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| <b>TRAINING AND EMPLOYMENT<br/>NOTICE</b> | <b>NO.</b><br>10-23, Change 1   |
|   | <b>DATE</b><br>January 22, 2026 |

**TO:** STATE WORKFORCE AGENCIES  
 STATE WORKFORCE LIAISONS  
 STATE WORKFORCE ADMINISTRATORS  
 STATE AND LOCAL WORKFORCE BOARDS  
 LABOR COMMISSIONERS  
 AMERICAN JOB CENTERS  
 STATE MONITOR ADVOCATES  
 ALL ETA GRANTEES

**FROM:** HENRY MACK   
 Assistant Secretary

**SUBJECT:** Announcing the Release of Wagner-Peyser Act Staffing,  
 Delay of Merit Staffing Compliance Date Final Rule

- Purpose.** The purpose of this Training and Employment Notice (TEN) is to announce that the U.S. Department of Labor's (Department) Employment and Training Administration (ETA) published a final rule, [Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date](#) (91 FR 2486, January 21, 2026), which delays by one year the date by which State grantees must comply with the regulatory requirements in the 2023 *Wagner-Peyser Act Staffing* Final Rule for States to use State merit staff to deliver services in the Wagner-Peyser Act Employment Service (ES). The delay applies only to the State merit staffing requirement and does not modify other provisions adopted in the 2023 *Wagner-Peyser Act Staffing* Final Rule.
- Action Requested.** Please share this information with interested stakeholders. State Workforce Agencies (SWAs) should:
  - Review the delay final rule. States can decide whether to maintain State merit staffing, continue their switch between State merit staffing and non-State or non-merit staffing, or to adjust their implementation timelines for such a shift to align with the new compliance date of January 21, 2027. Note that the Department will not require any attestations or responses to the questions related to State merit staffing in the Workforce Innovation and Opportunity Act (WIOA) State Plans for the 2026 State Plan modification cycle.
  - Comply with the other requirements of the 2023 *Wagner-Peyser Act Staffing* Final Rule related to 20 CFR parts 651, 652, 653, and 658, which are unaffected by this delay, by January 22, 2026.
  - Coordinate with ETA Regional Offices on any transition planning and technical assistance needed.

### **3. Summary and Background.**

- a. Summary – On November 24, 2023, the Department published the *Wagner-Peyser Act Staffing* Final Rule (88 FR 82658, November 24, 2023) (2023 Final Rule) that required States (with the exception of Colorado, Massachusetts, and Michigan) to use State merit staff to provide ES services, including those States that began using alternative staffing models under the January 2020 *Wagner-Peyser Act Staffing Flexibility* Final Rule (85 FR 592, January 6, 2020) (2020 Final Rule). The 2023 final rule also made changes to the regulations regarding the provision of services to migrant and seasonal farmworkers (MSFWs), the Monitor Advocate System, and the ES and Employment-Related Law Complaint System. The *Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date* Final Rule delays the date by which State grantees must comply with the requirement to use State merit staff to deliver services in the Wagner-Peyser Act ES by one year. It does not change the compliance date for other changes described in the 2023 *Wagner-Peyser Act Staffing* Final Rule at 20 CFR parts 651, 652, 653, and 658.
- b. Background – The Wagner-Peyser Act of 1933, 29 U.S.C. 49 et seq., established the ES program, a nationwide system of public employment offices that provide public labor-exchange services. The ES program promotes the improved functioning of the nation’s labor markets by matching job seekers with employers that are seeking workers. The Department’s implementing regulations for the ES program are prescribed at 20 CFR parts 651, 652, 653, 654, and 658.

The Department had historically required State merit staff to deliver ES services with limited exceptions. The 2020 Final Rule removed the requirement that ES services be provided only through State merit staff and allowed States to choose their own staffing models.

The 2023 Final Rule required States (except for Colorado, Massachusetts, and Michigan) to use State merit staff to provide ES services. The 2023 Final Rule required that State Monitor Advocate functions at 20 CFR 653.108 be performed by State merit staff in all States, including Colorado, Massachusetts, and Michigan. The 2023 Final Rule required that States, except for Colorado, Massachusetts, and Michigan, implement the State merit staffing requirement by January 22, 2026.

In July 2025, the Department published a Notice of Proposed Rulemaking proposing to remove the requirement that States use State merit staff to provide Wagner-Peyser ES services, as part of the Department’s deregulatory effort (90 FR 28239, July 1, 2025). This rulemaking is still ongoing and may impact future staffing requirements for ES services.

4. **Final Rule Changes.** The *Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date* Final Rule delays implementation of State merit staffing provisions at 20 CFR 652.215 added by the 2023 *Wagner-Peyser Act Staffing* Final Rule, until January 21, 2027. This one-year delay reflects the Department’s commitment to reducing regulatory burden, and it

allows the Department to complete ongoing rulemaking that may impact future staffing requirements.

**5. Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.

**6. References.**

- Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date Final Rule (91 FR 2486, January 21, 2026);
- 2023 Wagner-Peyser Act Staffing Final Rule (88 FR 82658, November 24, 2023);
- TEN No. 10-23, *Announcing the Release of the Wagner-Peyser Act Staffing Final Rule*, issued November 24, 2023, <https://www.dol.gov/agencies/eta/advisories/ten-10-23>;
- 2020 Wagner-Peyser Act Staffing Flexibility Final Rule (85 FR 592, January 6, 2020);
- The Wagner-Peyser Act of 1933, 29 U.S.C. 49 et seq; and
- Wagner-Peyser Act Employment Service Regulations at 20 CFR parts 651, 652, 653, and 658

**7. Attachment(s).** N/A