

TRAINING AND EMPLOYMENT NOTICE	NO . 02-26
	DATE August 20, 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: MAREK LACO /s/
Acting Assistant Secretary

SUBJECT: Announcing the Publication of the Wagner-Peyser Act Employment Service Staffing Final Rule

1. **Purpose.** The purpose of this Training and Employment Notice (TEN) is to announce the publication of the Wagner-Peyser Act Employment Service Staffing Final Rule, which makes changes to the regulations regarding the Wagner-Peyser Act Employment Service (ES). Additionally, this TEN provides information to states seeking to implement the flexibility provided in the Final Rule as part of their Workforce Innovation and Opportunity Act (WIOA) Unified or Combined State Plan.
2. **Action Requested.** Please share this information with interested stakeholders and review the regulations and information collections. This Final Rule is effective October 19, 2026.
3. **Summary and Background.**
 - a. Summary – On August 20, 2026, the U.S. Department of Labor (Department) published the Wagner-Peyser Act Employment Service Staffing Final Rule (91 FR 54024, Aug. 20, 2026) that removes the requirement that states must use state merit staff to provide ES services.
 - 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 seeks to improve the 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. Section 3(a) of the Wagner-Peyser Act requires the Department to assist in coordinating State ES offices by developing and prescribing “minimum standards of efficiency” in the provision of ES programs, and for decades the

Department used its statutory discretion to require state merit staff to deliver ES services but allowed demonstration status for three states (Colorado, Massachusetts, and Michigan) to use alternative staffing models.

The January 2020 Wagner-Peyser Act Staffing Flexibility Final Rule (85 FR 592, January 6, 2020) removed the requirement that ES services be provided only through state merit staff. On November 24, 2023, the Department published the Wagner-Peyser Act Staffing Final Rule (88 FR 82658, November 24, 2023) 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 (2020 Final Rule). In January 2026, the Department published the Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date Final Rule (91 FR 2486, January 21, 2026) that delayed the compliance date for the regulatory requirement to use state merit staff until 2027. The August 20, 2026 Wagner-Peyser Act Employment Service Staffing Final Rule removes the requirement that states use state merit staff to provide ES services. In light of the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, the Department has reassessed the State merit-staffing requirement in the ES program and has determined that the State merit-staffing requirement does not comport with the best reading of the statute. Rather, the single best reading of the Wagner-Peyser Act is that it does not provide statutory authority for the Department to require merit-staffing for the delivery of Wagner-Peyser Act ES services.

4. **Final Rule Changes.** The *Federal Register* published the Wagner-Peyser Act Employment Service Staffing Final Rule on August 20, 2026, available at ([Wagner-Peyser Act Employment Service Staffing](#)). This Final Rule allows states to use the staffing model that provides the required ES services with the most efficient and cost-effective model for their state.

The Department is eliminating the state merit-staffing requirement by removing § 652.215 from the Wagner-Peyser Act regulations. In addition to the merit-staffing requirement in paragraph (a), § 652.215 included an exception for Colorado, Massachusetts, and Michigan to continue to use staffing flexibilities in paragraph (b), a requirement for these three states to participate in an evaluation concerning their delivery of ES services in paragraph (c), and a date by which all states must comply with the requirements of the section in paragraph (d). Without a state merit-staffing requirement in paragraph (a), the remaining paragraphs are no longer necessary. As such, the Department is removing all paragraphs of § 652.215 from the CFR.

The Final rule impacts an associated information collection for the WIOA State Plans. For future WIOA State Plan submissions or modifications, states should use the approved information collection request requirements under OMB No. 1205-0522, which revises planning elements specific to ES staffing. States may opt to change their ES staffing model

from that described in their most recently approved WIOA State Plan at any time. States that make such a change prior to the next statutorily required four-year plan for Program Years 2028-2031 must submit a modification to the Department via the WIOA State Plan [portal](#).

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

6. **References.**

- 2026 Wagner-Peyser Act Employment Service Staffing Final Rule (91 FR 54024, Aug. 20, 2026);
- 2026 Wagner-Peyser Act Staffing, Delay of Merit Staffing Compliance Date (91 FR 2486, January 21, 2026);
- *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024);
- 2023 Wagner-Peyser Act Staffing Final Rule (88 FR 82658, November 24, 2023);
- 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, 654 and 658.

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