

**U.S. Department of Labor**

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



June 7, 2022

The Honorable Bill Lee  
Governor of Tennessee  
State Capitol  
Nashville, TN 32743

Dear Governor Lee:

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 requests were received March 11, 2022, as part of your recent WIOA State Plan modification. This letter provides the Employment and Training Administration's (ETA) official response to your 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 20 CFR 681.550 to allow WIOA individual training accounts (ITAs) for in-school youth (ISY).

ETA Response: ETA approves for Program Year (PY) 2022 and PY 2023, the State's request to waive the requirement limiting ITAs to only out-of-school youth (OSY), ages 16–24. In addition to these OSY, the State may use ITAs for ISY, ages 16–21. ETA reviewed Tennessee'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. Approval of this waiver should not impede the State's efforts to prioritize OSY, including outreach to the OSY population.

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 Governor's reserve youth funds and local formula youth funds on OSY.

ETA Response: ETA approves for PY 2022 and PY 2023, 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 Tennessee to implement its plan to improve the workforce development system. Tennessee may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

In addition, ETA approves for PY 2022 and PY 2023, 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. Tennessee may lower the local youth funds expenditure requirement to 50 percent for OSY. As a result of this waiver, ETA expects that the number of 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 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,

A handwritten signature in black ink, appearing to read "Brent Parton", with a large, stylized initial "B" and a long horizontal flourish extending to the right.

Brent Parton  
Acting Assistant Secretary

Enclosure

cc: Dr. Jeff McCord, Commissioner, Tennessee Department of Labor and Workforce  
Development  
Renata Adjibodou, Acting Atlanta Regional Administrator, ETA  
Julian Hardy, Federal Project Officer, ETA

## **PY 2022 Tennessee waiver requests, excerpt from State Plan submission March 13, 2022**

States wanting to request waivers as part of their title I-B Operational Plan must include a waiver plan that includes the following information for each waiver requested:

Please see the following two (2) State of Tennessee Waiver Requests:

1. Out-of-School Youth Expenditure, and
2. Individual Training Account for At-Risk In-School Youth

### **#1 - Waiver Subject: Out-of-School Youth Expenditure Statutory and Regulatory Requirement:**

Tennessee is seeking a waiver of Section 129(a)(4)(A) and 20 CFR 681.410 which requires not less than seventy-five percent (75%) of funds allocated to states under section 127(b)(1)(c) reserved under Section 128(a) and available for statewide activities under subsection (b) and not less than seventy-five percent (75%) of funds available to local areas under subsection (c) shall be used to provide youth workforce investment activities for out-of-school youth (OSY).

### **Background:**

Tennessee has many initiatives that are supporting individuals in their pursuit of secondary and post-secondary education to propel themselves and their families to self-sufficiency and increased social mobility. TN workforce initiative Drive to 55 – the Drive to get 55 percent of Tennesseans equipped with a college degree or certificate by the year 2025 – has increased the higher education enrollments and demands all agencies to answer the call for support. TN Promise, one initiative under Drive to 55, offers high school graduates two years of tuition-free education for community or technical college. TN Pathways is the K-12 initiative under Drive to 55 and supports alignment among K-12, postsecondary, and industry to provide students with relevant education and training to jumpstart their postsecondary degrees and credentials. TN also partners with the TN Department of Education to support

Career and Technical Education and Work-Based Learning programs through the WIOA Youth Work Experience program element.

### **Waiver Request:**

Reducing the percentage of expenditures for out-of-school youth from seventy-five percent (75%) to fifty percent (50%) would allow the State and Local Workforce Development Boards (LWDBs) ability to utilize program years 2021 (retroactively July 1, 2021 - June 30, 2022) and program years 2022 and 2023 (July 1, 2022 – June 30, 2024) funding in efforts to meet the needs of In-school youth (ISY) in the local demographic area.

The State is requesting this waiver to effectively serve and assist in the success of our Governor's Drive to 55 initiatives (TN Reconnect and TN Promise), our Governor's Investment in Vocational Education (GIVE) Act, TN Department of Education (Carl D. Perkins Vocational and Technical Education) initiatives and other ISY focused initiatives.

### **Reason for the Request:**

The seventy-five percent (75%) OSY expenditure requirement limits the ability of the State and local areas to:

- Consider local demographic needs and direct resources to the youth population determined to have the highest need for that area.
- Effectively support TN Governor's initiatives and partner with State agencies.
- Prevent at-risk ISY from dropping out of secondary school and from increasing the number of OSY in the State.

### **Actions Undertaken to Remove State or Local Statutory or Regulatory Barriers:**

TN applied for the waiver in June 2018 and US DOL ETA granted TN this waiver request for program years 2018, 2019, and 2020. TN would like to utilize the flexibility of the waiver to continue supporting the goals of assisting eligible ISY in efforts to reduce the likelihood of becoming an OSY.

Currently, no state or local statutory or regulatory barriers exist. The State of Tennessee regulation and policy statements comply with current federal law and/or approved waivers.

### **Goals and Outcomes:**

Data collected throughout waiver implementation indicates that In-School Youth enrollment rose 124% from program years without a waiver. 448 ISY enrolled PY17 to 1004 ISY enrolled PY21. While the same data set shows a decrease in Out-of-School Youth (OSY) enrollment by 25%, successful exit to unsubsidized employment for OSY trended at similar rates as previous program years at approximately 44%, even due to enrollment challenges presented by the COVID-19 pandemic.

Previous waiver goals were to support work-based learning activities for ISY and to support Governor's initiatives. The continued goals are to increase ISY enrollment in the program and support ISY for work-based learning activities. TN has continued to meet ISY participation goals under this waiver and anticipates that will continue.

The approval of this waiver would permit LWDBs the opportunity to determine how best to meet the educational and training needs of youth, regardless of school status, and specific to the population, geographical location, and economic and employment conditions of each LWDA.

Additionally, increasing support to ISY while maintaining a focus on serving OSY will help develop a larger pool of young people qualified and prepared to meet the current and future needs of employers in their workforce areas and throughout the state. The approval of this waiver would permit LWDBs the opportunity to determine how best to meet the educational and training needs of youth, regardless of school status, and specific to the population, geographical location, and economic and employment conditions of each LWDA. Partnerships with the local workforce boards and school districts have increased throughout the waiver and it is the goal that it continues to increase.

It is the goal that the success rate of in-school youth completing work-based learning programs increases by 10 percent throughout the waiver. It is also the goal to steadily increase services to in-school youth across the State through intentional partnerships by 10 percent throughout the waiver. This will be measured by the comparing participation rate of ISY in work-based learning activities to historical data. We will measure the increase every program year compared to previous years and use historical data from

program years where the state did not have an expenditure waiver to show the impact of the waiver.

**Individuals impacted by this Waiver:**

- The ISY will receive the services as described in WIOA Section 123; Section 129(c)(2) and 20 CFR 681.420. Tennessee's youth providers will increase the number of ISY receiving services based on the demography of the ISY in the local workforce area and across TN.

**Description of the Monitoring Process:**

Tennessee Department of Labor and Workforce Development (TDLWD) and youth providers will be responsible for monitoring the increase in in-school participation rate during the annual monitoring on-site and desktop review as well as specific performance outcomes that ensure both, ISY and OSY, populations are receiving quality programming that ensures meaningful exit to self-sufficient employment opportunities and training.

**Opportunity for Local Board and Public Comment on Waiver Request:**

This waiver request was developed in consultation with LWDBs. The waiver request will be included in TN's Combined State Plan and posted on the TDLWD's website for thirty (30) days for public review and comment, and comments from our partners. Consistent with general waiver request requirements, TDLWD is adhering to publication requirements to ensure the broadest participation possible including informing appropriate youth program partners such as schools, labor, and community-based organizations.

**Description of how the State will continue to serve OSY:**

The State will continue to develop and maintain Statewide partnerships with organizations that have a heavy focus on the young adult population facing significant barriers to education and employment that will disseminate to local boards. The state will continue to work with Local Workforce Development Boards to serve WIOA eligible OSY participants. Current programming and strategy will continue for the OSY population and expand to be more intentional to ensure the State is serving OSY with barriers that require intensive guidance from staff. These barriers include youth aged out of foster care, justice-involved individuals, and homeless individuals while continuing to serve youth that meet any barrier outlined in WIOA eligibility for OSY. TN has established an Office of Reentry which will aid in creating service strategy and

programming for OSY that are justice-involved. The State has annually released statewide projects that focus on providing additional assistance to local areas that have a high concentration of eligible youth and will use these projects as a portal to support WIOA youth activities for the OSY population.

## **#2 - Waiver Subject: Individual Training Account for At-Risk In-School Youth Statutory and Regulatory Requirement:**

Tennessee is seeking a waiver of 20 CFR 681.550 and WIOA Section(c)(2)(D) that allows Individual Training Accounts (ITA) for in-school youth (ISY) ages 14-21.

### **Background:**

Tennessee has served both in-school and out-of-school youth (OSY) since the inception of WIOA. With the economy of Tennessee improving and the unemployment data at 3.2 percent (3.2%) as of March 2022, workforce development can effectively use this situation to connect with employers to provide ITAs to at-risk ISY. This juncture of low unemployment in the state will enable the at-risk youth to cultivate their skills in a work-educational environment and give them the direction of what they want to do once they leave school. The Individual Training Account provides the at-risk youth a wide variety of choices for skills development with an employer.

Including enrollment in a community college providing classroom training coupled with hands-on experience for successful employment in the area, the youth will excel.

### **Waiver Request:**

Request to allow Tennessee to provide ITAs to at-risk ISY and to provide work-based training opportunities, including pre-apprenticeships, along with high-quality occupational training for the program years 2022 and 2023 (July 1, 2022 – June 30, 2024)

### **Reason for the Request:**

Youth determined at-risk by the educational institution are not allowed to develop work skills through the use of work-based training services. Providing ITAs for these at-risk youth will lead to a high school diploma or industry-recognized credential and result in skills development including employment opportunities leading to self-sufficiency. It will also decrease the number of school drop-outs in the state. Providing ITAs to at-risk ISY will also allow for better service integration with TN's Governor initiatives such as Drive to 55, Governor's Investment in Vocational Education (GIVE) Act, and TN Department of Education (Carl D. Perkins Vocational and Technical Education) initiatives.

Under TN's Drive to 55 initiative, TN Reconnect and TN Promise provide federal aid for individuals pursuing a postsecondary degree. Tennessee Reconnect is designed to specifically assist adults (any age) that are returning to higher education and TN Promise is assisting high school students. To receive TN Promise, youth has to apply and enroll in an eligible postsecondary institution while still in high school. To receive TN Reconnect, an individual must meet the independent student status via FAFSA which aligns with many of the eligibility barriers for the WIOA Title I youth program. As stated above, both initiatives are federally funded and only support the tuition aspect. Any tools, books, supplies, testing fees, etc. would not be covered with this funding. Additionally, students receiving TN Reconnect and TN Promise are often receiving Pell Grant. Pell Grant is typically awarded to low-income students. Providing support via ITAs to the youth would help ensure that they have the tools, supplies, and other items they need to complete their academic goals. In partnership with the TN Board of Regents (TBR), data has been shared with the State that reflects that of the 40 percent enrolled receiving Pell Grant; however, only approximately 25 percent graduate. For TN Promise, around 70 percent of students are receiving and only about 25 percent are graduating. Students are citing reasons such as lack of child care, transportation, not having the funds to purchase course materials, and many other challenges that prevent them from completing or starting. While the State recognizes that some of the needs cited can be covered through supportive services, the need to expand the expenditure requirement for in-school youth would allow the State to assist more of this population with those needs as well as provide ITAs to the population to cover any costs that would not be covered by other federal aid and supportive services. The federal funding above would only support those individuals that have received a high school diploma. Allowing ITAs to the in-school youth population also allows the State to support dual enrollment opportunities that high school students are participating in.



## **Actions Undertaken to Remove State or Local Statutory or Regulator Barriers:**

TN applied for the waiver in June 2018 and US DOL ETA granted TN this waiver request for program years 2018 - 2021. TN would like to continue utilizing the flexibility of the waiver for program years 2022 and 2023. Currently, no state or local statutory or regulatory barriers exist. The State of Tennessee regulation and policy statements comply with current federal law.

## **Goals and Outcomes:**

There are several goals TN hopes to achieve with this waiver. One is to continue increasing the number of at-risk ISY receiving ITAs in work-based programs. TN was granted this waiver by ETA for program years 2018 – 2021. During those years, ISY ITA utilization rates rose 142%, from 21 ITA's issued to ISY to 51 issued.

TN's other goals with this waiver are to help companies to develop new skills based on the need of businesses to develop young talents, promote sufficient pre-apprenticeship programs that youth can access, and create a pipeline of well-educated skilled workers entering the workforce to strengthen the State's overall economy.

Allowing support for ISY through ITA's would also have a positive impact on participating youth attending pre-apprenticeship or any of the work-based services to gain first-hand experience in training environments and could help quickly close the gap in the workforce shortage.

## **Individuals impacted by this Waiver:**

- Tennessee's Local Workforce Development Boards (LWDBs) provide quality pre- apprentice services tied to demand occupations in the area.
- At-risk in-school youth will be positively impacted and will be given an additional avenue that will enrich their livelihood when entering the workforce.

## **Description of the Monitoring Process:**

- Tennessee Department of Labor and Workforce Development (TDLWD) and LWDBs will be responsible for monitoring ITAs and the type of pre-apprentice services provided to at-risk youth during the annual monitoring on-site and desktop review.

- Ensure work-based training programs are high-quality and meet industry needs in conjunction with the Tennessee Department of Education (Pathways TN).

**Opportunity for Local Board and Public Comment on Waiver Request:**

This waiver request was developed in consultation with LWDBs. The waiver request will be included in TN's Combined State Plan and posted on the TDLWD's website for thirty (30) days for public review and comment, and comments from our partners. Consistent with general waiver request requirements, TDLWD is adhering to publication requirements to ensure the broadest participation possible including informing appropriate youth program partners such as schools, labor, and community-based organizations.