

U.S. Department of Labor

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



May 26, 2020

The Honorable Kristi Noem
Governor of South Dakota
500 East Capitol Avenue
Pierre, SD 57501

Dear Governor Noem:

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 (copy enclosed). The waiver request was received February 28, 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 South Dakota will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by South Dakota 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–Peysner Act in WIOA Section 189(i).

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 State'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 State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of South Dakota to implement its plan to improve the workforce development system. The State 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 State 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 State's obligation to report performance data on all students in a training program will be reinstated.

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

ETA Response: ETA approves, through June 30, 2022, the State's request to waive the requirement limiting ITAs to only out-of-school youth (OSY), ages 16–24. In addition to these OSY, the state may use ITAs for ISY, ages 16–21. ETA reviewed the state's waiver request and plan and has determined that the requirements requested to be waived impede the ability of South Dakota 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.

Requested Waiver: Waiver associated with the requirement at WIOA Section 129(a)(4)(A) and 20 CFR 681.410 that the State expend 75 percent of Governor's reserve youth funds on out-of-school youth (OSY).

ETA Response: ETA conditionally approves for Program Years (PYs) 2019 and 2020, which includes the entire time period for which states are authorized to spend PY 2019 and 2020 funds, the State's request to waive the requirement that the State expend 75 percent of Governor's reserve youth funds on out-of-school youth (OSY). Prior to implementation of this waiver, the State must update its waiver request to include projected quantifiable outcomes (i.e., for the core indicators under WIOA or shorter-term state-defined indicators) for WIOA youth served under the waiver. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of South Dakota to implement its plan to improve the workforce development system. South Dakota may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

The State must report its waiver outcomes and implementation of each approved waiver 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,

A handwritten signature in blue ink, appearing to read "John Pallasch".

John Pallasch

Enclosure

cc: Marcia Hultman, Secretary, South Dakota Department of Labor and Regulation
Kendra Ringstmeyer, Director, Division of Workforce Training
Nicholas Lalpui, Dallas Regional Administrator, ETA
Cliffin Atkinson, Federal Project Officer, ETA