

**U.S. Department of Labor**

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



June 23, 2020

The Honorable Charles Baker  
Governor of Massachusetts  
24 Beacon Street  
Room 360  
Boston, MA 02133

Dear Governor Baker:

Thank you for your waiver requests 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. The waiver requests were received March 27, 2020, as part of your recent WIOA State Plan submission. This letter provides the Employment and Training Administration's (ETA) official response to your requests and memorializes that Massachusetts will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Massachusetts 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: The Commonwealth is requesting a waiver of WIOA Section 134(c)(3)(H)(i) and 20 CFR 680.720 (b) in order to increase on-the-job training (OJT) employer reimbursement up to 90 percent for businesses with 50 or fewer employees.

ETA Response: ETA conditionally approves the Commonwealth's waiver request through June 30, 2022, for the WIOA Title I Adult, Dislocated Worker, and Youth formula funds. Prior to implementation, the Commonwealth must update its waiver request to include projected quantifiable outcomes resulting from this waiver as well as information regarding results attained during its previous implementation of this waiver. ETA reviewed the Commonwealth's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Massachusetts to implement its plan to improve the workforce development system. Existing statutory authority permits the Commonwealth and its local workforce areas to increase the reimbursement rate for OJT contracts up to 75 percent. The Commonwealth may also reimburse up to 90 percent for OJT for businesses with 50 or fewer employees. ETA expects the utilization of OJT to increase as a result of this waiver.

Requested Waiver: Waiver of the obligation of eligible training providers (ETPs) to report performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and 122 and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.

ETA Response: The Commonwealth's request to waive the obligation of ETPs to report performance data on all students in a training program is approved through June 30, 2021. ETA reviewed the Commonwealth's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Massachusetts to implement its plan to improve the workforce development system. The Commonwealth must provide information regarding how the Governor will take into account the outcomes of all students in an ETP program of study, with respect to their employment and earnings, as required for the demonstration of continued eligibility in 20 CFR 680.460(f)(1)(iii) and WIOA Section 122. The Commonwealth will continue to collect and report data for all WIOA-funded participants in accordance with all statutory and regulatory requirements, including WIOA Sections 116 and 122, and as specified at 20 CFR 677.230 and 680.460. While ETA recognizes the importance of informing consumer choice through the provision of quality data on training outcomes, we also recognize that the systems to collect the required performance data from providers take time to develop and implement in a way that maximizes training provider participation, which is a critical component of the workforce development system. Starting July 1, 2021, the Commonwealth's obligation to report performance data on all students in a training program will be reinstated.

The Commonwealth 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. The Department proposed additional flexibility in its budgets for Fiscal Years 2018 through 2021 to give governors more decision-making authority to meet the workforce needs of their states. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,



John Pallasch

cc: Rosalin Acosta, Secretary, Executive Office of Labor and Workforce Development  
Alice Sweeney, Director, MassHire Department of Career Services  
Leo Miller, Boston/Philadelphia Regional Administrator, ETA  
Kate Banimenia, Federal Project Officer, ETA