**U.S. Department of Labor**

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

June 23, 2026

The Honorable Josh Green
Governor of Hawaii
Executive Chambers
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Governor Green:

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 on April 4, 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 Hawaii will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Hawaii 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 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 2027, which includes the entire time period for which states are authorized to spend each of those PY fund allotments, 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 State to implement its plan to improve the workforce development system. The State may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

In addition, ETA approves, for PYs 2026 and 2027, which includes the entire time period for which states are authorized to spend each of those PY fund allotments, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. The State may lower the local youth funds expenditure requirement to 50 percent for OSY.

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

ETA Response: ETA approves, for PYs 2026 and 2027, 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 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.

Requested Waiver: The State 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 approves the State's waiver request, through June 30, 2028, for the WIOA Title I Adult, Dislocated Worker, and Youth formula funds. 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. Existing statutory authority permits the State and its local workforce areas to increase the reimbursement rate for OJT contracts up to 75 percent. The State may also reimburse up to 90 percent for OJT for businesses with 50 or fewer employees. ETA expects the utilization of OJT to increase in the State as a result of this waiver.

Requested Waiver: Waiver of the requirements outlined in WIOA Section 107(b) to allow a state workforce development board to carry out the roles and responsibilities of a local board.

ETA Response: ETA approves, through June 30, 2028, the State's request for a waiver to allow the state board to carry out the roles of the Kaui workforce development board. 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. Given the support for this waiver request by the local elected officials in the local area and the challenges the State and local area have in mounting a fully compliant local-led board at this time, ETA agrees that the state board is in a better position to ensure effective service delivery in the local area in Hawaii. Under this waiver, the Governor may designate the state board to carry out the roles and responsibilities of the local board in the State. In implementing this waiver, the State must:

- Continue to include local input into its activities; and
- Allocate funding to the local area for which the State Board is carrying out Local Board functions.

Requested Waiver: Waiver of the Wagner-Peyser merit staffing regulation to provide greater flexibility in staffing methods.

ETA Response: ETA does not approve or disapprove this waiver because it is unnecessary. On January 21, 2026, ETA published a rule, *Wagner-Peyser Act Staffing, Delay in Merit Staffing Compliance Date*, which delayed by one year the state merit staff requirements set by the 2023 *Wagner-Peyser Act Staffing Final Rule*. States have until January 21, 2027, to comply with the staffing requirements set by the 2023 *Wagner-Peyser Act Staffing Final Rule*.

Requested Waiver: Waiver for Wagner-Peyser regulation at 20 CFR 653.107(a)(4), which requires that there must be full-time outreach staff during periods of the highest migrant and seasonal farmworker (MSFW) activity and that all outreach staff must be multilingual, if warranted by the characteristics of the MSFW population in the State, and spend a majority of their time in the field. Additionally, the State seeks to waive the requirements at 20 CFR 653.108(e) which states that the State Monitor Advocate (SMA) must not perform work such as outreach, complaint processing, and processing services under the Agricultural Recruitment System (ARS) and that the SMA must devote full-time staffing to SMA functions.

ETA Response: ETA does not approve this waiver. The request relates to requirements for administering a system of clearing labor, a function of the ES office as set forth under Section 3 of the Wagner-Peyser Act. Section 189(i) of WIOA gives the Secretary authority to waive certain provisions of the Wagner-Peyser Act, but the authority is limited to statutory and regulatory requirements related to Sections 8 through 10 of the Wagner-Peyser Act. Accordingly, the State's request is outside of the Department's waiver authority. The Department supports state flexibility and is ready to work with the State to explore other flexibilities that may be helpful to improve outcomes for jobseekers and employers. While the request exceeds the Department's waiver authority, please note that the Department recently published TEN No. 09-25: *Exercise of Enforcement Discretion Regarding Certain Wagner-Peyser Act Employment Service Regulations*, which notifies States that ETA will temporarily not enforce certain ES regulatory requirements identified in the TEN, including 20 CFR 653.107(a)(4). Additionally, the ES regulations at 20 CFR 653.108(e) explain that Regional Administrators may approve State requests for part-time SMA staffing, and the parameters for doing so. Please contact your Regional Monitor Advocate with any questions.

The State is reminded that 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,

Henry Mack

Henry Mack, Ed.D.
Assistant Secretary

Enclosures

cc: Maricar Pilotin-Freitas, Administrator, Workforce Development Division, Hawaii Department of Labor & Industrial Relations
Dr. Tamika Ledbetter, San Francisco Regional Administrator, ETA
Anthony Crouch, Federal Project Officer, ETA

**Hawaii 2026 State Plan Waivers**

**Received April 4, 2026**

**State of Hawaii 2026 Modified State Plan Waiver Requests**

The State of Hawaii is requesting the following 6 waivers:

1. Section 129(a)(4)(A) and 20 CFR 681.410 which requires not less than 75% of funds allocated to states under Section 127(b)(1)(C), reserved under Section 128(a), shall be used to provide youth workforce investment activities for Out-of-School youth. Hawaii is requesting a waiver to reduce the 75% funding requirement for out-of-school youth to 50%. (USDOL has issued 30 waivers as of January 1, 2026)
2. Waiver of WIOA Section 134(c)(3)(H)(i) and CFR 680.720 (b) which limits employer reimbursement for the costs of providing training and supervision in an On-the-Job Training program to 50% of the participant's wage rate. Hawaii is requesting a waiver to allow up to 90% for employers with 50 or fewer employees, as allowed under WIOA Section. (USDOL has issued 9 waivers as of January 1, 2026)
3. Waiver of 20 CFR 681.550 which permits Individual Training Accounts (ITAs) for out-of-school youth ages 16 to 24. Hawaii requests allowing ITAs for in-school youth ages 16 to 24. (USDOL has issued 19 waivers)
4. Waiver to allow the State Board to act as the Local Board (Kauai). Hawaii's current waiver expires June 30, 2028. The request is to extend the waiver period.
5. Waiver for Wagner-Peyser merit staffing regulation to provide greater flexibility in staffing methods used to maximize use of Wagner-Peyser funds and improve service delivery to jobseekers and employers.
6. Waiver for Wagner-Peyser regulations pertaining to full-time and multilingual outreach staff and other requirements for serving migrant and seasonal farmworkers.

**Waiver Details**

**Waiver #1:**

**Requesting a waiver of the requirement that state and local workforce areas spend no less than 75% of youth funds for services to Out-of-School Youth**

**Statutory and/or regulatory requirements the state would like to waive:**

The State of Hawaii is seeking a waiver of the requirement under WIOA Section 129(a)(4) and 20 CFR 681.410 that the state and local workforce areas spend no less than 75 percent of youth funds to provide services to Out-of-School Youth (OSY).

The State of Hawaii Workforce Development Council (WDC) is requesting this waiver to allow flexibility to lower the expenditure requirement of OSY Formula funding from 75% to 50%, for both statewide and local activities, based on the needs of Hawaii's Youth population.

Hawaii's goal is to increase the number of In-School Youth (ISY) served, which will increase at-risk ISY's access to opportunities to education, training, employment, career pathways, and support services. The goal directly relates to goals and strategies in the State plan.

**Actions the state has undertaken to remove state or local barriers:**

Currently, no State or local statutory or regulatory barriers exist that would prevent the implementation of the waiver.. Hawaii regulations and policies comply with current federal law.

**Describe the state's strategic goal(s):**

Hawaii's goal is to increase the number of ISY served by 15%. As a result of more ISY being served, the programmatic outcomes include an increase in high school completion rates and a resulting increase in the youth credential attainment rates and measurable skill gains. Other improved outcomes for ISY include expanding access to career exploration, paid and unpaid work experience, and support services.

Some local areas report that in Program Year 2024, approximately 45-55 percent of youth applicants were in-school youth with one or more barriers to employment, including low income, disability, or foster care status. With the flexibility allowed by the waiver, local areas will be able to serve these youth who would benefit from early intervention and career pathway services. The ability to provide these services aligns with the State Plan by promoting early engagement, preventing disconnection from education and employment, improving long-term employment outcomes for youth, and addressing workforce shortages in the State.

Approval of this waiver would permit Boards the opportunity to determine how best to meet the educational and training needs of youth, regardless of school status, and specific to the population, geographical location, and economic and employment conditions of the local area. Increasing outreach to ISY while still maintaining a focus on serving OSY will help develop a stronger future talent pipeline to fill the future needs of employers in their workforce areas and throughout the state. Also, in line with the state's strategic goals, the

Boards will also be able to use the Youth program funds more effectively, reduce fragmentation of programs and improve service delivery efficiency.

**Projected Programmatic Outcomes Resulting from Implementation of the Waiver:**

While all Boards may not choose to utilize this waiver, WDC anticipates that the implementation of this waiver will allow Hawaii to increase ISY enrollments by 15% which will lead to an increase in the number of ISY that earn measurable skill gains and industry recognized credentials.

Boards are requesting flexibility to provide appropriate and needed services to ISY with barriers to employment and to use their Youth funds more effectively and efficiently while serving both populations of youth.

**Individuals, groups, or populations benefiting or otherwise impacted by the waiver from the waiver:**

The waiver would affect ISY with barriers to employment, including low-income youth, youth with disabilities, foster and former foster youth, English learners, and homeless or house-insecure youth, and youth at-risk of disengaging from education.. No adverse impacts on OSY are expected.

Stakeholders impacted: Employers and youth will benefit from increased access to training, leading to in-demand credentials and skills, career exploration, paid and unpaid work experience, preparing youth participants for employment and providing employers with skilled employees.

**How the state plans to monitor waiver implementation, including collection of measurable waiver outcome information:**

Annual WIOA programmatic reviews will include an evaluation of the waiver on local programs to ensure programmatic goals and outcome are being met. These strategies will ensure that our goals and outcomes included in this request, as well as those outlined in the existing state and local WIOA plans, are consistent with the established objectives of WIOA, and federal and state regulations.

**Assurance of state posting of the request for public comment (including the dates the state made the draft request available for public comment) and notification to affected local workforce development boards:**

All boards were notified of the intent of this request and have been provided an opportunity to comment during the public review and comment period. This request is included as part of the Modified State Plan and stakeholders have the opportunity for comments during the Modified State Plan public comment period.

**Waiver #2:**

**Requesting a waiver of the rule which permits Individual Training Accounts only for out-of-school youth ages 16 to 24**

**Statutory and/or regulatory requirements the state would like to waive:**

The State of Hawaii seeks approval of a waiver of 20 CFR 681.550 which permits Individual Training Accounts (ITAs) only for out-of-school youth ages 16 to 24.

Hawaii requests allowing ITAs for in-school youth (ISY) ages 16 to 24. This would allow the State to increase services to eligible ISY to provide flexibility for local areas to serve youth with appropriate services based on local demographics, resources, economies, employment outlook and other labor market factors.

This flexibility will allow the design and delivery of meaningful career pathway programs to all youth, regardless of school status; and will allow the State and workforce areas the ability to implement initiatives for training and education experiences for students that address education and skills needs of the employers.

**Actions the state has undertaken to remove state or local barriers:**

Currently, no State or local statutory or regulatory barriers exist that would prevent the implementation of the waiver. Hawaii regulations and policies comply with current federal law.

**Describe the state's strategic goal(s):**

The State's goal is to increase ISY enrollment by 15%. The flexibility allowed by this waiver will improve programmatic outcomes which include an increase in high school completion rates, an increase in youth credential attainment rates and an increase in measurable skill gains. Other improved outcomes for ISY include expanding access to career exploration, paid and unpaid work experience, support services, and early access to career pathways for high-demand sectors.

The flexibility of allowing ITAs for ISY will help Boards to develop a stronger future talent pipeline to fill the future with the State Plan by promoting early engagement, preventing disconnection from education and employment, improving long-term employment outcomes for youth, and addressing workforce shortages in the State.

Boards will also be able to use the Youth Program funds more effectively, reduce fragmentation of programs and improve service delivery efficiency.

**Projected Programmatic Outcomes Resulting from Implementation of the Waiver:**

While all Boards may not choose to utilize this waiver, WDC anticipates that the implementation of this waiver will allow Hawaii to increase ISY enrollments by 15% which will lead to an increase in the number of ISY that earn measurable skill gains and industry recognized credentials.

The ability to provide youth with access to training necessary to obtain jobs enhances the choices available to eligible youth and will encourage them to complete secondary education, enroll in post-secondary education and advanced training, progress through a career pathway and enter into unsubsidized employment that leads to economic self-sufficiency.

Boards are requesting flexibility to provide appropriate and needed services to ISY with barriers to employment and to use their Youth funds more effectively and efficiently while serving both populations of youth.

**Individuals, groups, or populations benefiting or otherwise impacted by the waiver from the waiver:**

If approved the waiver would affect ISY with barriers to employment, including low-income youth, youth with disabilities, foster and former foster youth, English learners, and homeless or house-insecure youth, and youth at-risk of disengaging from education. No adverse impacts on OSY are expected.

Stakeholders impacted: Employers and youth will benefit from increased access to training, leading to in-demand credentials and skills and employment; increasing the potential for training which will provide employers with skilled employees. Training providers will have an increase in the number of WIOA-eligible participants.

**How the state plans to monitor waiver implementation, including collection of measurable waiver outcome information:**

Annual WIOA programmatic reviews will include an evaluation of the waiver on local programs to ensure programmatic goals and outcome are being met. These strategies will ensure that our goals and outcomes included in this request, as well as those outlined in the existing state and local WIOA plans, are consistent with the established objectives of WIOA, and federal and state regulations.

**Assurance of state posting of the request for public comment (including the dates the state made the draft request available for public comment) and notification to affected local workforce development boards:**

All boards were notified of the intent of this request and have been provided an opportunity to comment during the public review and comment period. This request is included as part of the Modified State Plan and stakeholders have the opportunity for comments during the Modified State Plan public comment period.

**Waiver #3:**

**Requesting a waiver of the requirement which permits employers to be reimbursed up to 50% of the wage rate of an On- the- Job Training participant**

**Statutory and/or regulatory requirements the state would like to waive:**

The State of Hawaii seeks approval of a waiver from the requirements of WIOA Section 134(c)(3)(H)(i) and 20 CFR 680.720(b) which permits employers to be reimbursed up to 50% of the wage rate of an On-the-Job training (OJT) participant and up to 75% using the criteria in 680.730, for the extraordinary costs of providing The training and additional supervision related to the OJT.

Hawaii requests to increase the On-the Job Training wage reimbursements up to 90% for small businesses with 99 or fewer employees. The approval of the waiver will provide the flexibility that boards need to effectively engage with small businesses.

In 2023, according the Hawaii Department of Business, Economic Development and Tourism, 56 percent of Hawaii's businesses employed 99 or fewer employees. The current maximum reimbursement rate of 50% is a significant barrier for small to mid-sized businesses who cannot absorb the high cost of training. In some local areas, 85-90 percent of businesses have 50 or fewer employees.

**Actions the state has undertaken to remove state or local barriers:**

Currently, no State or local statutory or regulatory barriers exist that would prevent the implementation of the waiver. Hawaii regulations and policies comply with current federal law.

**Describe the state's strategic goal(s):**

If approved the State's goal is to increase employer participation by 20% in the OJT program. This participation rate will lead to improved hiring and retention outcomes for participants and accelerate skill development in high-demand occupations.

The flexibility to extend the reimbursement rate to 90% of wages will provide additional incentives to local employers to invest in training WIOA-eligible participants who may require more intensive support during training; will improve access to work-based learning, address the talent shortage in the State, accelerate hiring and job placements and improve WIOA performance outcomes statewide. These outcomes align with the goals of the State Plan, including improving employer engagement, ensuring skills development reflected by labor market demand, address access to constraints tied to geography and cost of living, support workforce attachment and retention.

**Projected Programmatic Outcomes Resulting from Implementation of the Waiver:**

While all Boards may not choose to utilize this waiver, WDC anticipates that the implementation of this waiver will allow Hawaii to increase employer participation in the OJT program by 20%; reduce employer hesitancy to participate, expand the number and diversity of employers willing to offer OJT placements, increase participant employment and retention rates second and fourth quarters after exit, increase skill development opportunities, and expand access for priority and high-barrier populations.

**Individuals, groups, or populations benefiting or otherwise impacted by the waiver from the waiver:**

Individuals: If approved, the flexibility resulting from the waiver will improve employment access for individuals who traditionally face hiring barriers, increased access to paid, employer-based training, and accelerated entry into employment.

Groups: Increased participation of small businesses, and non-profits who cannot absorb the high cost of training. Businesses will have greater options for training, including the ability to invest in longer training periods; will have improved workforce stability, and reduced turnover.

**How the state plans to monitor waiver implementation, including collection of measurable waiver outcome information:**

Annual WIOA programmatic reviews will include an evaluation of the waiver on local programs to ensure programmatic goals and outcome are being met. These strategies will ensure that our goals and outcomes included in this request, as well as those outlined in the existing state and local WIOA plans, are consistent with the established objectives of WIOA, and federal and state regulations.

**Assurance of state posting of the request for public comment (including the dates the state made the draft request available for public comment) and notification to affected local workforce development boards:**

All boards were notified of the intent of this request and have been provided an opportunity to comment during the public review and comment period. This request is included as part of the Modified State Plan and stakeholders have the opportunity for comments during the Modified State Plan public comment period.

**Waiver #4:**

**Requesting a waiver to allow the State of Hawaii Workforce Development Board to serve in place of the Kauai County Local Area Development Board**

**Statutory and/or regulatory requirements the state would like to waive:**

The State of Hawaii Workforce Development Council (WDC) request an extension to the waiver of 20 CFR §679.310 WIOA sec. 107(b) allowing the State to serve in place of the Kauai County Local Area Workforce Development Board as described in 20 CFR §679.240 subsection C. The waiver was granted May 30, 2024, and expires June 30, 2028.

**Actions the state has undertaken to remove state or local barriers:**

There are no state or local regulatory barriers to extending the waiver. The WDC has approved extending the waiver and their responsibility to act in place of the local board.

**Describe the state's strategic goal(s):**

In 2021, the County of Kauaʻi's Local Workforce Development Board relinquished its role to the State Workforce Development Council (WDC), with the understanding from the Chief Local Elected Official (CLEO) that Kauaʻi would continue to have representation and voting authority at the State level.

To ensure continuity of services under WIOA, the CLEO has provided office space at no cost to the Department of Labor and Industrial Relations (DLIR), enabling the delivery of Title I (Adult, Dislocated Worker, and Youth), Title III (Wagner-Peyser), Senior Community Service Employment Program (SCSEP), and other federally funded workforce programs to serve underserved and vulnerable populations.

Since that transition, the Workforce Development Division (WDD) has assumed operational responsibility for service delivery on Kauaʻi, despite already operating under capacity constraints. While this approach ensured continuity of services, recent performance results and operational challenges suggest that the current structure would benefit from reassessment and strengthening to more effectively meet programmatic and performance expectations. A facilitated stakeholder meeting held in June 2024, supported by a U.S. Department of Labor technical assistance team, convened key partners to identify opportunities to enhance both programmatic and fiscal oversight.

Over the next two years, the WDC plans to transition toward a model in which the State Board more fully assumes the role of a local board for Kauaʻi, consistent with WIOA provisions. This transition will include the development and issuance of a Request for Proposals (RFP) to procure a qualified service provider to deliver workforce services on the island. Recognizing the limitations of administrative funding, the State will also explore creative and sustainable approaches to strengthen oversight capacity while maintaining effective service delivery.

Building on these efforts, the State will continue to formalize roles and responsibilities through Memoranda of Understanding (MOUs) among key partners to ensure clarity, accountability, and alignment.

Through these actions, the WDC seeks to improve service quality, strengthen performance outcomes, and ensure that the workforce system on Kauaʻi is both effective and sustainable.

The State's goal is to provide comprehensive employment and training services to adults, dislocated workers and youth of Kauai County.

**Projected Programmatic Outcomes Resulting from Implementation of the Waiver:**

Since initial implementation, operation of Title I activities by the State has reduced overhead and maximized the available monies directed toward employer engagement and program services, including training and work-based learning opportunities. In alignment with our WIOA goals, the State has emphasized spending of program funds toward those individuals most in need and who can benefit from intensive case management and training while also supporting businesses and employers.

A strengthened administrative structure under this waiver will continue to minimize disallowed costs, redirect administration funding to direct clients' services, increasing performance and enrollment across all programs.

**Individuals, groups, or populations benefiting or otherwise impacted by the waiver from the waiver:**

County of Kauai residents and all individuals and employers involved with the local workforce development system will benefit from this waiver through uninterrupted Title I services provided by DLIR staff at the American Job Center Kauai. The County of Kauai continues to have a voting representation on the WDC.

**How the state plans to monitor waiver implementation, including collection of measurable waiver outcome information:**

Until the staffing needs are met, the State will continue to conduct annual monitoring of both fiscal and programmatic activities across all Title I services. For the Kauai County Title, I operations, the DLIR will contract with an external agency to conduct monitoring in accordance with U.S. DOL regulations and the ETA's Core Monitoring Guide.

This monitoring procedure will be similar to what is currently conducted for Title III – Wagner Peyser Act program services that are currently administered through the DLIR WDD.

**Assurance of state posting of the request for public comment (including the dates the state made the draft request available for public comment) and notification to affected local workforce development boards:**

All boards were notified of the intent of this request and have been provided an opportunity to comment during the public review and comment period. This request is included as part of the Modified State Plan and stakeholders have the opportunity for comments during the Modified State Plan public comment period.

**Waiver #5:**

**Request to Waive Wagner-Peyser Merit Staffing Requirement**

**Executive Summary**

**Description**: Request to waive Wagner-Peyser merit staffing regulation to provide greater flexibility in staffing methods used to maximize use of Wagner-Peyser funds and improve service delivery to jobseekers and employers.

**State and Local Areas Affected**: Statewide in State of Hawaii.

**State Leads:**

Mr. Jade Butay, Director, State Department of Labor and Industrial Relations; and

Ms. Maricar Pilotin-Freitas, Administrator, State Department of Labor and Industrial Relations, Workforce Development Division

**Details of Waiver Request**

1. **Specific Requirement to Be Waived**

*Identify the statutory or regulatory provision for which a waiver is requested.*

A waiver is requested for this regulation: 20 CFR 652.215 What staffing models must be used to deliver services in the Employment Services?

Currently, states should be working toward compliance with the merit system requirement for Wagner-Peyser staff (88 FR 82658). U.S. Department of Labor (DOL) gave states until January 22, 2026 to implement the merit system requirement that was reinstated on November 4, 2023. On January 20, 2026, the deadline for complying was extended to January 22, 2027 to reduce burdens on states and enable DOL to complete its rulemaking process for a proposed rule that would delete the merit staffing requirement.

DOL's proposed rule published on July 1, 2025 would delete the merit system requirement for Wagner-Peyser. If it is finalized, the need for this waiver request is nullified and automatically withdrawn.

**2. Local Barriers (If Applicable)**

*Describe any local statutory, regulatory, or policy barriers and the steps taken to address them. If no local barriers exist, state that there are none.*

In Hawaii, rigid recruitment and selection processes following merit system principles significantly delayed interviewing and hiring which often resulted in no qualified candidates being available. The candidate pool also is much smaller than a decade ago because civil service jobs are no longer as appealing or attractive to jobseekers today. Pay increases based on years of service and future benefits from retirement plans are not among the most desirable job traits for many jobseekers. Serious worker shortages have resulted throughout the State Executive Branch for over a decade, including those for the Wagner-Peyser program. As a result, the Wagner-Peyser program in Hawaii has been understaffed, limiting the capacity to provide maximum services to jobseekers and employers.

The federal Department of Labor (DOL) recognizes the need for flexibility among states when hiring staff for the Wagner-Peyser program. On July 1, 2025, the U.S. Department of Labor (DOL) Employment and Training Administration proposed a rule change to delete 20 CFR 652.215 (90 FR 28239, Wagner-Peyser Act Employment Service Staffing) so that states would have the flexibility to "select the staffing model that delivers the required services in the most efficient manner available to them."

DOL noted that merit staffing imposed an undue burden on States' limited Wagner-Peyser resources. The cost analysis performed by DOL indicated significant cost-savings from removing the merit staffing requirement and anticipated that states were unlikely to use merit staffing for all employees because the same required services would be provided at lower cost.

2. **Strategic Goals**

*Explain the local area goals the waiver is intended to support and how these goals align with the Local and State Plans.*

Enabling more staff to be hired quickly will maximize the use of Wagner-Peyser funds for delivery of all services. By not wasting time on inefficient merit system recruitments for all positions, more resources will be directed toward service delivery, expanding the number of jobseekers served and increasing options of individualized career services provided.  These anticipated results relate to state and local goals identified in the State and local plans for creating a more resilient, diversified economy with living-wage jobs.

They are consistent with DOL's proposed rule that eliminating the merit staffing requirement will "allow States to identify and achieve administrative efficiencies" and provide "added capacity to deliver more career services, including individualized career services, which studies have shown improve employment outcomes.

3. **Projected Outcomes**

*Describe expected programmatic outcomes. Example: If requesting a higher employer reimbursement rate for On-the-Job Training (OJT), estimate the anticipated increase in participants or employer participation.*

With the waiver, a 10% increase in number of Wagner-Peyser participants is expected with a 10% increase in number of individualized career services provided.

4. **Populations Affected**

*Identify individuals, groups, or populations impacted by the waiver.*

All jobseekers will be impacted by the waiver, including Unemployment Insurance claimants, because more will be served with a greater number of services.

6. **Impact on Stakeholders**

*Explain how the waiver would affect job seekers, employers, disadvantaged populations, and individuals with barriers to employment.*

The waiver would enable more jobseekers from every population, including disadvantaged populations and individuals with barriers to employment, to be served more effectively with more in-depth individualized career services.  Having more staff also means more outreach will be conducted to populations that find it difficult to access American Job Centers due to lack of transportation, awareness, or technology.

7. **Monitoring and Evaluation**

*Describe how the state will monitor implementation and collect data to assess waiver outcomes.*

A comparison will be made between the numbers of persons served before and after the waiver using Wagner-Peyser participant data collected in the state's HireNet Hawaii information management system. Data will include demographics and numbers of services provided by county.

References:

- 20 CFR 652.215  What staffing models must be used to deliver services in the Employment Services?
- Training and Employment Guidance Letter (TEGL) No. 05-25, Maximizing Innovation in Workforce Innovation and Opportunity Act Programs
- TEGL No. 08-18, Workforce Innovation and Opportunity Act (WIOA) Title I and Wagner-Peyser Act Waiver Requirements and Request Process
- Proposed DOL ETA rule, Wagner-Peyser Act Employment Service Staffing issued July 1, 2025 (90 FR 28239) [deletes Wagner-Peyser merit staffing requirement]
- Final DOL ETA rule, Wagner-Peyser Act Staffing, issued November 24, 2023 (88 FR 82658) [reinstates Wagner-Peyser merit staffing, compliance by January 22, 2026]
- Final DOL ETA rule, Wagner-Peyser act Staffing, Delay of Merit Staffing Compliance Date [extends compliance deadline from January 22, 2026 to January 22, 2027]

**<u>Waiver #6:</u>**

**Request to Waive Wagner-Peyser Requirements Pertaining to Full-Time and**

**Multi-Lingual Seasonal Farmworker Outreach Staff**

**Executive Summary**

Description: Request to waive Wagner-Peyser regulations pertaining to full-time and multilingual outreach staff and other requirements for serving migrant and seasonal farm workers.

State and Local Areas Affected: All Counties in State of Hawaii.

State Leads:

Mr. Jade Butay, Director, State Department of Labor and Industrial Relations; and

Ms. Maricar Pilotin-Freitas, Administrator, State Department of Labor and Industrial Relations, Workforce Development Division

Details of Waiver Request

**1. Specific Requirement to Be Waived**

*Identify the statutory or regulatory provision for which a waiver is requested.*

A waiver is requested for the following requirements found in the Wagner-Peyser regulations regarding services to Migrant and Seasonal Farmworkers (MSFW).

- 20 CFR 653.107(a)(4)
- During periods of the highest MSFW activity, there must be full-time outreach staff.
- All outreach staff must be multilingual, if warranted by the characteristics of the MSFW population in the State, and spend a majority of their time in the field.
- 20 CFR 653.108(e)
- The State Monitor Advocate (SMA) must not perform work such as outreach, complaint processing, and processing services under the Agricultural Recruitment System.
- The SMA must devote full-time staffing to SMA functions.

Entire sub-sections of the applicable regulations are provided below to provide the full context. Italics and bold font are added to highlight specific requirements for which the waiver is requested.

- 20 CFR 653.107(a)(4)

Each SWA must ensure that there are an adequate number of outreach staff employed in the State to conduct MSFW outreach in each service area of the State and to contact a majority of MSFWs in the State annually. In the 20 States with the highest estimated year-round MSFW activity, as identified by the Department, there must be full-time, year-round outreach staff to conduct outreach duties. *Full-time means each individual outreach staff person must spend 100 percent of their time on the outreach responsibilities described in paragraph (b) of this section. For the remainder of the States, there must be year-round part-time outreach staff, and during periods of the highest MSFW activity, there must be full-time outreach staff*. These staffing levels must align with and be supported by information about the estimated number of farmworkers in the State and the farmworker activity in the State as demonstrated in the State's Agricultural Outreach Plan (AOP) pursuant to paragraph (d) of this section. *All outreach staff must be multilingual, if* *warranted by the characteristics of the MSFW population in the State, and must spend the majority of their time in the field*.

- 20 CFR 653.108(e)

*The SMA must devote full-time staffing to the SMA functions described in this section*. No State may dedicate less than full-time staffing to the SMA position, unless the Regional Administrator, with input from the Regional Monitor Advocate, provides written approval. Any State that proposes less than full-time dedication must demonstrate to the Regional Administrator and Regional Monitor Advocate that all SMA functions can be effectively performed with part-time staffing. *The SMA must not perform work that conflicts with any of the SMA's duties, such as outreach responsibilities required by § 653.107, ARS processing under subpart F of this part, and complaint processing under subpart E of part 658.*

**2. Local Barriers (If Applicable)**

*Describe any local statutory, regulatory, or policy barriers and the steps taken to address them. If no local barriers exist, state that there are none.*

There are no local statutory, regulatory, or policy barriers relating to this waiver request; however, other significant barriers are explained below.

Island Geography. The State of Hawaii has a unique geography among states in its composition of islands, separated by hundreds of miles of open ocean. Aside from infrequent ferry rides between Molokai and Maui, the only viable transportation between islands is by relatively costly inter-island air travel. For this reason, outreach staff will be locally based with a portion of one staff member assigned to perform outreach to MSFW in each county.

Funding Constraints. Because Hawaii's population is among the smallest among states, its Wagner-Peyser funding allotment is usually the minimal amount required. Yet Hawaii is required to fully comply with the same myriad regulations and policies that apply to all states, including those with the largest funding levels.

It would not be cost-effective to have a full-time staff member assigned to outreach, even if limited to the period of highest farmworker activity because many crops are grown year-round in Hawaii's climate. However, each local area will have one staff member assigned part-time to perform outreach.

Similarly, it would not be cost-effective to support a full-time State Monitor Advocate (SMA), but a staff member will be assigned part-time as the SMA.

The required separation between the SMA and the Local Monitor Advocates (LOMAs) also limits the staffing patterns that may be used. LOMAs deliver services to farm workers, such as outreach, recruitment, and complaint processing, and the SMA's functions are more managerial in nature. While the separation of functions would be useful in a large office, it becomes unfeasible in a small office such as the Wagner-Peyser staff unit in each AJC. To implement the required separation, the SMA role must be assigned to the state level office although the knowledge and expertise acquired through experience with farmers and their workers is found in LOMAs. Allowing greater flexibility by allowing the SMA to also perform some LOMA work would enable the state to determine the most cost-effective staffing pattern based on which would produce the best quality results.

Diverse Farmworker Ethnicities. Discussions with farmers indicate their workers have diverse ethnicities, primarily from different Asian countries. Although the goal is to have outreach workers fluent in the primary languages used by MSFWs, the diversity of languages makes it difficult for *all* outreach workers to be multi-lingual in languages warranted. Interpreter and translation services will be used as needed for languages in which staff lacks fluency. The AJCs have access to interpreter services through a contract with a national vendor for interpretation and translation services. An ongoing partnership with the state's Office of Language Access (OLA) also helps with accessing interpretation services. OLA provides centralized oversight, coordination, and technical assistance to State agencies and organizations that receive state funding, regarding the implementation requirements of the Hawaiʻi Language Access Law.

**3. Strategic Goals**

*Explain the local area goals the waiver is intended to support and how these goals align with the Local and State Plans.*

Approval of the waiver will maximize cost-efficiency, enabling better use of funds allotted and thereby improving and expanding services to MSFWs. Greater flexibility afforded by the waiver will enable the State to respond more quickly to changes in staffing, farmworker needs, and resources available. These anticipated results relate to state and local goals identified in the State and local plans for creating a more resilient, diversified economy with living-wage jobs.

**4. Projected Outcomes**

*Describe expected programmatic outcomes. Example: If requesting a higher employer reimbursement rate for On-the-Job Training (OJT), estimate the anticipated increase in participants or employer participation.*

With the waiver, a 10% increase in number of MSFWs served is anticipated with a corresponding 10% increase in number of individualized career services provided to MSFWs.

**5. Populations Affected**

*Identify individuals, groups, or populations impacted by the waiver.*

The waiver will impact MSFWs on all islands.

**6. Impact on Stakeholders**

*Explain how the waiver would affect job seekers, employers, disadvantaged populations, and individuals with barriers to employment.*

With the cost efficiencies provided by the waiver, an increased number of MSFWs will be served, and they will receive more individualized career services.

**7. Monitoring and Evaluation**

*Describe how the state will monitor implementation and collect data to assess waiver outcomes.*

Data currently being collected for MSFWs will be analyzed every quarter to assess numbers of MSFWs being served, number and types of individualized career services being provided, and outcomes for the MSFWs. The SMA also will conduct quarterly meetings with LOMAs to assess progress, identify issues, determine technical assistance needs, and develop corrective actions, including arranging for and providing any applicable training.