



JUN 17 2019

The Honorable Phillip D. Murphy
Governor of New Jersey
The State House
Post Office Box 001
Trenton, New Jersey 08625

Dear Governor Murphy:

Thank you for your waiver request received on March 19, 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 Jersey will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by New Jersey 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 New Jersey 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:

Paul F.H. Yuen, Deputy Commissioner, New Jersey Department of Labor and Workforce Development

Timothy S. Martin, Acting Boston Regional Administrator, Employment and Training Administration

Danielle Worthen-Ramos, Federal Project Officer, Employment and Training Administration



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PO BOX 110
TRENTON, NEW JERSEY 08625-0110

ROBERT ASARO-ANGELO
Commissioner

SHEILA Y. OLIVER
Lieutenant Governor

March 15, 2019

Timothy S. Martin
Acting Regional Administrator
USDOL/ETA (Region 1)
JFK Federal Building (Room E-350)
Government Center
Boston, Massachusetts 02203

Re: Waiver Request

Dear Mr. Martin:

The State of New Jersey's Department of Labor and Workforce Development (LWD) requests a waiver of the required collection and reporting of performance data on all students participating in training programs listed on the state's Eligible Training Providers List (ETPL), as outlined in the Workforce Innovation and Opportunity Act (WIOA) Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 through 680.530. While LWD recognizes the value and importance of monitoring provider performance, requiring ETPs to produce data on all students above and beyond WIOA-funded participants will discourage training provider participation, which is a critical component of the workforce development system. Please see the attached waiver plan for additional details.

Thank you for your consideration of this request. If you have any questions, please do not hesitate to contact Lesley Hirsch, Assistant Commissioner, at 609-292-2643 or by email at Lesley.Hirsch@dol.nj.gov.

Sincerely,

Paul F.H. Yuen
Deputy Commissioner

Attachment

New Jersey Is An Equal Opportunity Employer

Waiver of the Requirement that eligible training providers collect performance data for all students in a training program (PY2018 and PY2019)

The State of New Jersey

1. The statutory and/or regulatory requirements the State would like to waive;

The State of New Jersey's Department of Labor and Workforce Development (LWD) is seeking a waiver of the required collection and reporting of performance data on all students participating in training programs listed on the state's Eligible Training Providers List (ETPL), as outlined in the Workforce Innovation and Opportunity Act (WIOA) Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 through 680.530.

Specifically, LWD 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 (data elements 120 through 128 on form EA 9171) for programs of study where the data is not currently available.

Under WIOA Section 116(d)(4)(A) and 20 CFR 677.230(a)(5), Eligible Training Providers (ETP) must report performance data with respect to all individuals engaging in a program of study (or the equivalent). While LWD recognizes the value and importance of monitoring provider performance, requiring ETPs to produce data on all students above and beyond WIOA-funded participants will discourage training provider participation, which is a critical component of the workforce development system. Reporting becomes especially burdensome when;

1. ETPs have many students of whom only a small percentage are WIOA participants, and;
2. ETPs do not have the existing staff to perform the required data gathering process, and cannot hire the additional staff.
3. Many providers express a concern regarding the protection of personally identifiable information, especially social security numbers, which would have to be collected by the providers themselves.
4. Questionable accuracy of student records based on self-reported data from ETPs
5. LWD does not currently have the necessary data collection and validation tools to comply with this requirement.

The federal requirements would create a hardship for many training providers resulting in a decreased number of programs applying for inclusion on the ETPL. This would lead to New Jersey having a less robust list of training providers, thereby limiting consumer choice. In order to ease data sharing burdens and provide a robust data source, NJ LWD has been updating the processes for the submission of training provider student data. As well as developing new submission processes, the department has been working to create a new interface and data warehouse for use by training providers and state agencies when submitting and utilizing data.

Under this waiver, ETPs in collaboration with Local Workforce Development Boards, will continue to collect and report performance data for all WIOA-funded participants in accordance with WIOA section 116(d)(4)(A) and as specified at 20 CFR 677.230.

This request is submitted in accordance with the Secretary's waiver authority outlined in Section 189(i)(3)(B) of WIOA and 20 CFR 679.620. This waiver request will assist New Jersey to further develop its workforce while continuing to focus on innovative strategies for a demand-driven workforce.

2. Actions the State has undertaken to remove State or local barriers;

There is no state or local statutory or regulatory barrier to implementing the requested waiver. The State of New Jersey's would update state policy and the Combined State Plan for the Workforce Innovation and Opportunity Act 2018 Modification to align with the terms of the waiver.

3. State strategic goal(s) and Department of Labor priorities (i.e. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver;

State strategic goals supported by the waiver include:

- More numerous and varied training offerings for individuals utilizing individual training accounts (ITA) via the public workforce system leading to greater consumer choice.
- Increased participation among training providers which may lead to lower cost and more robust demand-driven training options.
- Greater utilization of the ETPL by individuals pursuing training in New Jersey related to jobs that are in-demand by employers.
- Stronger partnerships between training providers and the public workforce system.
- Clear communication of the labor market value of various trainings and credentials to students, job seekers, and those seeking career advancement.
- Increase the number of Registered Apprenticeship Programs and the number of apprentices.

4. Projected programmatic outcomes resulting from implementation of the waiver;

The programmatic outcomes expected to result from implementation of the waiver include:

- Increasing the number and diversity and training providers and programs available on the state's ETPL.
- Reduction reporting burden of ETPs: Reporting performance data on all individuals engaging in a program of study (or the equivalent) consumes considerable time and expense. Reducing ETPs' reporting requirements to include only WIOA-funded participants would save considerable time and expense to allow ETPs to focus on education and training outcomes.
- Stronger partnerships between training providers and the public workforce system through increased collaboration.

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

The reduction of reporting burden on ETPs will have a significant impact on multiple populations of the public workforce system, including, but not limited to:

1. Individuals who access training services in New Jersey via ITAs,
2. New Jersey LWD staff,
3. Local Workforce Development Boards,
4. American Job Center staff, and
5. the staff and administrators of Eligible Training Providers.

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information;

Annual WIOA on-site programmatic reviews will include an evaluation of the impact of the waiver on local programs to ensure programmatic goals and outcomes are being met.

Additionally, State staff involved with the administration of the ETPL and performance reporting will periodically examine the effectiveness of this waiver. This strategy ensures that the goals described above, as well as those outlined in the State's Unified Plan, are consistent with established objectives of the WIOA and federal and state regulations.

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

Concurrent with the submission of this waiver request, the state will notify all local Workforce Development Board directors of the state's intent of this request. Upon approval of the waiver, NJ LWD will issue a Policy Statement notifying all local Workforce Development Boards that this practice will be implemented effective immediately. Local Workforce Development Boards will be provided a copy of this waiver request and given the opportunity to contact to discuss and have input on the waiver request.

This waiver request will be included in the Combined State Plan for the Workforce Innovation and Opportunity Act 2018 Modification submission and subject to public comment within the Plan guidelines and the WIOA requirements outlined in WIOA regulations at 20 CFR 676.130(d).

New Jersey will collect and report information about waiver outcomes in the State's WIOA Annual Report.