



DEC 13 2018

The Honorable Charlie Baker
Governor of Massachusetts
Massachusetts State House
24 Beacon Street
Office of the Governor, Room 280
Boston, Massachusetts 02133

Dear Governor Baker:

Thank you for your waiver request on October 22, 2018, regarding 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 Massachusetts will meet the outcomes and implement the measures identified in its plan to ensure accountability as agreed to by Massachusetts 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).

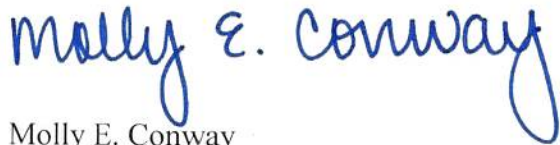
Requested Waiver: Waiver of the obligation of eligible training providers (ETPs) to collect performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and 122 and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.

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 Massachusetts 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 and 2019 budgets to provide governors more decision-making authority to meet the workforce needs of their states.

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:

Rosalin Acosta, Secretary, Executive Office of Labor and Workforce Development

Alice Sweeney, Director, MassHire Department of Career Services

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

Carmen Rodriguez, Federal Project Officer, Employment and Training Administration



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
MASSHIRE DEPARTMENT OF CAREER SERVICES

CHARLES D. BAKER
GOVERNOR

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LIEUTENANT GOVERNOR

ROSALIN ACOSTA
SECRETARY

ALICE L. SWEENEY
DIRECTOR

October 22, 2018

Timothy Martin, Acting Regional Administrator
Employment and Training Administration
John F. Kennedy Federal Building - Room E-350
25 New Sudbury Street
Boston, MA 02203

Dear Mr. Martin:

The Massachusetts Executive Office of Labor and Workforce Development (EOLWD) MassHire Department of Career Services (MDCS) is requesting a Waiver in accordance with WIOA Section 189(i)(3)(A), and 20 CFR 679.600.

Massachusetts is requesting a waiver of the obligation of eligible training providers to collect performance data on all students in a training program at WIOA Sections 116 (d)(4)(A) and 122, and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680. The intended impact is to reduce a significant burden on training providers as well as increase the number of training providers, thereby permitting greater consumer choice, which can lead to lower cost options. MA anticipates greater utilization of the Eligible Training Provider List (ETPL) system by individuals pursuing training related to jobs that are in-demand by businesses and result in better overall performance outcomes. The waiver will contribute to building stronger partnerships and strengthen relationships between training providers and the public workforce system. The attached document details the waiver requested.

Per DOL ETA instructions, these documents have also been emailed to WIOA.Plan@dol.gov.

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

Sincerely,

A handwritten signature in cursive script that reads "Alice Sweeney".

Alice Sweeney

Attachment

cc: Rosalin Acosta, Secretary

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

MASSACHUSETTS

The Commonwealth of Massachusetts 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 680.400 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

With the passage of WIOA, the Commonwealth of Massachusetts implemented the new law's Eligible Training Provider List (ETPL) provisions. In July 2016, the state launched its new ETPL requirements and some new features for providers related to data entry. Revised ETPL requirements provide an improved and enhanced vendor experience compared to the state's former requirements. Massachusetts is currently working to leverage existing data systems and data sources to support the WIOA ETPL performance reporting requirements.

Despite these efforts, Massachusetts has faced several challenges while working to implement the WIOA ETPL 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.
- Limited numbers of training providers in a region creates a significant burden on customers with regard to the time and cost associated with long distance travel to participate in training making it unachievable for some WIOA customers and increasing the need for supportive service payments to make it possible to participate in training.
- Ensuring fairness in the process of determining training provider eligibility.
- Reducing the burden of the requirement for training providers to submit performance information to the state, which 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, schools may just provide performance information previously collected without resurveying students.
- Proprietary schools do not currently have a statewide system to report student data; there is therefore not a mechanism to automatically match students with other data sources to calculate outcomes. This results in a large burden on what tends to be the smaller 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, potentially exposing students to identity theft, privacy considerations, etc.
- The burden on training providers to collect and provide information on all students once they leave or graduate from the program results in certain providers electing not to be on the ETPL, thus limiting consumer choice, especially for proprietary schools.
- WIOA-paid students at Community Colleges represent a small portion of the Community College enrollment. ETPL students are more likely to be planning to enter training-related employment after an entire suite of courses over a longer period of time. Therefore including all students in the cohort that counts toward that course's performance unfairly skews the outcome in a negative direction.

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

- Providing information on eligible training programs to WIOA participants in a way that contributes toward informed decisions about how to use their ITAs is challenged by the inclusion of non-ETPL students in the performance calculation.

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. The Commonwealth of Massachusetts regulations and policy statements are in compliance with current federal law.

Waiver Goals and Outcomes

Goals and outcomes related to this waiver request include:

- Remove the most significant disincentive for schools and training providers to participate in the ETPL in anticipation of maximizing the available marketplace of training curriculum.
- 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 the Commonwealth related to jobs that are in-demand by employers now and in the future.
- Improved overall performance outcomes for individuals pursuing training via ITAs.
- Strengthen 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 Massachusetts via ITAs, Commonwealth of Massachusetts staff and partner staff, MassHire Career Centers, 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 of 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, Massachusetts' waiver request has been posted since September 11, 2018 for comment and review by required parties and the general public. To date, one comment in support of the waiver request has been received.