

Highlights of the Workforce Innovation and Opportunity Act of 2014

July 24, 2014

Summary of Changes in the Workforce Innovation and Opportunity Act

On Tuesday, July 22, 2014, the President signed into law the Workforce Innovation and Opportunity Act (WIOA). The WIOA reauthorizes the Workforce Investment Act (WIA) of 1998. The Rehabilitation Act is included in the WIOA as Title IV. In the past the Rehabilitation Act has typically been reauthorized for five (5) years. The WIOA is authorized for six (6) years through 2020.

In his comments, the President stated that the WIOA “will help workers, including workers with disabilities, access employment, education, job-driven training, and support services that give them the chance to advance their careers and secure the good jobs of the future.”

The WIOA is long and involved. Title IV, the Rehabilitation Act, is nearly 300 pages. Major changes include:

Increased VR Role in Transition: Each state’s public Vocational Rehabilitation (VR) program will have an expanded role in providing services related to the transition of youth with disabilities from school to adult life. The Act requires that 15% of Vocational Rehabilitation Funds must be used for transition services. These services include:

Job exploration counseling;

- Work-based learning experiences;
- Counseling related to post-secondary opportunities;
- Workplace readiness training; and
- Self-advocacy training.

This list of transition services is not exclusive. Other transition services may be provided, assuming funds are available. In addition to services being provided directly to individuals, the WIOA requires that VR local offices provide pre-employment transition coordination activities, such as partnering with schools and local workforce development programs to support specific transition activities.

While it is encouraging that WIOA now requires that VR local offices provide pre-employment transition coordination activities, some of the pre-employment transition service language may be read to allow for services to be provided in segregated settings. It may also allow traditional, stereotypic transition experiences, such as janitorial and other low skilled, low wage job experiences.

Limitations on Use of Subminimum Wages: The WIOA includes a new Section 511. Section 511 requires (beginning in 2016) a series of activities to determine whether an individual with a disability is eligible for VR services and whether the individual is able to work in an integrated setting. Only after an eligible individual has had an opportunity to work in an integrated setting (with all needed supports for a reasonable period of time) may the individual under the age of 24 be placed in a segregated setting and be paid a subminimum wage.

Initially, while Section 511 was intended to slow the flow of transitioning youth with disabilities from entering sheltered work immediately upon exiting school, the language was written in a way that may have led to institutionalizing the practice of tracking youth with disabilities into segregated, subminimum wage jobs. Advocates pushed hard for revised language that would give transitioning youth with disabilities the opportunity to engage in integrated work. One of the important changes made to Section 511 is language that prohibits schools from contracting with subminimum wage providers.

Requirement for Formal Cooperative Agreement between VR and State Medicaid and IDD Agency: The WIOA requires that state VR agencies have formal cooperative agreements with the state agency responsible for administering the State Medicaid Plan and with state intellectual and developmental disability agencies, with respect to the delivery of vocational rehabilitation services, including extended services. This means that VR agencies must have in place agreements with the state agencies responsible for long-term supports for people with disabilities. This will have a significant impact on individuals with intellectual and developmental disabilities (IDD), individuals with significant mental health issues, and those with other issues requiring

long-term care funded by Medicaid. Unfortunately, State mental health agencies were not included along with the state IDD agencies.

Movement of Federal Programs: The original Senate bill, S. 1356, would have moved the Rehabilitation Services Administration from the U.S. Department of Education to the Office of Disability Employment Policy within the U.S. Department of Labor. In the final version of the WIOA, RSA remains in the U.S. Department of Education, even though a number of programs will be moved to other federal agencies. These include the National Institute on Disability, Independent Living, and Rehabilitation Research, formerly the National Institute on Disability and Rehabilitation Research (NIDRR) and the Independent Living Programs authorized under Title VII of the Rehabilitation Act (excluding the older blind program). These programs will move to the Administration for Community Living (ACL) in the U.S. Department of Health and Human Services. This is the agency that presently houses the Administration on Intellectual and Developmental Disabilities and the Center for Aging and Disability.

Definition of Competitive Integrated Employment: The Rehabilitation Act previously allowed the Secretary of Education great latitude in defining competitive employment through regulations. The WIOA has replaced this broad authority with a specific definition of "competitive integrated employment." The new definition of competitive integrated employment is full or part-time work at minimum wage or higher, with wages and benefits similar to those without disabilities performing the same work, and fully integrated with co-workers without disabilities.

Definition of Customized Employment: The WIOA defines Customized Employment as "competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability," "designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer," and "carried out through flexible strategies." As a result, customized employment is now listed as a VR service.

Changes in Definition of Supported Employment: The definition for supported employment has been modified to clarify that supported employment is integrated competitive employment, or an individual working on a short-term basis in an integrated employment setting towards integrated competitive employment. In addition, customized

employment is now included within the definition of supported employment. Finally, the period of time a VR agency may provide job coaching services has been extended from 18 to 24 months. As under prior law, the length of time job coaching can be provided may be extended on a case-by-case basis.

Focus of Supported Employment State Grants on Youth: In fiscal year 2014, the total Title VI supported employment state grant allocation was \$27 million. The WIOA requires that half of the money that states receive under the Title VI supported employment state grants be used to support youth with the most significant disabilities (up to age 24), and these youth may receive extended services (i.e., ongoing supports to maintain an individual in supported employment) for up to 4 years.

Technical Assistance for Post-Secondary Education: The WIOA allows the RSA Commissioner to fund technical assistance to “better enable individuals with intellectual disabilities and other individuals with disabilities to participate in postsecondary educational experiences and to obtain and retain competitive integrated employment.”

Funding of One-Stop Infrastructure: In 1998, WIA established a national network of One-Stop Career Centers to provide assistance with employment and training services to all individuals (including people with disabilities). There are currently 1,700 One-Stops across the United States. State VR agencies are among the mandated One-Stop partners. One-Stops are overseen by a local workforce board, of which public VR is a member, and will continue to be a member under the WIOA. A major issue under the current law (WIA) is payment of the cost of the One-Stop infrastructure by One-Stop partners. The WIOA requires payment for One-Stop infrastructure and other costs to be determined at the local board level; however, if agreement cannot be reached, the Governor will determine the amount each of the One-Stop partner programs will pay. Initially, under the WIOA, VR agencies are required to use a maximum of 0.75% of their funds for One-Stop infrastructure costs, which gradually increases to a maximum of 1.5% after five years.

Role of VR in One-Stop System: Under WIA, all One-Stop partners had representation on the state and local workforce boards (the boards that oversee the general workforce development system that serves all job seekers, including people with disabilities). Under the WIOA, all partners do not have seats on these boards. However, the

WIOA designates certain programs as “core programs” in the workforce development system. Public Vocational Rehabilitation is among those designated as a core program and as such will continue to be a mandatory member of state and local workforce boards. Other core programs are

Adult, Dislocated Worker, and Youth workforce investment programs;

- State Employment Service (Wagner-Peyser) program; and
- Adult Education and Literacy.

Increased Emphasis on Role of General Workforce Development System: There are a number of provisions in the WIOA that emphasize and increase the requirements for the general workforce development system and One-Stop Career Centers to meet the needs of job seekers with disabilities. These include:

The WIOA explicitly states that state and local workforce development board members may include community organizations that provide or support competitive integrated employment for individuals with disabilities.

- Local Workforce Development Boards will have to ensure there are sufficient service providers in the local area with expertise in assisting individuals with disabilities with their career and training needs.
- Employment Networks under the Social Security Administration’s Ticket to Work program are specified as optional One-Stop partners.
- Among the specified responsibilities of the State Workforce Development Board is developing strategies to support the use of career pathways for individuals with disabilities to enter and retain employment.
- The WIOA states that Local Workforce Development Boards (LWDB) may have standing committees. Among the three standing committees specified in the legislation is one on the provision of services for individuals with disabilities.
- Annual assessment of physical and programmatic access of One-Stop Centers for people with disabilities is now required by the WIOA.
- Disability is to be a consideration in development of state performance requirements in use of workforce development funds (the funds used to assist all job seekers).

- The obligation of the general workforce system to serve youth with disabilities is emphasized within the WIOA in multiple places.
- Under the WIOA, Governors may reserve up to 15% of general workforce development funds for statewide employment and training activities (the remainder of funds go to local workforce development areas). Among the activities specified as allowable in the use of these statewide funds is improving coordination of employment and training activities with programs for individuals with disabilities. Programs under state intellectual and developmental disability agencies, State Independent Living Councils, and centers for independent living, are cited as specific entities to which this applies. The WIOA also states that local workforce development funds, overseen by local workforce development boards, may be used for similar activities.

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