

U.S. Department of Labor

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



October 7, 2022

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Hochul:

Thank you for your waiver requests 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 requests were received on July 14, 2022. This letter provides the Employment and Training Administration's (ETA) official response to your requests and memorializes that New York will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by New York 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 associated with the requirement at WIOA Section 129(a)(4)(A) and 20 CFR 681.410 that the State expend 75 percent of Governor's reserve youth funds on out-of-school youth (OSY).

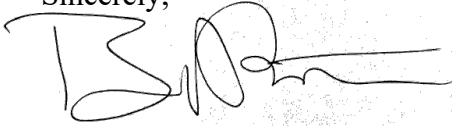
ETA Response: ETA approves for Program Year (PY) 2021 and PY 2022, which includes the entire time period for which states are authorized to spend those funds, the State's request to waive the requirement that the State expend 75 percent of Governor's reserve youth funds on OSY. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of New York to implement its plan to improve the workforce development system. New York may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

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

ETA Response: ETA approves for PY 2021 and PY 2022, which includes the entire time period for which states are authorized to spend those funds, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. New York may lower the local youth funds expenditure requirement to 50 percent for OSY. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of New York to implement its plan to improve the workforce development system. As a result of this waiver, ETA expects that the number of in-school youth (ISY) served will increase, and performance accountability outcomes for overall WIOA Youth (including both ISY and OSY) will remain steady or increase for the majority of the WIOA Youth performance indicators.

The State must report its waiver outcomes and implementation of the approved waivers 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,

A handwritten signature in black ink, appearing to read 'Brent Parton', with a large, stylized initial 'B'.

Brent Parton
Acting Assistant Secretary

Enclosure

cc: Robert Reardon, Commissioner, New York State Department of Labor
Jennifer Friedman, Acting Boston Regional Administrator, ETA
Minnie Holleran, Federal Project Officer, ETA

WE ARE YOUR DOL



Kathy Hochul, Governor
Roberta Reardon, Commissioner

July 14, 2022

Jennifer Friedman
Acting Regional Administrator
U.S. Department of Labor
Employment and Training Administration
25 New Sudbury Street
Room E-350
Boston, MA 02203

Dear Ms. Friedman:

New York State (NYS) respectfully submits the attached modification request to the NYS Workforce Innovation and Opportunity Act (WIOA) Combined Plan. The request is being submitted in accordance with WIOA and guidance provided at <https://www.doleta.gov/wioa/waivers/>.

The waiver will allow the New York State Department of Labor (NYSDOL) to focus State-level youth funds on the provision of services to In-School Youth (ISY) via targeted programs for those services. This will address a current shift in need from Out-of-School Youth (OSY) to ISY and allows NYS to serve ISY who would otherwise not be served due to the current 75% OSY funding requirement.

The review and timely consideration of this waiver request are appreciated. Please contact NYS with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christopher White". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Christopher White
Deputy Commissioner for Workforce Development

Waiver of the 75% Out-of-School Youth (OSY) expenditure rate on statewide workforce investment activities.

Statutory and/or regulatory requirements to be waived

Language that requires the 75% OSY expenditure requirement be imposed on statewide workforce investment activities identified in Workforce Innovation and Opportunity Act (WIOA) Section 129(a)(4)(A).

This request is for Program Year (PY) 2021 and PY 2022 funding allotments.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The waiver will allow the New York State Department of Labor (NYSDOL) the ability to focus State-level youth funds on the provision of services to In-School Youth (ISY) via targeted programs for those services, without being obligated to simultaneously issue additional OSY programs amounting to at least three times the expenditure proposed for ISY programs.

Alignment with USDOL policy priorities

This waiver will allow the State the flexibility to improve outcomes for ISY by developing State-level programs addressing specific needs. The identified need for OSY services has diminished and can be met through Local Workforce Development Board (LWDB) youth program expenditures and, in the case of older OSY, Adult program funds.

Individuals impacted by the waiver

The waiver will directly impact ISY, who would otherwise not be served due to the 75% OSY funding requirement. The impact on OSY is minimal because the unmet services needs of the OSY population are currently low. Employment opportunities for OSY are plentiful as reflected in current low Unemployment Insurance (UI) rates and high hourly wages for entry level jobs.

Process for monitoring progress and the collection and reporting of outcomes related to the waiver

NYSDOL will monitor progress and ensure accountability for Federal funds in connection with this waiver by collecting and reviewing monthly expenditure, performance and other reports, through regular contact with the Employment and Training Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, NYSDOL would issue an electronic notice that will be disseminated to the Workforce Development community in the State (including LWDB Directors and Chairs).

Public Comment

This waiver request was posted for public comment on the NYSDOL website for a 10-day comment period. All comments received were in support of the waiver and none of the comments required a change to the waiver.

WE ARE YOUR DOL



Kathy Hochul, Governor
Roberta Reardon, Commissioner

July 14, 2022

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Acting Regional Administrator
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Dear Ms. Friedman:

New York State (NYS) respectfully submits the attached modification request to the NYS Workforce Innovation and Opportunity Act (WIOA) Combined Plan. The request is being submitted in accordance with WIOA and guidance provided at <https://www.doleta.gov/wioa/waivers/>.

The waiver will allow Local Workforce Development Boards (LWDBs) to address an increase in local need for In-School-Youth (ISY) services due to the COVID-19 pandemic, as well as invest in preventative strategies and address the myriad of other needs within the ISY population. With more flexibility in youth spending, LWDBs will be able to align WIOA funding with their specific needs and serve more youth overall.

The review and timely consideration of this waiver request are appreciated. Please contact NYS with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris White". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher White
Deputy Commissioner for Workforce Development

Waiver of the requirement to expend 75% of local formula youth funds on Out-of-School Youth (OSY).

Statutory and/or regulatory requirements to be waived

Language that requires the 75% OSY expenditure requirement be imposed on local workforce investment activities identified in Workforce Innovation and Opportunity Act (WIOA) Section 129(a)(4)(A) and 20 CFR §681.410(c).

This request is for Program Year (PY) 2021 and PY 2022 funding allotments.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

This waiver will allow New York State (NYS) to decrease the OSY expenditure requirement for interested Local Workforce Development Boards (LWDBs) to no less than 50% while also increasing allowable expenditures for In-School Youth (ISY) to up to 50%; addressing an increase in local need for ISY services due to the COVID-19 pandemic. LWDBs will direct this increase in ISY expenditures toward investing in preventative strategies and addressing the myriad of current needs within the ISY population.

Alignment with USDOL policy priorities

This waiver will allow LWDBs to offer the 14 WIOA Youth program elements as described in 20 CFR §681.460 to more ISY youth participants. This waiver is intended to allow LWDBs to spend youth funds to align with the needs of their local population.

Individuals impacted by the waiver

This waiver will directly impact youth in NYS who qualify as ISY and would otherwise not be served due to the 75% OSY expenditure requirement. Related reductions of OSY enrollments and services to OSY are anticipated to be minimal as the local areas are reporting difficulty in enrolling OSY. Employment opportunities for OSY are plentiful as reflected in current low Unemployment Insurance (UI) rates and high hourly wages for entry level jobs. Thus the waiver will provide the local boards the flexibility to serve more ISY youth and more youth overall.

Process for monitoring progress and the collection and reporting of outcomes related to the waiver

NYSDOL will monitor progress and ensure accountability for Federal funds in connection with this waiver by collecting and reviewing monthly expenditure, performance, and other reports through regular contact with the Employment and Training Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, NYSDOL would issue an electronic notice that will be disseminated to the Workforce Development community in the State (including LWDB Directors and Chairs).

Public Comment

This waiver request was posted for public comment on the NYSDOL website for a 10-day comment period. All comments received were in support of the waiver and none of the comments required a change to the waiver.

New York Waivers - Additional Information Request

The federal review of the waivers submitted by the State of New York identified areas requiring additional information. Please review and provide additional information to the official waiver submission email address at WIOA.plan@dol.gov for the following areas related to your waiver request.

Waiver of the 75% Out-of-School Youth (OSY) expenditure rate on statewide workforce investment activities.

- Because NY was approved for this waiver in the past, please provide the implementation and outcomes of the existing waiver.
- Through the approval of the past Statewide waiver, New York State (NYS) was able to implement two additional in-school youth programs, including Opportunity Youth Career Exploration and Access (OYCEA) and an expanded Summer Youth Employment Program (SYEP) in conjunction with the NYS Office of Temporary and Disability Assistance (OTDA).
- Under OYCEA, youth attending schools and living in three urban areas of NYS (the City of Albany, City of Syracuse, and Long Island) are served by 22 contractors who received approximately \$4.6M. These contractors include not-for-profit organizations, Local Workforce Development Boards (LWDBs), universities, and school districts. As of September 2022, 1,542 youth are provided with career development services including career assessments, guidance, and exploration; work readiness and life-skills training; educational support; job search; and work experiences. The youth are also provided with supportive services and incentives.
- \$10.25M in WIOA funding was also utilized to augment the OTDA's SYEP. This funding supported the expansion of SYEP 2021 to additional participants, including an expansion of the eligible age range and of the length of individual youth work experiences. A total of 21 LWDBs or other organizations provided SYEP from August 2021 to June 2022, and New York City will continue to offer the program until December 2022. As of September 2022, 2,810 youth have received SYEP services.
- Provide specific, numeric programmatic projected outcomes resulting from the implementation of this waiver.
NYS anticipates serving an increased number of In School Youth (ISY) and attaining outcomes including:
 - Increased attainment of measurable skill gains, especially educational credentials such as high school diplomas;
 - Decreased high school dropout rates;
 - Increased participation in occupational skills training and work experience opportunities;
 - Increased industry-recognized credential gains;
 - The expansion of program outreach to middle school students to plant the seeds for career success; and
 - Increased collaboration with partners to align workforce programs and promote trades, both generally and for women-in-trades.

- Clarify whether the State has discussed with waiver with local areas and provide the local boards impacted by this waiver.

Yes, the New York State Department of Labor (NYS DOL) has discussed this waiver with the LWDB Directors, and while they are not directly impacted by the waiver, they support the request and the greater flexibility it will provide for aligning State and local programs.

Waiver of the requirement to expend 75% of local formula youth funds on Out-of-School Youth (OSY).

- Provide specific, numeric programmatic projected outcomes resulting from the implementation of this waiver.

LWDB Directors anticipate at least a 10% increase in the following programmatic outcomes for WIOA Youth participants once the waiver is implemented in the local area:

- Increased attainment of measurable skill gains, especially educational credentials such as high school diplomas;
 - Decreased high school dropout rates;
 - Increased participation in occupational skills training and work experience opportunities;
 - Increased industry-recognized credential gains;
 - The expansion of program outreach to middle school students to plant the seeds for career success; and
 - Increased collaboration with regional partners to promote trades, both generally and for women-in-trades.
- Clarify whether the State has discussed with waiver with local areas and provide the local boards impacted by this waiver.

Yes, NYSDOL has discussed this waiver with the LWDB Directors, as it was their request that NYSDOL submit this waiver. Approximately 25 LWDB Directors have indicated they would take immediate advantage of this waiver if approved, while the remainder said they would take advantage once approved by their full LWDB or would assess their spending and likely take advantage of the waiver later in the PY.