



July 7, 2020

The Honorable Greg Abbott
Office of the Governor
State of Texas
Post Office Box 12428
Austin, TX 78711

Dear Governor Abbott:

Thank you for your waiver requests submission to the U.S. Department of Labor (Department) 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. The waiver requests were received April 13, 2020, 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 Texas will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Texas 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–Peysner Act in WIOA Section 189(i).

Requested Waiver: Waiver of the reallocation provisions at WIOA Sections 128(c)(3) and 133(c)(3) to allow the State Workforce Development Board to develop different criteria than required by statute for the reallocation of recaptured funds among local workforce areas.

ETA Response: ETA approves through June 30, 2022, the State's request to waive the reallocation provisions at WIOA Sections 128(c)(3) and 133(c)(3). The State may reallocate recaptured funds according to State-developed criteria. ETA reviewed Texas's waiver request and plan and has determined that the requirements requested to be waived impede its ability to implement its plan to improve the workforce development system. Under this waiver, the State has the discretion to consider additional factors described in its waiver plan in determining local workforce development area eligibility for reallocation of recaptured funds. As such, the State may only consider:

- The amount available for redistribution;
- Amount requested by the local board;
- Demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
- A demonstrated capacity to effectively expend funds to address the need for services in the workforce development area;

- A local board's established plan for working with at least one of the Governor's industry clusters as specified in the local workforce area's plan; and
- The local workforce area's performance during the current and prior performance years.

The State must make public its reallocation procedure and policy, as well as any future changes to the policy. Please note that the approved waiver only applies to reallocation and not recapture. ETA requires Texas to track implementation results and outcomes of this waiver.

Requested Waiver: Waiver of the performance requirements at WIOA Section 116(c) to allow the State to modify the performance measures used to negotiate local workforce development board performance.

ETA Response: ETA approves through June 30, 2022, the State's request to modify the performance measures it uses to negotiate local program performance, in accordance with the special rules regarding designated areas and sanctions at WIOA Section 189(i)(1)-(2). ETA reviewed Texas's waiver request and plan and has determined that the requirements requested to be waived impede its ability to implement its plan to improve the workforce development system. The State must continue to track and report to ETA the WIOA primary indicators of performance and all other required reports.

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 out-of-school youth (OSY) and calculation of the local area expenditure for each local area.

ETA Response: ETA conditionally approves for Program Years (PYs) 2019 and 2020, which includes the entire time period for which states are authorized to spend PY 19 and 20 funds, the State's request to waive the requirement that the State expend 75 percent of Governor's reserve youth funds on OSY. The State may lower the expenditure requirement of Governor's reserve to 50 percent for OSY. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Texas to implement its plan to improve the workforce development system. Prior to implementation of this waiver, the State must update its waiver request to include the results of the State's prior implementation of this waiver.

In addition, ETA approves for PYs 2019 and 2020, which includes the entire time period for which states are authorized to spend PY 19 and 20 funds, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. Texas may lower the local youth funds expenditure requirement to 50 percent for OSY. Prior to implementation of this waiver, the State must update its waiver request to include the results of the State's prior implementation of this waiver. As a result of this waiver, ETA expects that the number of in-school youth served will increase and performance accountability outcomes for overall WIOA Youth (including both in- and out-of-school youth) will remain steady or increase for the majority of the WIOA Youth performance indicators. The State is also approved to calculate the lowered 50 percent expenditure rate at the State level instead of individually for each local area.

Requested Waiver: Waiver of 20 CFR 681.550 to allow WIOA individual training accounts (ITAs) for in-school youth (ISY).

ETA Response: ETA conditionally approves, through June 30, 2022, the State's request to waive the requirement limiting ITAs to only OSY, ages 16–24. In addition to these OSY, the State may use ITAs for ISY, ages 16–21. Prior to implementation of this waiver, the State must update its waiver request to include the results of prior implementation of this waiver. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Texas 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.

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. The Department proposed additional flexibility in its budgets for Fiscal Years 2018 through 2021 to give governors more decision-making authority to meet the workforce needs of their states. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Pallasch".

John Pallasch
Assistant Secretary for Employment and Training

cc: Ed Cerna, Executive Director, Texas Workforce Commission
Nicholas Lalpui, Dallas/San Francisco Regional Administrator, ETA
Karrie Gericke, Federal Project Officer, ETA