



LEAD CENTER

POLICY BRIEF

Summary Description from a Disability Perspective Title I of the Workforce Innovation and Opportunity Act (Workforce Development Activities) Notices of Proposed Rulemaking

APRIL 20, 2015

The purpose of this Policy Brief is to provide a summary description of the April 16, 2015 Notice of Proposed Rulemaking (NPRM) regarding Title I of the Workforce Innovation and Opportunity Act (Workforce Development Activities). This policy brief does not include an analysis or recommendations regarding the content of the NPRM.

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**SUMMARY DESCRIPTION FROM A DISABILITY PERSPECTIVE
TITLE I OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT
(WORKFORCE DEVELOPMENT ACTIVITIES)
NOTICES OF PROPOSED RULEMAKING**

INTRODUCTION AND OVERVIEW

On July 22, 2014, President Obama signed into law [Public Law No. 113-128](#), the Workforce Innovation and Opportunity Act (WIOA). WIOA is the first legislative reform of the public workforce system in more than 15 years. WIOA supersedes the Workforce Investment Act of 1998 (WIA) and amends the Rehabilitation Act of 1973. WIOA reaffirms the role of the customer-focused one-stop delivery system, a cornerstone of the public workforce development system, and enhances and increases coordination among several key employment, education, and training programs. [80 FR column 3 at page 20575]

WIOA has six main purposes:

- 1) Increasing access to and opportunities for the employment, education, training, and support services that individuals, particularly those with barriers to employment, need to succeed in the labor market;
- 2) Supporting the alignment of workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system;
- 3) Improving the quality and labor market relevance of workforce investment, education, and economic development efforts;
- 4) Promoting improvement in the structure and delivery of services;
- 5) Increasing the prosperity of workers and employers, the economic growth of communities, regions and States, and the global competitiveness of the United States; and
- 6) Providing workforce investment activities, through workforce development systems, that increase employment, retention, and earnings of participants and that increase post-secondary credential attainment and, as a result, improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, meet skill requirements of employers, and enhance productivity and competitiveness of the nation. [80 FR column 1 at page 20576]

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.

To achieve these goals, WIOA requires an integrated approach to the implementation, administration, service delivery, and evaluation of the services provided under the core programs at the Federal, State, and local levels. The core programs consist of:

- 1) The adult, dislocated worker, and youth formula programs administered by the Department of Labor (DOL) under title I of WIOA;
- 2) The Adult Education and Family Literacy Act (AEFLA) program administered by the Department of Education (ED) under title II of WIOA;
- 3) The Wagner-Peyser Act employment services program administered by DOL under title III of WIOA; and
- 4) The Vocational Rehabilitation program administered by ED under title IV of WIOA. [80 FR column 1 at page 20576]

Integration of the core programs essential to the effective operation of the workforce development system is achieved through the development of a Unified or Combined State Plan, the implementation of a common performance accountability system, and the design of the one-stop service delivery system. [80 FR column 2 at page 20576]

To this end, the Departments of Education and Labor have issued a [joint NPRM](#) to implement jointly-administered activities under title I of WIOA, specifically those related to the Unified and Combined State Plans, performance accountability, and the one-stop system. These regulations lay the foundation, through coordination and collaboration at the federal level, for implementing the vision and goals of WIOA. [80 FR column 2 at page 20574]

In addition, DOL has issued a [separate NPRM](#) governing the remaining provisions of title I of WIOA, including statewide and local governance, adult and dislocated worker activities, youth activities, statewide activities, and administrative provisions.

The purpose of this policy brief is to describe the key provisions included in these two NPRMs from a disability perspective i.e., those provisions in title I of WIOA pertaining to workforce development activities of particular applicability to individuals with disabilities and individuals with a barrier to employment (which by definition includes individuals with disabilities). The summary description is not intended to be comprehensive. Key disability-related policies are underlined.

EFFECTIVE DATES

Most provisions in title I of WIOA take effect on July 1, 2015, the first full program year after enactment. The new State plans and performance accountability system, however, take effect July 1, 2016. Further, no later than June 30, 2017 one-stop operators selected under the competitive process must be in place and operating the one-stop and by June 30, 2016 every Local Board must demonstrate it is taking steps to prepare for competition of its one-stop operator. [§678.63]

As of July 1, 2016, each one-stop delivery system must include the “American Job Center” identifier or “a proud partner of the American Job Center network” on all products, programs, activities, services, facilities, and related property and materials used in the one-stop system. [§678.900]

JOINT DEPARTMENT OF LABOR AND DEPARTMENT OF EDUCATION RULE FOR UNIFIED AND COMBINED STATE PLANS UNDER TITLE I OF WIOA; PERFORMANCE ACCOUNTABILITY; AND ONE-STOP SYSTEM JOINT PROVISIONS

UNIFIED AND COMBINED STATE PLANS

UNIFIED STATE PLAN AND COMBINED STATE PLAN [80 FR column 3 at page 20576]

WIOA requires the Governor of each State to submit a Unified or Combined State Plan to the Secretary of DOL that outlines a 4-year strategy for the State’s workforce development system. States must have approved State Plans in place to receive funding for the six core programs under WIOA – the adult, dislocated worker, and youth programs (title I of WIOA); the AEFLA program (title II of WIOA); the Wagner-Peyser Act employment services program (title III of WIOA); and the Vocational Rehabilitation program under title I of the Rehabilitation Act of 1973 (title IV of WIOA). Previously, WIA gave States the option of submitting a plan similar to the Combined State Plans (referred to as Unified Plans in WIA).

At a minimum, States must submit a Unified State Plan, which encompasses the core programs under WIOA. States are strongly encouraged to submit a Combined State Plan, which includes the six core programs of the Unified State Plan, plus one or more optional programs, as described at §676.140.

GENERAL REQUIREMENTS FOR UNIFIED STATE PLAN [§676.105; §361.105]

Proposed §676.105 describes the general requirements for the Unified State Plan that apply to all six core programs. These requirements set the foundation for WIOA implementation by fostering strategic alignment, improving service integration, and ensuring that the workforce system is industry-relevant, responds to the economic needs of the State, and matches employers with skilled workers. The Departments envision a plan that describes how the State will develop and implement a unified, integrated program rather than a plan that separately discusses the State’s approach to operating each program individually. [80 FR column 1 at page 20579]

PROGRAM SPECIFIC REQUIREMENTS IN THE UNIFIED STATE PLAN [§676.125; §361.125]

States are required to develop a unified or combined plan as described in §676.105. While States must address general common planning requirements, States must also ensure that their planning process and plan content adhere to the legal requirements for each of the core programs that remains unique to each program, as required by sec. 102(b)(2)(D) of WIOA. [80 FR column 2 at page 20579]

Proposed §676.125 explains the additional requirements to which the State Vocational Rehabilitation program is subject. Specifically, States must submit a Vocational Rehabilitation Services portion, which complies with all State plan requirements set forth in sec. 101(a) of the Rehabilitation Act of 1973, as amended by WIOA, as part of the Unified State Plan. The Commissioner of the Rehabilitation Services Administration of ED is responsible for approving the Vocational Rehabilitation Services portion of the Unified State Plan. [80 FR column 1 at page 20580]

SUBMISSION AND APPROVAL PROCESS OF THE UNIFIED STATE PLAN [§676.130; §361.130]

Proposed paragraph §676.130(b)(3) clarifies that, consistent with current practice for many of the core programs, a Program Year (PY) runs from July 1 through June 30 of any year. This clarification is particularly important, in this context, for the State Vocational Rehabilitation program since that program operates on a Federal fiscal year and will continue to do so, in accordance with title I of the Rehabilitation Act of 1973, despite the fact that the Vocational Rehabilitation Services portion of the Unified State Plan will align, for submission purposes, with the other partners on a PY basis. [80 FR column 1 at page 20580]

Proposed §676.130(d) implements WIOA sec. 102(c)(2)(A) which requires the Secretary of Labor to provide the entire Unified State Plan to the Secretary of Education for review pursuant to the submission process described in §676.130(b). Because content pertaining to each of the six core programs will be integrated throughout the Unified State Plan, it will be more efficient and effective to provide both Secretaries the opportunity to review the entirety of a State's plan rather than trying to break out the portions of the plan pertaining to the specific programs. This joint review process supports the purposes of the Unified State Plan in fostering program integration and alignment. [80 FR column at page 20580]

Proposed §676.130(f) implements WIOA's statutory requirement that the Commissioner of the Rehabilitation Services Administration approve the vocational rehabilitation services portion of the Unified State Plan before the Secretaries of Labor and Education approve the Unified State Plan. [80 FR column 3 at page 20580]

GENERAL REQUIREMENTS FOR SUBMITTING COMBINED STATE PLAN [PAGE 31; §361.140]

States have the option to submit a Combined State Plan that goes beyond the core programs of a Unified State Plan to include at least one optional, additional Federal workforce, educational, or social service program from the programs identified in sec. 103(a)(2) of WIOA. Generally, the requirements for a Combined State Plan include the requirements for the Unified State Plan as well as the program-specific requirements for any optional programs that are included in the Combined State Plan.

PERFORMANCE ACCOUNTABILITY

INTRODUCTION

Section 116 of WIOA establishes performance accountability indicators and performance reporting requirements to assess the effectiveness of States and local areas in achieving positive outcomes for individuals served by the core programs. [80 FR column 2 at page 20583]

The Department of Labor proposes to codify the performance accountability indicators in 29 CFR part 686. The Department of Education proposes in this joint NPRM identical provisions at 34 CFR part 361, subpart E (under its State Vocational Rehabilitation Services Program regulations) and at 34 CFR part 463, subpart I (under a new CFR part for AEFLA regulations). [Pages 40, 42]

DEFINITIONS APPLICABLE TO PERFORMANCE MEASUREMENT AND REPORTING [§677.150; §361.150]

Participant. A reportable individual who has received staff-assisted services after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination. For the State Vocational Rehabilitation (VR) program, a “participant” is an individual who has an approved and signed Individualized Plan for Employment (IPE) and has begun to receive services.

Reportable individual. An individual who has taken action that demonstrates an intent to use program services and who meets specific reporting criteria of the core program.

Exit. As defined for the purpose of performance calculations, exit is the point after which an individual who has received services through any program meets the following criteria...: For the State Vocational Rehabilitation program as amended by WIOA title IV: The participant’s record of service is closed in accordance with 34 CFR 361.56 because the participant has achieved an employment outcome; or the participant’s service record is closed because the individual has not achieved an employment outcome or the individual has been determined ineligible after receiving services in accordance with 34 CFR 361.43.

PRIMARY STATE INDICATORS OF PERFORMANCE [§677.155; §361.155]

All States submitting either a Unified or Combined State Plan under §§676.130 and 676.143 must propose expected levels of performance for each of the primary indicators of performance for the adult, dislocated worker, and youth programs under title I of WIOA, the AEFLA program under title II of WIOA, the Wagner-Peyser Act as amended by title III of WIOA, and the State Vocational Rehabilitation program as amended by WIOA.

The six primary indicators for performance are:

- 1) The percentage of participants, who are in unsubsidized employment during the second quarter after exit from the program;
- 2) The percentage of participants, who are in unsubsidized employment during the fourth quarter after exit from the program;
- 3) Median earnings of participants, who are in unsubsidized employment during the second quarter after exit from the program;
- 4) The percentage of participants who obtained a recognized post-secondary credential or a secondary school diploma, or its recognized equivalent during participation in or within 1 year after exit from the program. A participant who has obtained a secondary school diploma or its recognized equivalent is only included in this measure if the participant is also employed or is enrolled in an education or training program leading to a recognized post-secondary credential within 1 year from program exit;
- 5) The percentage of participants who, during a program year, are in an education or training program that leads to a recognized post-secondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational or other forms of progress, towards such a credential or employment; and
- 6) Effectiveness in serving employers, based on indicators developed as required by sec. 116(b)(2)(A)(iv) of WIOA.

For the youth program under title I of WIOA, the indicators are:

- 1) Percentage of participants who are in education or training activities, or in unsubsidized employment, during the second quarter after exit from the program;
- 2) Percentage of participants in education or training activities, or in unsubsidized employment, during the fourth quarter after exit from the program;
- 3) Median earnings of participants who are in unsubsidized employment during the second quarter after exit from the program;
- 4) The percentage of participants who obtained a recognized post-secondary credential or a secondary school diploma, or its recognized equivalent, during participation or up to 1 year after exit. A participant who has obtained a secondary school diploma or its recognized equivalent is only included in this measure if the participant is also employed or is enrolled in an education or training program leading to a recognized post-secondary credential within 1 year from program exit;

- 5) The percentage of participants who, during a program year, are in an education or training program that leads to a recognized post-secondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational or other forms of progress towards such a credential or employment; and
- 6) Effectiveness in serving employers, based on indicators developed as required by sec. 116(b)(2)(iv) of WIOA.

INFORMATION FOR STATE PERFORMANCE REPORTS [§677.160; §361.160]

The State performance report must be submitted annually using a template the Departments will disseminate and must provide, at a minimum, information on the actual performance levels achieved consistent with §677.175 with respect to, among other things:

- Information on the performance levels achieved for the primary indicators for all of the core programs identified in §677.155 including disaggregated levels for: (i) Individuals with barriers to employment as defined in WIOA sec. 3(24) (which includes individuals with disabilities); (ii) age; (iii) sex; and (iv) race and ethnicity.
- The average cost per participant for those participants who received career and training services, respectively, during the most recent program year and the 3 preceding program years for, as applicable to the program.

STATE DISCRETION TO INCLUDE ADDITIONAL INDICATORS OF PERFORMANCE [§677.165; §361.165]

States may identify additional indicators of performance for the six core programs.

STATE ADJUSTED LEVELS OF PERFORMANCE [§677.170; §361.170]

An objective statistical adjustment model will be developed and disseminated by the Secretaries. The model will be based on, among other things, disability status.

SANCTIONS FOR STATE PERFORMANCE AND THE PROVISION OF TECHNICAL ASSISTANCE [§677.180; §361.185; and §361.190]

Proposed §677.180 outlines performance and reporting requirements that are subject to sanctions under sec. 116(f) of WIOA.

Proposed §677.180(a) provides that only the failure to submit the State annual performance reports required under sec. 116(d)(2) of WIOA is sanctionable. Section 116(f)(1)(B) of WIOA requires the Departments to assess a sanction if “a State fails to submit a report under subsection (d) for any PY.” There are three reports required under sec. 116(d): the State annual performance reports, the local area performance reports, and the performance reports. However, of these, only the State annual performance

reports must be submitted by the State to the Secretary of Labor and the Secretary of Education.

Proposed §677.180(b) implements the requirement in sec. 116(f)(1) of WIOA that sanctions for performance failure be based on the primary indicators of performance at §677.155 of this part for the core programs: the adult, dislocated worker, and youth programs under WIOA title I, the AEFLA programs under title II, the program under the Employment Services authorized by the Wagner-Peyser Act, as amended by title III, and the Vocational Rehabilitation program under the Rehabilitation Act of 1973, as amended by title IV.

LOCAL PERFORMANCE ACCOUNTABILITY [§677.205]

Each local workforce investment area in a State under title I of WIOA is subject to the same primary indicators of performance for the core programs for WIOA title I under §677.155(a)(1) and (d) that apply to the State.

INCENTIVES AND SANCTIONS FOR LOCAL PERFORMANCE [§677.215; §677.220]

Proposed §677.215 outlines the circumstances in which a local area is eligible for an incentive grant. Proposed §677.215(a) implements sec. 116(h) of WIOA and explains that the Governor is allowed, but not required, to use non-federal funds to create incentives for Local Boards to implement pay-for-performance contract strategies for the delivery of training services described in sec. 134(c)(3) and sec. 129(c)(2) of WIOA in the local areas served by the Local Boards.

Proposed §677.220(a) explains the circumstances under which local areas must receive technical assistance under WIOA sec. 116(g) for failure to meet levels of performance. In accordance with WIOA, the proposed rule would require that local areas must receive technical assistance and may be subject to a performance improvement plan for failure to achieve adjusted levels of performance established with the State for primary performance indicators in the adult, dislocated worker, or youth programs authorized under title I of WIOA in any PY.

The Governor, or his/her designee, or upon request of the Governor, the Secretary of Labor, must provide technical assistance, which may include assistance in the development of a performance improvement plan or a modified local or regional plan, to the local area in the first year of failure to meet levels on the required performance indicators. In requesting assistance from the Secretary of Labor, the Governor's request should include the factors that impede the provision of successful technical assistance at the State level, because the State is generally in the best position to address failure to meet the performance levels it negotiated with the local area.

The Departments further clarify that a State must establish the threshold for failure for a local area to meet levels of performance prior to negotiating local area adjusted levels of

performance. A local area cannot accurately negotiate adjusted levels of performance without having an understanding of what the State will consider failure.

Proposed paragraph (b), in accordance with WIOA, outlines the required corrective actions for local areas that continue to fail to meet performance indicators for 3 consecutive years. A local area that failed to meet adjusted levels of performance on required performance indicators for a third consecutive year is subject to reorganization, which would include the certification of a new Board, the exclusion of underperforming service providers or partners, and other actions the Governor deems appropriate.

ELIGIBLE TRAINING PROVIDERS PERFORMANCE [§677.230; §361.230]

States are required to make available, and publish annually using a template the Departments will disseminate including through electronic means, the eligible training provider performance reports for eligible training providers who provide services under sec. 122 of WIOA that are described in §§680.400 through 680.530 of this chapter. These reports at a minimum must, among other things, include, consistent with §677.175 and with respect to each program of study that is eligible to receive funds under WIOA: the average cost-per-participant for participants who received training services for the most recent program year and the 3 preceding program years disaggregated by type of training entity.

REPORTING REQUIREMENTS FOR INDIVIDUAL RECORDS FOR CORE PROGRAMS [§678.235; §361.235]

Proposed §677.235 outlines the requirements for core WIOA title I, III and IV programs for the collection and submission of individual records. [80 FR column 1 at page 20597]

ED has collected individual-level data regarding all individuals served by the Vocational Rehabilitation program, whose case service records were closed, in order to satisfy data collection requirements and to ensure States' compliance with programmatic requirements under WIA and the Rehabilitation Act of 1973. ED has historically collected this data, via the Case Service Report (RSA-911), for open cases as well as closed cases, annually, but proposes to start collecting this data on a quarterly basis to satisfy requirements imposed by WIOA.

- Section 13 of the Rehabilitation Act requires ED to collect and report information required by WIOA sec. 101(a)(10) to Congress and to the President in the Annual Report.
- Section 14 of the Rehabilitation Act requires ED to conduct evaluations of the VR program. The information from this data collection is used in these evaluations.
- Section 106 of the Rehabilitation Act requires each State to report to ED the extent to which each State is in compliance with standards and indicators.

- Section 107 of the Act requires an annual review and periodic onsite monitoring of States' performance, much of which is determined on the basis of this data collection activity. RSA-911 data are also needed to satisfy the requirements of sec. 131 of the Rehabilitation Act, which requires an exchange of data between RSA, the Social Security Administration (SSA), and DOL. [80 FR column 1 at page 20597]

ONE-STOP SYSTEM JOINT PROVISIONS

DESCRIPTION OF ONE-STOP DELIVERY SYSTEM [§678.300; §361.300]

The one-stop delivery system brings together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to the programs' services and improves long-term employment outcomes for individuals receiving assistance. One-stop partners administer separately funded programs as a set of integrated streamlined services to customers.

Required one-stop partner programs must provide access to programs, services, and activities through electronic means if applicable and practicable. This is in addition to providing access to services through the mandatory comprehensive physical one-stop center and any affiliated sites or specialized centers. The provision of programs and services by electronic methods such as websites, telephones, or other means must improve the efficiency, coordination, and quality of one-stop partner services. Electronic delivery must not replace access to such services at a comprehensive one-stop center or be a substitute to making services available at an affiliated site if the partner is participating in an affiliated site. Electronic delivery systems must be in compliance with the nondiscrimination and equal opportunity provisions of WIOA in sec. 188 and its implementing regulations at 29 CFR part 37.

DESCRIPTION OF COMPREHENSIVE ONE-STOP CENTER [§678.305; §361.305]

A comprehensive one-stop center is a physical location where jobseekers and employer customers can access the programs, services, and activities of all required one-stop partners. A comprehensive one-stop center must have at least one title I staff person physically present.

The comprehensive one-stop center must provide:

- 1) Career services, described in §678.430;
- 2) Access to training services described in §680.200;
- 3) Access to any employment and training activities carried out under sec.134(d) of WIOA; and
- 4) Access to programs and activities carried out by one-stop partners listed in §§678.400 through 678.410, including Wagner-Peyser employment services.

“Access” to programs and services means having program staff physically present at the location; having partner program staff physically present at the one-stop appropriately trained to provide information to customers about the programs, services, and activities available through partner programs; or providing direct linkage through technology to program staff who can provide meaningful information or services.

All comprehensive one-stop centers must be physically and programmatically accessible to individuals with disabilities, as described in §678.800.

AFFILIATED SITES [§678.310; §361.310]

All affiliated sites must be physically and programmatically accessible to individuals with disabilities, as described in §678.800.

REQUIRED ONE-STOP PARTNERS [§678.400; §361.400]

Section 121(b)(1)(B) of WIOA identifies the entities that are required partners in the local one-stop systems.

The required partners are the entities responsible for administering the following programs and activities in the local area, including:

The Vocational Rehabilitation program authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

OTHER ENTITIES THAT MAY SERVE AS ONE-STOP PARTNERS [§678.410; §361.410]

Additional partners may include:

Employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency Program established under sec. 1148 of the Social Security Act (42 U.S.C. 1320b-19); and

Client Assistance Program authorized under sec. 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732).

In addition to optional partners listed in the proposed regulation, Local Boards may partner with a wide range of organizations, including but not limited to disability service providers. [80 FR column 2 at page 20600]

ENTITIES SERVING AS ONE-STOP PARTNERS [§678.415; §463.300]

The entity that carries out the program and activities listed in §678.400 or §678.405, and therefore serves as the one-stop partner, is the grant recipient, administrative entity, or organization responsible for administering the funds of the specified program in the local area.

For the State Vocational Rehabilitation program, authorized under title I of the Rehabilitation Act, the entity that carries out the program for the purposes of paragraph (a) of this section is the designated State agencies or designated State units specified under sec. 101(a)(2) of the Rehabilitation Act that is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities.

ROLES AND RESPONSIBILITIES OF REQUIRED ONE-STOP PARTNERS **[§678.420; §463.420]**

Each required partner must, among other things:

Provide representation on the State and Local Workforce Development Boards as required and participate in Board committees as needed (WIOA secs.101 (b)(iii) and 107(b)(2)(C) and (D)).

DESCRIPTION OF CAREER SERVICES [§678.430; §463.430]

“Career services” replaces “core and intensive services” specified in WIA and includes a number of number activities. [80 FR column 1 at page 20601]

Career services, as identified in sec. 134(c)(2) of WIOA, consist of three types:

Basic career services must be made available and, at a minimum, must include the following services, as consistent with allowable program activities and Federal cost principles:

- 1) Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
- 2) Outreach, intake (including worker profiling), and orientation to information and other services available through the one-stop delivery system;
- 3) Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive services needs;
- 4) Labor exchange services, including job search and placement assistance, and, when needed by an individual, career counseling, including provision of information on in-demand industry sectors and occupations (as defined in sec. 3(23) of WIOA); and provision of information on nontraditional employment; and appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those 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, when appropriate, 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 labor market areas;

information on job skills necessary to obtain the vacant jobs listed; and information relating to local occupations in demand, and the earnings, skill requirements, and opportunities for advancement for those jobs;

- 7) Provision of performance information and program cost information on eligible providers of training services by program and type of providers;
- 8) Provision of information, in usable and understandable formats and languages, about how the local area is performing on local performance accountability measures, as well as any additional performance information relating to the area's one-stop delivery system;
- 9) Provision of information, in usable and understandable formats and languages, relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including: child care; child support; medical or child health assistance available through the State's Medicaid program and Children's Health Insurance Program; benefits under SNAP; assistance through the earned income tax credit; and assistance under a State program for Temporary Assistance for Needy Families, and other supportive services and transportation provided through that program;
- 10) Provision of information and assistance regarding filing claims for unemployment compensation, by which the one-stop must provide meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation. "Meaningful assistance" means: (A) Providing assistance on-site using staff who are well-trained in unemployment compensation claims filing and the rights and responsibilities of claimants; or (B) Providing assistance by phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time; and
- 11) Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA.

Individualized career services must be made available if determined to be appropriate in order for an individual to obtain or retain employment. These services include the following services, as consistent with program requirements and Federal cost principles:

- 1) 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;
- 2) Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the list of, and information about, the eligible training providers (as described in §680.180 of this chapter);
- 3) Group counseling;
- 4) Individual counseling;
- 5) Career planning;
- 6) Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills,

- and professional conduct services to prepare individuals for unsubsidized employment or training;
- 7) Internships and work experiences that are linked to careers (as described in §680.170 of this chapter);
 - 8) Workforce preparation activities;
 - 9) Financial literacy services (as described in sec. 129(b)(2)(D) of WIOA and §681.500 of this chapter);
 - 10) Out-of-area job search assistance and relocation assistance; and
 - 11) English language acquisition and integrated education and training programs.

Follow-up services must be provided, as appropriate, including: counseling regarding the workplace, for participants in adult or dislocated worker workforce investment activities who are placed in unsubsidized employment, for up to 12 months after the first day of employment.

MEMORANDUM OF UNDERSTANDING FOR ONE-STOP DELIVERY SYSTEM [§678.500; §463.500]

The MOU is the product of local discussion and negotiation, and is an agreement developed and executed between the Local Board, with the agreement of the chief elected official, and the one-stop partners, relating to the operation of the one-stop delivery system in the local area. Two or more local areas in a region may develop a single joint MOU, if they are in a region that has submitted a regional plan under sec. 106 of WIOA.

The MOU must include, among other things:

Funding of infrastructure costs of one-stop centers in accordance with §§678.700 through 678.755, and methods to ensure that the needs of workers, youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in providing access to services, including access to technology and materials that are available through the one-stop delivery system.

ONE-STOP INFRASTRUCTURE COSTS [§678.700; § 463.700]

Infrastructure costs of one-stop centers are nonpersonnel costs that are necessary for the general operation of the one-stop center, including:

Equipment (including assessment-related products and assistive technology for individuals with disabilities); and

Technology to facilitate access to the one-stop center, including technology used for the center's planning and outreach activities.

PARTNER CONTRIBUTIONS TO INFRASTRUCTURE COSTS [§678.735; §463.735]

State Vocational rehabilitation. Within a State (the entity or entities administering the programs described in WIOA sec. 121(b)(1)(B)(iv)) the allotment is based on the one State allotment, even in instances where that allotment is shared between two State agencies, and will not be required to provide from that program a cumulative portion that exceeds—

- 1) 0.75 percent of the amount of federal funds provided to carry out such program in the State for Fiscal Year 2016;
- 2) 1.0 percent of the amount provided to carry out such program in the State for Fiscal Year 2017;
- 3) 1.25 percent of the amount provided to carry out such program in the State for Fiscal Year 2018; and
- 4) 1.5 percent of the amount provided to carry out such program in the State for Fiscal Year 2019 and following years.

ONE-STOP CERTIFICATION [§678.800; §463.800]

The State Board, in consultation with chief elected officials and Local Boards, must establish objective criteria and procedures for Local Boards to use when certifying one-stop centers.

The criteria must evaluate the one-stop centers and one-stop delivery system for effectiveness, including customer satisfaction, physical and programmatic accessibility, and continuous improvement.

Evaluations of effectiveness must include how well the one-stop center ensures equal opportunity for individuals with disabilities to participate in or benefit from one-stop center services. These evaluations must include criteria evaluating how well the centers and delivery systems take actions to comply with the disability-related regulations implementing WIOA sec. 188, set forth at 29 CFR part 37. Such actions include, but are not limited to:

- 1) Providing reasonable accommodations for individuals with disabilities;
- 2) Making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination against persons with disabilities;
- 3) Administering programs in the most integrated setting appropriate;
- 4) Communicating with persons with disabilities as effectively as with others; and
- 5) Providing appropriate auxiliary aids and services, including assistive technology devices and services, where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the program or activity.

Local Boards must assess at least once every 3 years the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery systems using the criteria and procedures developed by the State Board.

The Local Board may establish additional criteria, or set higher standards for service coordination, than those set by the State criteria. Local Boards must review and update the criteria every 2 years as part of the Local Plan update process described in §676.580 of this chapter. Local Boards must certify one-stop centers in order to be eligible to receive infrastructure funds in the State infrastructure funding mechanism described in §678.730. All one-stop centers must comply with applicable physical accessibility requirements, as set forth in 29 CFR part 37.

Proposed §678.800(b) sets requirements for evaluations of effectiveness, including those mandated by sec. 121(g)(2)(B)(ii) and (iii) of WIOA. States may establish further effectiveness factors, and set specific standards for program coordination or integration. Program coordination standards might include customer-focused standards such as: front desk and intake staff are trained to complete an initial assessment of a participant's needs and inform participants of the services available to them; intake forms and basic assessment tools and processes are harmonized across programs to minimize customers filling out multiple forms; and staff work in functional rather than program teams.

Program coordination standards might also include operational standards such as: integrated resource teams such as those piloted in the Disability Employment Initiative or other methods are used to jointly fund services to meet the specific needs of individuals; resource rooms include high-quality up-to-date information about the services and supportive services available to individuals; websites and materials for the one-stop provide information about the services and supports of all partner programs. [80 FR column 1 at page 20609]

In addition to complying with the applicable architectural and programmatic accessibility requirements of the proposed regulations, one-stop centers and Boards may wish to consider the use of "universal design," which designs inclusive space and materials to be available to individuals regardless of their range of abilities, mobility, age, language, learning style, intelligence, or educational level. Improved availability, a welcoming atmosphere, inclusive settings, and high quality customer service benefit all customers. Extensive technical assistance is available at www.ada.gov, and www.lep.gov. The Departments recommend that State Boards and Local Boards engage early with relevant Equal Opportunity officers in establishing the criteria for determining compliance with accessibility standards and other requirements related to providing equal opportunity, particularly for persons with disabilities. [80 FR column 2 at page 20609]

COMMON IDENTIFIER [§678.900; §463.900]

As of July 1, 2016, each one-stop delivery system must include the "American Job Center" identifier or "a proud partner of the American Job Center network" on all products, programs, activities, services, facilities, and related property and materials used in the one-stop system.

DEPARTMENT OF LABOR RULE REGARDING THE PROVISIONS OF TITLE I OF WIOA, INCLUDING STATEWIDE AND LOCAL GOVERNANCE, ADULT AND DISLOCATED WORKER ACTIVITIES, YOUTH ACTIVITIES, STATEWIDE ACTIVITIES, AND ADMINISTRATIVE PROVISIONS

STATEWIDE AND LOCAL GOVERNANCE

PURPOSES OF TITLE I [§675.100]

The purposes of title I of the Workforce Innovation and Opportunity Act (WIOA) include:

Increasing access to, and opportunities for individuals to receive, the employment, education, training, and support services necessary to succeed in the labor market, with a particular focus on those individuals with disabilities or other barriers to employment including out-of-school youth with the goal of improving their outcomes;

Streamlining service delivery across multiple programs by requiring co-location, coordination, and integration of activities and information to make the system understandable and accessible for individuals, including people with disabilities and those with other barriers to employment, and businesses.

DEFINITIONS [§675.300]

Individual with a disability means an individual with any disability (as defined in sec. 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)). For purposes of WIOA sec.188, this term is defined at 29 CFR 37.4.

STATE WORKFORCE DEVELOPMENT BOARD MEMBERSHIP

The State Workforce Development Board must include representatives of the Government including the lead State officials with primary responsibility for each of the core programs, including the State VR program. [§679.110(b)(3)(iii)(A)(1)]

The State Workforce Development Board may include one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or educational needs of individuals with barriers to employment, including organizations that provide or support competitive, integrated employment for individuals with disabilities. [§679.110(b)(3)(ii)(C)]

FUNCTIONS OF THE STATE WORKFORCE DEVELOPMENT BOARD [§679.130(c) and (e)]

The functions of the State Workforce Development Board include development and continuous improvement of the workforce development system including:

- 1) Identification of barriers and means for removing barriers to better coordinate, align, and avoid duplication among programs and activities; and
- 2) Development of strategies to support career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment, including individuals with disabilities, with workforce investment activities, education, and supportive services to enter or retain employment.

The functions of the State Workforce Development Board also include identification and dissemination of information on best practices, including best practices for the effective operation of one-stop centers, relating to the use of business outreach, partnerships, and service delivery strategies, including strategies for serving individuals with barriers to employment;

Further, the functions of the State Workforce Development Board include the development of strategies for technological improvements to facilitate access to, and improve the quality of, services and activities provided through the one-stop delivery system, including such improvements to ensure technology is accessible to individuals with disabilities;

MEMBERSHIP OF LOCAL WORKFORCE DEVELOPMENT BOARDS

The Local Board must include at least one representative from each of the following governmental and economic and community development entities...The programs carried out under title I of the Rehabilitation Act of 1973, other than sec. 112 or part C of that title of that title. [§679.320(d)(3)(iii)]

The Local Board may include one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training or education needs of individuals with barriers to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities. [§679.320(c)(3)]

ESTABLISHMENT OF STANDING COMMITTEES BY LOCAL BOARD [§679.360]

Standing committees may be established by the Local Board to provide information and assist the Local Board in carrying out its responsibilities under WIOA sec. 107. Standing Committees may include:

A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including

issues relating to compliance with WIOA sec. 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding providing programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities. [§679.360(a)(3)]

FUNCTIONS OF THE LOCAL BOARD [§679.370]

As provided in WIOA sec. 107(d), the Local Board must, among other things:

- 1) With representatives of secondary and post-secondary education programs, lead efforts to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment;
- 2) Develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and jobseekers, by:
 - (a) Facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local area;
 - (b) Facilitating access to services provided through the one-stop delivery system involved, including access in remote areas;
 - (c) Identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the one-stop delivery system, such as improving digital literacy skills; and
 - (d) Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment;
- 3) Coordinate activities with education and training providers in the local area, including replicating and implementing cooperative agreements to enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination; and
- 4) Assess, on an annual basis, the physical and programmatic accessibility of all one-stop centers in the local area, in accordance with WIOA sec. 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

SATISFACTION OF THE CONSUMER CHOICE REQUIREMENT BY THE LOCAL BOARD [§679.380]

Working with the State, the Local Board satisfies the consumer choice requirement for career services by, among other things, identifying a wide array of potential career

service providers and awarding contracts where appropriate including to providers to ensure sufficient access to services for individuals with disabilities, including opportunities that lead to integrated, competitive employment for people with disabilities.

DEVELOPMENT AND CONTENTS OF LOCAL PLAN [§679.550; §679.560]

Under WIOA sec. 108, each Local Board must, in partnership with the appropriate chief elected officials, develop and submit a comprehensive 4-year plan to the Governor. [§679.550] The local workforce investment plan must describe strategic planning elements, including...:

An analysis of the regional workforce, including current labor force employment and unemployment data, information on labor market trends, and educational and skill levels of the workforce, including individuals with barriers to employment;

An analysis of workforce development activities, including education and training, in the region. This analysis must include the strengths and weaknesses of workforce development activities and capacity to provide the workforce development activities to address the education and skill needs of the workforce, including individuals with barriers to employment, and the employment needs of employers; and

A description of the Local Board's strategic vision to support regional economic growth and economic self-sufficiency. This must include goals for preparing an educated and skilled workforce (including youth and individuals with barriers to employment), and goals relating to the performance accountability measures based on performance indicators described in 20 CFR 677.155(a)(1)

The plan must include a description of the following requirements at WIOA secs. 108(b)(2)-(21)...:

The one-stop delivery system in the local area, including, among other things, how entities within the one-stop delivery system, including one-stop operators and the one-stop partners, will comply with WIOA sec. 188, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding the physical and programmatic accessibility of facilities, programs and services, technology, and materials for individuals with disabilities, including providing staff training and support for addressing the needs of individuals with disabilities.

ADULT AND DISLOCATED WORKER ACTIVITIES

REQUIRED AND PERMITTED ADULT SERVICES PROVIDED BY LOCAL BOARDS [§680.140]

WIOA title I formula funds allocated to local areas for adults and dislocated workers must be used to provide career and training services through the one-stop delivery

system. WIOA title I funds may also be used to provide the additional services described in WIOA sec. 134(d), including...:

Job seeker services including customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities.

Coordination activities including improving 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 sec. 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 sec. 702 of such Act (29 U.S.C. 796a) (WIOA sec. 134(d)(1)(A)(xi)).

Technical assistance for one-stop operators, partners, and eligible training providers on the provision of service to individuals with disabilities in local areas, including staff training and development, provision of outreach and intake assessments, service delivery, service coordination across providers and programs, and development of performance accountability measures (WIOA sec. 134(d)(1)(A)(v)).

ADULT TRAINING SERVICES [§680.200]

Training services are listed in WIOA sec. 134(c)(3)(D). The list in the Act is not all-inclusive and additional services may be provided. 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.

INDIVIDUAL TRAINING ACCOUNTS; LIMITS [§680.310]

The State or Local Board may impose limits on Individual Training Accounts (ITAs), such as limitations on the dollar amount and/or duration. Limitations established by State or Local Board policies must be described in the State or Local Plan, respectively, but must not be implemented in a manner that undermines the Act's requirement that training services are provided in a manner that maximizes customer choice in the selection of an eligible training provider. ITA limitations may provide for exceptions to the limitations in individual cases.

USE OF MECHANISMS OTHER THAN INDIVIDUAL TRAINING ACCOUNTS [§680.320]

Contracts for services may be used instead of ITAs only when one or more of five exceptions apply, including when the Local Board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization (CBO) or another private organization to serve individuals with barriers to employment, as described in paragraph (b) of this section. The Local Board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the individuals with barriers to employment to be served.

REQUIREMENTS FOR CONSUMER CHOICE [§680.340]

Each Local Board, through the one-stop center, may coordinate funding for ITAs with funding from other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.

LOW-INCOME ELIGIBILITY CRITERIA [§680.640]

Even if the family of an individual with a disability does not meet the income eligibility criteria, the individual with a disability is to be considered a low-income individual if the individual's own income: (a) Meets the income criteria established in WIOA sec. 3(36)(A)(vi); or (b) Meets the income eligibility criteria for payments under any Federal, State or local public assistance program (see WIOA sec. 3(36)(A)(i)).

RAISING THE ON-THE-JOB TRAINING REIMBURSEMENT RATE UP TO 75% OF THE WAGE RATE [§680.730]

The Governor may increase the reimbursement rate for on-the-job training (OJT) contracts funded through the statewide employment and training activities described in §682.210 up to 75 percent, and the Local Board may also increase the reimbursement rate for OJT contracts described in §680.320(a)(1) up to 75 percent, when taking into account the following factors, among others (WIOA sec. 134(c)(H)(ii)): The characteristics of the participants taking into consideration whether they are "individuals with barriers to employment," as defined in WIOA sec. 3(24).

YOUTH ACTIVITIES

IN-SCHOOL AND OUT-OF-SCHOOL YOUTH [§681.210; §681.220]

In-school and out-of-school youth include individuals with a disability.

YOUTH WITH DISABILITIES AND FAMILY INCOME [§681.280]

For an individual with a disability, income level for eligibility purposes is based on the individual's own income rather than his or her family's income. WIOA sec. 3(36)(A)(vi) states that an individual with a disability whose own income meets the low-income definition in clause (ii) (income that does not exceed the higher of the poverty line or 70 percent of the lower living standard income level), but who is a member of a family whose income exceeds this income requirement is eligible for youth services.

BASIC SKILLS DEFICIENT [§681.290]

In assessing basic skills, local programs must use assessment instruments that are valid and appropriate for the target population, and must provide reasonable accommodation in the assessment process, if necessary, for people with disabilities.

DESIGN OF YOUTH PROGRAMS BY LOCAL BOARDS [§681.420]

Local Boards must ensure appropriate links to entities that will foster the participation of eligible local area youth. Such links may include connections to: Local disability-serving agencies and providers and health and mental health providers.

MANDATORY YOUTH SERVICES [§681.460]

Local programs must make 14 specific services available to youth participants (WIOA sec. 129(c)(2)) including, among other things, Financial literacy education.

FINANCIAL LITERACY DEFINED [§681.500]

The financial literacy education program element includes activities which:

- 1) Support the ability of participants to create budgets, initiate checking and savings accounts at banks, and make informed financial decisions;
- 2) Support participants in learning how to effectively manage spending, credit, and debt, including student loans, consumer credit, and credit cards;
- 3) Teach participants about the significance of credit reports and credit scores; what their rights are regarding their credit and financial information; how to determine the accuracy of a credit report and how to correct inaccuracies; and how to improve or maintain good credit;
- 4) Support a participant's ability to understand, evaluate, and compare financial products, services, and opportunities and to make informed financial decisions;

- 5) Educate participants about identity theft, ways to protect themselves from identify theft, and how to resolve cases of identity theft and in other ways understand their rights and protections related to personal identity and financial data;
- 6) Support activities that address the particular financial literacy needs of non-English speakers, including providing the support through the development and distribution of multilingual financial literacy and education materials;
- 7) Provide financial education that is age appropriate, timely, and provides opportunities to put lessons into practice, such as by access to safe and affordable financial products that enable money management and savings; and
- 8) Implement other approaches to help participants gain the knowledge, skills, and confidence to make informed financial decisions that enable them to attain greater financial health and stability by using high quality, age-appropriate, and relevant strategies and channels, including, where possible, timely and customized information, guidance, tools, and instruction.

SUPPORT SERVICES FOR YOUTH [§681.570]

Supportive services for youth, as defined in WIOA sec. 3(59), are services that enable an individual to participate in WIOA activities. These services include, but are not limited to, the following: Reasonable accommodations for youth with disabilities.

STATEWIDE ACTIVITIES AND ADMINISTRATIVE PROVISIONS

REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES [§682.200]

Disseminating by various means, as provided by WIOA sec. 134(a)(2)(B), information of physical and programmatic accessibility for individuals with disabilities. (WIOA sec. 134(a)(2)(b)(v)(VI)).

ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES [§682.210]

Allowable statewide employment and training activities include, among other things:

- 1) Developing strategies for serving individuals with barriers to employment, and for coordinating programs and services among one-stop partners (WIOA sec. 134(a)(3)(A)(ii));
- 2) Supporting financial literacy activities as described in § 681.500 and WIOA sec. 29(b)(2)(D); and
- 3) Activities that include activities to improve coordination of workforce investment activities, with economic development activities (WIOA sec. 134(a)(3)(A)(viii)(I)); and activities to improve coordination of employment and training activities with child support services and activities, cooperative extension programs carried out by the Department of Agriculture, programs carried out by local areas for

individuals with disabilities (including the programs identified in WIOA sec. 134(a)(3)(A)(viii)(II)(cc)).

OBLIGATION TO ENSURE NONDISCRIMINATION [§683.285]

As described in sec. 188 of WIOA, financial assistance provided under title I of WIOA may be used to meet a recipient's obligation to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by sec. 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, as amended, sec. 188 of WIOA, and the regulations implementing these statutory provisions.