

**U.S. Department of Labor**

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



August 4, 2022

The Honorable Pete Ricketts  
Governor of Nebraska  
P.O. Box 94848  
Lincoln, NE 68509

Dear Governor Ricketts:

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 requests were received March 24, 2022, as part of your recent WIOA State Plan modification. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Nebraska will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Nebraska 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 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 Year (PY) 2022 and PY 2023, which includes the entire time period for which states are authorized to spend those 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 Nebraska to implement its plan to improve the workforce development system. Nebraska may eliminate the OSY expenditure requirement for Governor's reserve funds.

In addition, ETA approves for PY 2022 and PY 2023, which includes the entire time period for which states are authorized to spend those funds, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. Nebraska 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 is also approved to calculate the lowered 50 percent expenditure rate at the State level instead of individually for each local area.

Requested Waiver: Waiver of 20 CFR 681.550 to allow WIOA individual training accounts (ITAs) for ISY.

ETA Response: ETA approves, for PY 2022 and PY 2023, the State's request to waive the requirement limiting ITAs to only OSY, ages 16–24. In addition to these OSY, the State may use ITAs for ISY, ages 16–21. ETA reviewed Nebraska's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Nebraska to implement its plan to improve the workforce development system. Approval of this waiver should not impede the State's efforts to prioritize OSY, including outreach to the OSY population

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,



Brent Parton  
Acting Assistant Secretary

Enclosure

cc: John Albin, Commissioner, Nebraska Department of Labor  
Pam Gerassimides, Chicago Regional Administrator, ETA  
Christopher Mendoza, Federal Project Officer, ETA

## Nebraska PY 2022 Waiver Requests – Extracted from WIOA State Plan Portal March 24, 2022

### 1. Waiver of the 75 percent out-of-school youth expenditure requirements

#### Background

Nebraska is committed to providing in-school youth (ISY) with a variety of opportunities aimed at increasing high school graduation rates, attainment of postsecondary credentials, and quality employment in in-demand occupations.

#### Nebraska[1]

Nebraska's ongoing commitment to increasing high-school graduation rates, attainment of postsecondary credentials, and quality employment in in-demand occupations for in-school youth is evident through its implementation of JAG Nebraska. JAG National was launched in 1979 and is currently operating in 40 states, serving more than 1.4 million students since 1979. In January of 2019, JAG Nebraska started with three sites in Columbus, Fremont, and Macy. On July 1, 2020 JAG Nebraska established a multi-year partnership with the Nebraska Department of Labor (NDOL) and United Way of the Midlands (UWM). UWM holds the affiliation agreement with JAG National for the JAG Nebraska program and through this governance structure JAG Nebraska is forming a broad base of public, philanthropic, and education support from the school districts in creating a strong and programmatic foundation. Because of the excitement and progress of JAG Nebraska, Nebraska welcomed numerous new JAG Nebraska sites starting in the Fall of 2020:

- Fremont High School (grades 9 and 10);
- Grand Island Senior High School (grades 11 and 12);
- Hastings Senior High School (grades 11 and 12);
- Nebraska City High School (grades 11 and 12); and
- York High School (grades 11 and 12);
- Omaha Public School system (OPS):
  - Bryan Middle School and Monroe Middle School (grades 7 and 8)
  - Benson High School (grades 9 and 10);
  - Bryan High School (grades 9 and 10); and
  - Nathan Hale Middle School (grades 7 and 8);
  - Norris Middle School (grades 7 and 8).

Table 103. Actual JAG Nebraska enrollments, program year 2019

Program Year 2019	# of students
Total Enrollment PY2019-2020 (three programs)	130
Total Number in Follow Up (Class of 2019)	13
Total Number Served (Class of 2020)	143

Table 104. Actual JAG Nebraska enrollments, Program Year 2020

Program Year 2020	# of students
Total Enrollment PY2020-2021 (10 programs)	354
Total Number in Follow Up (Class of 2020)	44
Total Number Served (Class of 2021)	398

Table 105. Projected JAG Nebraska enrollments, Program Year 2021

Program Year 2021	# of students
Projected Number of Participants PY2021-2022 (14 programs)	580
Total Number in Follow Up (Class of 2021)	114
Projected Number Served including Follow Up PY2021-2022	694

JAG Nebraska’s program model continues to be successful in addressing dropout prevention by providing schools in Nebraska with resources that engage student learning, promote healthy lifestyles, remove barriers that impede student success. JAG Nebraska also

provides supportive services to reduce absenteeism, decrease office referrals, raise GPAs and motivate Nebraska’s young adults to become successful after high school graduation.

JAG Nebraska strives to select those students with the highest need for the program. When selecting students for the program, JAG Nebraska considers three key factors:

1. Do the students need, want, or can they benefit from the services JAG Nebraska provides?
2. Does the class roster indicate equitable composition, 50 percent female and 50 percent male?
3. Is JAG Nebraska recruiting 25 percent of the students considered top tier academically, 50 percent in the middle tier, and 25 percent in the lower tier?

The top five challenges that JAG Nebraska students struggle with on a daily basis are ranked below in Table 106.

Table 106. Top 5 challenges to reaching success

Rank	Challenge	% of students experiencing challenges
1	Lacking marketable occupational skills that are in demand in the labor market	92
2	Economically disadvantaged, defined by public assistance, TANF, or free lunch status	86
3	Having inadequate or no work experience	84
4	Lacking motivation or maturity to pursue education or career goals	78
5	Experiencing low academic performance	71

Since the pandemic began, JAG Nebraska specialists continued to support JAG students both in-school and virtually. Daily lessons were provided to all participants and each participant was responsible for submitting homework, which was recorded for accountability. The JAG Nebraska specialists also documented records on absenteeism, office referrals, GPAs, and noting whether or not students were on track to graduate. The latter was determined by the number of passing grades they received in a given time

period or credit deficiency. This information was collected from prior year, end of year (December 2019, pre-pandemic), mid-year (January 2021), and end of year (June 2021). From this data, JAG Nebraska determined that absences increased during that timeframe by 19 percent and office referrals decreased by 0.06 percent. During the same time period, GPAs increased by 0.08 percent and 87 percent of all JAG participants were on track to graduate, a 10 percent increase from the pre-pandemic period.

Every JAG Nebraska high school graduate receives 12 months of follow-up support services after graduation. The JAG Nebraska program relies heavily on the outcomes entered into the JAG Force data management system with the end goal of assuring the successful transition from graduation to full or part time employment, enlistment in the military, or post-secondary education for each graduate. On May 31, 2021, JAG Nebraska collected performance data and the results for the Class of 2020 were exemplary. This data is what sets JAG Nebraska apart from the rest. Through this accountability system, JAG Nebraska continues to raise the bar on reaching successful graduation rates, positive outcomes, and placements in employment, post-secondary education, vocational training, trade certification, or the military.

Table 107 lists JAG Nebraska’s performance outcomes as of May 31, 2021 across the three programs at Columbus High School, Fremont High School and Umó’ho’ Nation School, Macy. For the Class of 2020, the graduation rate was a remarkable 100 percent, while the nation’s overall graduation rate was 85 percent.

Table 107. JAG Nebraska performance outcomes for the Class of 2019 and the Class of 2020

Metrics	JAG standard	Class of 2019	Class of 2020	Class of 2021 <sup>[2]</sup>
Graduates	90%	100%	100%	94%
Non-graduates	<2%	0/13	0/44	7/114
Total civilian job placements and military service	60%	54%	77%	N/A
Total in full-time employment	60%	29%	79%	N/A
Total positive outcomes	75%	92%	86%	N/A
Further education rate	35%	38%	43%	N/A

## Registered Apprenticeship

In 2016, Nebraska received an ApprenticeshipUSA Accelerator Grant to support rapid expansion of Registered Apprenticeship programs in Nebraska. Nebraska increased employer participation in Registered Apprenticeship by 31 percent during the grant period, June 2016 – May 2018. Since the conclusion of the Accelerator Grant, NDOL has continued its efforts to facilitate development of Registered Apprenticeship in Nebraska, in partnership with Nebraska’s US Department of Labor Office of Apprenticeship; and employers continue to demonstrate willingness to work collaboratively with one-stop delivery system partner programs, especially in relation to work-based education and training programs. This is apparent in light of the 65 percent increase in the number of Registered Apprenticeship programs across Nebraska between 2018 and 2022, including youth Registered Apprenticeship programs, as well as the 34 percent increase in the total number of participating employers between 2018 and 2022 (Table 108).

Table 108. Nebraska registered Apprenticeship programs and participating employers, 2018 to 2022

<b>FY</b>	<b>Total programs</b>	<b>Registered programs</b>	<b>Total active employers (working with group programs)</b>	<b>New participating employers</b>
2018	63	10	140	0
2019	76	16	151	11
2020	86	10	156	5
2021	102	16	177	21
2022	104	2	188	11

Source: US Department of Labor Office of Apprenticeship, Omaha, Nebraska, January 14, 2022

In addition to expanding Registered Apprenticeship in Nebraska, the Nebraska Department of Labor (NDOL), in partnership with the US Department of Labor State Office of Apprenticeship, has developed and continues to develop Registered Apprenticeship programs for youth, ages 16 and older, through collaboration with public and private high schools and employers in Nebraska. The youth Registered Apprenticeship programs allow high school juniors and seniors to simultaneously further their educational attainment and earn wages. This provides participating youth with significant advantages as they embark on their career pathways.

## Impact

Together, Nebraska’s local WIOA Title I youth programs, JAG Nebraska, and Registered Apprenticeship provide all of the 14 Title I youth program elements (Table 109). However, given the 25 percent limitation on ISY spending, the impact of these evidence-supported and proven programs for ISY is limited. Waiver approval would increase ISY spending, support increased ISY participation in JAG Nebraska and Registered Apprenticeship, and result in increased positive outcomes for Nebraska’s ISY. Additional ISY funding made available through approval of this waiver could also be utilized to provide ISY with incentive payments in recognition of achieving predetermined benchmarks and goals that align with Title I youth programs and participation in Registered Apprenticeship and pre-apprenticeship programs and JAG, which will likely increase ISY program participation, retention, and completion.

**Table 109. Alignment of Title I youth program services, Registered Apprenticeship, and JAG**

WIOA Title I Youth Program Elements	Title I youth services	Registered Apprenticeship	JAG Nebraska
1. Tutoring, study skills training, instruction and dropout prevention	X	X	X
2. Alternative secondary school and dropout recovery services	X	-	X
3. Paid and unpaid work experience	X	X	X
4. Occupation skills training	X	X	-
5. Education offered concurrently with workforce preparation	X	X	X



WIOA Title I Youth Program Elements	Title I youth services	Registered Apprenticeship	JAG Nebraska
6. Leadership development opportunities	X	-	X
7. Supportive services	X	-	X
8. Adult mentoring	X	X	X
9. Comprehensive guidance and counseling	X	-	-
10. Financial literacy education	X	-	-
11. Entrepreneurial skills training	X	-	X
12. Services that provide labor market information	X	-	X
13. Postsecondary preparation and transition activities	X	X	X
14. Follow-up services	X	-	X

In addition to serving more ISY, approval of this waiver will also benefit Nebraska’s economy through the development of a diverse and skilled workforce through development of career pathways, one of Nebraska’s two key goals (see Section II.b.2.). Collectively, expansion of JAG Nebraska and Registered Apprenticeship programs for youth, result in enhanced career pathway opportunities for

ISY, as well as OSY, leading to increased high-school graduation rates, attainment of postsecondary credentials, and quality employment in in-demand occupations. In addition, these efforts (a) foster stronger relationships among Nebraska's workforce system partners, including communities, secondary and postsecondary schools, and parents and families and (b) increase the impact of shared goals to support Nebraska youth, and (c) build a strong talent pipeline.

### **Statutory and/or regulatory requirements to be waived**

NDOL is seeking a waiver of requirements established under WIOA Sec. 129(a)(4)(A) and 20 CFR § 681.410, which mandate that at least 75 percent of funds allotted to states under WIOA Sec. 127(b)(1)(C), reserved under WIOA Sec. 128(a), and available for statewide activities under WIOA Sec. 129(b) must be used to provide youth workforce investment activities for OSY; and available to local workforce development areas (local areas) under WIOA Sec. 129(c) be used to provide youth workforce investment activities for OSY.

1. NDOL is seeking a waiver of the requirement to expend at least 75 percent of youth formula funds on OSY. Nebraska is requesting that the required OSY expenditure rate be reduced to 50 percent.
2. NDOL is seeking a waiver of the requirement that local area OSY spending meet the 75 percent minimum expenditure rate. In addition, Nebraska is requesting that the 50 percent OSY expenditure rate be calculated at the state-level rather than by each local area's rate of expenditure.
3. Nebraska is seeking a waiver of the limitation that no more than 25 percent of local area youth formula funds be expended on ISY workforce investment activities. In addition, Nebraska is requesting that the 50 percent ISY expenditure rate be calculated at the state-level rather than by each local area's rate of expenditure.
4. Nebraska is seeking a waiver of the requirement to expend 75 percent of the Governor's reserve of youth formula funds on OSY statewide workforce investment activities. Nebraska is requesting that this percentage-expenditure requirement be eliminated to allow flexibility of funding for special projects that meet the vision *and goals of Nebraska*.

### **Actions undertaken to remove state or local statutory or regulatory barriers**

Currently, there are no state or local statutory or regulatory barriers to implementing the requested waiver. State law, regulations, and policy statements are in compliance with current Federal law.

## **State strategic goal**

Nebraska's strategic goal under this waiver is to increase the number of youths participating in evidence-based programs that result in positive outcomes for ISY and OSY, including high school graduation, participation in postsecondary education, career development, and employment. This goal aligns with one of Nebraska's two-part statewide goals for preparing an educated and skilled workforce that meets the needs of employers is the: selection and prioritization of development of career pathways (see Section II.b.2.).

## **Projected programmatic outcomes resulting from waiver implementation**

The projected programmatic outcomes during the performance of this waiver are:

- 10 new ISY participating in JAG Nebraska statewide during each of Program Years 2022 and 2023;
- 5 new ISY participating in youth Registered Apprenticeship programs during each of Program Years 2022 and 2023;
- 10 percent increase in local area high school graduation rates among Title I youth participating in JAG Nebraska compared to Title I youth not participating in JAG Nebraska during Program Years 2022 and 2023; and
- 10 percent statewide increase in Q2 and Q4 employment retention rates among Title I youth participating in youth Registered Apprenticeship programs compared to Title I youth not participating in youth Registered Apprenticeship programs during Program Years 2022 and 2023.

## **Alignment with Department policy priorities**

WIOA places an emphasis on pre-employment education and development as well as access to work-based learning opportunities. The purposes of JAG Nebraska strongly support the purposes of local area Title I youth programs, especially in relation to drop-out prevention. Further, and as stated in TEN 31-16, Registered Apprenticeship is a (a) valuable work-based training opportunity that can provide youth with academic and workplace skills and (b) proven model of job preparation that combines paid on-the-job training and related instruction to progressively increase workers' skill levels and wages. Approval of this waiver will align with the Department's policy priorities for Title I youth programs through increased services for ISY leading to greater numbers of skilled youth available to enter the workforce.

### **Individuals, groups, or populations benefitting from the waiver**

Approval of this waiver will enhance Nebraska's ability to serve ISY, including those with basic skills deficiency and those who are English language learners, offenders, in or have aged out of foster care, pregnant or parenting, have a disability, or require additional assistance to complete education or secure employment.[\[3\]](#)

Approval of this waiver will also enhance local area Title I youth programs ability to enhance services for ISY, while continuing to serve OSY.

### **Monitoring of waiver implementation and outcome**

NDOL will monitor progress and ensure accountability for use of Federal funds in connection with this waiver by collecting and reviewing monthly expenditure and performance data. In addition, NDOL will utilize a pre-existing framework to develop relevant performance data reports to assist impacted Title I service providers with effectively monitoring the agreed-upon, objectively measurable, projected programmatic outcomes associated with this waiver. NDOL will utilize internal data reporting available in its management information system of record (NEworks). These reports will be provided to impacted Title I youth programs.

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

On February 16, 2022, NDOL published this waiver request on its public website, as part of the publication of the 2022 modification of Nebraska's Combined State Plan. NDOL published a "Notice of Public Comment" in major newspapers statewide regarding this waiver request. The mandatory 30-day public comment period will be provided, commencing on February 16, 2022. The State received no public comments on this waiver request.

## **2. Waiver of the prohibition against ISY use of individual training accounts (ITAs) for occupational skills training**

### **Background**

In addition to enhancing services for ISY through approval of the waiver of the OSY 75 percent expenditure rate, as described above, reduction of the mandatory expenditure rate to 50 percent (measured statewide) will meet an identified need among Nebraska's Title I youth programs, providing opportunities for ISY to participate in occupational skills training using youth-program funded ITAs.

All of Nebraska's local area Title I youth programs have expressed interest in and support of a waiver that would allow ISY to utilize ITAs funded by Title I youth programs in order obtain credentials through occupational skills training, especially ISY youth who are low-income and seeking a credential that would their attainment of part-time employment, while attending school and allow the ISY to contribute to household income, as needed. In addition to expanding options for ISY occupational skills training, approval of this waiver would:

- enhance ISY consumer choice regarding occupational skills training;
- reduce paperwork regarding Title I youth participants who are age-eligible for Title I adult programs and required to co-enroll in a Title I adult program in order to use an ITA to obtain Title I funded occupational skills training; and
- reduce financial burden on Title I adult programs resulting from co-enrollment of Title I youth program participants, solely for the purpose of establishing an ITA to support occupational skills training.

This waiver request, if approved, supports principles of accountability and ease of administration. Co-enrollment of Title I youth ages 18 and older in a Title I adult program would not be necessary under this waiver and would eliminate administrative burdens associated with unnecessary co-enrollment. Further, an ITA could be issued from one Title I funding source and would increase programmatic accountability. In addition, approval of this waiver would enhance the availability of occupational skills training to ISY ages 14 and older.

### **Statutory and/or regulatory requirements to be waived**

NDOL is seeking a waiver of requirements established under 20 CFR § 681.550.

### **Actions undertaken to remove state or local statutory or regulatory barriers**

Currently, there are no state or local statutory or regulatory barriers to implementing the requested waiver. State law, regulations, and policy statements are in compliance with current Federal law.

### **State strategic goal**

Nebraska's strategic goal under this waiver is to enhance efforts of state plan partners regarding goals and strategies to overcome barriers to participation in career pathway program and system (see Sections II.b.2. and II.c.).

## **Projected programmatic outcomes resulting from waiver implementation**

The projected programmatic outcomes during the performance of this waiver are:

- establishment of 30 ITAs (statewide) using Title I youth program funds during each of Program Years 2022 and 2023; and
- credential attainment rates of 90 percent among Title I youth program participants who have utilized an ITA funded by Title I youth programs.

## **Alignment with Department policy priorities**

In the WIOA Final Rule, the intent of using ITAs for Title I OSY is to expand training options, increase program flexibility, enhance consumer choice, and reduce paperwork. Nebraska wants ISY to also have the same options. Implementation of this waiver, if approved, would encourage ISY to seriously consider career pathways in in-demand occupations. Approval of this waiver would also assist with preparation of an emerging workforce with candidates who are ready for work.

## **Individuals, groups, or populations benefitting from the waiver**

1. Approval of this waiver will enhance Nebraska's ability to serve ISY, including those with basic skills deficiency and those who are English language learners, offenders, in or have aged out of foster care, pregnant or parenting, have a disability, or require additional assistance to complete education or secure employment.[\[4\]](#)

Approval of this waiver will also enhance the ability of local area Title I youth programs to enhance services for ISY, while continuing to serve OSY.

## **Monitoring of waiver implementation and outcome**

NDOL will monitor progress on implementation of this waiver and ensure accountability for use of Federal funds in connection with this waiver during routine monitoring and oversight of local area Title I subrecipients.

## Notice to Local Boards and Public Comment

On February 16, 2022, NDOL published this waiver request on its public website, as part of the publication of the 2022 modification of Nebraska’s Combined State Plan. NDOL published a “Notice of Public Comment” in major newspapers statewide regarding this waiver request. The mandatory 30-day public comment period will be provided, commencing on February 16, 2022. The State received no public comments on this waiver request.

[1] JAG Nebraska, “2020 – 2021 End-of-Year Report”

[2] Performance outcomes for Class of 2021 will be collected for the 2021 Program Year during the 12-month follow up period. With 7 non-graduates the specialists will work those students to see that they have a plan and are on track to graduate before the follow up period ends on May 31, 2022.

[3] 20 CFR § 681.220(d)

[4] 20 CFR § 681.220(d)