

**U.S. Department of Labor**

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



June 23, 2021

The Honorable Michael DeWine  
Governor of Ohio  
30th Floor 77 South High Street  
Columbus, OH 43215

Dear Governor DeWine:

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 April 5, 2021. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Ohio will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Ohio 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: The State is requesting a waiver of WIOA 134(d)(4) and 20 CFR 680.800(a) to allow local areas to reserve more than 20 percent of Adult and Dislocated Worker funds for incumbent worker training (IWT) to assist in its response to the impacts of the COVID-19 pandemic.

ETA Response: ETA conditionally approves the State's waiver request through June 30, 2022, to permit local areas to increase the allowable threshold available for IWT from 20 to 35 percent. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Ohio to implement its plan to improve the workforce development system. ETA is limiting approval to 35 percent, rather than the requested 50 percent, after taking into account the unexpended Governor's Reserve and Rapid Response funds available to the State that can be used for IWT.

Prior to implementation of this waiver, the State must update its request to include projected quantifiable outcomes it hopes to achieve with this waiver and include a policy governing local areas' use of IWT exceeding the 20 percent currently permitted without the waiver. Such policy must include criteria that takes into account local area unemployment rates, disaggregated by population characteristics. The policy shall describe steps local areas must follow to prioritize services for those unemployed customers, before incumbent workers, when said areas are experiencing levels of unemployment exceeding the State's average or where unemployment for specific populations exceeds the State average.

The following parameters apply to implementation of this waiver:

- Use IWT only to provide the skills needed to advance in the employee's job or get skills to stay in a job (layoff aversion);
- Where IWT results in employee advancement and job openings, the employer will work with AJCs to fill available positions;
- Report individual records based on the Participant Individual Record Layout for all IWT participants through the Workforce Integrated Performance System;
- Track employment retention and earnings outcomes to measure whether use of this waiver has a positive effect; and
- Monitor local area IWT expenditures to not exceed 35 percent and to assess appropriate adjustments to serving unemployed workers versus incumbent workers as unemployment evolves in each local area.

As a reminder, WIOA permits use of Governor's Reserve and Rapid Response funds for IWT. 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,



Suzan G. LeVine  
Principal Deputy Assistant Secretary

Enclosure

cc: Matt Damschroder, Interim Director, Ohio Department of Job and Family  
Rose Zibert, Chicago Acting Regional Administrator, Employment and  
Training Administration  
Carl Stahlheber, Federal Project Officer, Employment and Training Administration



Department of  
Job and Family Services

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Matt Damschroder, Interim Director

April 5th, 2021

WIOA Waiver Coordinator  
200 Constitution Ave, NW Room S-4203  
Washington, DC 20210

Rose Zibert  
Regional Administrator, Employment & Training Administration  
United States Department of Labor  
230 South Dearborn Street, 6<sup>th</sup> Floor  
Chicago, IL 60604

Dear Ms. Zibert,

The State of Ohio is hereby requesting the waiver of a statutory requirement in the Workforce Innovation and Opportunity Act (WIOA) as permitted under WIOA section 189(i)(3)(B). The Ohio Department of Job and Family Services (ODJFS) is the state workforce agency. In that capacity, and in response to the COVID-19 pandemic, ODJFS is seeking to obtain a statewide waiver of provisions in WIOA 134(d)(4) and 20 CFR 680.800(a) which state that local workforce development areas (local areas) may reserve and use no more than 20 percent of Adult and Dislocated Worker funds for incumbent worker training (IWT).

Specifically, the State of Ohio is requesting a waiver to permit local areas to increase the allowable threshold available for IWT from 20 to 50 percent through June 30, 2023. During the pandemic, this waiver would allow local areas and incumbent workers to become more responsive to the current skill needs of employers, thus preventing unnecessary lay-offs, and avoiding human resource shortages that might lead to business closures.

Approval of this waiver would support the Department of Labor's strategic priorities to improve the effectiveness and efficiency of workforce development programs. The Department of Labor has long supported flexibility for governors and local workforce development boards (WDB) to effectively tailor their workforce strategies to meet state and local needs. This support is needed more than ever as Ohio adapts to serving citizens and businesses through the COVID-19 pandemic.

The attached waiver plan provides further details on this request. We thank you for considering this request. If you have any questions, please contact Julie Wirt at (614) 752-3228 or [Julie.Wirt@jfs.ohio.gov](mailto:Julie.Wirt@jfs.ohio.gov).

Sincerely,

Matt Damschroder  
Interim Director  
Ohio Department of Job and Family Services (ODJFS)

30 East Broad Street  
Columbus, OH 43215  
[jfs.ohio.gov](http://jfs.ohio.gov)

Attachment

CC: Tonia Saunders, Assistant Director, Employment Services ODJFS  
Elizabeth Brannigan, Deputy Director, Office of Workforce Development  
Coretta Pettway, Interim Assistant Deputy Director, Office of Workforce Development  
Moné Givner, Interim Assistant Deputy Director, Office of Workforce Development  
Julie Wirt, Chief, Bureau of Employment and Training Program Management  
Scott France, Budget Manager, Office of Workforce Development  
Jay Mendoza, Policy Manager, Office of Workforce Development  
Carl Stahlheber, Federal Project Officer, Department of Labor



## Ohio WIOA Program Waiver Plan

The ability to request waivers of statutory or regulatory requirements in order to improve the workforce system, is authorized by the Workforce Innovation and Opportunity Act (WIOA) section 189(i)(3) and by 20 CFR parts 679.600 - 679.640.

### 1. Statutory or regulatory requirement to be waived

The Ohio Department of Job and Family Services (ODJFS) is the state workforce agency. In that capacity, and in response to the COVID-19 pandemic, ODJFS is seeking to obtain a statewide waiver of provisions in WIOA 134(d)(4) and 20 CFR 680.800(a) which state that local workforce development areas (local areas) may reserve and use no more than 20 percent of Adult and Dislocated Worker funds for incumbent worker training (IWT).

Specifically, the State of Ohio is requesting a waiver to permit local areas to increase the allowable threshold available for IWT from 20 to 50 percent through June 30, 2023. The purpose of this waiver is to assist local areas in their response to the impacts of the COVID-19 pandemic.

### 2. Actions undertaken to remove state or local statutory or regulatory barriers

There are no known state or local barriers delaying implementation of this waiver.

### 3. Projected programmatic outcomes resulting from waiver implementation

Improved flexibility of state and local funding to best meet the needs of our citizens and businesses during and after the COVID-19 pandemic.

### 4. State strategic goal(s) and Department of Labor priorities supported by the waiver

Approval of this waiver would support the Department of Labor's strategic priorities to improve the effectiveness and efficiency of workforce development programs. The Department of Labor has long supported flexibility for governors and local workforce development boards (WDB) to effectively tailor their workforce strategies to meet state and local needs. This support is needed more than ever as Ohio adapts to serving citizens and businesses through the COVID-19 pandemic.

During the pandemic, this waiver would allow incumbent workers to become more responsive to the current skill needs of employers, thus preventing unnecessary layoffs, and avoiding human resource shortages that might lead to business closures.

### 5. Individuals, groups, or populations benefitting from the waiver

This waiver will benefit the survival and recovery of businesses, affected by the COVID-19 pandemic, to the joint advantage of employers, employees, and communities. During the recovery, IWT will facilitate job promotion and transfers, thus opening positions for new and re-hired employees.

6. Monitoring waiver implementation, including collection of waiver outcome data

Ohio will apply the following conditions in the implementation of this waiver:

- Use IWT only to provide an employee with skills needed to advance or stay in their job (layoff aversion);
- Report individual records based on the Participant Individual Record Layout for all IWT participants through the Workforce Integrated Performance System (WIPS); and
- Track employment retention and earnings outcomes, to measure whether use of this waiver has a positive effect.

7. Notice to Local Boards and Public Comment

ODJFS meets monthly and communicates frequently with local workforce board directors and has informed them by email of this waiver request. A public comment period was offered to gather input on this waiver request from the workforce development community.