U.S. Department of Labor

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

July 27, 2026

The Honorable Bill Lee
Governor of Tennessee
600 Dr. Martin L. King, Jr. Boulevard
Nashville, TN 37243

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 request was received on April 29, 2026, as part of your recent WIOA State Plan modification submission. 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 of Labor'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 requirements found at WIOA Section128(a)(2) and 20 CFR 683.120 to allow increased flexibility in the use of funds reserved by the Governor to provide alternative service delivery to Tennessee youth who do not meet the eligibility requirements for WIOA Title I Youth Services.

ETA Response: ETA recognizes that the statute includes language that can be confusing about the use of Youth funds reserved for statewide activities. For instance, WIOA Section 129(a)(4) states that 75 percent of the funds available for statewide activities shall be used to provide youth workforce investment activities. However, WIOA Section 129(a)(2) specifies that funds reserved by the Governor for statewide youth activities may also be used for the statewide employment and training activities authorized under Section 134, regardless of whether those funds originated from the youth, adult, or dislocated worker funding streams. This same flexibility appears in WIOA Section 128(a)(2), which states that regardless of whether reserved amounts were allotted under the Youth, Adult, or Dislocated Worker allotments, the Governor may use the reserved amounts to carry out statewide activities listed in either Sections 129(b) or 134(a); both lists of statewide activities are illustrative, and statewide activities are not limited to the activities named there. Therefore, a waiver is not required for a state to use any Governor's Reserve funds to support activities under Section 134 that serve youth and young adults, and states are not required to conduct WIOA eligibility determinations for participants served with these statewide funds.

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 out-of-school youth (OSY).

ETA Response: ETA approves, for Program Years (PYs) 2026 and PY 2027, which includes the entire time period for which states are authorized to spend each of those Program Year fund allotments, the State's request to waive the requirement that the State expend 75 percent of Governor's Reserve and local youth formula 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 the State to implement its plan to improve the workforce development system. The State may eliminate the OSY expenditure requirements of Governor's Reserve and local youth formula funds.

ETA expects the state to continue to serve OSY and that 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. As a reminder, Tennessee must continue to report expenditures for youth, including both in-school and out-of-school youth expenditures, as required in the 9130 financial reporting.

Requested Waiver: Waiver of the reallocation provisions at WIOA Sections 128(c)(3) and 133(c)(3) to allow the state workforce development board to develop different criteria than required by statute for the reallocation of recaptured funds among local workforce areas.

ETA Response: ETA approves, for PYs 2026 and 2027, Tennessee's request to waive the reallocation provisions at WIOA Sections 128(c)(3) and 133(c)(3). Tennessee may reallocate recaptured funds according to State-developed criteria. ETA reviewed Tennessee's waiver request and plan and has determined that the requirements requested to be waived impede its ability to implement its plan to improve the workforce development system. Under this waiver, Tennessee has the discretion to consider additional factors described in its waiver plan in determining local workforce development area eligibility for reallocation of recaptured funds.

Requested Waiver: Waiver of the discretionary allocation formula requirements at WIOA Sections 128(b)(3) and 133(b)(3) to allow the state to establish alternative allocation formulas.

ETA Response: This request falls outside of the Secretary's waiver authority and, therefore, ETA cannot approve Tennessee's request to waive the allocation provisions in WIOA Sections 128(b)(3) and 133(b)(3). WIOA Section 189(i)(3)(A)(i) and 20 CFR 679.610 prohibit the Department from waiving any provision related to the allocation of funds to local areas. However, ETA notes that WIOA provides the Governor direct statutory authority to establish the State's own allocation formulas in the two critical areas:

- Dislocated worker funds (Section 133(b)(2)(B)): The statute directs that dislocated worker funds be allocated to local areas "based on an allocation formula prescribed by the Governor of the State," which the Governor may amend once per program year. No waiver is needed for the state to develop and apply its own DW formula.
- Of the Title I Adult funds not distributed to local areas using the statutory formula factors in Sections 128(b)(2) and 133(b)(2)(A), the Governor has authority under paragraph to

distribute the remaining (up to 30 percent) discretionary share using a formula of the State's own design, developed in consultation with the state workforce development board and consistent with 20 CFR 683.120.

Requested Waiver: Waiver of WIOA Section 134(d)(2) and 20 CFR 680.910 to allow the use of supportive services for participants within 12 months of exit for employment retention.

ETA Response: ETA approves, through June 30, 2028, the State's request to waive the requirement that prohibits the use of Adult and Dislocated Worker funds for provision of supportive services during the 12 months following participant exit and entry into employment. With this waiver, the State can provide targeted supportive services to participants who have exited from the program and entered employment, including recipients of public assistance, to ease temporary barriers that may impede job retention.

Requested Waiver: Waiver for WIOA Section 134(c)(3)(F)(i) and (G) and 20 CFR 680.320(a) and 680.340(a) to allow for all training services to be provided through training contracts.

ETA Response: ETA approves, through June 30, 2028, the State's request to allow contract for services to be used instead of Individual Training Accounts (ITAs). ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of the State to implement its plan to improve the workforce development system. ETA acknowledges the State's intention to maintain ITAs as a training option, but to deploy training contracts as the primary mechanism for delivering training services where contracted models better ensure alignment with employer demand and direct employment outcomes.

Requested Waiver: Waiver to modify the business services provisions at 20 CFR 678.435, to classify certain standardized assessment and skill validation activities as business services.

ETA Response: Tennessee may provide skill assessments as a business service, as described in its request, without a waiver. The regulations at 20 CFR 678.435(c) provide that, "[l]ocal areas may also provide other business services and strategies that meet the workforce investment needs of area employers, in accordance with partner programs' statutory requirements and consistent with Federal cost principles." The non-exhaustive list that follows at 20 CFR 678.435(c)(3) includes "certification for recognized postsecondary credential or other employer use," as one example of an allowable activity.

When an employer initiates the request by having a specific arrangement and directly referring workers for assessment, these activities should be treated as business services. These workers are excluded from eligibility determination and performance reporting. In all other instances, states must report individuals who receive standardized assessments or skill validation activities as participants receiving individualized career services, even when these services are also offered to employers.

Requested Waiver: Waiver of the requirement at WIOA Section 107(i)(1)(B) that alternate entities may carry out the functions of a local workforce development board if they were in existence the day before the enactment of the Workforce Investment Act of 1998 (WIA).

ETA Response: ETA approves the State's request to waive the requirement at WIOA Section 107(i)(1)(B) that alternative entities may carry out the functions of a local workforce development board only if they were in existence the day before the enactment of WIOA.

WIOA Section 107(i)(1)(B) allows a Governor to designate an alternative entity to perform the functions of a local board only if that entity meets the statutory criteria, including having existed before the enactment of WIOA. ETA approves a waiver of this timing requirement, and that the alternative entity serves the service delivery area that most closely corresponds to the local areas. All other statutory criteria for alternative entities remain applicable. The State must ensure that any regional workforce council designated under this waiver meets the requirements of Section 107(i)(1)(C).

In implementing the waiver, the State must:

- Allocate funds by formula to local workforce development areas; and
- Continue to solicit local input, including chief elected official consultation and feedback, into the activities of the regional planning council.

Requested Waiver: Waiver of the performance requirements at WIOA Section 116(c) to allow the State to modify the performance measures used to negotiate local workforce development board performance.

ETA Response: WIOA Section 116(b)(2)(B) allows the State to incorporate State-determined key performance indicators and supplemental workforce system evaluations when assessing the effectiveness of local workforce development areas including information related to:

- Regional labor force participation trends;
- Workforce pipeline development in high-demand industries;
- Impact of workforce initiatives on employer hiring outcomes;
- Wage progression and job retention attributable to workforce services;
- Effectiveness of sector partnerships and employer engagement strategies; and
- Reduction of workforce participation barriers among target populations.

Therefore, a waiver is not necessary.

The State's request indicated that it would use the State-developed indicators and evaluations to inform determinations of subsequent designation of local workforce development areas. Please note that the State may only use the following factors when considering such subsequent designation, as provided by WIOA Section 106(b)(3):

- Successful performance,
- Sustained fiscal integrity, and
- Regional planning compliance.

Requested Waiver: Waiver of WIOA Section 116(b) and 20 CFR 677.155 to exclude WIOA participants referred from the Supplemental Nutrition Assistance Program (SNAP) from WIOA reporting requirements.

ETA Response: ETA does not approve the State's request. As communicated in Training and Employment Guidance Letter (TEGL) No. 05-25: *Maximizing Opportunity in Workforce Innovation and Opportunity Act Programs*, "ETA will not support waiver requests that do not advance the administration's key priorities, such as waivers of performance outcomes of participants and training providers." In addition, ETA notes that WIOA's statistical adjustment model is specifically designed to correct for changes in the characteristics of participants served, including those receiving or eligible for public assistance, such as SNAP. At the end of each program year, the model recalculates expected levels of performance using actual participant characteristics and actual economic conditions experienced during the year. This includes variables directly tied to barriers to employment and receipt of public assistance. As a result, any increase or decrease in the number of SNAP-involved participants is automatically incorporated into the adjustment process, ensuring that states are not disadvantaged by shifts in referral sources or participant characteristics.

Further, the State may also raise anticipated changes in the population served, such as a substantial increase in SNAP-referred participants, during the performance negotiation process. When negotiating levels of performance with ETA, states can incorporate expected shifts in participant characteristics into the discussion that establishes the initial negotiated levels, rather than relying only on the statistical adjustment model to reconcile those changes at the end of the program year. ETA encourages the State to bring this information forward during its next negotiation cycle so that anticipated changes in the SNAP-referred population are reflected in the negotiated targets.

Requested Waiver: Waiver associated with the requirement at WIOA Section 121(d)(2)(A) and 20 CFR 678.605(b) and 20 CFR 678.610 to allow the State to select one-stop operators (OSO) independent of non-competitive procurement requirements.

ETA Response: This request falls outside of the Secretary's waiver authority and, therefore, cannot be approved. WIOA 189(i)(3)(A)(i) prohibits the Secretary from waiving the establishment and functions of local workforce development boards.

Requested Waiver: Waiver associated with the requirement at WIOA Section 121(e) and 20 CFR 678.300(c) to establish and maintain a comprehensive American Job Center (AJC) in each of the State's local workforce development areas.

ETA Response: ETA approves, through June 30, 2028, the State's request to waive the requirement that each local area maintain a comprehensive AJC. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of the State to implement its plan to improve the workforce development system. Before implementing this waiver, the State must provide ETA with the following information:

- Specify which local areas will not maintain a comprehensive AJC; and

- Explain the reasoning and anticipated benefits behind using alternative models, such as hub-and-spoke, affiliate sites, mobile units, or remote service technology, to enhance access in comparison to the current approach.

Requested Waiver: Waiver associated with the infrastructure funding agreement requirements at WIOA Section 121(h) and 20 CFR 678.700-678.755, to allow the State to use a state-governed allocation model for these costs.

ETA Response: This request falls outside of the Secretary's waiver authority and, therefore, cannot be approved. WIOA 189(i)(3)(A)(i) prohibits the Secretary from waiving requirements related to the funding of infrastructure costs for one-stop centers, which would include requirements related to the infrastructure funding agreements that govern the sharing of infrastructure costs. The Department encourages the State to consider the potential of a Workforce Flexibility Plan (Workflex) in meeting the State's goals.

Under a Workflex plan, the State may waive certain statutory or regulatory requirements applicable to local areas. With an approved Workflex plan, the State may approve local area waivers directly, rather than submitting waivers to the Secretary for approval. With this authority, the State can review and approve waivers to local areas, such as a local area request to waive requirements related to the funding of infrastructure costs for AJCs.

The approved waivers are conditioned on the following: WIOA Title I waivers may not be used for any discriminatory purposes. All activities and waiver plan provisions must comply with Section 188 of WIOA, the implementing regulations at 29 CFR Part 38, and all applicable federal nondiscrimination laws.

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,

Marek Laco.
Acting Assistant Secretary

Enclosures

cc: Buddy Hoskinson, Deputy Commissioner, Tennessee Department of Labor & Workforce Development
Renata Adjibodou, Atlanta Regional Administrator, ETA
Elizabeth G. Warner, Federal Project Officer, ETA