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**From:** Youth Policy Team at Center for Law and Social Policy (CLASP) and WIOA Youth Workgroup Members <sup>1</sup>

**Date:** Tuesday, December 23, 2014

**Re:** WIOA - Recommendations for Regulations, Guidance and Technical Assistance

The Center for Law and Social Policy (CLASP) is very pleased that Congress, in passing the Workforce Innovation and Opportunity Act (WIOA), includes a number of improvements to ensure low-income workers—youth and adults—have the skills and supports they need for full participation in the American workforce. Specifically, Title I of WIOA includes several significant provisions that will increase the focus on comprehensive programming for out-of-school youth and those who face the greatest challenges.

Youth and young adults continue to face obstacles to entering the workforce. The proportion of teenagers and young adults able to find jobs has declined since the 1980s, with the steepest drops occurring in the past decade and among teens. Since 1978, teen employment rates have fallen from 50 percent in 1978 to just 25.8 percent today.<sup>i</sup> [Unemployment is a major problem for young Americans in general, but it's an even bigger problem for young people of color.](#) WIOA has the potential to address these issues by providing dedicated resources for states and local communities to address the work and education needs among young people living in highly distressed communities, which are disproportionately young people of color, and implement an array of effective employment, education, and youth development strategies.

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<sup>1</sup>The following individuals and organizations were consulted in the preparation of this document, and the recommendations contained therein represent a consensus on key points. However, an individual's or organization's appearance on the list does not necessarily indicate support for the details of every recommendation: Capital Workforce Partners; Career Source South Florida; City of Denver, Office of Economic Development; City of Los Angeles, Economic & Workforce Development Department; Linda Harris, Consultant; Margie de Ruyter, Consultant; MDC; Philadelphia Youth Network; State of Minnesota Department of Employment and Economic Development; Strumpf Associates; and Workforce Development Council of Seattle - King County.

In developing regulations, guidance, and technical assistance for implementing WIOA, we invite the U.S. Departments of Education, Labor, and Health and Human Services to consider the recommendations included within this memorandum. Our comments draw upon CLASP's more than a decade of policy work at the national, state, and local levels related to disconnected youth. Working in partnership with several state and local youth and workforce leaders, this memorandum contains our initial recommendations and considerations for Title I – Youth Investment Activities and WIOA Performance and Accountability in the following areas:

### **1. Governance and Planning**

- Maintaining, Strengthening Existing Youth Councils and/or Establishing Youth Committee of the Local Workforce Board

### **2. Enrollment and Eligibility**

- Addressing the overwhelming burden on local systems and providers associated with eligibility certification requirements
- Portability of Eligibility Status across funding streams

### **3. Performance and Accountability**

- Assuring that the statistical model is effectively calibrated to adjust for serving more difficult populations
- Assuring that the federal, state and local process for negotiating performance standards supports (and does not discourage) the design and implementation of effective career pathway systems for youth
- Managing performance when participants are moving in and out of programs and funding streams

### **4. Movement of Youth Across Funding Streams**

- Assuring better coordination and alignment in the state and local planning and funding processes for Title I and Title II especially related to developing pathways for youth
- Addressing issues arising from different definitions and procedures for eligible training providers in each of the three funding streams (WIOA Title I – Youth; WIOA Title I – Adult; and WIOA Title II)
- Addressing the disincentives (or potential disincentives) to co-enrollment across the titles

We look forward to reviewing the proposed regulations in the coming year, and working in partnership with you to ensure the intent of the law is fully realized in states and local communities. As a result, thousands of youth and young adults will have increased access to the education, training, and jobs that they need to realize their potential and fuel our economy. Additionally, [CLASP has developed materials](#) we hope you consider to ensure low-income adults and youth have pathways to economic security through the law. We expect as we continue to work with our state and local partners to share and offer additional considerations and recommendations, including but not limited to, effective strategies for disconnected youth, career pathways, the intersections with *Title IV youth services*, the application of the *basic skills deficient* definition throughout the law, *priority of service*, employer engagement and effectiveness and performance and accountability.

Thank you for considering our recommendations. Should you have any questions or need or need further information, please contact Kisha Bird, Interim Director, Youth Policy, [kbird@clasp.org](mailto:kbird@clasp.org).

## **1. Governance and Planning**

### **Issue: Establishing a youth committee of the local workforce board**

**Discussion:** The WIOA law redirects 75 percent of Title I youth activities funding to out-of-school youth. This redirected funding gives states and local communities dedicated resources to implement effective employment, education,

and youth development strategies for the most vulnerable young people in highly distressed communities. WIOA requires substantial change to the local youth system, a dramatic shift in service to out of school youth, a greatly expanded age range and an expansion of program elements. Such dramatic change will require strategic planning and coordination to achieve the legislative intent. Despite these important changes, WIOA does not require local workforce boards to have a youth council, as is the case in current law. However, WIOA does allow local boards to establish a standing youth committee and allows them to maintain any existing youth council established under the previous law. These types of strategic planning entities are critical to directly link youth stakeholders and experts to decision making about funding and resource allocation and coordination, service implementation, performance measures, and reporting, helping to ensure that out-of-school youth are adequately served according to the intent of WIOA. The lack of an appropriate entity in local areas may lead to fragmented, uncoordinated interventions, contrary to the opportunities for unified planning and cross-systems alignment necessary to support career and education pathways and comprehensive services for youth outlined in the law. Given this, it is critically important to appoint a strategic entity dedicated to administering the Title I youth activities, understanding and making policy and programmatic connections across WIOA core programs and other youth-serving systems, and amassing multiple public and private resources to effectively support the transitions that youth must make across multiple systems and into the labor market.

### **Recommendations:**

- A.** Encourage local workforce areas to maintain and strengthen existing Youth Councils as a subcommittee of the local workforce board or establish a youth subcommittee of the local workforce board, comprised of Workforce Investment Board members, youth stakeholders, including cross-systems representatives from local education agencies, justice, mental health, adult basic education, postsecondary, employer, foundation sectors and youth themselves. This subcommittee should be charged with overseeing implementation and developing planning provisions related to the following:
- i. How local plans will include youth and adults with barriers in their analysis of the current workforce and their strategic vision and goals for preparing an educated and skilled workforce.
  - ii. How local plans will expand access to services for individuals with barriers;
  - iii. How the local board will facilitate co-enrollment of participants across core programs – of particular importance for youth and young adults ages 18-24 that can be served through Title I, Title II, and Title IV.
  - iv. How the local board will implement specific provisions related to career pathways, such as the requirement that local areas use youth funds to conduct an objective assessment “for the purpose of identifying appropriate services and career pathways for participants”; and broader career pathways for youth and young adults across core programs.
  - v. How the procurement processes and request for proposals will be adapted and aligned across the Core Programs, when possible to encourage longer-term and more intensive services for out-of-school youth.
  - vi. How important connections will be made with TANF partners at One-Stops to ensure policy and programmatic alignment for the young adult population under 25, who may receive a different set of services if they are not served through Title I – youth.
- B.** Require that local boards include in their local plan: 1) the identification of the entity responsible for the design and oversight of the youth strategic planning and the membership of that entity; 2) the process that is in place for stakeholder input to the design and implementation process; and 3) details of how (i) through (vi) above will be implemented in the local area.

## **2. Enrollment and Eligibility**

**Issue: Addressing the overwhelming burden on local systems and providers associated with eligibility certification requirements**

**Discussion:** The biggest challenge that consistently emerged from the youth field in the lead up to the passage of the WIOA legislation was the undue burden associated with certification of income eligibility, and the certification of youth's status in high risk categories. The WIOA Title I youth funding is an improvement from current law and provides for an expanded population of high risk and disconnected youth to be served without regard to income. Under current WIA law, youth must be low-income and belong to one of the risk groups. The youth funding stream in the new law does not have an income requirement for out of school youth who are dropouts, offenders, homeless, pregnant and parenting, in foster care, runaways, or disabled. WIOA also allows residence in a high poverty area to meet the definition of low-income. While, these provisions are improvements over current law, they do not alleviate the challenge that presents itself related to eligibility certification and documentation. Youth would still have to produce documentation to demonstrate their "risk status".

Eligibility certification is not addressed in WIA and is not addressed in the new law. In prior years, guidance issued by the Department of Labor on data accuracy and verification has been utilized by state and local areas to establish acceptable criteria for certification - which usually requires documentation from the school system, justice system, welfare system, or administrative records. While self-attestation is allowed for some categories, in many cases, it is made clear that it is an option of last resort after others have been exhausted. Many states and locals, out of fear of disallowed cost, or other administrative findings, have embedded these requirements as part of up-front eligibility verification. Requiring youth in the most precarious situations to navigate major bureaucracies to produce documentation of their risk status before any service is rendered is a major deterrent to serving those most in need. This is not the way to design the front end of a youth system dedicated to serving the most at risk youth.

**Recommendations:**

- A. It is essential that the Departments' embrace the concerns that have been repeatedly elevated from the field in regard to eligibility certification and signal through WIOA regulations, guidance, and technical assistance that all efforts should be made to minimize burden on local systems and providers and most importantly youth participants.
- B. The Department of Labor should make clear that the requirements for data quality and validation and the requirements for eligibility determination are separate processes and states should not unduly impose those data validation requirements on the upfront eligibility determination process.
- C. The Department of Labor should make clear that self-attestation is acceptable, and even preferable, for upfront eligibility determination of youth in high risk categories, subject to timely sample verification. DOL should issue guidance and technical assistance on sampling procedures and range of tolerance such that those adhering to those methods should feel protected against findings of disallowed costs.
- D. In defining "living in a high-poverty area" in the low-income criterion for youth activities funding and services, the Departments' should encourage the use a variety of proxies, such as living in public or subsidized housing; living in a neighborhood or community that is less than or equal to 50% of the Area Median Income or census tract with poverty rate in excess of 30%. Further, we suggest that in defining eligibility via free or reduced priced lunch program (FRPL), that any youth (regardless of school status) living in a household that is eligible to receive FRPL will be eligible for WIOA youth funding - the Department of Education defines high-poverty schools are those where 76–100 % of students are eligible for FRPL.

**Issue: Portability of eligibility status across funding streams**

**Discussion:** Youth ages 18 to 24 are eligible to be served under Title I youth and adult funding streams and under Title II. WIOA intends that state and local areas coordinate the delivery of service under these funding streams to maximize the service to harder to serve groups and to build pathways. This requires assuring that individuals can transition from one funding stream to the next with a minimum of difficulty challenge. It is to be expected that individuals who enter with

basic skills deficits, no diploma, and various barriers will take longer to service and may move in and out of various programs, improving their status along the way. As youth progress in their educational attainment and skills development, it is quite conceivable that changes in income or education status may render them ineligible for subsequent funding streams. For example, if youth receive their GED as part of an adult education funded program and advances to a Title I youth funded activity (as part of an articulated pathway), they should maintain their eligibility to be enrolled in the youth funding stream despite the fact they now have a diploma and may not be income eligible. Also, in calibrating the performance expectations of the programs and funding streams, it is important to account for individuals being served who started as part of certain risk populations. This information should remain part of the participants' records as they move between funding streams.

### **Recommendations:**

- A.** The status at initial program eligibility determination should prevail and be portable when moving across other WIOA funding streams and Titles as long as that movement is part of the individual career plan and part of articulated agreement among the partners. Additionally, in instances where youth are participating in a career pathways program, co-enrollment at time of initial enrollment should be expected.
- B.** The Departments should assist local areas and providers in their ability to develop systems that capture the status of an individual at original point of eligibility determination, and track changes in status as the individual moves through funding streams.

### **Issue: Definition of Out of School Youth**

**Discussion:** Part of the definition for out of school youth is “not attending school as defined by state law”. Clearly there are state laws that govern compulsory school attendance for youth 18 and under, but it is not clear what state law is being referenced here related to the older youth population.

### **Recommendations:**

- A.** We encourage the Departments to further define what “attending” means in the context of determining eligibility. There could be numerous applications and interpretations, especially in considering the older youth population. For example, does it mean full-time matriculation in postsecondary education or training? Does taking a single course make you ineligible for services while you are attending? If enrolled in a continuing education course given by a community college are you ineligible for youth services?
- B.** What does “school as defined by state law” mean – does this mean any state recognized secondary or postsecondary institution. Does it mean the program must be state recognized? Does taking GED classes provided by the community college make you ineligible to be served as an out of school youth or does it only apply to state recognized credit bearing courses?

Because of the construction of terms in WIOA, the in-school definition only covers youth up through age 21. Thus anyone over the age of 21 who is considered to be attending school cannot be served at all with the youth funding stream. It is important to get clarification on this question.

## **3. Performance and Accountability**

### **Issue: Assuring that the statistical model is effectively calibrated to adjust for serving more difficult populations**

**Discussion:** The youth population expected to be served under WIOA is substantially different from the current youth population served under WIA which is predominantly in school or high school graduates. The service level to dropouts and other high risk youth groups is low. Thus, there is sufficient concern as to whether the existing data set of youth

participants is large enough and representative enough to accurately calibrate an adjustment model. The first year of exits from the WIOA program will most probably be WIA youth who transitioned into the program to finish out their service strategy. It is critical to have a more representative sample with adequate inclusion of risk groups to effectively feed a statistical adjustment model.

**Recommendations:**

- A. The Department of Labor should consider waiving the enforcement of sanctions for performance for at least 3 years after implementation of the performance system to allow the assembly of a robust data set for use in the adjustment model. While the law gives the states 2 years before enacting sanctions, that is simply not enough time to design, implement, and design new strategies especially for hard to serve populations. Those who are the most innovative and take the most risks will probably be the hardest hit by sanctions which are imposed too soon. Delaying imposition of sanctions would also give time for local areas to implement new strategies to serve older out of school youth and allow these programs to reach steady state before subjecting them to sanctions.
- B. The Department of Labor should engage in substantial technical assistance to states and locals to understand the performance modeling including how it can be effectively incorporated in strategic planning and design of intervention strategies and how to manage movement among programs and funding streams in ways that maximize performance.
- C. The Departments of Education and Labor should encourage states to use WIOA state leadership funds to provide technical assistance to local areas to build the integrated programming, including assessments that work across systems, funding streams, and programs.
- D. In calibrating the performance model for the youth system the data sets from programs such as YouthBuild, Homeless and Runaway Youth, and the numerous offender initiatives should be taken into consideration to assure factors and outcomes for these most difficult populations are adequately reflected in the model. Additionally, data specific to high school dropouts from WIA Title I – Adults (ages 18-24) and out of school youth in WIA Title I- Youth should also be considered.

**Issue: Assuring that the federal, state and local process for negotiating performance standards supports (and does not discourage) the design and implementation of effective career pathway systems for youth**

**Discussion:** Historically, regions negotiate standard benchmarks with states and then the states pass those benchmarks on to the local boards, often well into the program year implementation. Often times these benchmarks are put in local RFP's and passed on to the providers. These benchmarks determine the types of programs and the category of youth that will be referred and enrolled. Local areas have indicated that they use other funding streams to serve dropouts and high risk youth because of the WIA performance standards. If the intent of the new law is to be achieved, a much more effective and accommodating process of negotiations must be implemented which assures the risk factors associated with the areas and populations served are adequately accounted for in the deliberations. Local areas have reported limited success in prevailing when states imposed benchmarks that were onerous in terms of serving hard to serve populations.

**Recommendations:**

- A. The timeline for the negotiation process should begin early enough in the program year to allow for meaningful and constructive discussion between states and local areas regarding the populations, program design, and important factors to be included in setting the standards.

- B.** The adjustment model should be sensitive to the characteristics of the youth population served – including age. For instance, an area that chooses to serve a younger dropout population should have different performance expectations than one that serves older high school graduates.

**Issue: Managing performance when participants are moving in and out of programs and funding streams**

**Discussion:** Based on the knowledge and experience of local youth workforce providers and administrators, as well as CLASP experience in working on data projects with several communities focused on out-of-school youth, we have identified a significant trend within the service delivery to youth. Young people had multiple enrollments, often spanning program years. There were also periods of inactivity for a variety of reasons, including employment, family responsibilities, homelessness, and probation/parole violations. The notion of helping youth move along career pathways should take into account sequences of activities over lengthy time periods. Therefore, additional clarification is needed on questions relating to what constitutes participation, when is an exit required, and whether or not skills gains and credentials achieved while in one funding stream follow the participant into other funding streams for the purpose of outcome measures.

**Recommendations:**

- A.** Provide clarity in regulations and/or guidance regarding inactivity and status when participating in non-WIOA funded activity.
- The process of soft exits- i.e. automatically removing youth after 90 days of inactivity - should be revisited. Helping challenged youth navigate through crises and connecting to the appropriate set of programs or services are long term processes and often include periods of interruptions. The career counseling and support processes should remain in place even when youth are not actively engaged in a program.
  - If an individual is actively pursuing activities as part of their career plans/he can remain enrolled in the funding stream even if no funds are being expended until they complete their course of activities. This should be contingent on progress being monitored and updated by the career counselor.
  - We recognize that the Departments’ must determine a “cut-off” time by which a participant is no longer active or intends to pursue services. Therefore, we recommend that the Departments utilize research on program design and evaluation to determine when a youth participant should become inactive and when they should be allowed to remain enrolled, in an inactive status.

## **4. Movement of Youth Across Funding Streams**

A key theme in the WIOA law is that of career pathways. Under WIOA, state and local workforce development boards are charged with convening their education partners to develop and implement career pathways. Career pathways are an allowable activity under all WIOA Titles. The youth provisions require that a career pathway plan be developed for each youth enrolled. Clearly, it is the intent of the law to encourage longer interventions, for individuals who are basic skills deficient. It is also clear that the intent of these career pathways is to help individuals earn secondary, postsecondary, and labor market credentials, not just marginal skills gains. Given that youth age 18 through 24 are eligible to be served using all of these funding streams; this represents an opportunity to build an integrated career pathways infrastructure in local communities to better serve the needs of youth who are unemployed and basic skills deficient. Historically, movement and co-enrollment across WIA Title I (adult and youth funding streams) and Title II have been very low. There are structural issues of concern that have made this difficult including, the flow of funding and planning; the eligible service providers; enrollment and exit status; and performance and reporting metrics.

**Issue: Assure better coordination and alignment in the state and local planning and funding processes for Title I and Title II especially related to developing pathways for youth**

**Discussion:** Funding for Title II (adult education and literacy) flows from the state to local “eligible agencies” which in turn flows to “eligible providers”. The eligible agencies under Title II are charged with implementing career pathways and other activities in keeping with the state unified plan and selecting providers in keeping with their plan. There is not much in the way of requiring local alignment. Local Workforce Development Boards are required to coordinate the local effort for creating career pathways and by law, they are to review and comment on whether the local adult education providers’ services are aligned with the local workforce plan. In short, the strategic processes are not aligned and there is little possibility for the offerings of providers to be aligned, across funding streams, to build pathways.

**Recommendations:**

- A. Require that the local plan submitted by the local Workforce Development Board and by the local adult education eligible agency specifically address how the funding streams will be coordinated to maximize the provision of service to youth who are basic skills deficient.
- B. Encourage representation of adult education providers and community-based organizations on state and local boards.
- C. Provide guidance about requiring those out of school youth to be reconnected to the education pipeline through co-enrollment in Title II for both foundational skill building and postsecondary transition through integrated education and training/career pathway programming and Title II college preparation activities.
- D. Clarify the section regarding the role of the local board which requires them to review adult education providers and comment on their alignment with the local plan. Require that those comments be submitted to the state and taken into consideration in the State’s subsequent determination and award of funding to the local eligible agency for adult education and literacy services.

**Issue: Definition and procedures for eligible training providers are different for each of the three funding streams (WIOA Title I – Youth; WIOA Title I – Adult; and WIOA Title II)**

**Discussion:** A big inhibitor to blending funding is the fact that the requirements on who is an eligible provider of service (and how they are determined) are different for each funding stream. For local areas wanting to jointly fund a program or sequence of service and the potential providers are all subject to different processes for vetting whether they can even apply to the Request for Proposal.

**Recommendations:**

- A. Consider issuing guidance and technical assistance around provider eligibility. If funding is being blended to serve a particular population, then a provider eligible under one of the blended funding streams would also be eligible for other funding streams. This could potentially ease the fear around co-enrollment. Practitioners will also need to know that their [shared accountability](#) will make sense across the different funding streams. They will not be breaking the rules by counting the outcome(s) obtained by a single participant co-enrolled in multiple funding streams for each funding stream.
- B. Make it clear that joint programming is, in fact, encouraged, and identify the areas where waivers will be granted to accommodate movement in that direction.

**Issue: Address the disincentives (or potential disincentives) to co-enrollment across the Titles Discussion:**

**Discussion:** Historically, the biggest disincentives to co-enrollment have been the differences in performance expectations, the target populations, the tools for measuring progress, the definitions of eligible populations, and the mechanics of reporting. If the benchmark on the same performance standard is set at 30% in one funding stream and 70% in the other, there is little incentive for co-enrollment. Since youth, ages 18 through 24, represent a target population across all three funding streams, there is an opportunity to promote consistency. Reporting is also a significant issue.

Local areas are feeding different reporting systems and performance will be monitored, reported, rewarded, and sanctioned by two different agencies.

**Recommendations:**

- A. Consistency from the Departments' on definitions and guidance related to basic skills deficiency, credentials, [skills gains](#), and accepted means of measurement of progress.
- B. Consistency on how the performance measures will be calculated, including on defining enrollment, participation, exits, and what counts when.
- C. In the negotiation of local benchmarks for performance, the benchmarks for Title II and for Title I - Youth and Title I - Adult (for young adults ages 18-24) should be aligned since there is significant overlap in the populations served.
- D. Positive outcomes are portable for youth in a career pathway. Thus, if a youth receives a GED or HS equivalency in an adult education funded program, that credential can also accrue to the Title I- Youth performance standard.

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<sup>i</sup> Sarah Ayres, The High Cost of Youth Unemployment, Center for American Progress, 2013, <http://cdn.americanprogress.org/wpcontent/uploads/2013/04/AyresYouthUnemployment1.pdf>.