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Henry McMaster
Governor

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Executive Director

STATE INSTRUCTION NUMBER 21-05

To: Local Workforce Area Signatory Officials
Local Workforce Area Board Chairs
Local Workforce Area Administrators

Subject: Requesting a Waiver of State Specific Requirements

Issuance Date: December 16, 2021

Effective Date: December 14, 2021

Purpose: To provide guidance on requesting Local Workforce Development Area (LWDA) waivers of state specific requirements.

Background: The Workforce Innovation and Opportunity Act (WIOA) is designed to help job seekers secure the employment, education, training, and support services necessary to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. WIOA, and its implementing regulations, establish federal requirements for WIOA programs, and allows states to set additional requirements as needed to reach state goals for WIOA programs. LWDAs are encouraged to develop promising and innovative practices or initiatives to achieve these goals; however, state specific requirements may limit a LWDA's ability to implement a new practice or initiative. In such a situation, the Department of Employment and Workforce (DEW) may consider a waiver of a state specific requirement. In addition to exploring available flexibilities to facilitate the achievement of LWDA goals, waivers of state specific requirements are a tool DEW may use for reducing barriers to WIOA implementation of innovative programming options.

Policy: In an effort to spur promising and/or innovative practices by local areas, LWDAs may submit a request for a waiver of a state specific requirement that may be a barrier to implementation. Once a LWDA has set local goals and identified barriers to implementing state requirements, including corresponding state policy that may impede achievement of those goals, LWDAs are encouraged to reach out to DEW Workforce Support to discuss plans for a waiver request. This allows the LWDA to share its goals and ideas for innovation with DEW, and provides the opportunity to explore any existing flexibilities and waiver options.

Innovative practices or initiatives may be identified by the following criteria:

- Lead entity is a Local Workforce Development Board (LWDB) or LWDB's service provider.
- Initiative is, or will be, implemented in partnership with other education, workforce, economic development, social service, or non-profit entities.
- Initiative focuses on creating talent pipelines in high-growth, high-demand industries.
- Initiative targets priority populations and/or underserved communities.
- Initiative met or exceeded target outcomes or is on track to do so.
- LWDB is willing to assist other LWDBs or entities to implement the promising practice.

Requests for a waiver must be in writing and must include the following elements, as applicable:

- Detailed description of the nature of the project/initiative to be developed
- State specific requirement that the LWDA would like waived
- Actions the LWDA has undertaken to remove local laws and/or policy barriers, if any
- LWDB strategic goals relevant to the project/initiative to be developed
- Projected programmatic outcomes resulting from implementation of the waiver
- Alignment with state policy priorities, such as supporting employer engagement, connecting education and training strategies, supporting work-based learning, or improving job and career results
- Individuals, groups, or populations affected by the waiver
- LWDA plans for monitoring waiver implementation, including collection of waiver outcome information

The waiver request must include the completed "LWDA Waiver of State Requirement(s) Request Cover Sheet," with appropriate attachments. LWDA's may submit waiver requests as part of their Local Plan or as a separate request; ultimately an approved waiver constitutes a modification of the Local Plan regardless of how it is submitted. The waiver request must include documentation demonstrating that the LWDB and Chief Elected Official(s) (CEO) are aware of the waiver request and the project/initiative. LWDA's must submit requests for waivers of state specific requirements to WorkforceSupport@dew.sc.gov.

NOTE: A LWDA must meet all state specific requirements even though a waiver request has been submitted until the LWDA has received an approval letter, outlining the waiver terms. Depending on the nature of the waiver request and the needs of the initiative, a waiver request may be approved retroactively.

LWDA waiver requests will be reviewed within 90 days of receipt of submission of the waiver request. Waiver review will be expedited when possible. Upon approval of a waiver request, DEW will send an approval letter identifying the effective date and the duration of the waiver.

NOTE: Waiver requests submitted in the fourth quarter for the current program year **will not** be approved.

While an approved waiver is ongoing, LWDA's should regularly assess whether the waiver is successfully achieving LWDA goals. LWDA's must report specifically on waiver impact and outcomes. DEW will consider outcome information as part of the criteria for granting renewal of a waiver, if requested.

Authority for Waiver Approval

Waivers approved by DEW are only granted for state specific requirements issued in State Instructions. Waiver approval cannot be granted for any requirements governed by federal or state laws and regulations, including federal performance measures. Furthermore, DEW will obtain approval authority from the State Workforce Development Board (SWDB), annually, before approving any waiver requests submitted within each program year. The appropriate SWDB subcommittee will be updated upon approval or denial of a LWDA waiver request.

Action: Please ensure that all appropriate staff receive and understand this policy.

Inquiries: Questions may be directed to PolnPro@dew.sc.gov.



Kevin Cummings, Assistant Executive Director
Technical Services, Policies, and Reporting

Attachment: LWDA Waiver of State Specific Requirement(s) Request Cover Sheet

LWDA Waiver of State Requirement(s) Request Cover Sheet

Local Workforce Development Area (LWDA)	Date Submitted
Requirement(s) to be waived	
Relevant State Instruction(s)	Requested Waiver Period

Brief description of the LWDA's Initiative, including how the state requirement is inhibiting the initiative:

Program Elements Checklist

Attached	N/A	Program Element
<input type="checkbox"/>	<input type="checkbox"/>	Detailed description of the LWDA's initiative to be developed
<input type="checkbox"/>	<input type="checkbox"/>	State specific requirement(s) that the LWDA would like waived
<input type="checkbox"/>	<input type="checkbox"/>	LWDA's actions taken to remove barriers to the initiative
<input type="checkbox"/>	<input type="checkbox"/>	Relevant LWDB strategic goals
<input type="checkbox"/>	<input type="checkbox"/>	Alignment with state policy priorities
<input type="checkbox"/>	<input type="checkbox"/>	Individuals, groups, or populations affected by the waiver
<input type="checkbox"/>	<input type="checkbox"/>	Description of how the LWDA intends to monitor waiver implementation

*If any element is not relevant to the LWDA's initiative, the check box for "Not Applicable" should be selected.

Additional Requirements Checklist

- If approved, Local Plan will be modified in accordance with State Instruction 15-16, Change 2.
- Documentation of CEO and LWDB awareness of the LWDA's proposed initiative is attached.

Please submit this form, with attachments and documentation, to WorkforceSupport@dew.sc.gov upon completion.