

## WDB SERVICE PROVIDER WAIVER POLICY

### Overview

The Workforce Innovation and Opportunity Act (WIOA) prohibits a local workforce development board (WDB) from directly providing career or training services.<sup>1</sup> However, the Governor may, in agreement with the chief elected official in the local area, grant a WDB an exception.<sup>2</sup> To apply for this exception, the WDB must submit a written waiver request to DWD-DET in accordance with the requirements outlined below.

To be considered, a waiver must include:

- I. satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;
- II. information demonstrating that the board meets the requirements for an eligible provider of training services; and
- III. information demonstrating that the program of training services prepares participants for an in-demand industry sector or occupation in the local area.<sup>3</sup>

### Process/Timeline

DWD-DET requires that a WDB seeking a waiver submit their written waiver request to the DWD-BWT Bureau Director. DWD-BWT shall have 7 days from the date of receipt of the waiver request to review the request and the WDB's eligibility to be included on the Eligible Training Provider's List (ETPL), before submitting it to the DWD Secretary along with the Bureau's recommendation to approve or deny the request.

The DWD Secretary shall have 7 days to send this completed application to the Governor, who shall provide a final response to the WDB approving or denying the waiver request within 7 days of receipt of the completed application from the DWD Secretary. From initial submission of the

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<sup>1</sup> WIOA Section 107(g)(1)(A)

<sup>2</sup> WIOA Section 107(g)(1)(B)(i).

<sup>3</sup> WIOA Section 107(g)(1)(B)(i)

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waiver request to the final response approving or denying the waiver request, the process shall not exceed 21 days.

The local WDB shall make the proposed waiver request available to eligible training service providers and members of the public in accordance with local workforce development policy for a public comment period of not less than 30 days.<sup>4</sup> The final version of the waiver request shall include the comments received from this public comment period, as well as the evidence and information requested under waiver guidelines I, II, and III.

### **Application**

DWD-DET is required to develop guidelines and have a procedure in place for approving waiver requests.<sup>5</sup> These developed guidelines must include the three waiver request criteria listed again below.<sup>6</sup>

#### **(I) Satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area**

To satisfy this requirement, a local WDB must provide the State with a list of the eligible providers for their training service in their local area, satisfactory evidence of the local demand for such training services, and satisfactory evidence of their ability to meet that additional demand without merely replacing the eligible service provider already providing that service in their local area. Satisfactory evidence in this case is defined as providing a) the completed waiver request application form, b) letters of support, and for an established program, c) a waitlist from current training providers.

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<sup>4</sup> WIOA Section 107 (g)(1)(B)(ii)

<sup>5</sup> WIOA/20 CFR §679.410(3)(c)

<sup>6</sup> WIOA sec. 107(g)(1)(B)(i).  
20 CFR §679.410(3)(c)

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If the local WDB's program is comparable to services already offered by another eligible provider in the local area, the local WDB must provide this satisfactory evidence that demand for such services is greater than the current number of eligible service providers. If, however, the local WDB's program differs significantly from comparable programs or training services already offered in the local area, they shall provide satisfactory evidence of that fact, including an explanation that compares and contrasts its training services to those of other eligible service providers.

**(II) Information demonstrating that the board meets the requirements for an eligible provider of training services.**

To satisfy this requirement, a local WDB must provide proof of their eligibility as a provider of training services in accordance with the specifications of WIOA sec. 122<sup>7</sup> and chapter 7 of this manual.<sup>8</sup> A WDB applying to have a training program added to the ETPL must, at minimum, provide the state with a description of the training program, verifiable information that addresses a factor related to the WIOA indicators of performance, and information detailing whether the institution is in partnership with business.<sup>9</sup>

**(III) Information demonstrating that the program of training services prepares participants for an in-demand industry sector or occupation in the local area.**

To satisfy this requirement, a local WDB must provide information on their program, including but not limited to, a program overview and mission; expected outcomes or past outcomes if they

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<sup>7</sup> WIOA Title 1-A&1-B Policy and Procedure Manual Chapter 7.3.1

<sup>8</sup> WIOA Title 1-A& 1-B Policy and Procedure Manual Chapter 7.4

<sup>9</sup> WIOA Title -A & -B Policy and Procedure Manual Chapter 7.4.1

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have them; and training services provided. The local WDB must be able to demonstrate that the training services provided through the program will prepare participants for one or more in-demand industry sectors or occupations in the local area.

### **Duration**

A waiver granted to a local WDB shall apply for a set period of time not exceeding the duration of the local plan.<sup>10</sup> The waiver is renewable for an additional period of time if the local WDB requests a renewal and continues to successfully meet the waiver requirements. If renewed, the waiver shall not exceed the duration of the current local plan.<sup>11</sup>

### **Revocation**

The Governor may revoke a waiver if the Governor determines the waiver is either (a) no longer needed, or (b) that the local WDB has exhibited a pattern of inappropriate referrals to the training services that it directly provides.<sup>12</sup>

### **Denial**

A waiver request which fails to meet each of the three requirements as presented shall be denied. The Governor will communicate a waiver denial in writing to the WDB.

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<sup>10</sup> WIOA Section 107(g)(1)(C)

<sup>11</sup> WIOA Section 107(g)(1)(C)

<sup>12</sup> WIOA Section 107 (g)(1)(D)