



LEAD CENTER

POLICY BRIEF

Summary of Major Policies Included in Titles I and IV of the *Workforce Innovation and Opportunity Act*

INTRODUCTION

On July 22, 2014, President Obama signed into law the **Workforce Innovation and Opportunity Act (WIOA)** (Public Law No. 113-128). WIOA represents an important bipartisan effort to improve federal workforce development programs and provide new opportunities to advance economic self-sufficiency for millions of Americans with and without disabilities. WIOA will help workers attain skills for 21st Century jobs, provide supports to people with disabilities to enter and remain in competitive, integrated job settings, and foster the modern workforce that evolving American businesses rely on to compete.

WIOA repeals and supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act and the Rehabilitation Act of 1973, as amended. The new law will not take effect until July 1, 2015 except the amendments to the Rehabilitation Act, which took effect on the date of enactment.

WIOA maintains a primary focus on assisting job seekers and workers with and without disabilities to succeed in the labor market and matching employers with skilled workers who may benefit from education, skills training, and employment and support services. The cornerstone of the public workforce investment system remains the American Job Center (AJC) or One-Stop Center system at a community level. At the state level, WIOA establishes unified strategic planning across these core programs: Title I Adult Programs and Services; Dislocated Worker and Youth Programs; Adult Education and Literacy Programs; Wagner-Peyser Employment Services and Title I of the Rehabilitation Act Programs.

Below is a summary of the major amendments to Titles I and IV of the Workforce Investment Act ***from a disability perspective*** i.e., those provisions in the legislation pertaining to workforce development and vocational rehabilitation systems of particular applicability to individuals with disabilities. The description is **not** intended to be comprehensive. Key disability-related policies are underlined in the summary of Title I provisions.

The National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD) is a collaborative of disability, workforce and economic empowerment organizations led by National Disability Institute with funding from the U.S. Department of Labor's Office of Disability Employment Policy, Grant No. #OD-23863-12-75-4-11. This document does not necessarily reflect the views or policies of the Office of Disability Employment Policy, U.S. Department of Labor, nor does the mention of trade names, commercial products or organizations imply endorsement by the U.S. Government.

Local Performance Accountability Measures. The local performance accountability measures for, among other things, the VR program, shall consist of:

- the primary indicators of performance;
- additional indicators of performance, if any identified for such program; and
- the local level of performance for each indicator.

Performance Reports. Performance reports must include, among other things:

- information specifying the levels of performance achieved with respect to the primary indicators of performance for each program (e.g., VR program) with respect to individuals with barriers to employment, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age;
- the average cost per participant of those participants who received career and training services; and
- the number of individuals with barriers to employment served by each program, disaggregated by each subpopulation of such individuals.

Contents of Eligible Training Providers Performance Reports. The performance report for an eligible training provider of training services must include, with respect to each program of study of such provider, among other things:

1. information specifying the levels of performance achieved with respect to the primary indicators of performance with respect to all individuals engaging in the program of study (or the equivalent);
2. the total number of individuals exiting from the program of study (or the equivalent);
3. the total number of participants who received training services through each of the adult program and the dislocated worker program disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years;
4. the total number of participants who exited from training services, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years;
5. the average cost per participant for the participants who received training services, disaggregated by the type of entity that provided the training, during the most recent program year and the three preceding program years; and
6. the number of individuals with barriers to employment served by each of the adult program and the dislocated worker program disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age.

Sanctions for State Failure to Meet State Performance Accountability Measures. If a State fails to meet the State adjusted levels of performance relating to indicators for a program for any program year, the U.S. Secretary of Labor and the U.S. Secretary of Education shall provide technical assistance, including assistance in the development of a performance improvement plan. If such failure continues for a second consecutive year (except in the case of exceptional circumstances) or a State fails to submit a report, the percentage of each amount that would be reserved by the Governor under Section 128(a) [Reservations for Statewide Activities] of the new law for the immediately succeeding program years shall be reduced by five percentage points until such date as the U.S. Secretary of Labor and the U.S. Secretary of Education, as appropriate, determines that the State meets such State adjusted levels of performance and has submitted such reports for the appropriate program years.

Sanctions for Local Area Failure to Meet Local Performance Accountability Measures. If a local area fails to meet local performance accountability measures established for the youth, adult, or dislocated worker or any specified program (e.g., VR program) for any program year, the Governor, or upon request by the Governor, the U.S. Secretary of Labor, shall provide technical assistance, which may include assistance in the development of a performance improvement plan or the development of a modified local plan (or regional plan).

If such failure continues for a third consecutive year, the Governor shall take corrective actions, which shall include development of a reorganization plan through which the Governor shall—

1. require the appointment and certification of a new local board;
2. prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or
3. take such other significant actions as the Governor determines are appropriate.

8. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM

One-Stop Partners. Required partners include programs authorized under Title I of the Rehabilitation Act [other than Section 112 (Client Assistance Programs) or Part C of Title I of such Act (American Indian VR Services)]. Additional partners may include employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency Program and programs carried out under Section 112 of the Rehabilitation Act (Client Assistance Programs).

Memorandum of Understanding. The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding between the local board and the one-stop partners. Each memorandum of understanding must contain, among other things, funding for ongoing one-stop service delivery system operations, including funding of the infrastructure costs of One-Stop Centers.

One-Stop Operators. To be eligible to receive funds to operate a one-stop center an entity must, among other things, be designated or certified as a one-stop operator through a competitive process.

One-Stop Delivery System. A one-stop delivery system must provide:

- career services;
- training services;
- access to specified employment and training activities;
- access to programs and activities carried out by one-stop partners; and
- access to data, information and analysis.

Certification and Continuous Improvement of One-Stop Centers. The State Board, in consultation with chief elected officials, and local boards must establish objective criteria and procedures for use by local boards in assessing at least once every three years the effectiveness, physical and programmatic accessibility in accordance with Section 188 of WIA, if applicable, and the ADA, and continuous improvement of One-Stop Centers and the one-stop delivery system.

Funding of One-Stop Infrastructure. The local board, chief elected officials, and one-stop partners in a local area may fund the costs of infrastructure of One-Stop Centers in the local area through methods agreed on by the local board, chief elected officials, and one-stop partners and described in memorandum of understanding or if no consensus agreement on methods described in the statute. The statute includes maximum amounts regarding the contribution to the funding of one-stop infrastructure by the VR program (.75 percent of the amount of Federal funds provided to carry out the VR program in the State for the second full program year that begins after the date of enactment; 1.0 percent for the third full program year; 1.25 percent for the fourth full program year; and 1.5 percent for the fifth and each succeeding full program year). The costs of infrastructure include assistive technology for individuals with disabilities.

9. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES

The Governor, after consultation with the State board, shall establish criteria, information requirements, and procedures regarding the eligibility of providers of training services. The local board in the State may establish criteria and information requirements in addition to the criteria and information requirements established by the Governor, or may require higher levels of performance than required by the criteria established by the Governor.

10. USE OF FUNDS FOR YOUTH WORKFORCE INVESTMENT ACTIVITIES

Eligibility. To be eligible to participate in youth workforce investment activities an individual must be an out-of-school youth (including a youth who is an individual with a disability) or an in-school youth (including a youth who is an individual with a disability).

Out-of-School Priority. For any program year, not less than 75 percent of funds available for statewide activities and not less than 75 percent of funds available for local areas shall be used to provide youth workforce investment activities for out-of-school youth, subject to specified exceptions.

Required Statewide Activities shall include conducting evaluations, disseminating a list of eligible providers of youth workforce investment activities, providing assistance for local coordination, and carrying out monitoring and oversight.

Allowable Statewide Youth Activities may include:

- Conducting research and demonstration projects;
- Supporting the development of alternative, evidence-based programs and activities that enhance choices that encourage youth to reenter and complete secondary education, enrolling in postsecondary education and advanced training, progress through a career pathway and enter into unsubsidized employment that leads to economic self-sufficiency;
- Supporting career services;
- Supporting financial literacy, including:
 - Supporting the ability of participants to create household budgets, initiate savings plans, and make informed financial decisions about education, retirement, home ownership, wealth building, or other savings goals,
 - Supporting the ability to manage spending, credit, and debt, including credit card debt, effectively,
 - Increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, including determining their accuracy (and how to correct inaccuracies in the reports and scores) and their effect on credit terms,
 - Supporting the ability to understand, evaluate, and compare financial products, services, and opportunities, and
 - Supporting activities that address the particular financial literacy needs of non-English speakers; and
- Providing technical assistance.

Local Elements and Requirements. Funds allocated to a local area for eligible youth shall be used to carry out, for eligible youth programs that:

- Provide an objective assessment of academic and skill levels and services needs of each participant (including the developmental needs of such participants);

- Develop strategies that are linked to one or more of the indicators of performance and that shall identify career pathways that include education and employment goals (including nontraditional employment);
- Provide activities leading to attainment of a secondary school diploma or its recognized equivalent or a recognized postsecondary credential, preparation for unsubsidized employment opportunities in appropriate cases, and effective connections with employers.

Local program elements shall consist of, among other things:

- Tutoring, study skills;
- Alternative secondary school services;
- Paid and unpaid work experiences, including internships and job shadowing;
- Occupational skill training;
- Leadership development opportunities;
- Supportive services;
- Follow-up services for not less than 12 months after the completion of participation;
- Comprehensive guidance and counseling;
- Financial literacy;
- Entrepreneurial skills training; and
- Activities that help youth prepare for and transition to postsecondary education and training.

Applicants not meeting enrollment requirements. Eligible providers of youth workforce investment activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs to meet the basic skills and training needs of the applicant.

11. USE OF FUNDS FOR ADULT AND DISLOCATED EMPLOYMENT AND TRAINING ACTIVITIES

Required Statewide Employment and Training Activities shall include disseminating information on physical and programmatic accessibility in accordance with Section 188 of WIOA, if applicable, and the ADA for individuals with disabilities.

Permissive Statewide Employment and Training Activities may include activities to improve coordination of employment and training activities with programs carried out in local areas for individuals with disabilities and financial literacy activities.

Required Local Employment and Training Activities shall be used for, among other things, career services and training services.

Career Services shall include, at a minimum:

1. determinations of whether the individuals are eligible to receive assistance;
2. outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;
3. initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;
4. labor exchange services, including job search and placement assistance and, in appropriate cases, career counseling, including provision of information on in-demand industry sectors and occupations; and provision of information on nontraditional employment; and appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include providing information and referral to specialized business services not traditionally offered through the one-stop delivery system;
5. provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop delivery system and, in appropriate cases, other workforce development programs;
6. provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including job vacancy listings in such labor market areas; information on job skills necessary to obtain specified jobs and information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations;
7. provision of performance information and program cost information on eligible providers of training services provided by program, and eligible providers of youth workforce investment activities, providers of adult education, providers of career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006, and providers of vocational rehabilitation services described in Title I of the Rehabilitation Act of 1973;
8. provision of information, in formats that are usable by and understandable to One-Stop Center customers, regarding how the local area is performing on the local performance accountability measures and any additional performance information with respect to the one-stop delivery system in the local area;
9. provision of information, in formats that are usable by and understandable to One-Stop Center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under Title XIX

or XXI of the Social Security Act, benefits under the Supplemental Nutrition Assistance Program (SNAP) established under the Food and Nutrition Act of 2008, assistance through the Earned Income Tax Credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program for Temporary Assistance for Needy Families (TANF) funded under part A of Title IV of the Social Security Act and other supportive services and transportation provided through funds made available under such part, available in the local area; and referral to the services or assistance, as appropriate;

10. provision of information and assistance regarding filing claims for unemployment compensation;
11. assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act;
12. services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include diagnostic testing and use of other assessment tools; and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals; development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible providers of training services, and career pathways to attain career objectives; group counseling; individual counseling; career planning; short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training; internships and work experiences that are linked to careers; workforce preparation activities; financial literacy services; out-of-area job search assistance and relocation assistance; or English language acquisition and integrated education and training programs; and
13. follow-up services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

Training services may include:

1. occupational skills training, including training for nontraditional employment;
2. on-the-job training;
3. incumbent worker training;
4. programs that combine workplace training with related instruction, which may include cooperative education programs;

5. training programs operated by the private sector;
6. skill upgrading and retraining;
7. entrepreneurial training;
8. transitional jobs;
9. job readiness training provided in combination with services described above;
10. adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services described above; and
11. customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

Eligibility for Career and Training Services. Nothing in the Act shall be construed to mean an individual is required to receive career services prior to receiving training services. Title I of the WIOA shall be used to provide training services for adults and dislocated workers, respectively:

1. who, after an interview, evaluation, or assessment, and career planning, have been determined by a one-stop operator or one-stop partner, as appropriate, to: be unlikely or unable to obtain or retain employment, that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment, through the career services; be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and have the skills and qualifications to successfully participate in the selected program of training services;
2. who select programs of training services that are directly linked to the employment opportunities in the local area or the planning region, or in another area to which the adults or dislocated workers are willing to commute or relocate;
3. who meet specified qualification requirements; and
4. who are determined to be eligible in accordance with the priority system in effect.

Use of Individual Training Accounts. In general, training services must be provided through the use of individual training accounts and must be provided to eligible individuals through the one-stop delivery system.

Permissible Local Employment and Training Activities may include:

1. customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities for such populations;
2. technical assistance for one-stop operators, one-stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities

in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures; and

3. improved coordination between employment and training activities and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of chapter 1 of Title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in section 702 of such Act (29 U.S.C. 796a).

12. NATIONAL PROGRAMS

Training Capacity. The U.S. Secretary of Labor shall ensure that the Department of Labor has sufficient capacity to, and does, provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including assistance in replicating programs of demonstrated effectiveness to States and localities; the training of staff of recipients, including the staff of local boards and State boards; and the training of members of State boards and local boards.

Promising Practices. The U.S. Secretary of Labor shall establish a system through which States may share information regarding promising and proven practices with regard to the operation of workforce investment activities; evaluate and disseminate information regarding such promising and proven practices and identify knowledge gaps; and commission research to address knowledge gaps.

13. NONDISCRIMINATION (SECTION 188 OF THE WIOA)

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of, among other things, disability.

TITLE IV: SELECTED HIGHLIGHTS

1. ADVISORY COMMITTEE ON INCREASING COMPETITIVE INTEGRATED EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES (SECTION 609 OF TITLE IV OF WIOA)

Role. Prepare findings, conclusions, and recommendations for the Secretary of Labor on:

- Ways to increase employment opportunities for individuals with intellectual and developmental disabilities or other individuals with significant disabilities in competitive integrated employment;
- Use of the certificate program carried out under Section 14C of FLSA; and
- Ways to improve oversight of the use of such certificate

Committee Representation. Members of the Committee shall include seven federal ex officio members which include:

- the U.S. Department of Labor’s Assistant Secretary for the Office of Disability Employment Policy (ODEP), the Assistant Secretary for Employment & Training Administration (ETA), and the Administrator of the Wage and Hour Division of Labor; and
- the Commissioner of the Administration on Intellectual and Developmental Disabilities (AIDD), or the Commissioner’s designee, the Director for the Centers for Medicaid and Medicare Services (CMS), or the Director’s designee, the Commissioner of the Social Security Administration (SSA), or the Commissioner’s designee, and the Commissioner of the Rehabilitation Service Administration (RSA) or the Commissioner’s designee.

In addition, the U.S. Secretary of Labor will appoint representatives on behalf of self-advocates, employment service providers, advocacy groups, researchers, national employer organizations, and employer community, and others with expertise on “increasing opportunities for competitive, integrated employment for individuals with disabilities”

Chairperson shall be elected by the Committee members.

Schedule.

- Committee shall be established not more than 60 days after the date of enactment;
- Committee will meet not less than eight times;
- Interim report completed within one year from the date the Committee is established; and
- Final report completed not later than two years after the Committee is established and then ends and shall no longer exist.

2. STRUCTURAL CHANGES

Under the new law, the Rehabilitation Services Administration (RSA) remains in the Office of Special Education and Rehabilitative Services (OSERS) of the U.S. Department of Education.

National Institute on Disability and Rehabilitation Research (NIDRR): The Institute is renamed the “National Institute on Disability, Independent Living and Rehabilitation Research” and is relocated from the U.S. Department of Education to the Administration on Community Living (ACL) of the U.S. Department of Health and Human Services.

Independent Living: Independent Living programs authorized under Title VII of the Rehabilitation Act are relocated from the U.S. Department of Education to ACL of the U.S. Department of Health and Human Services.

Assistive Technology State Programs: These assistive technology programs are moved from the U.S. Department of Education to ACL of the U.S. Department of Health and Human Services.

3. RELATIONSHIP TO THE WORKFORCE DEVELOPMENT SYSTEM

Unified or Combined State Plan. The State Vocational Rehabilitation Agency must include the state plan for vocational rehabilitation services within a unified or combined state plan to be approved by the U.S. Secretary of Education and the U.S. Secretary of Labor. Each state will be asked to submit a single four year strategic plan for achieving workforce goals with coordinated employment and training services.

4. FOCUS ON COMPETITIVE, INTEGRATED EMPLOYMENT CLARIFIES PURPOSE

A purpose of the Rehabilitation Act reinforced in the new law is to increase competitive, integrated employment opportunities and outcomes for individuals with disabilities. “Competitive, integrated employment” means work performed on a full or part-time basis (including self-employment) for which and individual is:

1. Compensated at not less than federal minimum wage requirements or State or local minimum wage law (whichever is higher) and not less than the customary rate paid by the employer for the same or similar work performed by other individuals without disabilities;
2. That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and
3. That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

5. ADDS DEFINITION OF CUSTOMIZED EMPLOYMENT

Customized Employment. For the first time, the Act adds a definition of “customized employment” that means competitive, integrated employment for an individual with a significant disability based on negotiations with an employer and carried out through flexible strategies. The definition for the term “customized employment” includes competitive, integrated employment for an individual with a significant disability that is based on: an individualized determination of the strengths, needs, and interests of the individual with a significant disability; is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and is carried out through flexible strategies, such as:

1. job exploration by the individual;
2. working with an employer to facilitate placement including:
 - customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;
 - developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;
 - representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement; and
 - providing services and supports at the job location.

6. EXTENSION OF TIME FOR SUPPORTED EMPLOYMENT SERVICES

Supported Employment Services. The new law modifies the length of time supported employment services may be provided without securing an extension from 18 to 24 months.

7. PRE-EMPLOYMENT TRANSITION SERVICES FOR YOUTH

New Mandates for Youth. From any state allotment for a fiscal year, a State must reserve not less than 15 percent of the allotted funds for the provision of pre-employment transition services for youth including students with physical, sensory, intellectual, and mental health disparities. Pre-employment transition services (Section 113) must be provided in collaboration with local educational agencies and must include:

- job exploration counseling;
- work-based learning experiences in an integrated environment;
- post-secondary education counseling;
- workplace readiness training to develop social skills and independent living; and
- instruction in self-advocacy.

Pre-employment Transition Coordination. Each local VR office must attend individualized education program (IEP) meetings for students with disabilities, when invited. The local VR office must also attend person-centered planning meetings for individuals receiving Medicaid waiver services under Title XIX of the Social Security Act, when invited.

Coordination must be developed with the local workforce development boards and American Job Centers to create work opportunities for students with disabilities including internships, summer employment, and apprenticeships.

State Plan. The state plan must provide an assurance that the State will develop and implement strategies to improve and expand VR services for students with disabilities on a statewide basis. A construction clause specifies that “Nothing in this part shall be construed to reduce the obligation under the Individuals with Disabilities Education Act of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.”

Title VI (Supported Employment). A State that receives an allotment under Title VI of the Rehabilitation Act for supported employment must reserve and expend half of such allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities in order to assist those youth in achieving an employment outcome in supported employment. In addition, funds allotted under Title VI or Title I of the Rehabilitation Act for the provision of supported employment services also may be used to provide extended services to youth with the most significant disabilities. Such expenditures shall be available for a period not to exceed four years. Also, with respect to supported employment services provided to youth with the most significant disabilities, the VR agency must provide, directly or indirectly through public or private entities, non-federal contributions in an amount that is not less than 10 percent of the costs of carrying out such services.

8. DETERMINATION OF ELIGIBILITY FOR VR SERVICES

Standard of Proof. Determination of eligibility for VR services must be done on an individualized basis and not based on an assumption that categorically excludes individuals within broad categories of disabilities. A determination of ineligibility must be done based on clear and convincing evidence.

9. LIMITATIONS ON USE OF SUBMINIMUM WAGE

New Procedures and Requirements. An entity and contractors and subcontractors of the entity who hold a special wage certificate as described in Section 14(c) of the Fair Labor Standards Act of 1938 which allows payment of subminimum wages to individuals with disabilities may not compensate an individual with a disability who is age 24 or younger at subminimum wage unless one of the following conditions are met:

1. the individual is currently employed by such entity with a valid 14(c) certificate; or
2. the individual before beginning work has completed and produces documentation including completion of each of the following actions:
 - a. the individual has received pre-employment transition services; and
 - b. the individual has applied for VR services, with the result that:
 - the individual has documentation of a determination of ineligibility; or
 - the individual has an individualized plan for employment and efforts to achieve an employment outcome for a reasonable period of time has achieved no success; and their VR case has been closed; and
 - the individual has been provided career counseling and information and referral of other programs that offer employment-related services for achievement of minimum wage or better competitive, integrated employment outcomes.

Nothing in this section 511 should be construed to make employment compensated at a subminimum wage as an acceptable VR strategy or a successful employment outcome. A local or State educational agency may not enter into a contract or other arrangement with an entity holding a valid 14(c) certificate for the purpose of operating a program for an individual age 24 or younger under which work is compensated at a subminimum wage.

During Employment. For the first year of employment at subminimum wage, every six months the individual with a disability must receive career counseling and information and referrals that facilitate independent decision-making and possible pursuit of other employment choices. The individual must also be informed of self-advocacy and peer mentoring training opportunities. After the first year, such counseling and information and referral must be provided at least annually.

Verification. The entity with the 14(c) certificate must review the documentation required and that must be completed prior to employment and during employment for an individual with a disability who will then work or continue to work at subminimum wages. The VR agency or the U.S. Department of Labor will review the required documentation at such time and in such manner as will be further explained by regulations to be developed in coordination of the U.S. Departments of Education and Labor.

10. PERFORMANCE ACCOUNTABILITY

Relationship to Title I of WIOA. The programs under the Rehabilitation Act are subject to the performance accountability requirements of Title I of WIOA.

11. COORDINATION REQUIREMENTS

Coordination with Employers. The state plan will describe how the VR agency will work with employers to identify competitive integrated employment opportunities and career exploration

opportunities. The state plan must also provide assurances describing how the State will utilize initiatives involving in-demand industry sectors or occupations to increase competitive integrated employment opportunities for individuals with disabilities. VR funds may be used to provide training and technical assistance to employers regarding disability awareness, ADA requirements and other employment-related laws and recruitment, job matching, hiring, workplace accommodations and retention. Funds may be used to provide work-based learning opportunities for VR customers including internships and short-term employment, apprenticeships and fellowships.

Coordination with State Medicaid Programs. A state plan must document the entering into a formal agreement with the state agency responsible for administering the State Medicaid plan; the state agency primarily responsible for providing services and supports for individuals with intellectual and developmental disabilities as well as the state agency responsible for providing mental health services to improve coordination of resources to achieve employment in competitive, integrated settings.

Coordination with Ticket to Work Program. The state plan must also indicate how VR Services will be coordinated with Employment Network under the Ticket to Work program.

NEXT STEPS

During the next six months the US Department of Labor will be preparing the publication of proposed regulations to help guide state and local implementation. We suggest **eight actions you can consider to become more involved to support the meaningful participation of youth and adults with disabilities in WIOA implementation.**

ONE: Become informed and involved in WIOA implementation.

Take the opportunity to review online stakeholder meeting transcripts or participate in future discussions about implementation. Visit the WIOA Resource Page, www.doleta.gov/wioa, sign up for future announcements, and submit questions via email to dol.wioa@dol.gov.

TWO: Become an Active Stakeholder in the Advisory Committee on Increasing Competitive Integrated Employment For Individuals With Disabilities.

By November 2014, the new Advisory Committee should have its members appointed and begin to publicize its activities. This is an extraordinary opportunity to align policy across federal agencies (Labor, Social Security, Education, Health and Human Services) to promote and advance competitive employment opportunities and outcomes for youth and adults with disabilities.

Have a voice in the transition from 14(c) subminimum wage options to expanded choices and work experiences in integrated settings for youth and adults with significant disabilities.

THREE: Improve Effective and Meaningful Participation of Job Seekers with Disabilities in American Job Centers (AJCs).

At a minimum, local workforce investment boards may designate a standing committee to focus on improved program, physical, and communication access to services in AJCs or “One-Stop Career Centers” for persons with disabilities.

Volunteer to serve on such a committee, meet with the board director and offer recommendations and assistance to help improve inclusive and universally designed services.

FOUR: Help Inform Criteria for Certifying AJCs or “One-Stop Career Centers.

State workforce investment boards must establish objective criteria for use by local boards to assess the physical and programmatic accessibility of AJCs or “One Stop Career Centers” and compliance with Section 188 nondiscrimination requirements. Assessment will occur every three years.

Offer suggestions to state and local boards on how to improve customer service and accessibility for job seekers with disabilities including improved coordination with vocational rehabilitation, the Ticket to Work program, education, Medicaid, intellectual and developmental disability and mental health service delivery systems as part of new criteria for effective performance.

FIVE: Promote Financial Literacy Activities for Youth and Adults.

Many youth and adults with disabilities face multiple barriers to achieving employment success and economic self-sufficiency. The ability to manage a budget, spending, credit and debt and make informed decisions in the selection of financial products and services are important skills to be gained by all job seekers and workers. The WIOA supports funding at a state level of financial literacy skills building for youth and adult job seekers with and without disabilities.

Begin a discussion with the state Department of Labor and VR agency to build support for funding of financial literacy activities that enhance employment goals. See the recent joint memo for support of financial literacy activities from ODEP and the Consumer Financial Protection Bureau.

SIX: Become Involved in the Unified State Plan Development.

For the first time VR and the workforce development system must work together on a mandatory unified state plan that meets Section 188 protection against discrimination and equal opportunity requirements.

Have a voice in the development of improved coordination of service delivery among multiple systems including workforce development, vocational rehabilitation, Social Security, Medicaid and the Ticket to Work program. Suggest criteria that should be used by the Departments of Education and Labor to review and evaluate state plan submissions that improve choices and support for job seekers with disabilities.

SEVEN: Improve Coordination of Pre-employment Transition Services for Youth.

Fifteen percent of state VR funds must be spent on youth pre-employment transition services.

Suggest approaches to improve collaboration among WIOA youth activities, state and local educational agencies, and VR as well as Medicaid funded supports for youth with significant disabilities. Suggest ways to explore internships and summer job experience for youth with disabilities.

EIGHT: Become part of the solution.

Take the time to better understand your local AJC or “One-Stop Career Center,” what it is and what it’s not. Improving employment outcomes for job seekers with disabilities often takes a village, and no one agency or system can do it alone. Systems are overwhelmed, and staff overtaxed.

Become a familiar face and an active partner at your local AJC or “One- Stop Career Center.” Join or create an integrated business outreach team, offer staff training on reasonable accommodation, teach a workshop on self-determination, and/or support an integrated resource employment team approach on behalf of jobseekers with disabilities.

Most importantly, find out how your knowledge, skills and experience can provide universal support to a universal workforce development system.

KEY WIOA IMPLEMENTATION DATES

JULY 22, 2014	Amendments to the Rehabilitation Act take effect
SEPTEMBER 20, 2014	Advisory Committee on Increasing Competitive Integrated Employment for Individuals With Disabilities must be established
JANUARY 18, 2015	The Departments of Labor, Education, and Health and Human Services must publish Notice of Proposed Rulemaking to Implement WIOA
JULY 1, 2015	Provisions of WIOA go into full effect
JULY 22, 2015	Template for performance reports by state, local, and Eligible Training Providers must be developed by Secretary of Labor and Secretary of Education
JANUARY 1, 2016	State Plans must be submitted to the Secretary of Labor and the Secretary of Education
APRIL 1, 2016	State Plans must be approved by both Departments
BY JULY 1, 2016	State must designate local WIOA areas