

Subpart C

Wagner-Peyser Act Services in a One-Stop Delivery System Environment

§ 652.200 What is the purpose of this subpart?

- (a) This subpart provides guidance to States to implement the services provided under the Wagner-Peyser Act, as amended by WIOA, in a one-stop delivery system environment.
- (b) Except as otherwise provided, the definitions contained in part 651 of this chapter and sec. 2 of the Wagner-Peyser Act apply to this subpart.

§ 652.201 What is the role of the State Workforce Agency in the one-stop delivery system?

- (a) The role of the State Workforce Agency (SWA) in the one-stop delivery system is to ensure the delivery of services authorized under sec. 7(a) of the Wagner-Peyser Act. The SWA is a required one-stop partner in each local one-stop delivery system and is subject to the provisions relating to such partners that are described at part 678 of this chapter.
- (b) Consistent with those provisions, the State agency must:
- (1) Participate in the one-stop delivery system in accordance with sec. 7(e) of the Wagner-Peyser Act;
 - (2) Be represented on the Workforce Development Boards (WDBs) that oversee the local and State one-stop delivery system and be a party to the Memorandum of Understanding, described at § 678.500 of this chapter, addressing the operation of the one-stop delivery system; and
 - (3) Provide these services as part of the one-stop delivery system.

§ 652.202 May local Employment Service offices exist outside of the one-stop delivery system?

No. Local ES offices may not exist outside of the one-stop service delivery system. A State must co-locate ES, as provided in §§ 678.310 through 678.315 of this chapter.

§ 652.203 Who is responsible for funds authorized under the Wagner-Peyser Act in the workforce development system?

The SWA retains responsibility for all funds authorized under the Wagner-Peyser Act, including those funds authorized under sec. 7(a) required for providing the services and activities delivered as part of the one-stop delivery system.

§ 652.204 Must funds authorized under the Wagner-Peyser Act (the Governor's Reserve) flow through the one-stop delivery system?

No, sec. 7(b) of the Wagner-Peyser Act provides that 10 percent of the State's allotment under the Wagner-Peyser Act is reserved for use by the Governor for performance incentives, supporting exemplary models of service delivery, professional development and career advancement of SWA staff, and services for groups with special needs. However, these funds may flow through the one-stop delivery system.

§ 652.205 May funds authorized under the Wagner-Peyser Act be used to supplement funding for labor exchange programs authorized under separate legislation?

- (a) Section 7(c) of the Wagner-Peyser Act enables States to use funds authorized under sec. 7(a) or 7(b) of the Wagner-Peyser Act to supplement funding of any workforce activity carried out under WIOA.

(b) Funds authorized under the Wagner-Peyser Act may be used under sec. 7(c) to provide additional funding to other activities authorized under WIOA if:

- (1) The activity meets the requirements of the Wagner-Peyser Act, and its own requirements;
- (2) The activity serves the same individuals as are served under the Wagner-Peyser Act;
- (3) The activity provides services that are coordinated with services under the Wagner-Peyser Act; and
- (4) The funds supplement, rather than supplant, funds provided from non-Federal sources.

§ 652.206 May a State use funds authorized under the Wagner-Peyser Act to provide applicable “career services,” as defined in the Workforce Innovation and Opportunity Act?

Yes, funds authorized under sec. 7(a) of the Wagner-Peyser Act must be used to provide basic career services as identified in § 678.430(a) of this chapter and secs. 134(c)(2)(A)(i)–(xi) of WIOA, and may be used to provide individualized career services as identified in § 678.430(b) of this chapter and sec. 134(c)(2)(A)(xii) of WIOA. Funds authorized under sec. 7(b) of the Wagner-Peyser Act may be used to provide career services. Career services must be provided consistent with the requirements of the Wagner-Peyser Act.

§ 652.207 How does a State meet the requirement for universal access to services provided under the Wagner-Peyser Act?

(a) A State has discretion in how it meets the requirement for universal access to services provided under the Wagner-Peyser Act. In exercising this discretion, a State must meet the Wagner-Peyser Act’s requirements.

(b) These requirements are:

- (1) Labor exchange services must be available to all employers and job seekers, including unemployment insurance (UI) claimants, veterans, migrant and seasonal farmworkers, and individuals with disabilities;
- (2) The State must have the capacity to deliver labor exchange services to employers and job seekers, as described in the Wagner-Peyser Act, on a statewide basis through:
 - (i) Self-service, including virtual services;
 - (ii) Facilitated self-help service; and
 - (iii) Staff-assisted service;
- (3) In each local area, in at least one comprehensive physical center, staff funded under the Wagner-Peyser Act must provide labor exchange services (including staff-assisted labor exchange services) and career services as described in § 652.206; and
- (4) Those labor exchange services provided under the Wagner-Peyser Act in a local area must be described in the Memorandum of Understanding (MOU) described in § 678.500 of this chapter.

§ 652.208 How are applicable career services related to the methods of service delivery described in in this part?

Career services may be delivered through any of the applicable three methods of service delivery described in § 652.207(b)(2). These methods are:

- (a) Self-service, including virtual services;
- (b) Facilitated self-help service; and (c) Staff-assisted service.

§ 652.209 What are the requirements under the Wagner-Peyser Act for providing reemployment services and other activities to referred unemployment insurance claimants?

(a) In accordance with sec. 3(c)(3) of the Wagner-Peyser Act, the SWA, as part of the one-stop delivery system, must provide reemployment services to UI claimants for whom such services are required as a condition for receipt of UI benefits. Services must be appropriate to the needs of UI claimants who are referred to reemployment services under any Federal or State UI law.

(b) The SWA also must provide other activities, including:

(1) Coordination of labor exchange services with the provision of UI eligibility services as required by sec. 5(b)(2) of the Wagner-Peyser Act;

(2) Administration of the work test, conducting eligibility assessments, and registering UI claimants for employment services in accordance with a State's unemployment compensation law, and provision of job finding and placement services as required by sec. 3(c)(3) and described in sec. 7(a)(3)(F) of the Wagner-Peyser Act; and

(3) Referring UI claimants to, and providing application assistance for, training and education resources and programs, including Federal Pell grants and other student assistance under title IV of the Higher Education Act, the Montgomery GI Bill, Post-9/11 GI Bill, and other Veterans Educational Assistance, training provided for youth, and adult and dislocated workers, as well as other employment training programs under WIOA, and for Vocational Rehabilitation Services under title I of the Rehabilitation Act of 1973.

§ 652.210 What are the Wagner-Peyser Act's requirements for administration of the work test, including eligibility assessments, as appropriate, and assistance to unemployment insurance claimants?

(a) State UI law or rules establish the requirements under which UI claimants must register and search for work in order to fulfill the UI work test requirements.

(b) Staff funded under the Wagner-Peyser Act must assure that:

(1) UI claimants receive the full range of labor exchange services available under the Wagner-Peyser Act that are necessary and appropriate to facilitate their earliest return to work, including career services specified in § 652.206 and listed in sec. 34(c)(2)(A) of WIOA;

(2) UI claimants requiring assistance in seeking work receive the necessary guidance and counseling to ensure they make a meaningful and realistic work search; and

(3) ES staff will provide UI program staff with information about UI claimants' ability or availability for work, or the suitability of work offered to them.

§ 652.211 What are State planning requirements under the Wagner-Peyser Act?

The ES is a core program identified in WIOA and must be included as part of each State's Unified or Combined State Plans. See §§ 676.105 through 676.125 of this chapter for planning requirements for the core programs.

§ 652.215 Do any provisions in the Workforce Innovation and Opportunity Act change the requirement that State merit staff employees must deliver services provided under the Wagner-Peyser Act?

No, the Secretary requires that labor exchange services provided under the authority of the Wagner-Peyser Act, including services to veterans, be provided by State merit-staff employees. This interpretation is authorized by and consistent with the provisions in secs. 3(a) and 5(b) of the Wagner-Peyser Act and the Intergovernmental Personnel Act (42 U.S.C 4701 *et seq.*). The

Secretary has and has exercised the legal authority under sec. 3(a) of the Wagner-Peyser Act to set additional staffing standards and requirements and to conduct demonstrations to ensure the effective

delivery of services provided under the Wagner-Peyser Act. No additional exemptions, other than the ones previously authorized under the Wagner-Peyser Act as amended by WIA, will be authorized.

§ 652.216 May the one-stop operator provide guidance to State merit staff employees in accordance with the Wagner-Peyser Act?

Yes, the one-stop delivery system envisions a partnership in which Wagner-Peyser Act labor exchange services are coordinated with other activities provided by other partners in a one-stop setting. As part of the local Memorandum of Understanding described in § 678.500 of this chapter, the SWA, as a one-stop partner, may agree to have staff receive guidance from the one-stop operator regarding the provision of labor exchange services. Personnel matters, including compensation, personnel actions, terms and conditions of employment, performance appraisals, and accountability of State merit staff employees funded under the Wagner-Peyser Act, remain under the authority of the SWA. The guidance given to employees must be consistent with the provisions of the Wagner-Peyser Act, the local Memorandum of Understanding, and applicable collective bargaining agreements.