



JUN 24 2019

The Honorable Matthew Bevin
Governor of Kentucky
Office of the Governor
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Dear Governor Bevin:

Thank you for your waiver request received on April 30, 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 Commonwealth's request and memorializes that Kentucky will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Kentucky 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 Commonwealth'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 Commonwealth's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Kentucky to implement its plan to improve the workforce development system. The Commonwealth 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 Commonwealth 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 Commonwealth to support achieving 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 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:

Derrick K. Ramsey, Secretary, Education and Workforce Development Cabinet
Winston Tompoe, Acting Atlanta Regional Administrator, Employment and Training
Administration
Julian Hardy, Federal Project Officer, Employment and Training Administration



**EDUCATION and WORKFORCE DEVELOPMENT CABINET
OFFICE of the SECRETARY**

Matthew G. Bevin
Governor

275 East Main Street-2WA
Frankfort, Kentucky 40621
Phone (502) 782-3124
<http://ewdc.ky.gov>

Derrick K. Ramsey
Secretary

Josh Benton
Deputy Secretary

April 29, 2019

Mr. Winston Tompoe
Acting Regional Administrator
U.S. Department of Labor
Employment and Training Administration
61 Forsyth Street SW, Room 612
Atlanta, GA 30303

Dear Mr. Tompoe:

The Commonwealth of Kentucky is submitting a modification request to our Workforce Innovation and Opportunity Act (WIOA) Combined State Plan. This request is submitted in accordance with WIOA Section 189(i)(3)(B) and the Workforce Investment Agency Regulations at 20 Code of Federal Regulation 679.620. The attached document provides background and justification for the waiver requested by Kentucky.

We strongly believe that this waiver will assist the state to provide greater access and actionable information to WIOA customers seeking training through the Commonwealth's Eligible Training Provider List (ETPL). With the waiver, we will be able to maximize the impact of WIOA dollars and provide greater flexibility, increased options, and enhanced capacity to respond to participants' training needs. This request is being made under the Secretary's authority at WIOA Section 189(i)(3)(B) to waive certain requirements WIOA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act. In order to officially submit this waiver information to the federal portal, Kentucky requests that USDOL re-open our state plan in that portal.

Your review and immediate consideration of this waiver request are appreciated. Please contact me with any questions.

Sincerely,

Josh Benton
Deputy Secretary
Department of Workforce Investment

Attachment

Requested Waiver

The Commonwealth of Kentucky is requesting a waiver of the required collection and reporting of performance-related data on all students participating in training programs listed on the Commonwealth's Eligible Training Provider List (ETPL), as outlined in the Workforce Innovation and Opportunity Act (WIOA) Sections 116 and 122.

Background

Since the passage of WIOA in 2014, Kentucky has worked diligently to understand and implement the new provision regarding Eligible Training Providers. To this end, on July 1, 2016 the Commonwealth released the attached ETPL policy and subsequently created a user-friendly online portal for the submission, review, and approval of eligible training programs and providers. While we recognize the value and importance of monitoring provider performance and sharing this information with our customers, requiring training providers to produce data on all individuals instead of just WIOA-funded customers places an undue burden on providers to collect, enter, and report excessive data.

Despite our efforts, we have faced numerous challenges while working to fully implement the WIOA ETP requirements, which include:

- Requiring training providers to provide data on all individuals instead of simply WIOA-funded participants has dissuaded some providers from seeking inclusion on the ETPL to the detriment of customer choice.
- Local workforce board lack of commitment and adoption of cohort and/or customized to ensure that each area has sufficient numbers of, and diversity of, training providers necessary to create an effective marketplace of training programs that are responsive to employer needs and provide high-growth jobs in targeted sectors for customers.
- Reducing the burden on training providers to submit performance information to the state which may not be readily accessible.
- Lack of control or oversight of non-WIOA students attending training, so complete and accurate information is very difficult to ascertain.
- Proprietary schools do not currently have a statewide system to report student data, and as such, there is no way to automatically match students with other data sources to calculate outcomes. This results in a large reporting burden on these types of training providers.
- Proprietary schools would have to collect sensitive information, such as social security numbers, etc., on all students for the state to match wage and earnings information on students utilizing ETPL programs, which may leave students open to identity theft, privacy considerations, etc.
- Many of the students attending Kentucky's career and technical college system, as well as other training providers, may do so on an episodic basis and not necessarily with the sole intent of achieving a degree or credential. If these students are not WIOA-funded, it is unfair for these students to lower the training providers overall performance data.
- Collecting, validating, and providing information on eligible training programs to WIOA participants in a way that helps them make good decisions about how to use their individualized training accounts or other federal training dollars.

Actions to Remove Barriers

Currently there are no state or local statutory or regulatory barriers to implementing the requested waiver. Kentucky regulations and policy statements are in compliance with current federal law.

Proposed Goals and Outcomes of Waiver

The Commonwealth firmly believes that, if granted, this waiver will greatly improve the quality and selection of training available to our customers.

- Greater utilization of the ETPL by individuals pursuing training in Kentucky related to high demand jobs in targeted sectors.
- Better overall performance outcomes, including obtained employments, for individuals pursuing training via ITAs.
- Increased usage and success of cohort and/or customized training to improve relationship between training received and high-growth job in a targeted sector thereby increasing "consumer choice".
- Enhanced ability of local boards to respond quickly and efficiently to immediate local job seeker and employer needs.
- More training providers will likely lead to greater choice, increased competition, and lower cost options.

Individuals Impacted by the Waiver

Individuals who:

- access WIOA training services at one of the Commonwealth's Kentucky Career Centers via individual training account (ITA),
- Trade Adjustment Assistance (TAA) or other federal funds,
- KCC partners and staff,
- subcontracted service provider staff, and
- training providers will benefit from this waiver.

Monitoring Progress and Implementation

Annual WIOA on-site programmatic reviews will include an evaluation on adherence to state and federal policies, as well as how waivers are impacting local programs to ensure programmatic goals and outcomes are being met.

State staff involved with the administration of the ETPL and performance reporting will periodically examine the appropriateness and the effectiveness of this waiver. This strategy ensures that the goals

described above, as well as those outlined in the State's Combined Plan, are consistent with established objectives of the WIOA and federal and state regulations.

Notice to Local Boards and Public Comment

In accordance with the WIOA Regulations at 20 CFR 676.135, Kentucky is submitting a modification to its Combined State Plan, which is subject to the requirements outlined in the WIOA Regulations at 20 CFR 676.130(d) for public review and comment. As such, Kentucky's waiver is currently posted on our website for comment and review by required parties and the general public.

A copy of this waiver request was provided to all local workforce development boards and their associations. Any comment received will be forwarded to the USDOL and included as a modification to the state's Combined Plan. Further, the impact of this waiver on the state's performance will be addressed in the State's WIOA Annual Report.