

U.S. Department of Labor

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



January 26, 2024

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Hochul:

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 November 16, 2023. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that New York will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by New York 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) 2023, which includes the entire time period for which states are authorized to spend PY 2023 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 New York to implement its plan to improve the workforce development system. New York may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY.

In addition, ETA approves for PY 2023, which includes the entire time period for which states are authorized to spend PY 2023 funds, the State's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. New York 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 served will increase, and performance accountability outcomes for overall WIOA Youth (including both in-school and out-of-school youth) 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,

A handwritten signature in black ink, appearing to read 'B. Parton', with a long horizontal flourish extending to the right.

Brent Parton
Principal Deputy Assistant Secretary

Enclosure

cc: Robert Reardon, Commissioner, New York State Department of Labor
Gregg Weltz, Boston Regional Administrator, ETA
Kate Banimenia, Federal Project Officer, ETA

WE ARE YOUR DOL



Kathy Hochul, Governor
Roberta Reardon, Commissioner

November 14, 2023

Gregg Weltz
Regional Administrator
U.S. Department of Labor
Employment and Training Administration
25 New Sudbury Street
Room E-350
Boston, MA, 02203

Dear Mr. Weltz:

New York State (NYS) respectfully submits the attached waiver request to the NYS Workforce Innovation and Opportunity Act (WIOA) Combined Plan. The request is being submitted in accordance with WIOA and guidance provided at <https://www.doleta.gov/wioa/waivers/>.

The waiver will allow NYS and Local Workforce Development Boards (LWDBs) to address an increased need for targeted programs for In-School Youth (ISY) services, as well as invest in preventative strategies to address the myriad other current needs within the ISY population. With more flexibility in youth spending, LWDBs will be able to align WIOA funding with their specific needs and serve more youth overall.

The review and timely consideration of this waiver are appreciated. Please contact LWDB@labor.ny.gov with any questions.

Thank you so much!

Sincerely,

A handwritten signature in black ink that reads "Christopher White". The signature is written in a cursive, flowing style.

Christopher White
Deputy Commissioner for Workforce Development

Waiver of the requirement to expend 75% of Governor's reserve youth funds and local formula youth funds on Out-of-School Youth (OSY).

Statutory and/or regulatory requirements to be waived

Language that requires the 75% OSY expenditure requirement be imposed on Statewide and local workforce investment activities identified in Workforce Innovation and Opportunity Act (WIOA) Section 129(a)(4)(A) and 20 CFR §681.410(c).

This request is for the Program Year (PY) 2023 funding allotment.

Actions undertaken to remove state or local barriers

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

Goals and expected programmatic outcomes of waiver

This waiver will allow New York State (NYS) to decrease the OSY expenditure requirement, both Statewide and for interested Local Workforce Development Boards (LWDBs), to no less than 50% while also increasing allowable expenditures for In-School Youth (ISY) to up to 50%. NYS and LWDBs will direct this increase in ISY expenditures toward investing in targeted programs for ISY services, as well as preventative strategies and addressing the myriad of current needs within the ISY population.

The actual number of ISY and OSY participant enrollments both declined when PY 2021 enrollments are compared to PY 2022. NYS enrolled 3,700 and 2,523 ISY participants, and 5,744 and 5,348 OSY participants in PY 2021 and PY 2022 respectively. Further, significant increases in enrollments and services to OSY are not anticipated for PY 2023 as the local areas continue to report difficulty in enrolling OSY. While total ISY enrollments declined from PY 2021 to PY 2022, as of August 2023 and aided by the PY 2022 expenditure waiver, several local areas expended greater than 25% of total expended PY 2022 Youth funds on ISY, including Cattaraugus-Allegany (30%), Onondaga (31%), Oswego (38%), Suffolk (40%), Saratoga-Warren-Washington (39%), and our biggest driver of overall Statewide funding, New York City (34%). These local areas and others continue to request this waiver to be able to better serve ISY participants.

Alignment with USDOL policy priorities

This waiver will allow the State the flexibility to improve outcomes for ISY and for LWDBs to offer the 14 WIOA Youth program elements as described in 20 CFR §681.460 to more ISY youth participants. This waiver is intended to allow LWDBs to spend youth funds to align with the needs of their local population.

Individuals impacted by the waiver

This waiver will directly impact youth in NYS who qualify as ISY and would otherwise not be served due to the 75% OSY expenditure requirement. Employment opportunities for OSY are plentiful as reflected in current low Unemployment rates and high hourly wages for entry level jobs. Thus the waiver will provide the LWDBs the flexibility to serve more ISY and more youth overall.

Process for monitoring progress and the collection and reporting of outcomes related to the waiver

NYSDOL will monitor progress and ensure accountability for Federal funds in connection with this waiver by collecting and reviewing monthly expenditure, performance, and other reports through regular contact with the Employment and Training Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

NYSDOL discussed the possibility of submitting this waiver with the LWDBs on more than one occasion during calendar year 2023 and it was positively received. Should the waiver be granted, NYSDOL would issue an electronic notice that will be disseminated to the Workforce Development community in the State (including LWDB Directors and Chairs).

Public Comment

This waiver request was posted for public comment on the NYSDOL website for a 10-day comment period. All comments received were in support of the waiver and none of the comments required a change to the waiver.