

**U.S. Department of Labor**

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



August 6, 2021

The Honorable Gavin C. Newsom  
Governor of California  
State Capitol  
1303 10th Street, Suite 1173  
Sacramento, CA 95814

Dear Governor Newsom:

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 May 19, 2021. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that California will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by California 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 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 Year (PY) 2021, which includes the entire time period for which states are authorized to spend PY 2021 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 California to implement its plan to improve the workforce development system. California may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

In addition, ETA approves for PY 2021, which includes the entire time period for which states are authorized to spend PY 2021 funds, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. California 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 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,



Suzan G. LeVine  
Acting Assistant Secretary

Enclosure

cc: Tim Rainey, Executive Director, California Workforce Development Board  
Annie Leonetti, Dallas/San Francisco Deputy Regional Administrator, Employment and Training Administration  
Latha Seshadri, Federal Project Officer, Employment and Training Administration

**STATE OF CALIFORNIA  
WORKFORCE INNOVATION AND OPPORTUNITY ACT  
WAIVER REQUEST**

**Waiver related to the WIOA 75 percent out-of-school youth expenditure requirement.**

The California Workforce Development Board (CWDB) and the Employment Development Department (EDD), as the administrative entity of the *Workforce Innovation and Opportunity Act* (WIOA), request a waiver of WIOA Section 129(a)(4)(A) that would allow Local Workforce Development Boards (Local Board) to decrease the federal 75 percent Out-of-School (OSY) expenditure requirement to 50 percent. This waiver would provide California with additional flexibility in serving youth who have been the hardest hit by the pandemic. In alignment with WIOA's intent, California expects this waiver would result in an increase in enrollments of In-School Youth (ISY) who face the most significant systemic barriers to education and employment.

***Background***

Under WIOA, Local Boards are required to spend at least 75 percent of their WIOA youth formula allocation on youth workforce investment activities for OSY. While this is a very worthwhile focusing of funds, an unintended consequence of this requirement is the reduced amount of funds that Local Boards have available for serving ISY who are involved in the foster care system, juvenile justice system, and/or experiencing homelessness.

In California, foster care and juvenile justice youth have high rates of not completing high school, entering post-secondary education, or entering the workforce. While this waiver would increase the flexibility that Local Boards have to enroll all eligible ISY, California is specifically hoping to see an increase in access to services for systems involved youth and youth experiencing homelessness so that they can be served through workforce development programs to support their continued engagement in education or training prior to disengagement.

***Los Angeles Performance Pilot Partnership Waiver***

This increased flexibility was shown to increase overall enrollments for these target populations when it was utilized by the Los Angeles Performance Partnership Pilot. The City of Los Angeles Local Board applied to the US Department of Labor (DOL) and US Department of Education (DOE) to be a federally designated Performance Partnership Pilot (P3). As a part of this P3 designation by the DOE and the DOL, the City of Los Angeles Local Board was granted a waiver that allowed them to enroll ISY foster, juvenile justice, and youth experiencing homelessness, and count the funds spent on these youth towards the 75 percent OSY expenditure requirement. This waiver flexibility was also extended to all Local Boards in the Los Angeles Basin Regional Planning Unit. Utilizing the City of Los Angeles Local Board as the test case for effectiveness of this waiver, the figures below show a consistent increase in overall enrollments of youth from these systems, despite their ISY/OSY status.

<b>Program Year (PY)</b>	<b>Foster Youth</b>	<b>Homeless Youth</b>	<b>Juvenile Justice Youth</b>
PY 16-17	52	198	56
PY 17-18	75	350	113
PY 18-19	90	455	150

Please note – The data above only reflects the City of Los Angeles Local Board utilization of the waiver for those who were enrolled in the youth WIOA funding stream.

***Statutory Citation***

WIOA Section 129(a)(4)(A)

***Actions to Remove State or Local Barriers***

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

***State Strategic Goals Supported by the Waiver***

This waiver aligns with the following strategic goals outlined in the California Unified Strategic Workforce Development Plan:

- Fostering demand-driven skills attainment.
- Enabling upward mobility for all Californians.
- Aligning, coordinating, and integrating programs and services.

***Projected Programmatic Outcomes Resulting from Waiver Implementation***

While it can be hard to provide an exact number given the pandemic’s impact on school reopening, and the variance in how many disconnected youth are in each Local Workforce Development Area, the CWDB anticipates that Local Boards who apply for and utilize this waiver will see an increase of approximately 15 percent, in the total number of ISY that they enroll who meet the WIOA defined youth barriers related to foster care, justice involved, and/or homelessness. Using California’s Program Year 2019-20 data as a benchmark, a 15 percent increase would equate to approximately 695 more ISY youth from the identified target populations enrolled statewide for every full program year the waiver is in effect.

***Individuals Impacted by the Waiver***

This waiver is intended to increase the enrollment of ISY who meet one or more of the following WIOA defined ISY barriers:

- An offender.

- A homeless individual or runaway.
- An individual in foster care or who has aged out of the foster care system.
- An individual who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the *Social Security Act*, or in an out-of-home placement.

### ***Monitoring Progress and Implementation***

The CWDB and the EDD will establish an application process for Local Boards who want to access this waiver. This will allow the state to make waiver approval contingent upon Local Boards meeting certain criteria and requirements, such as establishing the following:

- A baseline of systems-involved youth served.
- A target percentage of increased enrollments Local Boards will meet over the period of the waiver.

This will also allow the state to better track Local Boards' use of the waiver in order to determine if there is a significant impact on services to the target populations.

### ***Notice to Local Workforce Development Boards and Public Comment***

The State of California posted the proposed waiver on the CWDB website for a 5 day public comment period, and did not receive any negative feedback.