

WAIVER REQUEST – AMEND THE DEFINITION OF INCUMBENT WORKER BY ELIMINATING OR REDUCING THE SIX-MONTH EMPLOYMENT REQUIREMENT

Statutory and/or regulatory requirements to be waived

Indicate which part of the WIOA or the regulations the state would like to waive.

The State of Illinois is seeking a waiver from 20 CFR 680.780 to amend the definition of “incumbent worker” by either reducing or, preferably, eliminating the 6-month employment requirement. Several local workforce areas collaborated to jointly ask the State to submit this waiver request.

Actions undertaken to remove state or local barriers

N/A

Describe the actions undertaken to remove state or local barriers.

There are currently no state or local statutory or regulatory barriers to implementing the requested waiver. State of Illinois regulations and policy align with current federal law and regulations.

Goals and expected programmatic outcomes of waiver

Describe and specify how the waiver will help the state achieve an identified strategic goal or set of goals that it has outlined in its State Plan. If possible and appropriate the type of waiver requested, provide quantifiable projections for programmatic outcomes that will result from the waiver.

Illinois has long been a strong advocate of incumbent worker training as a means improving the competitive position of workers and businesses. Our Unified State Plan places a strong emphasis on workforce system responsiveness to the needs of employers, and the 6-month requirement is an arbitrary barrier to using incumbent worker training to support Registered Apprenticeships, upskilling workers and keeping companies competitive.

A recent survey conducted by the local workforce boards indicates that in 2019:

- dozens of employer requests for incumbent worker training were denied due to this requirement
- Employers expressed frustration with being able to use incumbent worker training for some employees but not others if they are newly hired. (Local areas are aware they have flexibility to include new hires if they make up a minority of the training cohort.)

Employer comments:

- “How do I create consistency among my seasoned workers and new hired workers as it pertains to training if they both don’t have access to training opportunities?”

- “It is unfortunate that we are doing apprenticeships and my new employees are not eligible to participate. It would be nice to be able to on-board someone and they can receive the same training to put them at the same level.”
 - “One area that was lacking was being able to send newly hired colleagues for training. Our initial funding request included the creating of six new positions and the Electronic Medical Records training that would be required to ignite those positions to success [was denied].”
 - “It seemed like a useless restriction, especially if a company wanted to train their entire workforce at the same time.”
 - “Management is concerned with the 6-month requirement for the grant and whether or not we can meet. The candidates we would utilize are new hires (day one employees) and not fall under the guidelines. We intended to utilize the grant to be able to hire/increase the number of employees and offset the training costs with the funding. If you have guidance please pass along.”
 - “[The six-month requirement] has directly affected [our company] in that ...individuals were excluded from training that directly affected their advancement and the overall well-being of the company.”
- The six-month requirement was detrimental to business engagement efforts because it creates an apparent arbitrary restriction that allows some workers to be trained and some not
- Potentially hundreds of incumbent workers were denied the ability to receive upskill training
- The requirement was detrimental to expanding the use of Registered Apprenticeships

Local Area Comments

- Employers are often hesitant to participate in workforce programs like our incumbent worker program, due to what they consider "bureaucratic red-tape". When an employer introduces new technology at their site, all employees that will work with that new technology need to be trained not just workers that have been employed 6 months or more. We like to encourage employers to expand in our workforce area, but then we penalize them with policies that exclude those new hires from eligibility.
- We're finally getting to a point where businesses are coming to us for incumbent worker training, and then we have to inform them that the new people they just hired can't be trained with the rest of the group, unless they pay for that person. It just gives the business community another reason to look at us as a "bureaucracy".

- The 6-month requirement has only recently become more of a sticking point as we are looking to promote apprenticeship in particular. We would like to be able to use WIOA Incumbent dollars to "kick start" apprenticeship within companies as a capacity building effort. Unfortunately, there is no way to provide funding for onboarding and beginning apprenticeship for the vast majority of new hires (as they would have to be WIOA eligible to receive OJT or Customized Training). An apprenticeship funding model that doesn't start for the first six months is a non-starter for most employers who would otherwise be interested.
- The grant restriction does not allow consistency among all onboarded workers, it prohibits a macro approach to address a training issue, it segregates worker groups, and it does allow an employer to immediately address Workforce pain points when identified within an onboarding process.
- It has an impact on our flexibility, especially when it comes to serving newer/start-up businesses that may have few if any employees that have been at the company for six months. Also, would help garner more interest for work-based learning/apprenticeships/OJT's.
- While trying to find the best solutions for our customers lets remove barriers and not restrict businesses from training up their workforce.
- We try and streamline the program as best as we can to make it attractive for the business and remain in conformance. Not having the 6-month employment requirement makes it an easier program to sell! That's a win-win for everyone!
- New hires, who are not otherwise eligible for OJT under WIOA, have to be put off because of this requirement. This is especially problematic for smaller companies that want to get their new people up to speed ASAP but don't have the revenue to pay for it themselves, or the employee cannot afford to pay for it. While the companies understand my limitations, it doesn't do much for us being able to build that needed relationship with them.
- The inability to include new hires is a real negative factor as, in this economy, many employers are having to hire people without at least some of the necessary job skills.

Goals

The overarching goal is to eliminate an arbitrary barrier to providing incumbent worker training to companies and workers struggling to stay competitive. Removing this barrier aligns directly with priorities espoused by the Department of Labor, the Governor's Executive Order #3, the Five- Year Economic Development Plan and WIOA Unified State Plan to:

- Be more responsive to the needs of businesses

- Support establishing long-term relationships between businesses and the workforce system
- Promote the expansion of Registered Apprenticeships to more businesses as a means to meet their workforce needs
- Provide upward mobility for workers into career pathways
- Promote increased use of work-based learning that allows workers to learn and earn at the same time.

Individuals Impacted by the Waiver

Individuals impacted by the waiver potentially include:

- all disadvantaged populations that recently entered the workforce through support from community-based programs funded from sources other than WIOA
- newly hired workers that wish to enter a Registered Apprenticeship
- newly hired workers that wish to upskill their talents for improved job security.

Outcomes

Illinois can effectively monitor the impact of the waiver through our existing Incumbent Worker Tracking System. A simple system modification can be deployed to require local areas to identify if a project includes workers that have been at the company less than six months. We will be able to track the companies and their location, sector and the number of workers trained in these projects that otherwise would have been denied.

Notice to affected local boards

Address how local boards affected by the waiver were notified of the request.

Local boards, working through their statewide organization, the Illinois Workforce Partnership, collectively approached the State to pursue this waiver request. The State's waiver request includes direct input provided by the local boards and employers in their respective local area.

Public Comment

Provide a description of the proactive solicitation of public comments. At a minimum, post the proposed waiver request to the state's official website for comment. Ideally, develop a targeted outreach strategy to collect input and comment from all affected stakeholders. Submit any comments or concerns collected in this manner and the outcome of the state's review of the public comments received.

In accordance with the WIOA Regulations at 20 CFR 676.135, Illinois is submitting a modification to its Unified State Plan, which is subject to the requirements outlined in the WIOA Regulations at 20 CFR 676.130(d) for public review and comment. As such, Illinois's waiver request posted on our website for comment and review by required parties and the public. USDOL will receive any comments provided.

Waiver Impact

Collect and report information about waiver outcomes in the State's WIOA Annual Report. The Secretary may require that States provide the most recent data available about the outcomes of the existing waiver in cases where the State seeks renewal of a previously approved waiver.

The IWIB Continuous Improvement Committee will have the responsibility of ensuring the specific goals and outcomes achieved by the waiver are realized. Furthermore, the information gathered from the waiver will inform new or changes to policy as well as provide best practices. Outcomes of the waiver will be reported in the WIOA Annual Report.