

# Reference for CORONOVARIS (COVID-19) Flexibility Under WIOA

## General

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- ▶ The Secretary's waiver authority under WIOA is a tool to promote workforce system innovation and focus on outcomes.
- ▶ The Department is supportive of waivers that are within the Secretary's waiver authority and where the state can articulate in its waiver request how the proposed waiver will improve job seeker and employer outcomes, or otherwise achieve positive outcomes.
- ▶ The Department's Disaster Dislocated Worker Grants (DWG) include many flexibilities. The Department will additionally consider any other waivers that disaster-impacted states may need.
- ▶ The Department reviews each waiver individually. WIOA does not permit granting waivers unless requested in accordance with specific regulatory requirements. The statute requires response within 90 days of a waiver request.

## WIOA Flexibilities Available *without* a Waiver (list not exhaustive)

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- ▶ WIOA allows 100% fund transfer between the Adult and Dislocated Worker programs.
- ▶ WIOA permits local areas to use up to 20 percent of local Adult and Dislocated Worker funds for incumbent worker training in accordance with their plan and employer requirements.
- ▶ WIOA permits local areas to use up to 10 percent of local Adult and Dislocated Worker funds to support transitional jobs, which they may reimburse up to 100%.
- ▶ WIOA also permits local areas to use up to 10 percent of local Adult and Dislocated Worker funds for pay-for-performance strategies.
- ▶ WIOA gives states flexibility in using a portion of statewide rapid response funds for incumbent worker training designed to prevent or avert layoffs.
- ▶ WIOA also permits states to use rapid response funds for other statewide activities when unobligated at the end of the program year in which they were allocated.

- ▶ WIOA allows for the increase of the 50% limit on reimbursement to employers for on-the-job training to permit local areas to use sliding scale to increase the reimbursement (capped at 75%) based on the size of the business.

## Flexibility Available After Request and Approval of Waiver

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- ▶ Waiver of requirement to conduct certain required statewide activities, such as conducting evaluations, providing incentive grants to local areas, and providing additional assistance to local areas with high concentrations of youth
- ▶ Ability to use individual training accounts for in-school youth
- ▶ Ability to reimburse employers more than 75% for on-the-job training
- ▶ Ability to use more than 20% of Adult and Dislocated Worker funds for incumbent worker training
- ▶ Ability to use more than 10% of Adult and Dislocated Worker funds for transitional jobs
- ▶ Ability to reduce the state and local Youth funds expenditure minimum for out-of-school youth
- ▶ Allow Governor to make funding reallocation decisions based on factors other than the relative size of a local area's allotment.
- ▶ Allow use of state set-aside funds for public service employment for temporary disaster-recovery jobs

## Flexibilities Available in Disaster Dislocated Worker Grants *without a Waiver*

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- ▶ Waiver of work search requirements for UI/DUA recipients;
- ▶ Ability to serve impacted individuals, regardless of their location;
- ▶ Ability to modify Disaster Recovery DWG and use funds awarded in same program year to be repurposed for use by workers affected by COVID-19 in states directly affected by the disaster and in states where affected workers relocated (WIOA sec. 170(d)(4) and 20 CFR 687.200(b)(2))
- ▶ Ability to serve participants considered long term unemployed, as defined by the state, at the time of the disaster (WIOA sec. 170(d)(2)(B); 20 CFR 687.170(b)(1)(ii); 20 CFR 678.170(b)(2)(ii))
- ▶ Ability for public agencies and other providers to serve eligible individuals, including through temporary employment and other services provided, as described at 20 CFR 687.180(b). (20 CFR 687.180(c)). This can include jobs reasonably necessary in order to provide humanitarian assistance or to ensure the safety and security of a worksite such as janitorial staff or those fulfilling administrative duties supporting projects that provide humanitarian assistance.
- ▶ Ability for any local area to enter into an agreement with another local area to pay or share the cost of services under title I, including supportive services. (WIOA sec. 194(3)(A)-(B)).

## Waivers Disaster-Impacted States Might Consider

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- ▶ Waiver of the administrative cost limitation set forth at WIOA sec. 128(b)(4)(A) and 20 CFR 683.205(a)(2).
- ▶ Waiver to permit the state to develop more flexible funding recapture policies.
- ▶ Waiver to permit more flexible reallocation procedures for recaptured funds.
- ▶ Waiver of the requirement that local programs provide all fourteen youth program elements at WIOA sec. 129(c)(2) as options available to youth participants.
- ▶ Waiver to allow use of state set-aside funds for public service employment for temporary disaster-recovery jobs
- ▶ Waiver to use more than 10% of Adult and Dislocated Worker funds for transitional jobs
- ▶ Waiver of the limitation on the use of funds for capitalization of businesses at WIOA sec. 181(e).

## Waiver Authority Limitations

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WIOA sec. 189(i)(3)(A)(i) establishes the limitations of the Secretary's general waiver authority for WIOA title I, subtitles A, B, and E. As enumerated in this section, the Secretary is statutorily prohibited from waiving any provisions related to the following:

- ▶ Wage and labor standards;
- ▶ Non-displacement protections;
- ▶ Worker rights;
- ▶ Participation and protection of workers and participants;
- ▶ Grievance procedures and judicial review;
- ▶ Nondiscrimination;
- ▶ Allocation of funds to local areas;
- ▶ Eligibility of providers or participants;
- ▶ The establishment and functions of local areas and Local WDBs;
- ▶ Procedures for review and approval of State and Local plans;
- ▶ The funding of infrastructure costs for one-stop centers; and
- ▶ Other requirements relating to the basic purposes of title I of WIOA.