



NOV 14 2019

The Honorable James Justice
Governor of West Virginia
State Capitol
1900 Kanawha Boulevard East
Charleston, WV 25305

Dear Governor Justice:

Thank you for your waiver request received on April 18, 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 West Virginia will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by West Virginia 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: ETA approves, through June 30, 2020, the State's request to waive the obligation of ETPs to collect and report performance data on all students in a training program. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of West Virginia 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 20 CFR 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 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 anticipates proposing these additional flexibilities in future fiscal years. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,



John Pallasch
Assistant Secretary for Employment and Training

Enclosure

cc: Scott A. Adkins, Esq., Acting Commissioner, Workforce West Virginia
Leo Miller, Boston/Philadelphia Regional Administrator, Employment and Training Administration
Stephen Duval, Division Chief, Employment and Training Administration

April 18, 2019

Mr. Leo Miller, Regional Administrator
U.S. Department of Labor
Employment and Training Administration
Suite 825 East
The Curtis Center
170 South Independence Mall West
Philadelphia, PA 19106

Dear Mr. Miller: ^{Leo}

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

This waiver will assist the state to further develop our workforce investment system while continuing to focus on promoting a demand-driven system. With the waiver, West Virginia will be able to maximize the impact of WIOA dollars and provide greater flexibility and increased 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, West Virginia requests that USDOL re-open West Virginia's state plan in that portal.

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

Sincerely,



Russell L. Fry
Acting Executive Director
WorkForce West Virginia

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WorkForce West Virginia WIOA Waiver Request

The State of West Virginia seeks approval of the following statutory waiver in accordance with the Workforce Innovation and Opportunity Act (WIOA) at Section 189(i)(3) and the WIOA Regulations at 20 Code of Federal Regulation (CFR) 679.600 thru 679.640. This waiver requests will assist West Virginia to further develop its workforce system while continuing to focus on creating a demand-driven system.

Statutory and/or Requirements to be Waived – Eligible Training Provider List Requirements

The State of West Virginia is seeking a waiver from the requirements outlined in the WIOA at Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.40 through 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the state's ETPL.

Background

Subsequent to the passage of WIOA in 2014, the State of West Virginia has been working diligently to implement the new law's Eligible Training Provider (ETP) provisions. In June 2015, the state launched its new ETPL policy.

Despite its efforts, West Virginia has faced several challenges while working to implement the WIOA ETP requirements, which include:

- Ensuring that local areas have sufficient numbers of, and diversity of, training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs.
- Ensuring fairness in the process of determining training provider eligibility.
- Reducing the burden on training providers to submit performance information to the state which they may not be readily accessible.
- Much of the performance information is self-reported through surveys, etc., which makes it difficult to get accurate performance data since students may not respond to surveys and, as a result, school may just provide performance information they previously collected without resurveying students.
- 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.
 - Burden on training providers to collect and provide information all students once they leave or graduate from the program. Thus, the providers choose not to be on the ETPL, which limits consumer choice, especially for proprietary schools.
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- Providing information on eligible training programs to WIOA participants in a way that helps them make good decisions about how to use their ITAs.

Actions Undertaken to Remove State or Local Statutory or Regulatory Barriers

There are currently no state or local statutory or regulatory barriers to implementing the requested waiver. State of West Virginia regulations and policy statements are in compliance with current federal law.

Waiver Goals and Outcomes

Goals and outcomes related to this waiver request include:

- More numerous and varied training offerings for individuals utilizing ITAs via the public workforce system (in other words, greater consumer choice).
- More training providers can lead to lower cost options.
- Greater utilization of the ETPL by individuals pursuing training in West Virginia related to jobs that are in-demand by employers now and in the future.
- Better overall performance outcomes for individuals pursuing training via ITAs.
- Stronger partnerships and relationships between training providers and the public workforce system.
- Enhanced ability of local boards to respond quickly and efficiently to immediate local job seeker and employer needs.

Individuals Impacted by the Waiver

Individuals who access training services in West Virginia via ITAs, State of West Virginia staff, AJCs, 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 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 Unified 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 CRF 676.135, West Virginia is submitting a modification to its Unified 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, West Virginia'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 Unified Plan. Further, the impact of this waiver on the state's performance will be addressed in the State's WIOA Annual Report.