**STATE OF CALIFORNIA**

**WORKFORCE INNOVATION AND OPPORTUNITY ACT**

**WAIVER REQUEST**

**This waiver relates to the collection and reporting of performance-related data on all students participating in training programs listed on the Eligible Training Provider List.**

The California Workforce Development Board (CWDB) and the Employment Development Department (EDD), as the administrative entity of the *Workforce Innovation and Opportunity Act* (WIOA), request a waiver from the provisions outlined in WIOA Sections 116 and 122, and Title 20 *Code of Federal Regulations* (CFR) Section 677.230 and Title 20 CFR Sections 680.400 through 680.530, which require the collection and reporting of performance-related data on all students participating in training programs listed on the State of California’s Eligible Training Provider List (ETPL).

In keeping with the guidelines set forth at WIOA Section 189(i) and 20 CFR Sections 679.600-620, please accept the following as a request for waiver.

**Background**

The State of California recognizes the value and importance of monitoring provider performance, which requires Eligible Training Providers (ETP) to produce data on all individuals, instead of just WIOA-funded participants. We recently put forward ETPL policy for public comment, and received 16 comments regarding the data collection of all students for the ETP Report, which made the state take a further look into the need of an additional waiver. At this time, the requirement to collect all student data is unrealistic given the following reasons:

* The state’s Management Information System vendor has not integrated changes into the system in a manner that will facilitate timely data entry for the thousands of ETPs in California in a minimally burdensome way.
* In California, ETPs are already required to submit performance data on all students to their accrediting/approval agency (i.e. Bureau of Private Postsecondary Education (BPPE), Community Colleges Chancellors Office, etc.).
  + A majority of the ETPs on the California ETPL are private postsecondary providers that have received approval to operate from BPPE. The BPPE collects data from providers, but these data elements are not in alignment with WIOA or the ETP Report. While this data is not in alignment with the WIOA indicators of performance, and is collected for calendar year, not program year, the state has leveraged this data when determining initial and continued eligibility to ensure programs listed on California’s ETPL are quality programs. The additional requirement for providers to report additional performance data to another entity (the state workforce agency) for WIOA performance accountability creates a significant burden on the training providers, and discourages their use of the ETPL. See the list of data elements below that private postsecondary providers submit to the BPPE.
    - Number of students who began the program (does not align with ETP Report “Total Number of Individuals Served”)
    - Students available for graduation (does not align with ETP Report “Total Number of Individuals Exited”)
    - On-time graduates
    - Completion Rate (does not align with ETP Report “Program of Study Completed)
    - 150% graduates
    - 150% completion rate
    - Graduates available for employment
    - Graduates employed in the field (does not align with ETP Report “Number Employed in the second (or fourth) quarter after exit” or “Average Earnings [Q2] or [Q4]”)
    - Graduates employed in the field reported receiving the following salary or wage (this is broken down by a range of wages, and does not align with ETP Report “Median Earnings in 2nd quarter after exit”)
    - Number of degrees, diplomas or certificates awarded (aligns with ETP Report “Credential Attainment (Numerator)”
    - Information regarding the requirement to pass a state licensing exam
  + California Unemployment Insurance Code 14013 gives permission to collect SSNs for adult education participants, but it must be voluntary. Since many providers do not collect SSNs for all of their students, this makes the required collection of data elements for the ETP report more burdensome for the provider.
  + California’s Community Colleges don’t track by program of study, but rather by course. There is no way to differentiate between people taking a single course or the whole program of study.
* Requiring ETPs to provide data on all individuals in the training program may dissuade training providers from becoming an ETP, thereby significantly limiting consumer choice.
* Due to the novel coronavirus pandemic, the need for virtual training providers and programs has become vital. The reporting burden associated with the ETP requirements places a significant burden on virtual training programs, as they serve a large range of students often throughout the country.
* Releasing student information on individuals who are not workforce system participants without their explicit consent may be a violation of federal law and compromise their personally identifiable information (PII).

Under this waiver, the state will continue to collect and report performance data for all WIOA-funded participants.

1. **Actions to Remove State or Local Barriers**

There are no state or local statutory or regulatory barriers to implementing the requested waiver. California regulations and policy statements are in compliance with current federal law.

1. **Waiver Goals and Outcomes**

Goals and outcomes related to this waiver request include the following:

* Easing the burden on ETPs to provide performance data on all individuals in the training program.
* Ensuring the protection of non-WIOA individuals’ PII.
* Offering more numerous and varied training (greater consumer choice) including virtual programs.
* Create stronger partnerships and relationships between ETPs and the public workforce system.

1. **Programmatic Outcomes Resulting from Waiver Implementation**

This waiver aligns with the EDD’s policy priorities as follows:

* Supporting employer engagement.
* Connecting education and training strategies.
* Supporting work-based learning.
* Improving job and career results.
* Complying with other guidance issued by the DOL.

This waiver aligns with DOL’s policy priorities, as it connects education and training strategies by reducing the reporting burden on ETPs, thus allowing them to focus more time and resources on producing successful outcomes for WIOA-funded participants; further protecting the privacy rights of ETPs’ students who are not WIOA participants.

1. **Individuals Impacted by the Waiver**

Individuals who access training services, ETPs, and state staff will benefit from this waiver.

1. **Monitoring Progress and Implementation**

State staff involved with the administration of the ETPL and performance reporting will periodically examine the appropriateness and effectiveness of this waiver. This strategy ensures that the goals described above are consistent with established objectives of WIOA regulations. Further, the impact of this waiver on the state’s performance will be addressed in the state’s WIOA Annual Report.

California Assembly Bill 1344 requires the BPPE to report on individual’s outcomes. This would require the BPPE to collect SSNs from the training providers and provide them to the EDD; however, it is expected to take several years for BPPE to get the infrastructure available to be in full compliance with the bill. The state requests this waiver to be in effect for PY 2020-21 through PY 2022-23 to allow for enough time for BPPE to start collecting SSNs from the private postsecondary providers.

1. **Notice to Local Workforce Development Boards and Public Comment**

The State of California issued an Information Notice to the workforce community announcing the potential waiver, and requesting comments for a period of 30 days. No changes had to be made to the waiver language based on the feedback received from the workforce community. Upon approval of the waiver, the state will issue an additional Information Notice announcing the approved waiver.