



June 15, 2015

Lekesha Campbell  
U.S. Department of Education  
400 Maryland Avenue, SW. room 11-008  
Potomac Center Plaza (PCP)  
Washington, DC 2002-7240

**Re: [Docket ID: ED-2015-OCTAE-0003] RIN 1830-AA22 Programs and Activities Authorized by the Adult Education and Family Literacy Act (Title II of the Workforce Innovation and Opportunity Act)**

The Center for Law and Social Policy (CLASP) submits these comments pursuant to the Notice of Proposed Rulemaking that was published at the Federal Register in Vol. 80, No. 73 on Thursday, April 16, 2015.

CLASP advocates for public policies that reduce poverty, improve the lives of poor people, and create ladders to economic security for all, regardless of race, gender, or geography. We target large-scale opportunities to reform federal and state programs, funding, and service systems, then work on the ground for effective implementation. Our research, analysis, and advocacy foster new ideas and position governments and advocates to better serve low-income people. We also work at the state and local levels, providing technical assistance regarding the implementation of federal policies and programs.

Our comments and recommendations are based on CLASP's work and expertise on human services as well as workforce, youth development, and postsecondary policies. We recognize education and training can lift families out of poverty and are 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. CLASP has long supported transition to postsecondary education as a core activity of adult education programs. We are very pleased to see regulations that will help ensure these policies are properly implemented. Proposed regulations for WIOA Title II largely recognize and codify best-practice innovations from practitioners across the country.

CLASP thanks the Departments for their hard work on the proposed regulations and for their inclusion of several proposed rules that would support integrated, comprehensive programming for individuals with barriers to employment across the WIOA core programs. The regulatory process is a pivotal marker in the implementation of WIOA. It provides important signals to states and local areas on how they should

operate, set priorities, and employ strategies that ensure all workers, especially those with barriers to employment, can succeed economically.

In addition to the comments below, CLASP also submitted [comments](#) on the Title I proposed regulation [RIN 1205–AB73] and [comments](#) on the joint ED/DOL proposed regulation [RIN 1205-AB74, 1830-AA21]. In all of our responses, we note our appreciation for the Departments’ attention to career pathways in each of the three NPRMs. Career pathway strategies have proven effective in serving lower-skill, low-income people through integrative educational approaches and robust career services. CLASP strongly supports the inclusion of shared performance metrics, co-enrollment, integrated education and training and other career pathway essentials. However, CLASP also urges the Departments to include additional operational regulations to support practitioners who are implementing career pathway strategies.

What follows are comments to [Programs and Activities Authorized by the Adult Education and Family Literacy Act; Proposed Rule](#), focused on proposed rules relating to 34 CFR *Part 462, 463 – Adult Education and Family Literacy Act*.

For questions about Title II Adult Education and Family Literacy Act recommendations and related provisions, please contact Judy Mortrude at the Center for Postsecondary and Economic Success at CLASP ([jmortrude@clasp.org](mailto:jmortrude@clasp.org)).

### **34 CFR Parts 462, 463 Adult Education and Family Literacy Act (WIOA Title II)**

#### **§462.41 How must tests be administered in order to accurately measure educational gain for the purpose of the performance indicator in section 116(b)(2)(A)(i)(V) of the Act concerning achievement of measurable skill gains?**

The draft regulation introduces additional **types of assessment**: academic, technical, occupational, or other forms. More clarification is needed on what technical, occupational, or other forms of assessment could be used for measurable skill gain. CLASP recommends that the National Reporting System test application process be used only for academic assessment, as it is currently, and that the other assessments have a separate approval or verification process. Additionally, CLASP would like stronger, more explicit language in the Title II regulations explaining that this range of assessments is open to all WIOA Titles, as stated in **§677.155(b) of RIN 1205-AB74 the joint ED/DOL proposed regulation**. CLASP also recommends that the final regulations connect the Perkins CTE technical skill assessment mandate with the WIOA technical skill assessment to make it clear that these two systems can work together.

#### **§462.43 How is educational gain measured for the purpose of the performance indicator in section 116(b)(2)(A)(i)(V) of the Act concerning the achievement of measurable skill gains?**

Title II NPRM proposes “awarding of credit or Carnegie units” as a measure of progress. This could be valuable in adult high school diploma programs and in career pathway integrated education and training programs if it includes both secondary and postsecondary credit. Additionally, some states have implemented alternative adult high school diploma programs built on Competency Based Education.

Some postsecondary programs are also utilizing Competency Based Education. Consequently, 34 CFR §462.43(c) should be expanded to include measuring and reporting educational gain through a competency-based education framework.

### **§463.1 What is the purpose of the Adult Education and Family Literacy Act?**

WIOA II Adult Education and Family Literacy Act has as its purpose to create a partnership in order to provide services that “assist adults in attaining a secondary school diploma and in the transition to postsecondary education and training, through career pathways” (§463.1(c)) and “lead to sustainable improvements in the economic opportunities for their family” (§463.1(b)(2)), among other goals. The proposed regulations in RIN 1830-AA22 recognize the strides AEFLA providers have made with these services over the past decade and include strong guidelines to continue proven practices. CLASP respectfully submits these additional recommendations for regulatory language to strengthen the partnerships necessary to support low-skill adults in their pursuit of individual prosperity and family self-sufficiency.

### **§463.20 What is the process that the eligible agency must follow in awarding grants or contracts to eligible providers?**

AEFLA applications will be awarded based on criteria that include the extent of “alignment between proposed activities and services and the strategy and goals of the local [WIOA Title I] plan” (§463.20(d)(4)); whether activities “provide learning in context, including through integrated education and training” (§463.20(d)(8)); and whether the “provider coordinates with other available education, training, and social service resources in the community” (§463.20(d)(10)), including secondary, postsecondary, local workforce boards, one-stops, community-based organizations, and more. We also appreciate the continuation of the requirement that the eligible agency ensure that “all eligible providers have direct and equitable access to apply and compete for grants and contracts” (§463.20(c)(1)). While this language was included in WIA, we observed states disregarding this provision in a limited number of cases. CLASP strongly agrees with the 13 considerations laid out in §463.20 and recommends including two additional considerations that will demonstrate partnership: co-enrollment and braided funding.

### **§463.21 What processes must be in place to determine the extent to which a local application for grants or contracts to provide adult education and literacy services is aligned with a local plan developed under section 108 of WIOA?**

While local workforce boards are mandated to approve local WIOA Title II plans, there is no regulatory language mandating that local boards *support* those plans by offering career and training services to WIOA Title II participants. To ensure WIOA Title II does not attempt to deliver these services without the support and expertise of their core partners, CLASP recommends that the final regulation include a mandate that local plans detail how Titles I and III will provide career services to Title II participants, as well as support participants in Title II Integrated Education and Training models.

**§463.22 What must be included in the eligible provider’s application for a grant or contract?**

CLASP suggests that the description of providing “services in alignment with local workforce plans, including promotion of concurrent enrollment with title I services” (463.22(a)(3)), should include specific reference to concurrent or co-enrollment, which is correctly defined in **34 CFR §463.3 Concurrent or co-enrollment** as enrollment in two or more core WIOA programs.

463.22(a)(5)(ii) Regulations should provide best practice strategies for Title II to use a portion of funds under WIOA to “maintain the one-stop delivery system.” Examples include co-location, co-enrollment, and delivery of digital literacy and distance learning programming for one-stop customers.

**§463.24 How can an eligible provider establish that it has demonstrated effectiveness?**

WIOA Title II funds are to be awarded in a “fair and equitable” competition; applicants must show “demonstrated effectiveness.” With respect to the application process, CLASP encourages regulation requiring states’ standard performance data to include *not only* past or projected NRS educational functioning level gains *but also* quantitative and qualitative measures on transition to employment and postsecondary education. This includes co-enrollment numbers with other WIOA titles as well as postsecondary CTE and strategic transition practices used across the spectrum of Title II programming.

**§463.32 How does a program that is intended to be an English language acquisition program meet the requirement 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?**

ESL is appropriately renamed ELA (English Language Acquisition) and is broadened to 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.” Regulations say program must do one of three things to meet this requirement: 1) align to state adult education content standards; 2) offer supportive services that help participants attain HSD/HSE and transition to postsecondary education or employment; **or** 3) be part of a career pathway. However, CLASP believes all of these elements must be present for a comprehensive ELA program to achieve its goal of transitioning participants to postsecondary education or employment. Therefore, **§463.32 (a-b)** should be revised to “and” rather than “or.”

**§463.34 What are workforce preparation activities?**

CLASP commends the Department’s workforce preparation definition, which enhances basic academic and critical thinking skills by adding digital literacy and self-management skills (utilizing resources, using information, working with others, and understanding systems), transition skills for postsecondary education or employment, and other employability skills. Regulations should make it clear that WIOA Title II can use this workforce preparation framework across the spectrum of educational functioning levels through systemic efforts like the [Transitions Integration Framework](#).

In order to facilitate rapid uptake of the expanded workforce preparation definition and save states from expending time and money on standards development, regulations should promote digital literacy standards for use in WIOA Title II (e.g., the grassroots [Northstar Digital Literacy Standards](#)) and for self-management instruction (e.g., the [Transitions Integration Framework](#)).

#### **§463.36 What are the required components of an integrated education and training program funded under Title II?**

Integrated Education and Training (IET) is an acceleration strategy. Proposed regulations include a comprehensive definition of IET's three required components: **adult education and literacy** activities, **workforce preparation** activities, and **workforce training** as defined in *WIOA section 134(c)(3)(D)*. CLASP commends the Department for specifying that these components are “balanced proportionally,” “occur simultaneously,” “use occupationally relevant material,” and have “a single set of learning objectives” that contain all three components and are “organized to function cooperatively.” This will require a coordinated syllabus between adult education and occupational education instructors and promote co-enrollment in WIOA Title II and postsecondary programming. Regulations should reinforce that IET is the career pathway strategy that leads to “acceleration,” as noted in the WIOA career pathway definition *WIOA Sec. 3(E)*. Regulation should reiterate that when working with individuals with barriers to employment, acceleration is not achieved by compressing learning time in any one component; instead, it requires simultaneous— rather than sequential— adult education, workforce preparation, and workforce training activities.