



JUN 29 2018

The Honorable Jeff Colyer
Governor of Kansas
Office of the Governor
Capitol, 300 SW 10th Avenue, Suite 241S
Topeka, Kansas 66612-1590

Dear Governor Colyer:

Thank you for your waiver request of certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the statewide workforce development system, submitted as part of your WIOA State Plan modification on April 2, 2018 (copy enclosed). This letter provides the Employment and Training Administration's (ETA) official response to the State's request and memorializes that Kansas will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Kansas 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 from the requirements of 20 CFR 677.230 (a)(5) and 20 CFR 680.460(f)(1)(iii) requiring training providers to report second quarter and fourth quarter exit outcome data for "all students" or "students in general" in a manner prescribed by 20 CFR 677.155 (a)(1)(i) through (iv) for the State's Eligible Training Provider (ETP) for continued eligibility criteria.

The Department of Labor (Department) has concluded that the State's existing data collection and reporting systems, as well as existing flexibility in statute and regulation, can support Kansas' needs, and, therefore, a waiver is not needed. ETA has contacted the State to provide technical assistance on alternatives for the State to more easily collect and report data on providers, and ETA is available for further discussion and to provide technical assistance to the State to support achieving its goals. Also, the Department has proposed additional flexibility in its Fiscal Year 2019 Budget to give governors more flexibility to meet the workforce needs of their states.

If you have questions or wish to explore additional flexibility, feel free to contact my office at (202) 693-2772.

Sincerely,



Rosemary LaHasky
Acting Assistant Secretary

Enclosure

cc:

Susan Hancock, Director of Workforce Training and Education, Kansas Department of Commerce

Christine Quinn, ETA Chicago Regional Administrator, Employment and Training Administration

James Lambert, Federal Project Officer, Employment and Training Administration

Kansas

Eligible Training Provider List Waiver

Statutory and/or regulatory requirements to be waived

The State of Kansas is seeking a waiver from the requirements of 20 CFR 677.230 (a)(5) and 20 CFR 680.460(f)(1)(iii) requiring training providers to report 2nd quarter and 4th quarter exit outcome data for 'all students' or 'students in general' in a manner prescribed by 20 CFR 677.155 (a)(1)(i) through (iv) for the state's ETPL initial eligibility and continued eligibility criteria. This does not waive the requirement to report verifiable outcomes on 'all students', but only the requirement data must be based on 2nd quarter and 4th quarter exit data. Additionally, this waiver does not extend to those students who are/were WIOA participants.

Actions undertaken to remove state or local barriers

Kansas has faced several challenges while working to implement the WIOA ETP requirements, which include:

- Ensuring that local areas have sufficient numbers and diversity of training providers necessary to create an effective marketplace of training programs for WIOA participants utilizing ITAs.
- Ensuring fairness, or a level playing field, in determining training provided, eligibility and continued eligibility. Providers, primarily public and private educational institutions, do not collect and do not have access to performance data for non-WIOA students using WIOA perimeters for collection and calculation. Thus, the providers choose not to be on the ETPL, which limits consumer choice.
- Reducing the burden on eligible providers to submit performance information to the state from sources they do not have access to.
- Eligible providers must collect and transmit sensitive information, such as social security numbers, etc., on 'all students' to match employment and earnings information, which may leave students open to identity theft, privacy considerations, etc.
- Both proprietary and public eligible providers have the additional burden to collect and provide duplicative information on 'all students' once they leave or graduate from the program.
- Providing a single source of consistent and reliable information on eligible training programs to WIOA participants in a way that helps them make good decisions about how to use their ITAs.

The State has partnered with the state agency responsible for oversight of its public and private education providers, Kansas Board of Regents (KBOR) as a cost-effective means for collection and reporting of performance by eligible providers of training. This has been successful except for attempting to apply WIOA definitions of participant and date of exit to non-WIOA students in non-WIOA enrollments. Training providers, primarily education institutions, typically track outcomes for individuals with declared majors or program concentrators and by academic year. Data for WIOA defined exit dates for non-WIOA individuals is not available nor are employment and earnings outcomes tracked for and therefore does not exist for students who

have no intention of utilizing the knowledge or skills gained for occupationally related endeavors.

In 1987, K.S.A. 72-4451 established the Kansas Training Information Program (K-TIP) and directed KBOR to adopt rules and regulations for administration of an annual report. Pursuant to this statute, KBOR publishes and distributes the K-TIP report of training enrollment, completion, employment/placement rates, median and average wages earned by career technical education program graduates during the most recently ended academic year for which such information is available. The information in the K-TIP report is reported by both program and by institution or school. K.S.A. 72-4452 provides for participation in the K-TIP reporting program by every career technical education institution and private or out-of-state postsecondary educational institution which desires to participate by transmitting to KBOR: (a) the social security number of each person who completed a career technical education program operated by the institution during the most recently completed academic year; and (b) such other information as KBOR may require in order to conduct follow-up surveys and studies to assist in the evaluation of career technical education programs by October 1, of each year.

The K-TIP report provides substantially similar performance information to the required performance information for 'all students' in applications for initial and subsequent eligibility. The differences between this report and data collected in strict adherence to WIOA regulations include:

1. Exit Date is the end of the academic year.
2. All Students includes those students with a declared major or area of concentration
3. Employment and earnings are captured during the second quarter following exit (i.e. end of the academic year)

State ETPL Policy requires all eligible providers to submit, annually and no later than October 1 of each year, such information as KBOR may require for the production of the K- TIP report. Under State Policy, performance data from the K-TIP report has constituted reporting of performance for 'all students' in determinations of subsequent eligibility and may be used, when available, for determinations of initial eligibility. This report is accessible to local workforce development boards (local boards) at: http://www.kansasregents.org/workforce_development .

This partnership with KBOR allows all providers of training services to provide the (all) student data they collect and can access to a trusted education oversight agency to perform and publish the performance calculations consistently across all providers in a report that is consistent with WIOA statute and substantially similar in results to WIOA Regulation.

Goals and expected programmatic outcomes of waiver

Goals and outcomes related to this waiver request include:

- A single source of consistent and reliable information for informed consumer choice
 - o Utilizing a single existing source creates efficiencies through the elimination of duplicate data collection, manipulation and reporting

- Maximizing the varied training offerings available for individuals utilizing ITAs via the public workforce system (in other words, greater consumer choice).
More training providers with more offerings can lead to lower cost options through increased competition, and
Better overall performance outcomes for individuals pursuing training via ITAs
- Greater utilization of the ETPL by individuals pursuing training in Kansas related to jobs in demand by employers now and in the future.
- Stronger partnerships and relationships between training providers and the public workforce system.

Department of Labor's policy priorities

This waiver aligns with the Department's policy priorities, such as:

- Supporting employer engagement by increasing available local training option with providers who engage local employer advisory boards in the design and delivery of training to meet local needs
- Efficiently and effectively connecting the current network of education and training strategies with through an existing proven system of accountability
- Supporting work-based learning opportunities developed by credentialed providers statewide
- Improving job and career results by increasing the ability of new and established providers to meet reporting accountability standards, and
- Creating efficiencies by eliminating unnecessarily redundant and burdensome reporting requirements

Individuals impacted by the waiver

This waiver will have universal benefit for every user and contributor to the workforce system. More eligible providers of training services will be included on the State's ETPL by substituting equivalent, consistent, reliable and readily available data for 'all students' eliminating the burden of data collection for providers continued eligibility. This information increases the training options available to participants as well as the availability of consumer reports to any interested party, regardless of whether or not they are WIOA funded.

Process for monitoring progress in implementation

- Kansas will monitor the implementation progress of this waiver by reviewing the rate of denials for continued eligibility of providers due to lack of performance information for 'all students';
- All local boards, statewide, have been kept apprised of the development of this Waiver, provided the opportunity for input and comment during its development, and again in its final form during the public notice and comment period as part of the State Plan modification;
- Stakeholders, particularly education, have been kept apprised of the development of this Waiver, provided the opportunity for input and comment during its development, and again in its final form as part of the State Plan Modification.
- Information regarding the Waiver outcomes will be reported in the State's WIOA Annual report.

Notice to affected local boards

Executive Directors of each local board meet monthly with state staff where this waiver has been shared and discussed throughout its development and finalization.

Public Comment

In addition to soliciting stakeholder contributions during the development of this waiver, as part of the State Plan Modification it has been discussed in open meetings finalizing the Plan Modification and posted and distributed for public comment along with the State Plan Modification.