

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



July 2, 2021

The Honorable Christopher T. Sununu
Governor of New Hampshire
107 North Main Street
Concord, NH 03301

Dear Governor Sununu:

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 on April 7, 2021. This letter provides the Department's Employment and Training Administration's (ETA) official response to your request. 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 (ETP) to report 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: ETA does not approve this waiver. As communicated in the previous approval for this waiver, dated June 9, 2020, and Training and Employment Guidance Letter (TEGL) No. 08-19, *Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs*,¹ ETA is discontinuing state use of this waiver effective June 30, 2021. ETA acknowledges that collecting and reporting data on all students creates additional reporting responsibilities to training providers; however, public workforce system customers deserve quality training that has proven success of positive outcomes. The information WIOA requires is one of the few mechanisms available to identify which training provider programs truly make a difference. The State must report all student performance information in the Program Year (PY) 2021 report, which is due to ETA on October 1, 2022.

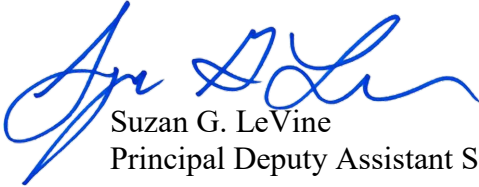
ETA staff will continue to work with New Hampshire to provide technical assistance to help overcome any data collection and reporting challenges, with the end goal of ensuring that the State has systems in place to report on all required data elements. ETA guidance issued in TEGL No. 08-19, and TEGL No. 03-18, *Eligible Training Provider (ETP) Guidance under the*

¹ Employment and Training Administration. TEGL No. 08-19: Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5389. Published January 2, 2020.

Workforce Innovation and Opportunity Act,² provides implementation suggestions for building a quality ETP list and recommendations for reporting.

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,



Suzan G. LeVine
Principal Deputy Assistant Secretary

Enclosure

cc: Jacqueline Heuser, Director, New Hampshire Office of Workforce Opportunity
Leo Miller, Northeast Regional Administrator, ETA
Amanda Poirier, Federal Project Officer, ETA

² Employment and Training Administration. TEGL No. 03-18, *Eligible Training Provider (ETP) Guidance under the Workforce Innovation and Opportunity Act*. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3527.
Published August 31, 2018.



New Hampshire Department of
**BUSINESS AND
ECONOMIC AFFAIRS**



April 7, 2021

Suzan G Levine, Principal Deputy Assistant Secretary
U S Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Deputy Assistant Secretary Levine,

Please find attached New Hampshire's request for waiver through June 30, 2022 from the requirements outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the State of New Hampshire's Eligible Training Provider List (ETPL).

Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph Doiron'.

Joseph Doiron
Director of Workforce Development
Office of Workforce Opportunity
Department of Business and Economic Affairs

cc: Leo Miller, Boston/Philadelphia Regional Administrator, ETA
Amanda Poirier, Federal Project Officer, ETA
Jael Delva, Federal Project Officer, ETA

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State of New Hampshire
NH Department of Business and Economic Affairs
Office of Workforce Opportunity (OWO)
Workforce Innovation and Opportunity Act
Waiver Request

The statutory and/or regulatory requirements to be waived:

The New Hampshire Department of Business and Economic Affairs, Office of Workforce Opportunity, the state administrative entity for the Workforce Innovation Opportunity Act, seeks a waiver through June 30, 2022 from the requirements outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the State of New Hampshire's Eligible Training Provider List (ETPL).

Background:

Recognizing that during the fourth quarter of PY 19 and throughout PY20, a pandemic affected our State. Our New Hampshire Works offices were closed to the public and services continue to be provided virtually to our participants. Meanwhile our Eligible Training Providers were scrambling to respond to delivery of services and many were accessing new technology to provide online coursework. Since July 1, 2020 through March 24, 2021, NH has enrolled 135 participants from varying WIOA Title I funding sources through 21 various approved Eligible Training Providers. We are concerned that the challenges of small sample size in determining WIOA performance will continue to be impacted.

In addition, a majority of the eligible training providers in New Hampshire belong to the Community College System of New Hampshire (CCSNH). This collection of twelve schools located throughout New Hampshire provide occupational and training programs that are vital to training WIOA participants. The CCSNH System has voiced concerns about the sharing of personal information of all clients in its reporting. This is just one example of training providers having significant challenges in reporting performance data on all participants.

New Hampshire recognizes the importance of monitoring provider performance, however many training providers are struggling with providing trainings in a virtual world and do not have the staff to perform the data gathering processes required to submit program information and performance measures for all students. Even if they had additional staff, some ETP's lack the internal systems or management information capacity to collect and report all data. Many of our ETP's have only a small percentage of WIOA participants, so providing data on all students is especially burdensome. Even with additional assistance from the state, requiring training providers to report on all individuals instead of just WIOA funded participants places an additional burden that is a disincentive for training providers to register for the Eligible Training Providers List.

For many of the programs that have been approved, the data for the number of WIOA supported students is insufficient to determine re-certification for subsequent eligibility. Furthermore, training providers either do not have the capacity to report or are hesitant to report information on all participants because it may conflict with the Family Educational Rights and Privacy Act (FERPA). This requirement to provide all

student data will go against the intent and spirit of WIOA. The requirement to provide data on all students will cause a decrease in eligible training providers, which will significantly limit customer choice. This will make it extremely difficult to ensure local areas have sufficient numbers and diversity of training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs.

Granting this waiver will allow the State to continue to work on offering a more robust Eligible Training Provider List and more effectively address customer and employer needs.

In consultation with the state's small training provider community, we are committed to fulfilling the requirements of the Act and will continue in accordance with New Hampshire's plan to monitor provider performance.

Actions to Remove Barriers:

There are no state or local statutory or regulatory barriers to implementing the requested waiver. New Hampshire regulations and policy statements are in compliance with current federal law.

Goals to be achieved as a result of the waiver:

1. Reduce the burden on training providers to submit all performance information to the state, which may not be readily accessible to the provider, reduce time, and expense spent on reporting. Reducing this time and expense requiring training providers to report on all customers will allow the program to focus on providing quality training and outcomes for WIOA participants.
2. Ensure that local areas have sufficient numbers and diversity of training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing Individualized Training Accounts (ITAs). More training providers will allow greater utilization of ETPL by individuals pursuing training via ITAs, and this will allow NH Works staff to respond quickly and efficiently to immediate local job seeker and employer needs.
3. More training providers may lead to lower cost and more robust demand-driven training options.
4. Eligible providers will be less susceptible to transmitting sensitive data (PII) on all students, such as social security numbers, that may conflict with FERPA and leave students open to identify theft and privacy considerations.

Programmatic Outcomes Resulting from Waiver Implementation:

The purpose for requesting this waiver is to reduce the burden on training providers to require the collection and reporting of performance related data on all students participating in training programs listed on the State's Eligible Training Providers List (ETPL). We are very concerned that a strict enforcement of reporting requirements for all students would drastically reduce the already limited number of training providers available to our customers.

New Hampshire is a rural state consisting of a Single Workforce Innovation Opportunity Area and 12 one-stop centers. Currently, the number of training providers that have been approved under the Initial Eligibility guidelines is 51. Collectively, these providers are approved for approximately 774 programs. Providers include NH's community colleges, a significant number of public and private for-profit schools, colleges and universities, Adult Education and non-profit community-based organizations.

The vast majority of providers do not have internal systems or capacity to produce the "all students" performance data and are susceptible to potential violations of student privacy if transmitting data for all

students. Granting this waiver will allow the State to continue to work on offering a more robust Eligible Training Provider List and more effectively address customer and employer needs.

Description of Individuals Impacted by the Waiver:

The waiver will positively affect all customers. Individual customers will continue to have choices in selecting training programs that meet their skill development needs. Employers will be assured that they are receiving a skilled and trained workforce. Additional time will allow the state to evaluate effective measures of training provider performance as well as new and innovative ways of adding additional eligible training providers to our list. Training providers will be given the opportunity to develop meaningful measures of student experiences and outcomes.

Description of the Process to Monitor Progress: The NH Department of Business and Economic Affairs, Office of Workforce Opportunity (OWO), will be the entity responsible to implement and monitor the goals and action plans outlined in this request. OWO will ensure those goals described above are consistent with established objectives of federal and state regulations.

Notification to Key Stakeholders and Public Comment on This Waiver Request:

We are a single state Workforce Board, and the "Eligible Training Provider Report on All Students Waiver Request" was approved by the State Workforce Innovation Board. We will publish on the www.nhworks.org website for 30 days a copy of this waiver for purposes of ensuring meaningful public comment by business, organized labor, training providers, trainees, and potential trainees. All feedback and correspondence will be kept on file at the Office of Workforce Opportunity for review upon request.

Timeline: It is the State's intention to implement the requirement for Eligible Training Providers to report on all students by June 30, 2022 or seek to request a waiver extension.



State Workforce Innovation Board Approval

Eligible Training Provider Report on All Students Waiver Request

The New Hampshire Department of Business and Economic Affairs, Office of Workforce Opportunity, the state administrative entity for the Workforce Innovation Opportunity Act, seeks a waiver through June 30, 2022 from the requirements outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 thru 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed by the State of New Hampshire.

Recognizing that during the fourth quarter of PY 19 and throughout PY20, a pandemic affected our State. Our New Hampshire Works offices were closed to the public and services continue to be provided virtually to our participants. Meanwhile our Eligible Training Providers were scrambling to respond to delivery of services and many were accessing new technology to provide online coursework. Since July 1, 2020 through March 24, 2021, NH has enrolled 135 participants from varying WIOA Title I funding sources through 21 various approved Eligible Training Providers. We are concerned that the challenges of small sample size in determining WIOA performance will continue to be impacted.

In addition, a majority of the eligible training providers in New Hampshire belong to the Community College System of New Hampshire (CCSNH). This collection of twelve schools located throughout New Hampshire provide occupational and training programs that are vital to training WIOA participants. The CCSNH System has voiced concerns about the sharing of personal information of all clients in its reporting. This is just one example of training providers having significant challenges in reporting performance data on all participants.

New Hampshire recognizes the importance of monitoring provider performance, however many training providers are struggling with providing trainings in a virtual world and do not have the staff to perform the data gathering processes required to submit program information and performance measures for all students. Even with additional assistance from the state requiring training providers to report on all individuals instead of just WIOA funded participants places an additional burden that is a disincentive for training providers to register for the Eligible Training Providers List. For many of the programs that have been approved the data for the number of WIOA supported students is insufficient to determine re-certification for subsequent eligibility. Furthermore, training providers either do not have the capacity to report or are hesitant to report information on all participants because it may conflict with the Family Educational Rights and Privacy Act (FERPA).

This will cause a decrease in eligible training providers and it would go against the intent and spirit of WIOA to provide informed customer choice and significantly limit customer choice. It will be difficult to ensure local areas have sufficient numbers and diversity of training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs.



Granting this waiver will allow the State to continue to work on offering a more robust Eligible Training Provider List and more effectively address customer and employer needs.

In consultation with the state's small training provider community, we are committed to fulfilling the requirements of the Act and will continue in accordance with New Hampshire's plan to monitor provider performance.

With the approval of the State Workforce Innovation Board, OWO will draft and submit a formal request for a waiver to address this issue.

Date Approved: April 6, 2021

Authorized by: Michael Kane, Chair State Workforce Innovation Board

Signature:

Michael Kane, Chair State Workforce Innovation Board