



December 6, 2022

The Honorable Ron DeSantis
Governor of Florida
The Capitol
400 South Monroe Street
Tallahassee, FL 32399-0001

Dear Governor DeSantis:

Thank you for your waiver request 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 (enclosed). The waiver request was received September 15, 2022. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Florida will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by State 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 reallocation provisions at WIOA Sections 128(c)(3) and 133(c)(3) to allow the State 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, 2024, the State's request to waive the reallocation provisions at WIOA Sections 128(c)(3) and 133(c)(3). ETA reviewed Florida'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 may reallocate recaptured funds according to State-developed criteria. 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;
- 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, and reallocate funding in a consistent and transparent manner.

Florida also requested a waiver to allow it to use factors other than the statutory threshold set by WIOA for obligation of local funds at the end of the first program year of availability. ETA would like to clarify that WIOA Sections 128(c)(3) and 133(c)(3) do not *require* the State to recapture unobligated funds, but rather, the State *may* choose to do so. Furthermore, if the State does choose to recapture such local funds, it may choose to use them in the manner described at WIOA Section 129(b) and Section 134(a) for statewide activities.

The State must report its waiver outcomes and implementation of the approved waiver 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. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,



Brent Parton
Acting Assistant Secretary

Enclosure

cc:

Dane Eagle, Secretary, Florida Department of Economic Opportunity
Renata Adjibodou, Acting Regional Administrator, ETA
Jeffrey Patton, Federal Project Officer, ETA

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

September 15, 2022

The Honorable Martin J. Walsh
Secretary
United States Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Secretary Walsh:

The Florida Department of Economic Opportunity (DEO) respectfully requests approval of the enclosed waiver for the State of Florida. This waiver was developed in accordance with the Workforce Innovation and Opportunity Act (WIOA), Section 198(i)(3)(B), which allows the Secretary authority to waive certain WIOA requirements. DEO is requesting the following:

- Waiver associated with the requirements at WIOA Sections 128(c)(3) and 133(c) that outline the provisions for the reallocation of funds among local workforce development areas (local areas).

The enclosed document provides further details on this waiver request in accordance with Training and Employment Guidance Letter No. 8-18. Your review and consideration are appreciated.

Should you have questions, please contact Adrienne Johnston, Deputy Secretary of the Division of Workforce Services, at Adrienne.Johnston@DEO.MyFlorida.com or (850) 245-7427 or Keantha B. Moore, Interim Chief of the Bureau of One-Stop and Program Support, at Keantha.Moore@DEO.MyFlorida.com or (850) 245-7413.

Sincerely,

Dane Eagle
Secretary

Enclosure

DE/kbm

cc: Michelle Dennard, President and CEO of CareerSource Florida, Inc.
Adrienne Johnston, Deputy Secretary of the Division of Workforce Services - DEO
Keantha B. Moore, Interim Chief of the Bureau of One-Stop and Program Support - DEO

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**State of Florida Waiver Request
Workforce Innovation and Opportunity Act (WIOA)
Recapture and Reallocation of Funds Among Local Areas**

Statutory and/or Regulatory Requirements to be Waived

The State of Florida (State) is requesting a waiver from the provisions of WIOA Sections 128(c)(3) and 133(c) regarding reallocation of funds among local workforce development areas (local areas). This waiver will provide flexibility to the Florida Department of Economic Opportunity (DEO) in recapturing and reallocating WIOA funds among local areas.

Actions the State Has Undertaken to Remove State or Local Barriers

There are no state, local, statutory, or regulatory barriers to implementing the requested waiver.

In the 2021 Legislative Session, through the passage of the Reimagining Education and Career Help (REACH) Act (House Bill 1507), the Florida Legislature adopted amendments to Chapter 445, Florida Statutes (F.S.). One key change introduced by the REACH Act was the creation of section 445.006(4), F.S., which authorizes DEO to prepare a waiver to the U.S. Department of Labor that allows the Governor to reallocate funds among local areas that have a demonstrated need for additional funding and programmatic outcomes that will maximize the use of the additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants (referred to as Reemployment Assistance claimants in Florida).

Strategic Goals of the Waiver

DEO requests this waiver to support the State's goal of ensuring that funds are effectively managed and used for maximum service provision and program performance. Approval of this waiver request will allow DEO to meet the following strategic goals:

1. Establish a methodology for recapturing funds from local areas that considers factors in addition to the obligations that meet the definition in 2 Code of Federal Regulations (CFR) 200.1, such as:
 - a. Funds that have been earmarked for anticipated Individual Training Account (ITA) expenditures; and
 - b. Funds that local workforce development boards (LWDBs) must retain for training services provided through ITAs where successful job placement triggers the final payment to training providers of at least 10 percent¹.
2. Make determinations to recapture funds by considering when one or more of the following circumstances may warrant an exception to DEO's determination to recapture funds:
 - a. The LWDB was impacted by a natural disaster or other emergency that resulted in a reduced demand for workforce services;
 - b. The LWDB received non-WIOA funds that impacted the utilization of WIOA formula funds;
 - c. There were significant issues that impacted the local economy; or

¹ Section 445.009(8)(e)

- d. The LWDB was a direct provider of workforce services and, therefore, was unable to meet obligation requirements due to a lack of contractual obligations.
3. Redistribute recaptured funds based on the reallocation procedures established in 20 CFR 683.140, as well as factors established by DEO, to ensure funds are reallocated to local areas with the greatest need. DEO will determine the amounts to be redistributed to local areas based on factors such as:
 - a. Requested amount;
 - b. Demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and Reemployment Assistance claimants;
 - c. Demonstrated capacity to expend the formula funds; and
 - d. Performance in the current and prior program year.
4. Facilitate maximum expenditure of recaptured federal funds. DEO seeks to redistribute WIOA funds to local areas that have achieved not only targeted obligation and expenditure levels, but also established performance targets.

Alignment with U.S. Department of Labor/Employment and Training Administration Policy Priorities

WIOA focuses on serving individuals with barriers to employment and seeks to ensure access to quality services for these populations. This waiver request aligns with this focus by ensuring the State has an effective mechanism for recapturing and reallocating funds to local areas most in need for the specific purpose of serving low-income individuals, public assistance recipients, dislocated workers, and Reemployment Assistance claimants.

Projected Programmatic Outcomes Resulting from Implementation of the Waiver

The State expects to achieve the following goals and programmatic outcomes as a result of this waiver:

1. Ensure the State has an effective methodology for recapturing and reallocating funds;
2. Ensure funds will be more effectively and efficiently managed for maximum service provision and program performance; and
3. Enhance the quality of services in those local areas that have demonstrated consistent performance outcomes.

While approval of this waiver request may not result in significantly higher performance outcomes, it will provide the opportunity for recaptured funds to be redistributed to local areas where the greatest potential impact may be realized. Further, it will grant the State the flexibility to consider extenuating circumstances faced by LWDBs that may impact the recapture or reallocation of funds.

If DEO applied the federal requirements for reallocating WIOA funds for PY 2020, of the 24 local boards:

- Adult funds would have been recaptured from 12 local boards.
 - 10 of the 12 local boards serve as direct providers of workforce services.
 - Twelve local boards would be eligible to be reallocated Adult funds.
- Dislocated worker (DW) funds would have been recaptured from 20 local boards.
 - 16 of the 20 local boards serve as direct providers of workforce services.
 - Four local boards would be eligible to be reallocated DW funds.
- Youth funds would have been recaptured from 15 of the 24 local boards.
 - 12 of the 15 local boards serve as direct providers of workforce services.
 - Nine local boards would be eligible to be reallocated Youth funds.

18 of the 24 local boards serve as direct providers of workforce services.

Description of Individuals, Groups, or Populations Impacted by the Waiver

1. Low-income individuals
2. Public assistance recipients
3. Dislocated workers
4. Reemployment Assistance claimants

The Process to Monitor the Waived Activities and Collect Waiver Outcome Information

Upon USDOL's approval of this waiver request, DEO, in coordination with the CareerSource Florida Board of Directors, will establish and communicate an administrative policy for recapturing and reallocating funds. DEO will monitor progress under this waiver by monitoring the obligation and expenditure levels of LWDBs no less than monthly, providing technical assistance to LWDBs with obligations and expenditures that are trending low, hosting regularly scheduled calls with LWDB executive directors, and using DEO's monitoring and performance accountability system. DEO will report waiver outcomes in the State's WIOA Annual Report. If the State requests a renewal of this waiver, then DEO will provide the most recent outcomes data available.

Opportunity for Local Workforce Development Board and Public Comment on the Waiver

Workforce development stakeholders, including LWDBs, businesses, and Chief Elected Officials, were notified of the State's waiver request through an email alert and post on CareerSource Florida's website. This included instructions on how to submit comments. In addition, both the public and stakeholders had access to the waiver request on CareerSource Florida's website, [CareerSourceFlorida.com](https://www.careersourceflorida.com). The public comment period was open for 14 calendar days; two comments were received.