title I youth program. As stated above, both initiatives are federally funded and only support the tuition aspect. Any tools, books, supplies, testing fees, etc. would not be covered with this funding. Additionally, students receiving TN Reconnect and TN Promise are often receiving Pell Grant. Pell Grant is typically awarded to low-income students. Providing support via ITAs to the youth would help ensure that they have the tools, supplies, and other items they need in order to successfully complete their academic goals. In partnership with TN Board of Regents (TBR), data has been shared with the State that reflects that of the 40 percent enrolled receiving Pell Grant, only around 25 percent of them are graduating. For TN Promise, around 70 percent of students are receiving and only about 25 percent are graduating. Students are citing reasons such as lack of childcare, transportation, not having the funds to purchase course materials and many other challenges that prevent them from completing or starting. While the State recognizes that some of the needs cited can be covered through supportive services, the need to expand the expenditure requirement for in-school youth would allow the State to assist more of this population with those needs as well as providing ITAs to the population to cover any costs that would not be covered by other federal aid and supportive services. The federal funding above would only support those individuals that have received a high school diploma. Allowing ITAs to the in-school youth population also allows the State to support dual enrollment opportunities that high school students are participating in.

