



SEP 20 2018

The Honorable William Haslam
State Capitol, 1st Floor
600 Charlotte Avenue
Nashville, Tennessee 37243

Dear Governor Haslam:

Thank you for your waiver requests of certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the statewide workforce development system, submitted on June 27, 2018 (copy enclosed). This letter provides the Employment and Training Administration's (ETA) official response to the State's request and memorializes that Tennessee will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Tennessee 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.

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. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Tennessee to implement its plan to improve the workforce development system. Therefore, ETA approves this waiver for Program Years (PYs) 2018 and 2019 (July 1, 2018, through June 30, 2020). 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.

Requested Waivers: Waivers associated with the requirement at WIOA Section 129(a)(4)(A) and 20 CFR 681.410 that each local area expend 75 percent of local formula youth funds on out-of-school youth (OSY).

The State's request to waive the requirement that local areas expend 75 percent of local formula youth funds on OSY is approved. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Tennessee to implement its plan to improve the workforce development system. Therefore, ETA approves the requested waivers for PYs 2018 and 2019 (July 1, 2018, through June 30, 2020). Tennessee may lower the target rate for expenditure of local youth funds to 50 percent on out-of-school youth.

Requested Waiver: Waiver of 20 CFR 681.550 to allow WIOA Individual Training Accounts (ITAs) for in-school youth (ISY).

The State's request to waive the requirement limiting ITAs to only out-of-school youth ages 18 – 24 is approved. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Tennessee to implement its plan to improve the workforce development system. Therefore, ETA approves this waiver for PYs 2018 and 2019 (July 1, 2018 – June 30, 2020).

Requested Waiver: Waiver of 20 CFR 681.310 to eliminate the requirement that not more than five percent of the ISY newly enrolled in a given program year may be eligible based on the "requires additional assistance to complete an educational program or to secure or hold employment" criterion.

Unfortunately, this request falls outside of the Secretary's waiver authority and, therefore, cannot be approved. WIOA 189(i)(3)(A)(i) prohibits the Secretary from waiving requirements related to participant eligibility. However, please note that the Department does not define this criterion, but rather leaves the definition and implementation of this provision to the State and local areas.

Requested Waiver: Waiver of the definition of ISY at 20 CFR 681.220.

The State is requesting a waiver of 20 CFR 681.220 in order to increase the maximum age of ISY from age 21 to age 24 and count these students in Youth performance measures if they are enrolled in Drive to 55 (Tennessee Promise and Tennessee Reconnect Programs) and are receiving WIOA support services. Unfortunately, this request falls outside of the Secretary's waiver authority and, therefore, cannot be approved. The Department is available to provide technical assistance around eligibility determination procedures and smoothing the transition from the WIOA Youth program to the WIOA Adult program in regard to program design and performance.

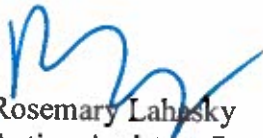
Requested Waiver: Waiver of the performance accountability system under Section 116 of WIOA and the implementation joint regulations in 20 CFR Part 677 and 34 CFR Parts 361 and 463 in order to postpone the collection and reporting of performance data until PY 2020.

The State indicates that recent and substantial changes to the public workforce system in Tennessee effectively invalidate the performance targets negotiated in 2016 and, therefore, wishes to forgo performance reporting until PY 2020. This waiver is not necessary. The Department is encouraged by the State's progress towards dismantling program silos and recognizes that the demonstrable benefits of large-scale changes to the system often take time to bear out in performance data.

The Department encourages the State to accurately report PY 2018 performance data that reflect the advances towards program integration and improved service delivery. The data reported now will establish a baseline for PY 2020/2021 performance negotiations. The Department is available to provide technical assistance regarding performance negotiations. Please note that the Departments of Labor and Education cannot assess State performance for the application of sanctions until performance levels are negotiated using a statistical model based on at least two (2) years of WIOA performance data. The first program years scheduled to be negotiated using a WIOA statistical model are PYs 2020 and 2021.

ETA is available for further discussion and to provide technical assistance to the State to support achieving its goals. The Department of Labor has proposed additional flexibility in its Fiscal Year 2019 Budget to give governors more decision-making authority to meet the workforce needs of their states. Should Congress pass legislation signed by the President with new legal authority, we will be happy to revisit the areas that cannot currently be waived. If you have questions or wish to explore additional flexibility, feel free to contact my office at 202-693-2772.

Sincerely,



Rosemary Lahasky
Acting Assistant Secretary

Enclosure

cc:

Burns Phillips, Commissioner, Tennessee Department of Labor and Workforce Development
Les Range, Atlanta Regional Administrator, Employment and Training Administration
Jessica Otieno, Federal Project Officer, Employment and Training Administration