


Policy Area: State Governance	
Title of Policy: Process of Submission of a Waiver Request to the U.S. Department of Labor	Number: 100-03 (2016)
Effective Date: October 1, 2016	Review by Date: October 1, 2018
Approved Date: October 1, 2016 Revision Date:	Approved by:  Mark Herzog, Chair

I. Purpose

The purpose of this issuance is to provide guidance to the Virginia public workforce system regarding the process for submission of a waiver request of Workforce Innovation and Opportunity Act (WIOA) Title 1 and/or Wagner Peyser Act requirements.

II. Summary

Under the Workforce Innovation and Opportunity Act (Pub. L. 113-128), the Governor may request waivers of certain statutory or regulatory requirements of WIOA Title 1 or the Wagner Peyser Act. In order to provide the Governor of Virginia with a thoroughly-researched waiver request to submit to the U.S. Department of Labor, and to respond appropriately to stakeholders interested in a waiver submission request, the Virginia Board of Workforce Development coordinates waiver requests of WIOA Title 1 activities and programs as well as Wagner Peyser Act requirements using the process outlined in this issuance.

III. References

- Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- Training and Employment Notice No. 05-14, *Workforce Innovation and Opportunity Act Announcement and Initial Informational Resources*
- Training and Guidance Letter No. 19-14, *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act of 2014*
- Notice of Proposed Rulemaking (NPRM) Docket No. ETA-2015-0001, RIN: 1205-AB73: Subpart B, § 679.600 through § 679.640

IV. Policy

Under WIOA, the Governor of a state is responsible for making waiver requests of WIOA Title 1 and Wagner Peyser Act statutory and regulatory requirements. Further, the WIOA regulations state the following regarding waiver requests:

- The Secretary of Labor issues guidelines under which the states may request general waivers of WIOA Title 1 and Wagner Peyser requirements.

- A Governor may request a general waiver in consultation with appropriate chief elected officials.
- A waiver plan may accompany the state’s WIOA 4-year Unified or Combined State Plan or 2-year modification; or after a state’s WIOA Plan is approved, by separately submitting a waiver plan.
- A Governor’s waiver request may seek waivers for the entire state or for one or more local areas within the state.
- A Governor requesting a general waiver must submit to the Secretary a plan to improve the statewide workforce investment system that:
 1. Identifies the statutory or regulatory requirements for which a waiver is requested and the goals that the state or local area, as appropriate, intends to achieve as a result of the waiver and how those goals relate to the Unified or Combined State Plan;
 2. Describes the actions that the state or local area, as appropriate, has undertaken to remove state or local statutory or regulatory barriers;
 3. Describes the goals of the waiver and the expected programmatic outcomes if the request is granted;
 4. Describes how the waiver will align with the Department’s policy priorities;
 5. Describes the individuals affected by the waiver, including how the waiver will impact services for disadvantaged populations or individuals with multiple barriers to employment; and
 6. Describes the processes used to: (i) monitor the progress in implementing the waiver; (ii) provide notice to any Local Board affected by the waiver; (iii) provide any Local Board affected by the waiver an opportunity to comment on the request; (iv) ensure meaningful public comment, including comment by business and organized labor, on the waiver; and (v) collect and report information about waiver outcomes in the state’s WIOA Annual Report.
- The Secretary will issue a decision on a waiver request within 90 days after the receipt of the original waiver request.
- Approval of a waiver request by the Secretary is contingent of certain factors, and is effective for the period of time aligned to the state’s Unified or Combined State Plan.

As the party responsible for coordinating Virginia’s Combined State Plan, and as the policy oversight body of the public workforce system on behalf of the Governor, the Virginia Board of Workforce Development will review waiver requests prior to submission to the Governor, including ensuring that each plan has been appropriately researched and all consultations and public comment processes have been adhered to.

V. Procedures

The procedures for submitting waiver requests of statutory or regulatory requirements of either WIOA Title 1 or the Wagner Peyser Act include the following.

Step 1-Interested Parties Submit Waiver Interest to the Title I Administrator: Any number of workforce system stakeholders may submit a Waiver Request Interest Form¹, which will be directed to the Virginia Board of Workforce Development. Stakeholders include State and Local Board members and staff, state agency staff, members of the business community, labor organizations, community-based organizations, or other system partners. The Waiver Request Interest Form must document all requested information, as it aligns to U.S. Department of Labor requirements for submission of a waiver request by a Governor.

Step 2-Review of Waiver Request by Appropriate Board Subcommittee in Conjunction with State Program Staff: In order to ensure alignment with the Governor’s workforce priorities, review consistency with goals and objectives of Virginia’s Combined State Plan, and meet requirements for waiver requests issued by the U.S. Department of Labor, the Waiver Interest Request Form will be assigned and reviewed by the state agency staff for the appropriate program elements potentially being waived. In addition, this review will ensure that elements identified in the U.S. Department of Labor’s regulations that are not waivable will not be included in any further review or submitted to the committee or the Governor. The waiver request will be reviewed by the Executive Committee of the Virginia Board of Workforce Development and the review process will be completed within 60 calendar days of the Waiver Request Interest Form being submitted.

Step 3-Elected Officials Review and Public Comment: A waiver request approved by the Executive Committee of the Board will be considered “preliminary” and will be subject to review and comment by impacted local chief elected officials and the public at-large. The Virginia Board of Workforce Development will release an official public comment period and comment submission process and will ensure that the appropriate local chief elected officials are briefed on the waiver request. The total review and comment period will take no longer than 60 calendar days.

Step 4-Board Approval and Presentation to Governor for Submission: After the review and comment period has concluded, the Virginia Board of Workforce Development will make the waiver request an item of business of a full Board agenda. A majority vote of the Board will be required prior to presentation to the Governor of the waiver submission package. All recorded member opinion on the waiver request will be provided to the Governor in the interest of full disclosure and transparency.

Step 5-Waiver Implementation: The Board will coordinate any ongoing communication with the U.S. Department of Labor regarding status of the request. Once approved by the U.S. Department of Labor, the Board and commensurate state agency responsible for the program area will ensure implementation and compliance with the approved waiver as part of Combined State Plan monitoring.

¹ This form is a VBWD-generated form and can be found on the VBWD website.