

U.S. Department of Labor

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



January 14, 2025

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 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 December 19, 2024. 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 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 Year (PYs) 2024 and 2025, which includes the entire time period for which states are authorized to spend each of those Program Year 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 New York'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 2024 and PY 2025, 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. 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 (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 must report its waiver outcomes and implementation of the 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. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jose Javier Rodriguez".

José Javier Rodríguez

Enclosure

cc: State Workforce Agency Director
ETA Regional Administrator
ETA Federal Project Officer

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 Program Year (PY) 2024, 2025, and 2026 funding allotments.

Actions undertaken to remove state or local barriers

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

State's strategic 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 the 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 current needs within the ISY population. This is especially important in our largest local area, New York City (NYC), where youth employment continues to lag behind the rest of NYS in rebounding from the pandemic. At the end of 2022 (most recent data available), the youth unemployment rate in NYC was 17.9% compared to the rest of NYS at 9.3%. Likewise, the youth labor force participation rate in NYC at that same time was 43.6% compared to 52.2% for the rest of NYS.

The number of ISY and OSY participant enrollments increased minimally in both PYs 2022 and 2023. In PY 2022, NYS enrolled 2,523 ISY and 5,348 OSY participants, while in PY 2023, those numbers were 2,746 and 5,593, respectively. Significant increases in enrollments and services to OSY are not anticipated for PYs 2024, 2025, and 2026 as several of the local areas continue to report difficulty in enrolling OSY. However, total ISY enrollments are expected to continue to increase marginally, aided by the renewal of the OSY expenditure waiver. As of June 30, 2024, eight (8) local areas (Capital Region, Finger Lakes, NYC, North Country, Onondaga, Oswego, Saratoga-Warren-Washington, and Suffolk) expended greater than 25% of total expended PY 2023 Youth funds on ISY.

The increased access to ISY funds resulted in one (1) or more of these local areas exceeding their performance expectations by 130% in all five (5) PY 2023 Primary Indicators of Performance, with approximately 66% of these local areas exceeding 100% of their performance goals across all measures. These local areas and others continue to request this waiver to be able to better work with the State's school districts and serve a higher number of ISY participants.

Over the last few years, local areas have made good use of the waiver to continue and create new promising pipelines of ISY into their programs. Some examples include, but are not limited to:

- Collaboration with Foster Care and Runaway/Homeless Youth (RHY) organizations – Tompkins

and the Capital Region local areas have collaborated with local foster care groups and homeless shelters to strengthen referral pipelines and provide wraparound services to ISY from these populations through the WIOA Youth Program;

- Events promoting career exploration – Multiple LWDBs hold career exploration events annually for local middle and high-school students, including GLOW With Your Hands and Career Jam, where these ISY can discuss future careers with local businesses, learn about various apprenticeship opportunities, and speak with staff about the WIOA Youth Program;
- Direct services in school districts – Several local areas, including the Capital Region and North Country, have developed relationships with local school districts for navigators to be directly placed within schools to provide WIOA youth services; and
- The New York Gaining Early Awareness and Readiness for Undergraduate Programs (NY GEAR UP) initiative, where the New York State Department of Labor (NYSDOL) partners with the NYS Higher Education Services Corporation (HESC) and ten (10) local sites to provide career development resources to a cohort of students. The sites include a combination of school districts, community colleges, and community-based organizations located across nine (9) local areas. NYSDOL started working with the students in 7th grade and will follow them through their first year of college. The students are in 9th grade now, but as they approach their junior and senior years of high school, NYSDOL plans to work with the sites to identify students who might be good candidates for WIOA youth programming and will support connections between the sites and their local Youth program.

Note: The approval of this waiver will not impede NYS from continuing to serve OSY by providing occupational skills training; work-based learning opportunities, including pre-apprenticeships and Registered Apprenticeships; tutoring/study skills; education and workforce preparation activities; leadership development opportunities; supportive services; mentoring, guidance and counseling, and career counseling; financial literacy training; entrepreneurial skills training; transition support to post-secondary education; and follow-up services.

Alignment with United States Department of Labor (USDOL) policy priorities

This waiver will allow the State the flexibility to improve outcomes for ISY and for LWDBs to offer the fourteen (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 submitting this waiver with the LWDBs on more than one (1) occasion during calendar year 2024 and it was positively received. Several LWDBs have also continued to request NYSDOL submit this waiver as they feel the flexibility it provides offers the best way to serve their youth, while also leveraging WIOA with other youth programs. 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.