



FEB - 4 2004

The Honorable Arnold Schwarzenegger
Governor of California
Sacramento, California 95814

Dear Governor Schwarzenegger:

It is with pleasure that I respond to the State of California's request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA) in accordance with the Secretary's authority to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act. This authority is granted to the Secretary by WIA Section 189(i)(4)(A) and in the implementing regulations at 20 CFR 661.420.

These waivers grant states flexibility in program design for seamless program delivery and improved customer service, in exchange for accountability and agreed-to programmatic outcomes. We hope that these changes will assist your state in meeting its workforce needs and improving programmatic outcomes statewide and at the local level. We are pleased to be able to respond positively to your request.

Requested Waiver 1: Waive the prohibition on the use of Individual Training Accounts (ITA) for older youth at 20 CFR 664.510 to permit older and out-of-school youth to select approved ITA programs from the Eligible Training Provider List (ETPL).

The state indicates that, under the waiver, One-Stop Career Centers will be able to provide ITAs to those youth who can benefit from such services without having to register them in the adult program and track resources separately for each funding stream. According to the state, the waiver will decrease unnecessary local and state paperwork, reduce staff work to track and report co-enrollments, and improve local WIB services to, and expenditures on, out-of-school youth. The waiver is written in accordance to WIA Section 189(i)(4)(B) and 20 CFR 661.420(c) and appears to meet the standard for waiver approval at 20 CFR 661.420(e).

Accordingly, the State of California is granted a waiver of the prohibition on the use of ITAs for older and out-of-school youth at 20 CFR 664.510, through June 30, 2004. Under the conditions of the waiver, local workforce investment boards will have the option to use the Eligible Training Provider system to secure training providers for these two youth populations, as appropriate.

Requested Waiver 2: Extend the initial period of provider eligibility, by waiving the requirements at WIA Section 122(c)(5) and 20 CFR 663.530 that limit the initial eligibility of training providers to a period of 18 months, through June 30, 2004.

The state indicates that a waiver extending the initial period of provider eligibility will provide additional time to further develop a data collection system for training providers. Under the waiver, the state will enhance its Performance Based Accountability (PBA) system so that it can calculate performance outcomes using data submitted by providers for all students in programs on the Eligible Training Provider List. The state anticipates that enhancement of the PBA system will result in increased quality and quantity of training provider performance information which, in turn, will enable participants to make better choices regarding their training needs. The waiver is written in accordance with WIA Section 189(i)(4)(B) and 20 CFR 661.420(c) and appears to meet the standard for waiver approval at 20 CFR 661.420(e). Accordingly, the state is granted a waiver of the time limit on the period of initial eligibility of training providers at 20 CFR 663.530 to extend the period of initial eligibility through June 30, 2004.

The granted waivers are incorporated by reference into the state's WIA Grant Agreement, as provided under paragraph 3 of the executed Agreement, and also constitute a modification of California's approved five-year strategic plan. A letter is being sent to your state WIA Liaison, which supplements this notification letter and specifically defines the terms and conditions that apply to the granted waivers. A copy of each letter should be filed with the state's WIA Grant Agreement and approved five-year plan, as appropriate.

We look forward to helping you achieve better workforce development outcomes and improve the lives of many California residents. Furthermore, we are prepared to entertain other state and local-level waiver requests that the state may wish to submit, consistent with the provisions of the WIA statute and regulations.

Sincerely,



Emily Stover DeRocco

Enclosure



Lawrence Gottlieb
Chair

Christine Essel
Vice Chair

California Workforce Investment Board

P.O. Box 826880, MIC 45, Sacramento, CA 94280-0001



Gray Davis
Governor

Andrew R. Baron
Executive Director

September 18, 2003

Ms. Emily DeRocco
Assistant Secretary
Employment and Training Administration
United States Department of Labor
200 Constitution Avenue N.W. Room S2307
Washington, D.C. 20210

Dear Ms. DeRocco:

The Governor's Office has approved California's submittal of two waiver requests pursuant to Section 189(i)(4) of the Workforce Investment Act (WIA), Public Law 105-220. On behalf of Governor Gray Davis, I am forwarding these waiver requests for your review and approval. Your approval will allow the State to receive, assess, and approve or deny requests from any of California's 50 Local Workforce Investment Boards for any or all of the approved waivers. Your administration has already approved similar requests from other States. The two waivers are:

- Request to extend the initial period of provider eligibility by waiving the 18-month requirement for subsequent eligibility at WIA Section 122(c)(5) and Title 20 of the Code of Federal Regulations (CFR) Section 663.530; and
- Request to waive the prohibition on the use of individual training accounts for older youth at Title 20 CFR Section 664.510.

The California Workforce Investment Board worked closely with local chief elected officials, the California Workforce Association (an organization representing California's Local Areas), a Local Area Work Group (consisting of Local Workforce Investment Area administrators, One-Stop operators, and local government officials) and the public at large to review and suggest important and necessary waivers to improve WIA program operations in California. These groups identified eight different possible waivers, but the two requests above are the crucial ones.

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Enclosed are two separate documents fully explaining the need for the waivers.

Thank you for your consideration of our waivers request.

Sincerely,



Andrew R. Baron
Executive Director

Enclosures

cc: Armando Quiroz, DOL Region 6
Ed Leslie, DOL Region 6
Herb Schulz, Labor and Workforce Development Agency
Michael Bernick, Employment Development Department
Dennis Petrie, Employment Development Department
Larry Gottlieb, California Workforce Investment Board

Enclosure 1

STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT WAIVER REQUEST

Extension of Initial Eligibility for All Training Providers on the
Statewide Eligible Training Provider List

Background

The California Workforce Investment Board (State Board), after consultation with appropriate local elected officials and other key partners, is requesting a waiver to extend the period of "Initial Eligibility of Training Providers." This waiver will address the Eligible Training Provider List (ETPL) requirement for subsequent eligibility determination included in Workforce Investment Act (WIA) Section 122(c)(5) and Title 20 of the Code of Federal Regulations (CFR) Section 663.530, related to eligible training provider provisions. We request to postpone the full implementation of the Subsequent Eligibility Determination process for Eligible Training Providers until *June 30, 2004*. The State of California recognizes that performance information is critical in meeting the WIA principles of consumer choice and program accountability. However, the requested waiver will allow sufficient time to meet the requirements for collecting accurate, complete and useful data. California is expanding the capacity of the State's existing Performance-Based Accountability (PBA) system. This will allow the State to calculate performance outcomes based on seed data submitted by the providers for all students in programs on the ETPL. The current ongoing effort to implement the subsequent eligibility process would continue with a complete implementation date of June 30, 2004. This waiver will allow the State to continue offering a wide variety of training program options to meet the needs of California's job seekers and businesses.

The Department of Labor has already provided waivers to at least 13 other states that we know of, and we hope that our waiver can be quickly approved as well.

A. Statutory Regulations to be Waived:

The WIA Section 122(c)(5) and Title 20 CFR 663.530 dealing with the time limit for initial eligibility would be waived.

B. Goals to be Achieved as a Result of the Waiver:

The goal is to increase the quality and quantity of all performance information for training providers on the State list of eligible training providers. This will be accomplished by expanding the PBA system to calculate performance outcomes for all students in programs on our list

based on seed data submitted by the providers. California has a large number of providers and the data that needs to be collected is substantial.

California fully understands the need for accountability and supports efforts to ensure that customers are making informed decisions based on quality data. When the ability to effectively collect the required data is severely limited, the results could effectively destroy customer choice and severely limit the use of Individual Training Accounts.

C. State or Local Statutory or Regulatory Barriers:

There are no State or local statutory or regulatory barriers to implementing the requested waiver.

D. Description of Waiver Goal and Programmatic Outcomes:

The goals to be achieved by the waiver are to:

- Improve efforts of data collection from training providers;
- Increase the amount and accuracy of WIA performance information from training providers;
- Allow Local Workforce Investment Areas (LWIA) to increase familiarity with the ETPL system; and
- Expand an established system that will extract performance information for individual providers on the ETPL.

California is a diverse State with 50 LWIAs, which poses a challenge to collecting accurate data. The State's ETPL system currently contains the names of more than 1,373 eligible training providers, offering more than 10,921 individual training programs. It includes the State's technical and community colleges, state universities, private for-profit and nonprofit schools, and training agencies. The complete list of approved training providers is located at etpl.edd.ca.gov/wiaetplind.htm. The California Employment Development Department (EDD) and the State Board have partnered with staff from the California Department of Social Services, the California Community Colleges, the California Employment Training Panel, the California Department of Rehabilitation, and the California Department of Education. The team's purpose is to expand the capacity of the automated PBA system to handle the volume of complex data that will be required to perform this function. Upon the expansion of the PBA system, individual providers will be able to submit their seed data directly to the automated system. The EDD will be able to extract performance results for those individual providers and display them on the ETPL Web site.

The extension of Initial Eligibility will allow additional time to put into place a data collection system for California training providers, which in turn will enable participants to make better choices regarding their training needs.

E. Providing Notice of Waiver and Monitoring Progress Among the State's LWIAs:

Discussions with Local Workforce Investment Boards (LWIB):

The submission of this waiver has been discussed with the local boards in all 50 of the State's LWIAs. The boards are supportive of this waiver request.

Public Input:

While there has been no formal effort to solicit public comment of the waiver request, it has been posted on the published agendas and open to comment at LWIB meetings and at the State Board meeting.

Description of the Individuals Impacted by the Waiver:

This waiver will positively affect all LWIAs and boards, training providers, local One-Stop staff, and customers.

F. Description of the Process to Monitor Progress:

The EDD Director and his staff will monitor the progress being made on the activities and time frames identified in the waiver. The Director will require a monthly report from the staff in charge of the ETPL system. A copy of the monthly report will also be provided to the State Board.

Enclosure 2

STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT WAIVER REQUEST

Waive the Prohibition on use of Youth WIA dollars
to fund Individual Training Accounts for Older Youth

The California Workforce Investment Board (State Board), after consultation with appropriate local elected officials and other key partners, is requesting a waiver to Title 20 of the Code of Federal Regulations (CFR) Section 664.510, which permits Individual Training Accounts (ITA) for youth only if they are determined eligible for and are co-enrolled as an adult or dislocated worker.

The intent of this request is to enable Local Workforce Investment Areas (LWIA) to use ITAs for youth participants as they deem appropriate, based on a valid assessment of interest, skill, and aptitude. We recognize that currently, under CFR Section 664.500, older youth ages 18 and over may be concurrently enrolled as adults and therefore may use ITAs as "adults." The regulation in this section also points out that there is no specified age for the dislocated worker program, which conceivably means that youth under 18 years of age can meet the dislocated worker eligibility requirements and could be co-enrolled and receive ITAs. Under both scenarios, dollars for the ITA are charged to the adult or dislocated worker funding streams rather than the youth funding stream.

The co-enrollment requirement is:

- A duplicative and bureaucratic "paper chase" process that is unnecessary, and
- Additionally, not being able to charge the cost of the ITA back to the youth account draws down on the adult funds unnecessarily and does not allow some of those expenditures to be appropriately counted toward the 30 percent out-of-school expenditure requirement.

Given that the Department of Labor has already approved similar waivers for the states of Indiana and Kentucky, we ask that our request be approved as well.

A. Statutory Regulations to be Waived:

Title 20 CFR 664.510, which prohibits the use of ITAs for youth unless they are found eligible for and co-enrolled in either the adult or dislocated worker program.

B. Goals to be Achieved as a Result of the Waiver:

A waiver will maximize the service delivery capacity of Workforce Investment Act (WIA) youth programs within the One-Stop Career Center delivery system by allowing youth who are determined not to follow the academic track, and are instead employment-focused, to have the same access as adults and dislocated workers to the advantages of ITAs. The co-enrollment of youth in the adult programs is nothing

more than a paper exercise, as well as an additional tracking burden to follow and report on activities, expenditures and outcomes.

By providing a waiver to allow the use of ITAs for youth (without the need for co-enrollment), those youth whose assessment has determined that an ITA is the best strategy would be treated equally with an adult who has the same or similar needs and training strategies. Being able to charge the ITA cost to the youth program instead of the adult or dislocated program would reduce the dependence on the limited adult funds and also may possibly contribute to the ability of LWIAs to meet the 30 percent out-of-school expenditure requirement.

C. State or Local Statutory or Regulatory Barriers:

None

D. Description of Waiver Goal and Programmatic Outcomes:

The goals to be achieved by the waiver are to:

Goal 1 -Afford older youth the same opportunity as adults to confer effectively and to decide on the most appropriate training strategy if their assessment concludes that employment is their logical choice.

Programmatic Outcome:

A large percentage of older and out-of-school youth either want to train for an occupation or need to work due to their financial situations. With a waiver, these youth can pursue their occupational goals without the additional barrier of having to meet additional adult or dislocated worker eligibility requirements.

Goal 2 -Decrease duplicative paperwork necessary to co-enroll older youth into the adult program: Without the waiver, each of California's 50 Local Workforce Investment Boards (LWIB), and their respective One-Stop system operators, must ensure that older youth are co-enrolled as adults in order to access ITAs. Co-enrollment serves no purpose other than to provide documentation and justification to access ITAs for youth.

Programmatic Outcome:

Granting the waiver will decrease unnecessary local and state paperwork, reduce extra staff work to track and report the co-enrollments, and free youth case managers to continue working with the older youth rather than transferring the case to an adult case manager.

Goal 3 -Allow LWIBs to improve their expenditures on out-of-school youth and help the programs to meet the federal mandate to expend 30 percent of youth funds for this population.

Programmatic Outcome:

With ITA cost for youth chargeable directly to the youth program rather than to the adult and dislocated worker program, youth expenditure levels will improve overall and could contribute to some LWIAs meeting their 30 percent out-of-school expenditure requirement.

E. Providing Notice of Waiver and Monitoring Progress Among the State's LWIA's Discussions with LWIBs:

The submission of this waiver has been discussed with the local boards in all 50 of the state's LWIAs. The boards are supportive of this waiver request. The California Workforce Association has discussed waivers at their executive board meetings, and also surveyed each of the 50 LWIBs for input. The Employment Development Department has discussed waivers at their local workforce administrators' quarterly meetings and during conference calls with their local advisory committee.

Public Input:

The State Board placed this and the other waiver requests on its Web site inviting public comment.

Description of the Individuals Impacted by the Waiver:

The chief impact of the waiver would be on older youth, who would benefit from ITAs. Indirectly, the waiver would also affect local eligibility workers, who would not have to expend staff time on collecting eligibility data and going through the duplicative eligibility determination process.

F. Description of the Process to Monitor Progress:

We will put out a state directive instructing LWIAs to report on the numbers of youth provided with ITAs at the end of the year, and to assess the range of benefits that have accrued to local areas and the state. State monitors will be asked to select youth ITA files for review, or sample review, to ensure that there are appropriate levels of assessment documentation in the files to justify the use of ITAs for any individual older youth.