



JUN 24 2019

The Honorable Steven Bullock
Governor of Montana
Office of the Governor
Post Office Box 200801
Helena, Montana 59620

Dear Governor Bullock:

Thank you for your waiver request received on April 5, 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 Montana will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Montana 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 Montana 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, 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:

Scott Eychner, Workforce Services Administrator, Montana Department of Labor and Industry

Nick Lalpui, Dallas Regional Administrator, Employment and Training Administration

Felicia Blair, Federal Project Officer, Employment and Training Administration



Montana Department of
LABOR & INDUSTRY

April 5, 2019

Mr. Nicholas E. Lalpui
Regional Administrator, Region IV
US Department of Labor
Employment and Training Administration
A. Maceo Smith Federal Building
525 Griffin Street, Room 317
Dallas, Texas 75202

Dear Mr. Lalpui:

On behalf of the Montana Department of Labor & Industry (MTDLI), the state operational entity for Title I of the Workforce Innovation and Opportunity Act (WIOA), I respectfully request approval of the enclosed proposed WIOA waiver for the State of Montana. The proposed waiver request was developed in accordance with WIOA Section 189(i) and Training and Employment Guidance Letter (TEGL) No. 8-18.

MTDLI is requesting a waiver of the required collection and reporting performance-related data on all students participating in training programs listed on the State's Eligible Training Provider List (ETPL) as outlined in WIOA sections 116 and 122.

We appreciate the opportunity to submit this waiver request and look forward to receiving the Secretary's approval. We believe this will provide increased flexibility to the State of Montana's workforce training providers.

If you have questions or require additional information, please contact Erin Weisgerber at 406-444-1325 or eweisgerber@mt.gov.

Respectfully,

Scott Eychner
Workforce Services Administrator, MTDLI

Enclosure

cc: Galen Hollenbaugh, Commissioner, MTDLI

WIOA State Plan 2019 Modification Waiver Request

The State of Montana

Montana Department of Labor & Industry (MDLI) requests a waiver of the statutory and regulatory requirements for collection and reporting performance-related data on all students participating in training programs listed on the State's Eligible Training Provider List (ETPL) as outlined in WIOA sections 116 and 122. MDLI recognizes value in both attentive monitoring of performance data and relief from the burden on Eligible Training Providers (ETPs) to collect, enter, and report data on all students. The US Departments of Labor (DOL) and Education acknowledged this burden in their response to comments related to 20 CFR 677.230 in the preamble of the WIOA final rule, stating: "The Departments are cognizant of the reporting burden the ETP performance report places on the ETPs and do not want to place additional burden on these entities." To date, there is no change in the regulatory text. MDLI is concerned that requiring ETPs to report performance related data on all students deters training providers from participating as a Montana ETP.

Due to its comparatively low and geographically dispersed population and rural character, Montana lacks a large quantity of training providers and WIOA participants can have limited options for trainings within reasonable distances of their residence. This fact combined with the reticence of training providers to assume the additional burden of reporting the required data for all students hinders the ability of the state to meet the workforce needs of improved job and career outcomes by limiting training accessibility and affordability.

Many of the students participating in training programs listed on Montana's ETPL are non-WIOA participants. For example, a majority of students enrolled in Montana's University System and private and tribal colleges are non-WIOA students. Those providers do not collect the full spectrum of data as required for the State to report on the ETPL PIRL and those who do collect this data are unwilling to share all student data. When offered assistance to develop methods of capturing data by partnering with MDLI's Job Service Offices, training providers have declined.

Actions the state has undertaken to remove state or local statutory or regulatory barriers: Montana faces no state or local statutory or regulatory barriers to implementation of the requested waiver. Montana's regulations and policy statements are in compliance with current federal law.

State strategic goals of waiver:

Ease undue reporting burden on training providers—Reporting performance data on all students engaged in a program of study takes a significant amount of time and resources. A reduction in training provider reporting requirements to WIOA participants only saves time and resources, allowing training providers to focus on education, training, employment, and earning outcomes.

Ensure protections of non-WIOA participants PII—A reduction in ETPs reporting requirements to WIOA participants only reduces the risk of compromising students' PII. While educational record data sharing may not appear to be an issue with guidance issued under TEGL 7-18, training providers are still reticent to share data with the Department.

Projected programmatic outcomes resulting from implementation of the waiver:

This waiver also offers the following opportunities: an expansion of customer choice and the potential to lower costs through accessible, varied training options for individuals using Individual Training Accounts (ITAs); an increase in the use of ETPLs by students who pursue training through ITAs; stronger partnerships between ETPs and the public workforce system; and cultivation of the relationship between Montana's Office of Commissioner of Higher Education (OCHE) and MDLI.

The majority of training programs utilized by WIOA participants are through the Montana University System (MUS), with whom MDLI works to evaluate workforce outcome for colleges, fields of study, and degree program types (see College Report appendix.) These evaluations are used to provide valuable input into occupational demand and wage and salary outcomes for participants receiving WIOA-funded training by ETPs. MDLI continues to evaluate training providers in order for training participants and MDLI staff to take into account the efficacy of training programs.

In addition, this waiver offers an opportunity to bridge Montana's workforce skills gap. The requirement for providers to report on all students makes it difficult to close that gap, especially when the state's low unemployment rate currently remains low. An expansion of accessible and varied training choices will assist MDLI to meet employer and student demand for improved programmatic outcomes.

Alignment with Department policy priorities:

Describe how the waiver will align with the Department's policy priorities, such as: (A) supporting employer engagement; (B) connecting education and training strategies; (C) supporting work-based learning; and (D) improving job and career results.

This waiver aligns with DOL's policy priorities in the following way—A reduction in the reporting burden on ETPs, linking education and training by increasing time and resources dedicated to successful outcomes of supporting employer engagement, connecting education and training strategies, and improving job and career results for WIOA-funded and non-WIOA participants.

Individuals, groups, or populations affected by the waiver:

This waiver is intended to reduce the reporting burden on ETPs while continuing to require performance data for WIOA-funded participants. ETPs will be more willing to provide services to Montana customers, expanding choices of training programs, and potentially lower the costs to individuals. It will also allow MDLI to meet the needs of employers, job seekers, and workers; foster collaboration between education and labor; and work toward the goal of reporting outcomes, with respect to their employment and earnings, for all students in an ETP program of study. MDLI's current practice of gathering and evaluating OCHE data ensures customers' access to information relevant to the selection of quality training programs.

State plans for monitoring waiver implementation, including collection of waiver outcome information:

MDLI will collect data from ETPs on WIOA-funded students and will submit that data in its annual report to DOL. MDLI will track the number of providers requesting to be added to the ETPL and whether this waiver was instrumental in training providers agreeing to become part of the ETP with the reduced requirement in student data sharing for all students. MDLI will report any findings to DOL.

Assurance of state posting of the request for public comment and notification to affected local workforce development boards.

On Wednesday, March 6, 2019, MDLI posted the request for public comment on the waiver for collection and reporting performance-related data on all students participating in training programs listed on the State's Eligible Training Provider List (ETPL) as outlined in WIOA sections 116 and 122. The request was posted on Montana's State Workforce Innovation Board (SWIB) website under Public Comment. In addition, MDLI emailed the request, including the waiver, to the State's workforce stakeholders and State Board members. The public comment period ended at 5 p.m. on Wednesday, March 20, 2019. MDLI received no public comment.

Appendix:

- College Report: <http://lmi.mt.gov/Publications/PublicationsContainer/meeting-state-worker-demand>