



Promoting Economic and Career Success for Low-Income Youth and Adults

A Preview of Key Provisions in the Proposed WIOA Regulations

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Introduction

In July 2014, President Obama signed the Workforce Innovation and Opportunity Act (WIOA). Passed by an overwhelming bipartisan majority in Congress, WIOA is the first update to the nation's core workforce training programs since the Workforce Investment Act (WIA) 16 years ago. Low-skilled and low-income workers face more barriers than ever to securing an education and getting a good job. The updated law recognizes the need for a new game plan and reauthorizes the employment, training, adult education, and vocational rehabilitation programs that made up WIA. WIOA improves connections to employment and training opportunities that lead to economic prosperity for workers and their families, as well as strengthens existing workforce development and adult education programs to enable better service to adults and youth with barriers to economic success.

Following WIOA's enactment, CLASP released [*New Opportunities to Improve Economic and Career Success for Low-Income Youth and Adults*](#), a summary of promising new provisions that can improve services to low-income youth and adults under Title I and Title II. This was the first entry in our [*WIOA Game Plan for Low-Income People*](#), a series of resources and webinars designed for state and local policymakers, advocates, and practitioners. CLASP's Game Plan offers implementation strategies that maximize new opportunities to help

low-income families and individuals advance economically.

On April 16, 2015, the U.S. Departments of Education (ED) and Labor (DOL) published draft regulations for WIOA in the Federal Register, marking an important milestone in WIOA implementation. The proposed regulations come in five parts, known as Notices of Proposed Rulemaking (NPRMs), that each address different aspects of the law: [*Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions \(Joint DOL/ED\)*](#); [*Remaining Workforce Innovation and Opportunity Act provisions administered by DOL*](#); [*Title II Adult Education and Literacy administered by ED*](#); [*Title IV Vocational Rehabilitation administered by ED*](#); and [*Miscellaneous Program Changes administered by ED*](#). The public comment period is open for 60 days, ending June 15, 2015. The Departments will analyze these public comments and anticipate issuing Final Rules implementing WIOA in early 2016.

This paper summarizes several key priority topics in the proposed WIOA regulations to help state and local policymakers, advocates, and practitioners leverage opportunities. In the coming weeks, CLASP will provide further analysis of the proposed regulations previewed below, as well as comment to ED and DOL on how to best serve low-income youth

and adults with barriers to employment. By the end of May, we will post these detailed analyses and comments, which state and local stakeholders can also use in developing their own responses.

Combined State Plans. In the preamble to the proposed regulations, states are “strongly encouraged” to submit a “Combined State Plan,” in lieu of a required Unified State Plan (§ 676.140), “to expand the benefits of cross-program strategic planning, increase alignment among State programs, and increase service integration.” Governors have the option to submit a four-year combined plan to align and coordinate WIOA’s six core programs (the WIOA Title I Adult, Dislocated Worker, and Youth programs; the WIOA Title II Adult Education and Family Literacy Act program; the WIOA Title III Employment Services programs; and the WIOA Title IV Vocational Rehabilitation program) with other federally funded programs that include workforce development. Other federal programs that could coordinate with WIOA through combined planning include Career and Technical Education programs funded by the Carl D. Perkins Act at both secondary and postsecondary institutions, as well as employment and training services provided by the Temporary Assistance for Needy Families (TANF) program, the Supplemental Nutrition Assistance Program (SNAP) program, Trade Adjustment Assistance (TAA), Job Counseling, Training, and Placement Services for Veterans (VETS), state Unemployment Insurance (UI) programs, Senior Community Service Employment programs under the Older Americans Act (SCSEP), the Department of Housing and Urban Development, the Community Services Block Grant, or the Second Chance Act for reintegration of ex-offenders (§ 676.140(d)(1)-(11)).

Regardless of whether a state chooses to submit a combined plan, engaging the aforementioned agencies in the planning process can help generate innovative, cross-program approaches that align policies and funding streams to support integrated, comprehensive services that help low-skilled and low-income people—including disconnected youth, welfare recipients, and others with unique barriers to employment—get the education, training,

employment services, and support services they need to enter and advance in the workforce. The state planning process is required to provide meaningful opportunities for public comment from stakeholders. The proposed regulations also attempt to reduce states’ administrative burdens by removing requirements to submit separate individual plans for each optional program under WIOA; however, each program included in a combined plan will retain the requirements from its authorizing legislation. Additionally, the Departments are requesting public input on how to align inconsistent planning timeframes for state reports to different federal agencies. CLASP will provide further comments on this topic to support effective coordination of services for these populations.

Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act

Priority of Service. For career and training services funded by the Title I Adult program, WIOA requires that priority be given to public benefits recipients, other low-income individuals, and individuals who are basic skills deficient. The new statute is stronger than WIA, which had a loophole for local areas to avoid implementing the priority of service provision by determining that funding was “not limited.” The proposed WIOA regulations at § 680.600 require states and local areas to establish criteria for providing this priority and require that local plans explain how priority of service will be applied by the one-stop operator. The proposed regulations also allow a local board and governor to establish priorities for other eligible individuals (provided it is consistent with priority of service for veterans). In the coming weeks, CLASP will provide further analysis and suggestions on how to ensure that priority of service is given to those most in need of services.

Job Quality. The proposed WIOA regulations provide opportunities to connect workforce development to improvements in the quality of the front-line jobs for which lower-skilled individuals are

trained. For instance, the Departments request additional public input and comments at §677.155(a)(1)(i) regarding “whether and how to collect information on the quality of employment and how WIOA's programs help employed individuals and underemployed individuals find new or better jobs.” Measuring whether individuals obtain “better” jobs after receiving services through WIOA could encourage local WIOA systems to develop partnerships with high-road employers that provide decent wages and other standards by which we measure job quality (such as paid sick days, paid family and medical leave, and fair job scheduling practices for front-line employees). States and local areas should establish these high-road partnerships by using WIOA funds for work-based training strategies that enable workers to earn while they learn, such as on-the-job training (OJT) and incumbent worker training (IWT) grants to employers.

The proposed rules at § 680.730 (OJT) and 680.810 (IWS) address “criteria that must be taken into account for an employer to be eligible to receive” these types of grants to train their newly hired or existing workers, including potential factors such as post-training increases in the “wages and benefit levels of employees.” These provisions invite states and local areas to strategically leverage their WIOA funds to improve job quality by setting criteria that target awards of OJT and IWT training grants to employers that offer decent wages and benefits, invest in and support their employees’ ongoing training and advancement, and provide paid leave and predictable hourly schedules that enable workers to balance work with family caregiving and other commitments.

Youth Activities Under Title I of the Workforce Innovation and Opportunity Act

In addition to the key provisions featured below, CLASP intends to provide comments on a number of the proposed rules regarding *Youth Activities* and *out-of-school youth* (OSY), such as OSY eligibility determination; defining “high-poverty area” and

“basic skills deficient”; program design and service strategies, including work experience; performance measurement; serving youth with disabilities; and career pathways.

Governance and Planning: Standing Youth Committee. WIOA does not require local workforce boards to have a youth council. 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, service implementation, performance measures, and reporting, helping to ensure that out-of-school youth are adequately served according to the intent of WIOA. The proposed regulations at § 681.100 describe a standing youth committee, and the Department encourages “Local Boards to consider establishing standing youth committees to meet the local area’s needs... inform and assist the Local Board in developing and overseeing a comprehensive youth program.” However, the youth committee’s responsibilities will be determined by the local board.

Coordination and Alignment: Serving Youth Across Funding Streams. A key theme of the WIOA statute is alignment and coordination across the core programs; this is intended to increase access to employment, education, training, and support services for individuals, particularly those with barriers to employment, including OSY. The proposed regulations emphasize the value of coordinating services for eligible youth across Title I Youth, Title I Adult, Title II Adult Education and Family Literacy, and Title IV Vocational Rehabilitation; recognize that the inclusion of common performance measures also supports youth service alignment; and encourage co-enrollment to support comprehensive service delivery strategies.

For example, the proposed regulations:

- *Reiterate the connections between the youth program and the one-stop system* at § 681.700, requiring collocating WIOA youth program staff at one-stop centers, and/or equipping one-stop centers and staff with the information necessary to advise youth, and/or establishing youth-focused one-stop centers.
- *Permit co-enrollment between Title I Adult and Youth programs and Title II programs for OSY* at § 681.230 and § 681.430. These proposed rules clarify that youth may participate in the WIOA Youth program and the Title I Adult program simultaneously if they are eligible for both and it is appropriate. Since many disconnected youth ages 16 to 24 meet eligibility requirements for both WIOA Title I Youth activities and WIOA Title II Adult Education programs, and “can receive work experience and occupational skills through Title I funding and literacy skills through Title II funding,” the proposed rule allows Title II participants ages 18 to 24 to be considered OSY.
- *Allows the use of Individual Training Accounts (ITAs) for older and OSY* at § 681.550 to “enhance individual participant choice in their education and training plans and provide flexibility to service providers,” as well as the use of Title I Youth funds when appropriate.

Adult Education and Family Literacy Act Under Title II of the Workforce Innovation and Opportunity Act

The proposed regulations for the Title II Adult Education and Family Literacy Act (AEFLA) programs establish adult basic education’s role in foundational and English language skill building during an adult’s progression through a training and employment path. While the Departments should

provide additional federal guidance that specifies how to document and report on career pathway activities, these proposed regulations provide an opportunity to comment on significant career pathway strategies.

Career Pathways and Title II. English as a Second Language (ESL) is broadened to ELA (English Language Acquisition) at §463.32 and the proposal would require that “the program leads to attainment of a secondary school diploma or its recognized equivalent and transition to postsecondary education and training or leads to employment.” To meet this requirement, a program must do one of three things: align with state adult education content standards; offer supportive services to promote attainment of a high school diploma or high school equivalency certificate and assist with the transition to postsecondary education or employment; or be part of a career pathway. We will provide further comments on this definition to ED, including suggesting that programs with secondary credential attainment that transition participants to postsecondary education or employment should be considered part of a career pathway. Additionally, aligning to content standards and offering support services are components of a career pathway program. Proposed §463.60 expands AEFLA’s Corrections and the Education of Other Institutionalized Individuals provisions to incorporate five new academic programs, including integrated education and training and career pathways. CLASP strongly supports these new additions to correctional education.

Partnership. Proposed §463.1 defines the AEFLA’s purpose as “to create a partnership among the Federal Government, States, and localities” to provide literacy services that “lead to sustainable improvements in the economic opportunities” and “assist adults in attaining a secondary school diploma and in the transition to postsecondary education and training, through career pathways.” Under proposed §463.20, AEFLA applications will awarded based on criteria including: the extent of “alignment between proposed activities and services and the strategy and goals of the local [WIOA Title I] plan”; if activities “provide learning in context, including through

integrated education and training”; and if the “provider coordinates with other available education, training, and social service resources in the community,” including secondary, postsecondary, local workforce boards, one-stops, community-based organizations, and more. CLASP applauds this comprehensive view of partnership.

Performance Accountability under the Workforce Innovation and Opportunity Act

Measurable Skill Gains Indicator. Measurable skill gains is the fifth of six primary indicators of performance in WIOA, described as “the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment, and who are achieving measurable skill gains toward such a credential or employment.” The measure will help ensure low-income and lower-skilled individuals (both youth and adults) are served by the WIOA system, as well as reduce perverse performance incentives under the prior law that disadvantaged local areas when they served those with the greatest barriers to success. The proposed regulations at § 677.155(a)(1)(v) more specifically define the measure as “documented academic, technical, occupational or other forms of progress, toward the credential or employment.” We are pleased that the Departments have proposed to explicitly define this as an “interim progress measure” and have begun to lay out a menu of options for documenting measurable skill gains based on an individual participant’s starting skill level and needs. We will continue to suggest additions to this menu and will provide further analysis and comments about what should constitute a skill gain, how and when it could be documented, and other topics.

Timing of WIOA performance goal setting and sanctions. WIOA requires the secretaries of labor and education to reach agreement with each governor on their state’s adjusted levels of performance (goals) for the six performance measures for each of the core programs. WIOA further requires that these state

goals be negotiated based, in part, on the application of a statistical model that will adjust for differences in states’ economic conditions and participant demographics. The proposed regulations at § 677.180 implement these requirements, and the Departments are seeking public input on the overall approach to setting goals for the measures as well as the timelines for imposing sanctions for failure to meet the performance goals. The proposed regulations recognize that appropriate baseline data must be available to support planning and model development. This is particularly an issue for the measurable skill gains measure and the measure of effectiveness in serving employers, but it may also affect other measures. In the coming weeks, CLASP will provide further comments on the importance of phasing-in goal-setting and sanctions provisions in a way that offers the WIOA system strong incentives to adjust program designs to target services to low-income and lower-skilled youth and adults.

Note: By the end of May, CLASP will prepare detailed analyses and comments on the above and other topics. Stakeholders are welcome to use that forthcoming document, as well as this one, to inform the development of their own comments.