

**State of Florida Waiver Request
Workforce Innovation and Opportunity Act (WIOA)
Removing Race, Ethnicity, and Sex from the Statistical Adjustment Model**

Statutory or Regulatory Requirements to be Waived

The State of Florida is requesting a waiver of WIOA Section 116(b)(3)(A)(v)(II)(bb) and 20 CFR 677.170(c)(2), to the extent that they permit the use of race, ethnicity, and sex as participant characteristics to adjust levels of performance under the statistical adjustment model established by the Secretaries of Labor and Education. Notably, neither the law nor the regulation *requires* the Secretaries to use these participant characteristics. Instead, they include characteristics that are indicative of barriers to employment, such as indicators of poor work history and lack of work experience.

Actions the State Has Undertaken to Remove State or Local Barriers

This waiver will enhance Florida's focus on serving individuals with barriers to work instead of providing services based on an individual's immutable traits, which may be unconstitutional but nonetheless has the effect of diverting services from otherwise eligible individuals.

This waiver request aligns with TEGL 05-25, which encourages states to identify barriers to modernizing performance systems and to adopt waivers that improve accountability and outcomes and is also in alignment with issued state guidance. Further, this waiver also supports Florida's state strategy by placing an emphasis on real progress in employment and skill attainment rather than demographic categories. Florida remains committed to sharpening attention on measurable results that matter to workers and employers.

Strategic Goals of the Waiver

The strategic goals associated with this waiver are to:

1. Focus on serving individuals with barriers to employment, rather than the participant characteristics of race, ethnicity, and sex.
2. Implement the United States Attorney General's July 2025 Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination and other federal guidance.
3. Align state practices to be consistent with the opinion of the Florida Attorney General from January 2026.
4. Improve WIOA performance outcomes statewide.

Alignment with U.S. Department of Labor/Employment and Training Administration Policy Priorities

Removal of race, ethnicity, and sex as participant characteristics from the statistical adjustment model is aligned with U.S. Attorney General Pam Bondi's July 29, 2025, Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination. The Guidance provides that "[u]sing race, sex, or other protected characteristics for employment, program participation, resource allocation, or other similar activities, opportunities, or benefits, is unlawful, except in rare cases where such discrimination satisfies the relevant level of judicial scrutiny."

The United States Supreme Court has held that universities' race-based admissions programs failed to satisfy the rigorous "strict scrutiny" judicial review used to evaluate their constitutionality. *Students for*

Fair Admissions, Inc. v. President & Fellows of Harvard College (SFFA), 600 U.S. 181 (2023). The use of race, ethnicity, and sex as participant characteristics in the statistical adjustment model may not withstand strict scrutiny and is inconsistent with sub-regulatory guidance issued at the federal and state levels.

Removal of these characteristics is also aligned with Training and Employment Guidance Letter No. 07-25, issued on January 26, 2026. The TEGL cautions states that implementation of “discriminatory equity ideology,” as defined in Executive Order 14190, risks violating federal civil rights laws and jeopardizing federal funding. “Discriminatory equity ideology” means “an ideology that treats individuals as members of preferred or disfavored groups, rather than as individuals, and minimizes agency, merit, and capability in favor of immoral generalizations...” Continued use of the noted participant characteristics may constitute discriminatory equity ideology.

Finally, removal of race, ethnicity, and sex as participant characteristics in the statistical adjustment model is consistent with Florida Attorney General James Uthmeier’s January 19, 2026, opinion finding the use of race-based classifications presumptively unconstitutional under the Fourteenth Amendment’s Equal Protection Clause and Article I, section 2, of Florida’s Constitution. See [Uthmeier Opinion](#).

Projected Programmatic Outcomes Resulting from Implementation of the Waiver

The State expects to achieve the following goals and programmatic outcomes as a result of this waiver:

1. Elimination of focus on the participant characteristics of race, ethnicity, and sex.
2. Improved WIOA performance outcomes statewide due to alignment with WIOA’s focus on serving individuals with barriers to employment.

Description of Individuals, Groups, or Populations Impacted by the Waiver

1. Individuals with barriers to employment.
2. Local Workforce Development Boards.
3. Employers.

The Process to Monitor the Waived Activities and Collect Waiver Outcome Information

The state workforce development board (CareerSource Florida) and the Florida Department of Commerce will continue to monitor performance in serving individuals with barriers to employment but will no longer need to consider the participant characteristics of race, ethnicity, and sex. Annual WIOA on-site and remote programmatic reviews will include an evaluation of the impact of the waiver and the success of achieving the stated goals and outcomes. The Florida Department of Commerce and its Bureau of Workforce Statistics and Economic Research will continue to monitor, assess, and report on implementation and performance resulting from this waiver.

Most Recent Data Available Regarding the Results and Outcomes Observed Through the Implementation of the Existing Waiver

The State of Florida is currently developing a statistical adjustment model adjusting participant characteristics only for those barriers to employment as identified in WIOA for use with its local workforce development boards and can share progress on this development as it progresses. While this is a work in progress, Florida is providing the baseline data below for assessment of potential outcomes.

Program Year 2025 Q2 WIOA Adult Performance ¹	
Employment Rate Q2	85.4%
Employment Rate Q4	83.6%
Median Earnings	\$10,250
Credential Attainment Rate	79.8%
Measurable Skill Gains	77.8%

These baselines will be used to monitor impacts as Florida migrates the statistical adjustment model toward WIOA-defined barriers to employment.

Program Year 2025 Q2 Rolling Four Quarters WIOA Adult Participant Barrier Profile ²	
Low-income Individuals Served	64% of Cohort
Single Parents Served	18% of Cohort
Older Individuals Served	5% of Cohort
Ex-offenders Served	7% of Cohort

These barrier characteristics, rather than demographic attributes (race, ethnicity, sex), will anchor future statistical adjustments.

Opportunity for Local Workforce Development Board and Public Comment on the Waiver

Workforce development stakeholders, including local workforce development boards, businesses, and Chief Local Elected Officials, were notified of the State's waiver request through an email alert and post on CareerSource Florida's website. This included instructions on how to submit comments. In addition, both the public and stakeholders had access to the waiver request on CareerSource Florida's website, [CareerSourceFlorida.com](https://www.careersourceflorida.com), in the WIOA combined plan. The public comment period was open for 30 calendar days (shown below). There was one comment received as shown below.

¹ This data originates from the ETA-9173 report submitted to USDOL ETA for PY 2025 quarter ending December 31, 2025 <https://www.floridajobs.org/docs/default-source/federal-program-reports/py2025q2-statewide-eta9173.pdf>

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Submission Date

Comments

06-11-2026 12:57:29 The waiver request raises several questions regarding implementation, accountability, and potential impacts on Local Workforce Development Boards (LWDBs), particularly given that the waiver has not yet been approved by the U.S. Department of Labor and the proposed statistical adjustment model remains under development. If demographic variables are removed, the remaining barrier variables carry more of the explanatory weight. Incomplete barrier data could cause the model to see an easier-to-serve population than the one actually served. Removing variables from SAM is different from removing them from monitoring and reporting. Thus, disaggregated performance reporting should continue so the system can detect outcome gaps. Because Florida acknowledges that the model is still being developed, LWDBs should not be evaluated under that methodology before federal approval and before its impacts are fully understood, but more importantly, the methodology should not apply retroactively on rates that were based on good faith negotiations. The waiver states that Florida is "currently developing a statistical adjustment model" (lines 84-88) and that future statistical

adjustments will be based on WIOA-defined barriers to employment rather than demographic characteristics such as race, ethnicity, and sex (lines 106-108). However, the waiver does not provide sufficient information for LWDBs to assess the practical impact of these changes. The following questions should be addressed before the proposed methodology is used for performance accountability, monitoring, corrective actions, performance improvement plans, or procurement decisions:

1. What would each LWDB's adjusted performance targets have been under the current federal model compared with the proposed barrier-only model?

The waiver indicates that Florida is developing a new statistical adjustment model (lines 84-88) and that future adjustments will be anchored on barrier characteristics rather than demographic attributes (lines 106-108). However, no comparison is provided showing how local negotiated targets would change under the proposed methodology.

2. Which programs and performance indicators are most affected by the proposed changes?

The waiver provides only statewide Adult program baseline data (lines 88-98) and does not identify impacts by program or indicator. Additional analysis should be provided for Adult, Dislocated Worker, and Youth programs, including Employment Rate Quarter 2, Employment Rate Quarter 4, Median Earnings, Credential Attainment, and Measurable Skill Gains.

3. Does model error increase when race, ethnicity, and sex are removed from the statistical adjustment model? Because the model is still under development (lines 84-88), no information has been provided regarding predictive accuracy, model validity, goodness-of-fit, or error rates under the proposed methodology.

4. Are residual errors concentrated in particular local workforce areas or participant populations?

The waiver discusses future monitoring and evaluation (lines 74-80) but does not provide any analysis regarding whether the proposed model systematically over- or under-predicts outcomes for particular LWDBs or participant groups.

5. Do WIOA-defined barrier variables fully substitute for the removed demographic variables?

The waiver is premised on replacing demographic characteristics with barrier-to-employment variables (lines 1-8, 14-16, 84-88, and 106-108). However, no analysis is provided demonstrating that the proposed variables explain workforce outcomes as effectively as

the current model.

6. Will Florida continue public reporting of performance data disaggregated by race, ethnicity, sex, age, and WIOA barrier categories?

While the waiver proposes removing certain variables from the adjustment model, it does not clarify whether demographic reporting and transparency will continue.

7. Will transition protections be established if the revised methodology creates significant target shifts for individual LWDBs?

The waiver discusses statewide performance improvements and future monitoring (lines 23-28 and 74-80), but it does not address implementation timelines, hold-harmless provisions, phased implementation, or protections for boards that may experience significant target changes.

Finally, the waiver expressly acknowledges that Florida is still developing the statistical adjustment model (lines 84-88). Until the methodology is finalized, validated, and approved by the U.S. Department of Labor, LWDBs should not be subject to performance improvement plans, corrective actions, monitoring findings, procurement requirements, or other accountability measures based on metrics derived from the proposed model.

State Response: “This waiver to remove race, ethnicity, and sex from the Statistical Adjustment Model (SAM) is referring to the state’s SAM. The local SAM is already established.”