

# Commonwealth of Pennsylvania WIOA Waiver Request Plan

## Waiver of the obligation of eligible training providers to collect performance data on all students in a training program

### 1. The statutory and/or regulatory requirements the State would like to waive:

This waiver request plan is submitted in accordance with the Secretary's waiver authority outlined in Section 189(i)(3)(B) of WIOA and 20 CFR 679.620, and is for period of July 1, 2020, covering program years 2020 through 2023 (July 1, 2020 through June 30, 2024).

The commonwealth of Pennsylvania, or commonwealth, embraces a Workforce Innovation and Opportunity Act, or WIOA, waiver landscape that adds desired flexibility or removes barriers at the state and/or local workforce development area, or LWDA, level. Waiver plans are designed to support equity, diversity and inclusion. Each submitted waiver request plan is customized to account for PA's unique statewide strategic approach to the subject at hand as well as respecting the commonwealth's twenty-three (23) LWDA's local governance concerns. This waiver plan request aspires to increase the pool of Eligible Training Providers, or ETP, thereby serving more WIOA participants.

The commonwealth seeks a waiver allowance of the obligation of ETPs to collect and report non-WIOA funded student demographic information and performance data participating in training programs listed on the state's Eligible Training Providers List, or ETPL, as outlined in WIOA Sections 116 and 122, and at 20 CFR 677.230 and 20 CFR 680.400 through 680.530.

Specifically, the commonwealth requests waiver authority to exempt ETPs from the requirement of collecting and reporting non-WIOA funded student demographic information and performance data. Additionally, in cases where non-WIOA funded student demographic information or performance data are not available, the commonwealth requests waiver authority to report null or "0" (zero) in the ETP performance report. The waiver allowances will assist the commonwealth to further develop its workforce while continuing to focus on innovative strategies for a demand-driven workforce.

Under this waiver plan, all ETPs, in collaboration with local boards, will continue to collect and report demographic information and performance data for all WIOA funded participants in accordance with WIOA section 116(d)(4)(A) and as specified at 20 CFR 677.230.

Under this waiver plan, local boards retain the ability to supplement the commonwealth's criteria and information requirements for ETPs applicable to their respective local area.

### 2. Actions the State has undertaken to remove State or local barriers:

The commonwealth values and promotes WIOA's goals, including *consumer choice* and *informed consumer choice*. In support of these goals, the commonwealth has been acting upon two primary objectives: require all ETPs to comply with WIOA's new data collection and reporting parameters, and to offer the public a useful and informative ETPL. Under WIOA Section 116(d)(4)(A) and 20 CFR 677.230(a)(4) and (5), ETPs, with respect to each program of study (or the equivalent), must report demographic information and performance data with respect to all individuals (including non-WIOA funded students) engaging in a program of study (or the equivalent). The commonwealth has been acting to ensure it would

be ready to comply with the law by offering the means for those ETPs collecting and reporting the non-WIOA funded student data so that the data could be reflected on the ETP performance report. Additionally, the commonwealth has made it possible for ETPs, via a third party, to submit aggregated non-WIOA funded student data to the commonwealth for ETPL course/program eligibility. The commonwealth encourages all ETPs to continue to improve student data collection and reporting processes, as well as data security measures so that student information and data are secured.

The commonwealth is interested to review the reported non-WIOA funded student data to discern the degree to which the data meet minimal standards of validity and accuracy. This will be especially important to understand if the ETP supplies useful self-reported data from students collected through surveys or other means. Lastly, it is expected there will be low levels of student response rates to data requests.

The state has witnessed an unintended and unfortunate effect the WIOA ETP requirement has had upon WIOA programs' training activities over the past three years. Specifically, there is an increasing number of high-quality ETPs choosing not to make their courses available for eligible WIOA participants and citing the collection of non-WIOA funded students' demographic information and performance data as the onerous cause. As ETPs opt not to offer courses to WIOA eligible participants the concept of "*consumer choice*" no longer is being served.

The commonwealth engaged the public workforce system stakeholders to determine the scope and degree to which ETPs will comply with the new non-WIOA funded student information and data collection and reporting requirements. Some ETPs have accepted the new WIOA collection and reporting requirements and have taken measures to comply. The commonwealth could not find a source that identifies ETP compliance levels to collect and report the non-WIOA funded student information and data either within individual local areas or across the state, but the reduction of ETPs from the ETPL from 2016 through 2019 has been noticeable.

Significant concerns and issues regarding ETPs' compliance, or lack thereof, brought forth by local workforce development boards, or local boards, and other statewide workforce system stakeholders have grown. The commonwealth has come to understand WIOA's new ETP requirements are having a significant negative effect upon consumer choice. Local boards are reporting highly qualified training providers no longer are interested in ETPL inclusion. Local boards report many ETPs find WIOA's requirements troublesome and burdensome. There is growing concern that other ETPs will refuse to apply for continued inclusion on the ETPL. The loss of these and other ETPs has led to the commonwealth having a less robust list of training providers, thereby limiting consumer choice. It should be noted, depending upon the circumstances, quality training programs may not be available to fulfill a local board's training needs.

Local boards have received feedback from training providers as to why they may not apply to be included on the state's ETPL.

- ETPs have many students in the training cohort, of whom only a small percentage are WIOA program participants.
- Additional administrative costs are associated with collection and reporting of the non-WIOA student information and data.
- Providers lack staff or will not hire additional staff to perform the WIOA required information and data collecting process.

- Some lack the internal systems or management information capacity to collect and report all student information and data.
- Providers would have to collect and report personally identifiable information, or PII, therefore exposing the entity to potential liabilities.
- There is general concern about the protection of PII, particularly Social Security numbers.
- Providers continue to cite the Family Educational Rights and Privacy Act of 1974, or FERPA, requirements and a difficulty to comply accordingly.

The disincentives ETPs face are daunting. These factors have led most of the commonwealth's local boards to support this waiver allowance request. The commonwealth recognizes the WIOA requirement for ETPs to collect and report all student information and data is leading to fewer ETPs choosing to be included on the state's ETPL and resulting in diminished consumer choice. Also, there are valid reasons to question the validity and accuracy of the reported non-WIOA funded student information and data; and, when added to the ETPL, the effect that the non-WIOA funded student information and data truly play in promoting informed consumer choice.

The commonwealth has observed that these concerns and issues are common to many states. It is noted there are an extraordinary number of states approved by the U.S. Department of Labor Employment and Training Administration, or ETA, for waiver allowances regarding this specific issue. Per the ETA waiver website, as of January 13, 2020, ETA approved thirty-five (35) ETP waiver requests that expire June 30, 2020.

Pennsylvania is committed to achieving WIOA's vision and goals while also acknowledging the challenges surrounding an ETP's collection and reporting of all student information and data. The totality of statewide feedback and national observation has led the commonwealth to realize that additional objectives and strategies are required to achieve WIOA's goals of *consumer choice* and *informed consumer choice*.

**3. State strategic goal(s) and Department of Labor priorities (i.e. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver:**

This waiver plan articulates U.S. Department of Labor, or U.S. DOL, priorities, commonwealth strategic goals and local workforce development board, or LWDB, programming needs. It is noted ETA recently procured a nationally recognized consulting firm to review the commonwealth's eligible training provider policy and provide technical assistance. The firm researched other states' ETP policies, analyzed the commonwealth's ETP policy, and deemed it among the nation's best policies. Thereafter, the firm recommended objectives and strategies for the commonwealth to consider. The commonwealth continues to strengthen the ETP policy and associated guidance.

Goals and priorities supported by this waiver plan request include:

- Align training with the employers' needs offering in-demand occupations to job seekers.
- Increase use of the ETPL by individuals pursuing training-related to jobs that are in-demand.
- Provide a larger selection of training offerings for WIOA participants using individual training accounts, or ITAs, via the public workforce system.
- Increase the number of Registered Pre-Apprenticeship and Apprenticeship programs on the ETPL.
- Increase participation among training providers, which may lead to lower cost and more robust demand-driven training options.
- Strengthen partnerships between ETPs and the public workforce system.

- Improve consumer choice by ensuring qualified ETPs, offering quality programs, can be considered for inclusion on the ETPL.
- Increase levels of statistically valid and accurate ETP-related information to provide informed consumer choice for potential students, job seekers and those seeking career advancement.

**4. Projected programmatic outcomes resulting from implementation of the waiver:**

- Increased rate of ITA-funded training opportunities.
- Increased percentage of ITA-funded training completions.
- Increased credential attainment.
- Improve security measures meant to protect student PII.
- Maintain or increase the number and diversity of ETPs and their respective programs (or the equivalent) for availability on the state's ETPL.
- Lower the cost of ITA training due to greater numbers of ETP availability.
- Improve the validity and accuracy of the ETP-related information, including the student performance data being collected and reported.
- Develop stronger collaborative relationships with local boards and ETPs.

**5. Individuals, groups or populations benefitting from the waiver:**

- Greater consumer choice for WIOA participants.
- Increased percentage of WIOA Title I participants trained and hired.
- Increased percentage of participant populations deemed as individuals having multiple barriers to employment trained and hired.
- Increased responsiveness to labor market demands.
- Employers with in-demand jobs will have the opportunity to hire trained participants.
- ETPs will not be burdened with the administrative and financial obligation to collect and report non-WIOA funded students' information and data.
- Local boards will have a greater diversity of ETPs while promoting more successful planning and implementation of ITA-based training.
- Due to greater competition between ETPs, the commonwealth anticipates training costs will stabilize.

**6. How the State plans to monitor waiver implementation, including collection of waiver outcome information:**

The commonwealth recognizes the importance of implementing and monitoring this waiver plan. Pennsylvania Department of Labor & Industry, or L&I, in partnership with the PA Workforce Development Board, or PA WDB, will take the lead to monitor implementation of this waiver plan, conduct evaluation and research activities, and work with the LWDBs to implement appropriate state and local policies and operational guidance to maximize the flexibility the waiver plan represents. The use of this waiver allowance requires LWDB and ETP participation in on-going waiver implementation and evaluative activities.

To ease data sharing burdens and provide a robust data source, the commonwealth is working to update its workforce development system of record, CWDS, with the necessary information and data collection interfacing and reporting capabilities to lawfully collect and report the Program Year 2019 non-WIOA student information for compilation on the ETA-9171 report due October 2020. The commonwealth

anticipates the CWDS design and development phases will be complete by August 2020, allowing for the issuance of the ETA-9171 report.

Local boards are responsible for oversight and the monitoring of the local workforce system, including aspects surrounding the training offered to eligible WIOA participants and the selection and performance of ETPs. Under this waiver, local boards retain the ability to supplement the commonwealth's criteria and information requirements for ETPs applicable to their respective local area. The state respects local governance and the lawful decisions local area officials and their local boards make. Local boards make recommendations to the commonwealth as to ETP inclusion on the state's ETPL, and they review ETP performance as a measure of continuing ETPL eligibility.

If the local board deems the WIOA ETP requirement of collecting and reporting non-WIOA funded student's information and data is critical to the local board's mission, then the local board must indicate through local ETP policy and guidance what is required of ETPs. Conversely, local areas making use of the ETP waiver allowance must indicate through local ETP policy and guidance what is required of ETPs. LWDBs making use of this waiver plan agree to support waiver implementation, monitoring and evaluation requirements and collect data and information that helps demonstrate the ETP waiver plan's effectiveness.

This following implementation, monitoring and evaluation strategy ensures that the goals and outcomes described above, as well as those outlined in the commonwealth's WIOA Combined Plan, are consistent with established objectives of WIOA and its applicable regulations. Process and elements for waiver plan implementation, monitoring and annual evaluations:

- L&I is the WIOA state administrative entity. L&I will monitor implementation and progress of this waiver plan through a combination of LWDB generated reports, WIOA regional and local plans review and approval process, state oversight activities and local board-controlled monitoring activities.
- PA WDB's Continuous Improvement committee will consider and recommend elements and other criteria deemed appropriate by the governor to build evidence of the waiver plan's effectiveness.
- Statewide workforce policies will be reviewed and modified accordingly.
- The commonwealth's oversight monitoring tools will be modified to address any changes needed as a result of this waiver plan approval.
- In support of this waiver plan L&I staff involved with the administration of the ETPL and ETP performance reporting will modify operational guidance and procedures as needed, provide LWDB technical assistance and provide system of record data as needed.
- Implementation will include ensuring the commonwealth's workforce development system of record is programmed to allow LWDBs to report the additional data and information required by the PA WDB to determine the waiver plan's effectiveness and to support annual evaluations. Until this is accomplished LWDB waiver plan implementers will complete paper-based data collection forms as issued by the commonwealth.
- WIOA performance measures for LWDB implementers will be reviewed.

- LWDA fiscal reports will be reviewed in terms of ITA-related obligations and expenditures.
- L&I will conduct additional year-end LWDB surveys to help determine the progress of the waiver plan implementation, performance and expenditure data, participant's occupation and wage progression data, obstacles encountered, and other relevant evidence needed to determine the waiver plan's efficacy.
- L&I will conduct meetings with and provide technical assistance to LWDBs implementing the waiver plan to ensure program effectiveness, consistent alignment of policies and processes and optimal outcomes for employer and participants.
- L&I will conduct waiver plans discussions and presentations at workforce development forums and Internet based online meetings with LWDBs.
- Applicable LWDBs will provide L&I, with waiver evaluation reports demonstrating the ETP waiver plan's effect on local programs to ensure programmatic goals and outcomes are being met.
- Applicable LWDBs must collect and report data as required by the commonwealth.

PA Workforce Development Board will ensure an annual waiver plan evaluation is completed. Waiver plan evaluation results will be published in the commonwealth's WIOA Annual Report.

**7. Assurance of State posting of the request for public comment and notification to affected local workforce development boards:**

Whether a waiver request plan is submitted to U.S. DOL within the WIOA Combined State Plan or submitted on its own accord the commonwealth of Pennsylvania assures U.S. DOL that all proposed WIOA waiver request plans have been posted on the L&I public website for public comment purposes.

When a WIOA waiver request plan is posted for public comment all Pennsylvania local workforce development boards and other stakeholders are notified of the posting, where to view the posting and how to submit a comment. If the commonwealth receives comments it will determine the merits of each comment and respond accordingly.

The commonwealth assures the U.S. DOL that this waiver request plan has been publicly posted and all comments received have been incorporated or otherwise addressed herein.

Upon approval of this waiver request plan by the U.S. DOL, the commonwealth will issue a notification to all Pennsylvania local workforce development boards and other stakeholders indicating the availability to employ the WIOA waiver allowance. WIOA waiver allowances are posted in harmony with the commonwealth's WIOA Combined State Plan.