

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73



June 15, 2015

Ms. Adele Gagliardi, Administrator
Office of Policy Development and Research
US Department of Labor
200 Constitution Ave., NW
Room N-5641
Washington, DC 20210

The undersigned members of the Consortium for Citizens with Disabilities (CCD) Employment and Training Task Force [hereafter referred to as “the task force”] submit the following comments on the Notice of Proposed Rulemaking RIN 1205-AB73 concerning the Workforce Innovation and Opportunity Act (WIOA) - Employment and Training Administration - 20 CFR Parts 603, 651, 652, 653, 654, 658, 675, 679, 680, 681, 682, 683, 684, 685, 686, 687, and 688.

CCD is a coalition of more than 100 disability rights, advocacy, consumer, and provider organizations representing the 56 million Americans with disabilities. Most of its work is done through task forces and this task force is involved with policies, legislation and regulations affecting the workforce participation of and employment opportunities for people with disabilities.

Our comments are presented in numerical sequence and, thus, do not follow the order in which they were presented in the NPRM.

Part 652 – Establishment and Functioning of State Employment Services

§ 652.207 – How does a State meet the requirement for universal access to services provided under the Act?

§ 652.207 describes how a State is to meet the requirement for universal access to services provided under the Act. However, under (a), the proposed rule indicates that a State has “discretion in how it meets the requirement for universal access to services provided under the Act. In exercising this discretion, a State must meet the Act’s requirements.” Subsection (b) outlines these requirements including: “(1) Labor exchange services must be available to all employers and job seekers, including unemployment insurance (UI) claimants, veterans, migrant and seasonal farm workers, and individuals with disabilities.”

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Comment – This task force has previously indicated its belief that the WIOA regulations should adhere to the Americans with Disabilities Act of 1990 and Americans with Disabilities Amendments Act of 2008 and recommended that the regulations include a clarification that "these regulations do not alter or supersede States' or employers' obligations under the Americans with Disabilities Act." In the explanatory statement for this NPRM on page 20694, the Department of Labor states that it "will issue regulations regarding the Section 188 Nondiscrimination provisions through separate rulemaking." Section 188 contains the provisions in the law regarding obligations of the workforce development system not to engage in policies or practices that discriminate against various populations, including people with disabilities. This task force is concerned that delaying the issuance of regulations regarding the nondiscrimination provisions of WIOA could create possible misunderstandings concerning States legal obligations to serve people with disabilities. CCD strongly recommends that further detail be provided in 652.207 (b)(1) such as a specific reference to Sec. 188, ensuring programmatic and physical accessibility of all services and other applicable sections of the Americans with Disabilities Act.

Part 675 – Introduction to the Regulations for the Workforce Innovation and Opportunity Systems Under Title 1 of WIOA

§ 675.100 What are the purposes of title I of the Workforce Innovation and Opportunity Act?

Included in the purposes of title I of the WIOA are the following subsections:

(a) 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;

(c) Streamlining service delivery across multiple programs by requiring colocation, 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.

§ 675.300 – Definitions Individual with a Disability

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.

Comment – The task force is pleased to see the explicit reference to people with disabilities as a focus of WIOA Title I in 675.100 and inclusion of the reference to the ADA in 675.300. Indeed, we note numerous references throughout the Title I regulations to individuals with disabilities. If the purposes enunciated in 675.100 are

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

fully embraced throughout all components of the workforce system, we expect to see significant improvements in workforce participation among people with disabilities.

As noted in our previous concerns regarding Section 652 and the separate rulemaking for the Section 188 Nondiscrimination provisions, the task force recommends that 675.100 might also be an appropriate place to remind States and employers of their existing obligations under the ADA, notwithstanding anything else reflected in the WIOA regulations.

Part 679 – Statewide and Local Governance of the WIOA System under Title I of WIOA

Subpart A – State Workforce Development Board

§ 679.100 What is the purpose of the State Board?

This section outlines the role of the State Board in engaging employers, education providers, economic development, and other stakeholders to help the workforce development system achieve the purpose of WIOA and the State's strategic and operational vision and goals outlined in the State Plan.

Comment - Proposed §679.100 provides the leaders managing the State Boards a solid guide for understanding the range of stakeholders involved with WIOA. A wide range of voices, specialties, and knowledge will help develop the vision and goals needed for state plans that will carry workforce development forward into the twenty-first century.

However, §679.100 should be more explicit in identifying what strategic and operational elements in the State Plans will meet the needs of people with disabilities. Language should be adopted which instructs the states that both the strategic and operational sections of the State Plan must identify methods for including, recruiting, and engaging people with disabilities and out of school youth with disabilities. In order for the State Plans to achieve the purpose of WIOA, such methods should also be paired with specific performance metrics that will allow for systemic improvement and achievement.

§ 679.110 What is the State Workforce Development Board?

This section outlines the required members and functions of the State Workforce Development Board.

§ 679.110(b)(3)(ii)(A) through (D) require that not less than 20 percent of the members of the State Board be representatives of the workforce and also encourage representation from community based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment across the State, including organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities, and organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including organizations that serve Out of School Youth (OSY).

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Comment - Proposed § 679.110 provides excellent guidance to the states regarding the range of employers, businesses, and organizations that should be composed of State Board representatives. However, CCD continues to believe that Governors should be required to appoint an individual with a disability (preferably a consumer of vocational rehabilitation services) to serve on the State Board. People with disabilities are among those with the most significant barriers to employment and we believe it is vital that those who have successfully entered the workforce have their experiences heard at the state level.

To better facilitate employment and training opportunities under §679.110(b)(3)(i)(A) through (C), the regulation should include language referencing employers and businesses engaged in contracts with the Federal government. This language is needed because of the recent changes made to the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741. This change asks federal contractors to take affirmative action to recruit, hire, and retain people with disabilities. For the first time, they will also have a 7% utilization goal for qualified individuals with disabilities in all job categories.

Given the wide scale of economic opportunities associated with contracting as well as the directives in WIOA to serve people with disabilities and others with barriers to employment, State Boards should ensure that federal contractors are well represented. Full information on the range of federal contractors and their role in the states can be found at:

<http://www.fedspending.org/fpds/tables.php?tabtype=t2&subtype=t&year=2012>

§ Part 679.130 What are the functions of the State Board?

Proposed § 679.130(f)(1) through (3) outline the role of the Board in assisting in the development and review of statewide policies on coordinated service provisions, which includes criteria for Local Boards to assess one-stop centers, allocation of one stop center infrastructure funds, and the roles and contributions of one-stop partners within the one-stop delivery system.

Comment - §679.130(f)(1) through (3) are vitally important because of their role in assisting policy development, aligning services, and improving programs. Common, clear criteria and procedures will better enable one-stop centers to meet the needs of job-seekers. However, the language of proposed §679.130(f)(1) through (3) should be strengthened to better reflect the importance of including programmatic and physical accessibility in the assessment of one-stop centers.

Given the importance of WIOA for developing a twenty-first century workforce system, accessibility of one-stop centers needs to include the removal of barriers as defined in the Americans with Disabilities Act (28 CFR 36.304) and extend to technological accessibility. The assessments discussed in §679.130(f)(1) through (3) should include such questions as: Are one-stop websites accessible to screen readers? Are plain-language summaries available for people with intellectual or developmental challenges?

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Are large print copies of materials available for those with visual impairments? Are infrastructure funds at one-stop centers being made available for assistive technology?

Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) provides a valuable guide for the level of accessibility needed for electronic and information technology used by one-stop centers.

Subpart B – Workforce Innovation and Opportunity Act Local Governance

§ 679.210 What are the requirements for identifying a region?

§ 679.210(c) provides additional criteria the Governor may consider when identifying regions.

Comment - Proposed § 679.210(c) provides an excellent starting point for helping Governors to understand appropriate criteria for identifying regions. Supporting regional economies and labor markets will be one of the great areas for success and opportunity under WIOA. As such it is important that the right data be put into the hands of the right people at the right time.

Important, additional data points which should be part of defining a regional economy and labor market include the workforce participation rate of people with barriers to employment, especially people with disabilities and out of school youth with disabilities. Such data is readily available in the form of the American Community Survey and from the United States Census Bureau. Data points used by the Governor and WIOA local governance needs to extend beyond just unemployment rates and the final language of the regulations should reflect this need.

The way unemployment rates are calculated only includes people who have become unemployed and those who are actively seeking work. This data does not include most people with disabilities and many out of school youth who are not actively seeking work due to their employment barriers. As such, workforce participation rates are an important performance measure that should be included in data points used as a part of WIOA local governance.

Proposed § 679.210(c)(2) represents an important convergence created by the proposed regulations of WIOA. Mobility is a vital part of a dynamic, adaptive, and growing workforce at the state and local level. As such, “commuting patterns” will be a key point of interest for identifying planning elements under WIOA. However, the language of § 679.210(c)(2) should be amended because transportation is a critical barrier to employment for many job seekers with disabilities. The “commuting patterns” discussed in this proposed paragraph should consider both the movement of workers as well as access to public transportation. Public transportation routes can connect job seekers with disabilities to employers who are critical partners in guiding strong regional economies and labor markets.

Subpart C – Local Boards

§ 679.320 Who are the required members of the Local Workforce Development Board?

This section outlines the required membership of Local Boards and under 679.320 (c)(3) permits inclusion of “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”

Comment - While organizations serving people with disabilities are mentioned, their membership is permissive under the rule, not required – nor is there any reference to people with disabilities themselves. Given the principle outlined in 675.100 and the degree to which people with disabilities are disconnected from the workforce, this task force believes that representation of people with disabilities on local boards should be required.

Proposed § 679.320 provides good guidance to the states regarding the range of employers, businesses, and organizations that should compose a Local Board under WIOA. These Boards will carry out some of the most important work to be done under the new law. These Boards will be enacting programs that will have a substantial impact on communities across the country. Having a Board that reflects the in-demand sectors of a local area is critical.

In local areas where there is a concentration of federal contractors, it is important that those contractors subject to Section 503 of the Rehabilitation Act be included in the membership of the Local Workforce Development Boards. To reflect this need, the language of proposed §679.320 should include language referencing employers and businesses engaged in contracts with the Federal government. Such companies can be critical to the economies of local areas. They also represent an important partner in better serving the needs of people with barriers to employment, especially those with disabilities. This is a critical measure because of the recent changes made to the regulations on Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741. This change asks federal contractors to take affirmative action to recruit, hire, and retain people with disabilities. For the first time, they will also have a 7% utilization goal for qualified individuals with disabilities in all job categories.

Given the wide scale of economic opportunities associated with contracting as well as the directives in WIOA to serve people with disabilities and others barriers to employment, Local Boards should ensure that federal contractors are well represented. Full information on the range of federal contractors and their role in the states can be found at:

<http://www.fedspending.org/fpds/tables.php?tabtype=t2&subtype=t&year=2012>

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

§ 679.360 What is a standing committee, and what is its relationship to the Local Board?

Subsection (a) notes that 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:

- (3) “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.”

Comment - This task force recommends that the required standing committee on accessibility take the lead in performance of the annual accessibility assessment to be undertaken by the Board. In accordance with the Sunshine Provision mentioned in Section 107(e) of WIOA: “The local board shall make available to the public, on a regular basis through electronic means and open meetings, information regarding the activities of the local board...,” this task force recommends that the information to be made publically available include those findings from the annual accessibility assessment noted in Section 107(7)(13).

Local boards should be encouraged in the final rule to appoint people with disabilities on all standing committees.

§ 679.370 What are the functions of the Local Board?

This section details the functions of local workforce boards.

Comment - Proposed § 679.370 is critical in guiding the work that will be done by the Local Boards under WIOA. Local Boards will be a focal point creating linkages between workforce systems and regional needs. As such, the regulations should be a guide to the work of the Local Boards and ensure systems alignment to meet the critical goals of WIOA. Employer engagement will be a major factor in the success of Local Boards.

In particular, paragraph (e) explains the role of the Local Boards in engaging employers, promoting business representation on the board. The language of the regulations about the functioning of local boards should reflect the significant economic opportunities associated with federal contractors doing business in local areas. Employer engagement is critical to serving people with barriers to employment, especially people with disabilities.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

The language of § 679.370 should be amended to remind Local Boards about the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741. This change asks federal contractors to take affirmative action to recruit, hire, and retain people with disabilities. For the first time, they will also have a 7% utilization goal for qualified individuals with disability in all job categories. Connecting local boards with employers, serving the needs of people with barriers to employment, and satisfying the promise of Section 503 will create a synergy that can economically benefit local areas.

Proposed § 679.370 (f) requires the Local Board to connect with representatives of secondary and post-secondary education programs in the local area in order to develop and implement career pathways.

Systems alignment is one of the most important innovations of WIOA. Such alignment will be critical at interface between secondary education and workforce systems. Connecting education programs will be a vital area for Local Boards to explore careers pathways open to students and ensure continuing opportunity.

Such programs are especially important for students who have Individual Education Plans (IEPs). Students with IEPs deserve the opportunity to be connected to career pathways which will help them gain work experience, develop professional skills, and become independent upon transition out of school and into the workforce. The proposed regulations should be amended to include language directing the Local Boards and representatives of secondary and post-second education programs to ensure that career pathways are open to students with Individual Education Plans. Further Local Boards should work with secondary education programs to ensure the expectation of competitive integrated employment is integrated into the IEPs of students with disabilities. Coordination can ensure that such expectations are connect with career pathways to in-demand sectors and employer needs.

Further, in local areas where successful school to work transition programs have been setup, the regulations should direct Local Boards to examine such programs and understand their best practices. Good examples of such programs include Project SEARCH and Bridges to Work. These models have been achieving significant success in a cost-effective and replicable manner. Where success has been achieved by programs in local areas, Local Boards should consider how to expand such successes.

Subpart D – Regional and Local Plan

§ 679.510 What are the requirements for regional planning?

Among the provisions of this section, proposed §679.510(c) requires the State to provide technical assistance and labor market data to facilitate regional planning.

Comment - Having the right data at the right time and in the hands of the right people will be a critically important part of meeting the requirements outlined in §679.510(c). It

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

is vital that the State provide resources to enhance the regional planning work of Local Boards and to provide data that reflects local, economic realities. Further, specificity in terms of the data used is needed if the Local Boards are to successfully carry out the Sector Strategies outlined in various parts of WIOA.

As such, the language of § 679.510(c) should be amended to include a definition of the types of labor market data that the State will be providing to the Local Boards in order to facilitate regional planning. A possible definition of labor market data: labor market data means information, data, and statistics which provide an accurate picture of the endogenous and exogenous factors affecting the local labor market and regional economies. Such data should, at a minimum, include: workforce participation rates of people with disabilities, unemployment rates, labor turnover rates, poverty rates, and other data points garnered from economic research and other common data from sources such as the Department of Labor, the U.S. Census Bureau, the American Community Survey (ACS), the Current Population Survey (CPS), as well as others.

It is critical that the language of the regulations contain definitions that will guide states and enhance the work of local boards. Given the opportunity created by WIOA, it is essential that the workforce participation rates of people with disabilities be a key data point. Including the workforce participation rate of people with disabilities into the regional plans will enable the State to better inform the development of regional plans.

§ 679.560 What are the contents of the local plan?

This section outlines extensive elements for inclusion in the local workforce plan including regional analyses of economic conditions and emerging in-demand industry sectors and occupations; analyses 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; description of the Local Board's strategic vision to support regional economic growth and economic self-sufficiency; and the strategy to work with the entities that carry out the core programs and required partners to align resources available to the local area, to achieve the strategic vision and goals of this section.

Multiple references are included concerning the local plan's attention to the needs of people with barriers to employment. In 679.560(b)(2), the Local Board must explain how it will work with entities carrying out core programs to:

- (i) Expand access to employment, training, education, and supportive services for eligible individuals, particularly eligible individuals with barriers to employment;
- (ii) Facilitate the development of career pathways and co-enrollment, as appropriate, in core programs; and

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

- (iii) Improve access to activities leading to a recognized post-secondary credential (including a credential that is an industry-recognized certificate or certification, portable, and stackable);

Under (b)(5)(iii), the plan must describe 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; and under (8) A description and assessment of the type and availability of youth workforce investment activities in the local area including activities for youth who are individuals with disabilities, which must include an identification of successful models of such activities.

Comment - Proposed § 679.560 is critical in that this section will provide a guiding light to the hard work to be done by the Local Boards under WIOA. While the language of this regulation covers many topics that need to be addressed in the planning to be done by Local Boards, more detail is needed with regard to the particular obligations of the workforce system to individuals with disabilities.

Proposed part § 679.560(a)(1) does a great deal to identify the core elements needed for a successful regional analysis. However, §679.560(a)(1)(ii) should be amended to also include the identification of employers who hold contracts with the federal government and are subject to Section 503 of the Rehabilitation Act. Businesses who are federal contractors represent huge economic opportunities and ever evolving employment needs. Such needs should a key part of the regional analysis of the local plan. Information is readily available which identify the range and depth of business being done with the federal government. An example link to such information can be found here:

<http://www.fedspending.org/fpds/tables.php?tabtype=t2&subtype=t&year=2012>

As in other sections of the proposed regulations that reference labor and unemployment data, greater specificity is needed. The language of proposed §679.560(3) needs to be amended to better reflect the realities of people with disabilities. It is critical that the regional analysis to be undertaken by the local workforce investment plan has the right information in order to meet the needs of individuals with barriers to employment, especially youth and others with disabilities. The labor force employment and unemployment data outlined in proposed part § 679.560(3) needs to include available data on the workforce participation rate of people with disabilities. If the regional analysis reflects past policies that only consider unemployment rates and those actively seeking work, the local plan will not accurately account for the needs of individuals with disabilities. To better serve people with disabilities under the opportunity created by WIOA, proposed part §679.560(3) should reflect this need for specific data.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Perhaps the most important element of proposed § 679.560(8) is the directive that assessment of workforce investment activities serving youth and youth with disabilities must include “an identification of successful models.” Despite the fact that only 30% of people with disabilities are participating in the workforce nationally, there are best practices and cost-effective models that have been achieving remarkable outcomes. In terms of serving transition age youth with disabilities models such Project SEARCH and the Bridges to Work Program have been achieving 70% employment outcomes. These models have been effective in providing job training, work experience, and skills development for youth with significant intellectual and developmental disabilities. These youth have transitioned into in-demand sectors such as health care and hospitality where the loyalty and capability of employees with disabilities are beneficial for employers. As such, proposed part § 679.560(8) should be amended to integrate information about successful models and best practices.

Examples of successful models can be found under the following links:

- *Project SEARCH-* <http://www.projectsearch.us/>
- *Bridges to Work-* <http://www.bridgestowork.org/>
- *Disability Employment First Planning Toolkit-* <http://respectabilityusa.com/Resources/Disability%20Employment%20First%20Planning.pdf>

In terms of coordination, proposed part § 679.560(10) has important consequences for serving people with barriers to employment. Access to public transportation is critical to enabling people and youth with disabilities to be able to physically reach employment opportunities. Local Boards need to collaborate with the transportation authorities in their area and discuss ways to ensure mobility for people with disabilities.

Part 680 – Adult and Dislocated Worker Activities Under Title I of WIOA

Subpart A – Delivery of Adult and Dislocated Worker Activities Under Title I of WIOA

This subpart describes the role and eligibility criteria for the adult and dislocated worker programs and the services that local workforce boards are required and permitted to provide.

§ 680.140 – What WIOA Title I adult and dislocated worker services are Local Boards required and permitted to provide?

Among the services identified in proposed 680.140 for which WIOA Title I funds **may** be used are those for:

(b)(1)(i) – “Customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities (WIOA sec. 134(d)(1)(A)(iv))”

(b)(3)(vii) - “Improving coordination between employment and training activities and programs carried out in the local area for individuals with

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

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).”

(b)(5) – “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).”

Comment – *The task force is pleased that the proposed rule reflects so extensively the statutory provisions covering the variety of services for people with disabilities for which Title I WIOA funds may be used. However, because these services are permissive and not mandatory, we recommend additional language be added to urge local boards to focus their optional services on this population in keeping with the spirit of 675.100.*

Subpart B – Training Services

This subpart describes training services for adults and dislocated workers and outlines eligibility criteria for such services.

§ 680.210 – Who may receive training services?

§ 680.210(a) states that, among the unemployed adults and dislocated workers who may receive these services are those who are:

“Unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;

In need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment”

Comment – *Workers or unemployed adults with emerging disabilities may fall under the definitions contained in Sec. 680.210. This task force recommends that the Department draw specific attention of employers to the availability of training services under this subpart to assist workers on their employers’ short term or long term disability programs.*

§ 680.230 – What are the requirements for coordination of WIOA training funds and other grant assistance?

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

This section stipulates that WIOA training assistance is limited to participants who are unable to obtain grants from other sources to pay for their training and who require help beyond those resources.

Comment – Because availability of training assistance depends on whether clients have access to other sources to pay for training, the optional services outlined in §680.140 become important. The task force wishes to reiterate our belief that the Department should stress to local boards the importance of the optional services for people with disabilities in that section

Subpart C – Individual Training Accounts

This subpart describes how training services are provided through Individual Training Accounts and the circumstances under which such services may be provided through alternate means.

§ 680.320 – Under what circumstances may mechanisms other than ITAs be used to provide training services?

Under § 680.320(a)(3), contracts for services may be used instead of ITAs “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” – which specifically references individuals with disabilities. Criteria to be developed by the local board for making this determination may include an organization’s financial stability, “demonstrated performance in the delivery of services to hard to serve participant populations through such means as program completion rate; attainment of the skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment; and retention in employment; and how the specific program relates to the workforce investment needs identified in the local plan.”

Comment – The task force commends the Department for explicitly identifying individuals with disabilities among those with barriers to employment who are eligible for the delivery of training services through mechanisms other than ITAs. There are numerous provider-based training services throughout the country with extensive experience in serving this population and the qualification criteria outlined should ensure that only the most responsible organizations are identified for this purpose.

§ 680.330 How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Comment - Qualified individuals with disabilities enrolled or seeking to be enrolled in such programs should be encouraged to connect with Federal contractor doing business their state. Because of the regulations around, Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741, these contractors have a 7% utilization goal for training, hiring, and retaining employee with disabilities.

The one-stop delivery system should partner with Federal contractors to utilize Individual Training Accounts, supportive services, and needs-related payments for qualified job seekers with disabilities that can take advantage of opportunities under Section 503 of the Rehabilitation Act of 1973.

§ 680.340 What are the requirements for consumer choice?

§ 680.340 outlines rules for maximizing informed consumer choice of training services. Under (b) each local board is directed to make available to customers the State list of eligible providers required in WIOA sec. 122(e).

Comment – CCD recommends that the Department specify that the list of eligible providers must be available in accessible formats for customers with disabilities.

Subpart D – Eligible Training Providers

This subpart describes the process for determining eligible training providers for WIOA title I–B adult and dislocated worker training participants and for publicly disseminating the list of these providers with relevant information about their programs.

§ 680.430 Who is responsible for managing the eligible provider process?

§ 680.430 directs the Governor, in consultation with the State Workforce Board, to establish criteria for determining the eligibility of training providers and ensuring development, dissemination and maintenance of a state list of eligible providers and programs. In carrying out procedures assigned by the State, local boards are tasked with working with the State under (c) (2), “to ensure there are sufficient numbers and types of providers of training services, including eligible providers with expertise in assisting individuals with disabilities.....serving the local area” and under (c)(3) to “ensure the dissemination and appropriate use of the State list through the local one-stop system”

Comment – The task force commends the Department for outlining the responsibilities of States and local workforce boards to ensure adequate availability of training services for individuals with disabilities. We suggest, however, that language be added to

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

680.430(c)(3) to remind local boards that any lists of providers must be disseminated and maintained in accessible formats.

§ 680.500 – How is the State list of eligible training providers disseminated?

§ 680.500 speaks to dissemination of the State list of eligible training providers and accompanying performance and cost information through Web sites, searchable databases and other means of communication and specifically references WIOA sec. 188 and its requirement that the State list must also be accessible to individuals with disabilities.

Comment – The task force commends the Department for specifically recognizing through this section the need to provide information in accessible formats and suggests that reference to 680.500 should be included in 680.410 and 680.430.

Subpart E – Priority and Special Populations

This subpart identifies certain populations to whom priority is to be given in delivery of WIOA Title I career and training services. These populations include recipients of public assistance, other low income individuals who are basic skills deficient and any other individuals identified by a Governor and Local Board.

§ 680.640 May an individual with a disability whose family does not meet income eligibility criteria under the Act be eligible for priority as a low-income adult?

This section explains the conditions under which an individual with a disability may still qualify as a priority low-income adult even when family income does not meet the income eligibility criteria. The individual's own income must meet income criteria established in WIOA sec. 3(36)(A)(vi) or meet the income eligibility criteria for payments under any Federal, State or local public assistance program (see WIOA sec. 3(36)(A)(i)).

Comment – While the law specifically references individuals on Supplemental Security Income, it is unclear whether any of the other income standards referenced in the law would apply to persons receiving Social Security Disability Insurance. Given the increased interest of policymakers in encouraging all recipients of federal disability benefits in exploring return to work opportunities, this task force asks the Department to clarify whether these provisions might also apply to persons receiving SSDI.

Subpart F – Work-Based Training

This subpart describes requirements for on-the-job training programs in which occupational training is provided to a participant in exchange for reimbursement of up to 50 percent of the wage rate for that participant.

§ 680.710 –What are the requirements for on-the-job-training contracts for employed workers?

§ 680.710 describes conditions in which OJT contracts may be written for eligible workers when (a) the employee is not earning a self-sufficient wage as determined by Local Board policy; (b) the requirements in § 680.700 are met; and (c) the OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local Board.

Comment – Because workers with emerging disabilities at risk of termination could fall under these criteria, the task force suggests insertion of a reference to “workers with barriers to employment, including people with disabilities” in (a). The task force also recommends broadening OJT contracts to include introduction of accessible technologies and other workplace accommodations for workers with emerging disabilities in need of training to remain on the job.

§ 680.730 – Under what conditions may a Governor or Local Board raise the on-the-job training reimbursement rate up to 75 percent of the wage rate?

§ 680.730 (a)(1) describes conditions under which a Governor or local board may raise on-the-job training reimbursement rates up to 75 percent of the wage when taking into account the following factors: The characteristics of the participants taking into consideration whether they are “individuals with barriers to employment,” as defined in WIOA sec. 3(24); (2) The size of the employer, with an emphasis on small businesses; (3) The quality of employer-provided training and advancement opportunities, for example if the OJT contract is for an in-demand occupation and will lead to an industry-recognized credential; and (4) Other factors the Governor or Local Board may determine to be appropriate.....

Comment – The task force believes that it would be useful to include a specific reference in (a)(1) to people with disabilities to provide an incentive to states and local boards to focus attention on this population and to reinforce the principle outlined in 675.100.

§ 680.770 What are the requirements for customized training for employed workers?

§ 680.770 describes requirements for customized training that is designed to meet special requirements of an employer and which applies to training of an “eligible employed individual” when certain requirements are met. Among those requirements is

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

“(a), the employee is not earning a self-sufficient wage as determined by Local Board policy.”

Comment – This task force suggests insertion of a reference to “workers with barriers to employment, including people with disabilities” in (a) to reinforce the focus of Title I outlined in 675.100. The task force also recommends broadening the requirements for customized training to include introduction of accessible technologies and other workplace accommodations for workers with emerging disabilities in need of training to remain on the job.

Subpart G – Supportive Services

§ 680.900 What are supportive services for adults and dislocated workers?

This section details services available to adults and dislocated workers who need them in order to participate in career services or training activities. Support services include transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in activities authorized under WIOA secs.134(c)(2) and (3).

Comment – Because access to many of these services is an impediment to people with disabilities in entering or re-entering the workforce, the task force recommends specific reference to this population under this subpart.

§ 680.910 When may supportive services be provided to participants?

This section describes the criteria that must be met for adults and dislocated workers to receive supportive services under this subpart. These individuals must be participating in career or training services and must be unable to obtain these supportive services from other programs.

Comment - Because 680.910 requires participants first to obtain supportive services through other programs, the optional use of Title I funds to provide coordination of programs outlined under 680.140 becomes important. It is possible that people with disabilities seeking services under Title I might be able to obtain supportive services from the state vocational rehabilitation agency. However, limited resources may preclude that latter agency from supplying these supportive services. Cursory referral of a person with a disability to the designated state agency for such services could result in that person being denied services under Title I. This task force believes it is vital that the programs covered by WIOA work closely together to ensure that job seekers receive all the benefits to which they are entitled under all aspects of the law.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Part 681 – Youth Activities Under Title I of WIOA

§ 681.110 Who is included on a standing youth committee?

This proposed section describes the members of a standing youth committee if the Local Board chooses to establish such a committee based on WIOA secs. 107(b)(4)(A)(ii) and 129(c)(3)(C).

Comment - Given the important role that standing youth committees will play under WIOA, this task force recommends that the language of the proposed section be amended to provide better guidance on committee composition. For example, a standing youth committee ought to include representatives from both the local education system as well as community based organizations serving youth with disabilities.

§ 681.210 Who is an “out-of-school youth”?

OSY youth must not attend any school, be between the ages of 16 and 24 at time of enrollment, and meet one or more of a list of eight criteria.

Comment - Clarification is needed in the definition of “out-of-school” (OSY) youth to prevent youth with disabilities who are involved in remedial, non-credit coursework from being excluded from Title I youth programs under the Workforce Innovation and Opportunity Act.

For youth with disabilities, noncredit education and remedial coursework often provide a vital opportunity to strengthen basic skills needed in order to enroll in credentialing programs and to maximize independence. As a strict reading of the definition of OSY as written, this might exclude such youth due to their involvement with coursework. As such, the Department should include language creating an exception to ensure that students with disabilities in need of remedial coursework will remain eligible for Title I youth programs under WIOA.

§ 681.290 How does the Department define the “basic skills deficient” criterion in this part?

This section outlines the criteria to be used for identifying a youth as basic skills deficient.

Comment - This proposed section is of critical importance to the youth with disabilities, both in and out of school, being served under Title 1 of the Workforce Innovation and Opportunity Act. The criterion discussed in §681.290 reflect the details needed to assess skills that youth must be able to demonstrate both for eligibility and to succeed in society. The explicit inclusion of both “valid and reliable assessment instruments” as well as “reasonable accommodations” will create the opportunity for State and Local Boards to put metrics driven services and supports into place.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

However, it is also important that the language of this section be amended to provide further guidance if a youth with a disability is unable to demonstrate these skills. Language ought to be included that will guide State and Local Boards as they work to meet the needs of youth who show themselves to be basic skills deficient. Specific procedures should be put into place to connect skills deficient youth with disabilities with the training and resources they need in order to succeed. Such continuity will enable the State and Local Boards to better fulfill the promise of WIOA.

§ 681.420 How must Local Boards design Workforce Innovation and Opportunity Act youth programs?

This section sets out a design framework for youth programs under WIOA.

Comment - The language of proposed part §681.420 does a great deal to identify where the broad directives of the law will be able to gain traction in communities across the country. The instructions contained in this section do much to identify specific actionable items that Local Boards can do in order to better serve the workforce in their communities. However, the language should be specifically amended to better reflect the diverse range of stakeholders and perspectives of youth with disabilities. In having “specific members of the community” Local Boards should make the effort necessary to integrate youth with disabilities into the design, implementation, and execution of WIOA youth programs.

§ 681.440 How does a local youth program determine if an 18 to 24 year old is enrolled in the Workforce Innovation and Opportunity Act youth program or Workforce Innovation and Opportunity Act adult program?

Local youth programs are to determine placement of an 18 to 24 year old participant based on general criteria set out in this section.

Comment - The content of proposed part § 681.440 is a balancing act between the clarity it lacks and the guidance that it provides. This section puts into action one of the core values of WIOA, namely the centrality and importance of individual choice. It is only right that “Individuals aged 18 to 24...must determine” what programs to participate in. However, the language of this section should be amended to include instructions to the State and Local Boards regarding individual determination. Specifically, the language should be amended to include directions to the States regarding access to materials that make clear what choices are being presented, what services are provided in which programs, as well as information regarding the requirements and benefits of such programs. Such materials also need to be written in such a way as to ensure they can be understood by a range of individuals including those with intellectual and developmental disabilities as well as other barriers to employment.

§ 681.550 Are Individual Training Accounts permitted for youth participants?

This section allows ITAs for Out of School Youth when appropriate.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Comment - Allowing Individual Training Accounts for older OSY between the ages of 18 and 24, will be vital in connecting youth to the skill development, job training, and educational programs they need to become independent and succeed in the workforce. These Accounts are of particular importance for local programs where there is a strong concentration of federal contractors doing business in their states. Because of the regulations around, Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741, contractors have a 7% utilization goal for training, hiring, and retaining qualified people with disabilities. ITAs can cover the critical gap between federal contracting requirements and youth with disabilities. The accounts discussed in this section could be utilized in the States to train youth to satisfy the job demands and work requirements of federal contractors. The language of this section should be amended to indicate that State and Local Boards are encouraged to connect youth with disabilities to federal contractors as well as utilize ITAs for training necessary to meet employer requirements.

§ 681.590 What is the work experience priority?

Youth programs must spend at least 20 percent of funds allocated to provide youth with paid and unpaid work experiences as outlined in 681.460(a)(3) and 681.600.

Comment - As the language of this proposed part indicates, the work experience priority outlined in WIOA sec. 129(c)(4) is one of the absolute keys of this historic opportunity. While it is good that this section references the importance of work experience for youth with disabilities at its conclusion, the language of this section should be amended to better emphasize this fact. Youth with disabilities face a variety of barriers, challenges, and stigmas. The work experience priority in WIOA reflects the need to overcome those barriers, solve those challenges, and to dispel those stigmas on hiring youth with disabilities. Developing work experiences is vital to supporting independence and opportunity.

§ 681.660 How can parents, youth, and other members of the community get involved in the design and implementation of local youth programs?

Comment - The language in this section will provide local boards with solid guidance on the importance of integrating community stakeholders into the design and implementation of local programs serving youth. Given the importance of better serving both in and out of school youth under WIOA, it is critical that programs also serve the needs of youth with disabilities. The language of propose part 681.660 should be amended to underscore this point regarding the involvement of community organizations serving youth with disabilities in designing local youth programs. Organizations that serve youth with disabilities have a vital and important place in the WIOA implementation process. The proposed regulations should reflect this reality.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Part 682 – Statewide Activities Under Title I of WIOA

This part outlines required and optional statewide employment and training activities for which funds reserved by a Governor may be used. Descriptions of policies and strategies for use of these statewide funds must be included in a State's Plan.

§ 682.200 – What are required statewide employment and training activities?

This section lists required statewide employment and training activities including:

- (b)(1) dissemination of the state list of eligible providers of training services
- (b) (7) dissemination of information on physical and programmatic accessibility for individuals with disabilities
- (c) making information listed in this section widely available
- (f) assisting “local areas, one-stop operators, one-stop partners, and eligible providers, including development of staff, including staff training to provide opportunities for individuals with barriers to employment to enter in-demand industry sectors or occupations and nontraditional occupations, and the development of exemplary program activities. (WIOA sec. 134(a)(2)(B)(IV))”.

Comment – The task force appreciates the Department's inclusion of information about physical and programmatic accessibility among the required State dissemination activities but recommends that the rule specify such information be made available in accessible formats. In (f), staff development and training to assist people with barriers to employment should specifically cite people with disabilities. In particular, it is important that one stop operator staff be trained in disability etiquette and “people first” language because of the increasing likelihood under WIOA that people with disabilities will be using the resources of the broader workforce system. Also with regard to (f), States should examine closely the federal contractors doing business in their States. This is especially important for job-seekers with disabilities because of the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741.

§ 682.210 – What are allowable statewide employment and training activities?

Under § 682.210, allowable statewide employment and training activities include:

- (c) 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));
- (k) providing technical assistance to Local Boards, chief elected officials, one-stop operators, one-stop partners, and eligible providers in local areas on the development of exemplary program activities and on the provision of technology to facilitate remote access to services provided through the one-stop delivery system in the State
- (m) Carrying out activities to facilitate remote access to training services through the one stop delivery system;

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

(n)(2) 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))

Comment – Several of the subsections of this section offer opportunities for injecting specific attention to statewide employment and training activities that could specifically target individuals with disabilities. For example, under (c), the task force believes this would provide a place to urge the use of “Employment First” as a strategy to adopt among one stop partners. In (k) and (m) – States must ensure that any technology used in promoting remote access must be accessible and compliant with Section 508. The task force notes the reference in (n)(2) to statutory provisions pertaining to coordination of employment and training activities with other programs in the state. However, we suggest that the final rule specifically identify programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, Statewide Independent Living Councils and centers for independent living. Too often, programs that play an integral role in the lives of people with disabilities are overlooked in program coordination because they have not been detailed in regulatory guidance. When developing strategies to serve individuals with barriers to employment as permitted by proposed § 682.210(c), States should focus their partnership building efforts by focusing on several core areas. These include:

- Making the best of limited resources - One of the most cost effective things that you can do to successfully integrate disability employment into the state workforce strategy is to reduce the barriers caused by negative stigmas surrounding employment for people with disabilities (PwDs). Indeed, efforts that do not cost any taxpayer dollars but rather demonstrate leadership can make a significant difference in lowering barriers to entry into the workforce and to changing the landscape for people with disabilities, employers and taxpayers alike.
- Finding and supporting businesses in their efforts to employ people with disabilities - Employer engagement is a critical responsibility of the local and regional workforce boards under WIOA and proposed section § 679.370.
- Through training and professional development, the State should work to build and sustain the capacity of front-line staff across systems to successfully implement evidence-based effective practices in supporting and serving employers who hire individuals with disabilities as well as their employees with disabilities.
- The State should also develop strategies that have a special focus on supporting Federal contractors under new mandates from Section 503, including working closely with the United States Business Leadership Network, an organization devoted to supporting inclusive employers, as well as with the National Industry Liaison Group which represents Federal contractors.
- Preparing youth with disabilities for careers that use their full potential, and providing employers with a pipeline of skilled workers. Individual Educational

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

Plans (IEPs) and Individual Learning Plans (ILPs) have an expectation of integrated competitive work as a first-choice option for students with disabilities.

- *The state facilitates and supports performance-based transition apprenticeships for non-degree bound students and young adults (such as Project SEARCH or PROMISE) that offer hands-on career exploration, worksite-based training and support and placement for people with disabilities coming from school to work*
- *As outlined by proposed § 680.330 the State should have a strategy for utilizing Individual Training Accounts, supportive services, and needs-related payments for qualified job seekers with disabilities and others with barriers to employment.*

§ 682.220 – What are States’ responsibilities in regard to evaluations and research?

In § 682.220, states are directed to use some of their statewide activities funds for evaluations of WIOA Title I core programs. Subsection (a)(2) says that States may use these funds to conduct research and demonstration projects relating to the education and employment needs of youth, adults, and dislocated worker program. Subsection (3)(b) notes that evaluations and research projects funded with WIOA title I funds must:

- (1) Be coordinated with and designed in conjunction with State and Local Boards and with State agencies responsible for the administration of all core programs;
- (2) When appropriate, include analysis of customer feedback and outcome and process measures in the statewide workforce development system;

Comment – The task force believes that the research and demonstration projects referenced in (a)(2) and feedback referenced in (3)(b) should explicitly include people with disabilities. Because of the emphasis placed on people with disabilities under 675.100, it is important that they be a particular focus under any evaluations and research carried out by the States about their Title I programs. Moreover, it is important that customer feedback is sought from people with disabilities to ensure that programs are truly responding to their needs.

Part 688 – Provisions Governing the YouthBuild Program

YouthBuild is a workforce development program that provides employment, education, leadership development, and training opportunities to disadvantaged and low-income youth between the ages of 16 and 24, most of whom are secondary school drop outs and are either a member of a low income family, a foster care youth, a youth who is homeless, an offender, a youth with a disability, a child of an incarcerated parent, or a migrant youth.

June 15, 2015

Docket No. ETA-2015-0001 – RIN 1205-AB73

§ 688.120 –What definitions apply to this part?

§ 688.120 includes definitions for adjusted income and income exclusions for participants in YouthBuild, including the following income exclusions to determine adjusted income: (1) Mandatory exclusions. In determining adjusted income, a Housing Development Agency must exclude from the annual income of a family the following amounts: (2) Elderly and disabled families. \$400 for any elderly or disabled family. (3) Medical expenses. The amount by which three percent of the annual family income is exceeded by the sum of: (i) Unreimbursed medical expenses of any elderly family or disabled family; (ii) Unreimbursed medical expenses of any family that is not covered under paragraph (3)(i) of this definition, except that this paragraph applies only to the extent approved in appropriation Acts; and (iii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed. (4) Child care expenses. Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education. (5) Minors, students, and persons with disabilities. \$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

Comment – The task force is pleased to see the reference to youth with disabilities in this Part and finds the income exclusions for purposes of the housing programs that are part of YouthBuild appropriate.

CCD thanks the Department for the opportunity to comment on the proposed regulatory changes outline in the aforementioned NPRM. The Employment & Training Taskforce of CCD looks forward to working with the Department as it moves toward publishing its final rule, and extends the invitation to call upon this taskforce should it be able to provide additional input into how the final rule can best meet the needs of individuals with disabilities.

Sincerely,

ACCSES

American Network of Community Options and Resources

Best Buddies International, Inc.

Goodwill Industries International

Lutheran Services in America Disability Network

National Association of Councils on Developmental Disabilities

National Council on Independent Living

National Down Syndrome Congress

National Organization on Disability

Paralyzed Veterans of America

RespectAbility

SourceAmerica

National Center for Learning Disabilities - Endorser