

# WIOA THE FINAL RULE

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Rochelle Daniels

General Counsel

CareerSource Broward

954 202 3846 (o)

954 205 2582 (c)

[rdaniels@careersourcebroward.com](mailto:rdaniels@careersourcebroward.com)

# Unemployment Compensation § 603.2(d)

- 20 CFR 603 allows State agencies to disclose confidential unemployment compensation information, to “public officials”
- This information includes three data elements
  - The program participant's Social Security Number (SSN)
  - The wages participants earn after exit
  - The name, address, State, and FEIN) of the employer
- Public Official is now defined as
  - Officials from public postsecondary educational organizations
  - State performance accountability and customer information agencies;
  - Chief elected officials of local areas
  - Public State educational authority, agency, or institution.

# Cost Principles

The below definitions at 2 CFR 200 were included in the regulations while the other 2 CFR 200 definitions were not included they are intended to apply where relevant,

- Contract
- Contractor
- Cooperative Agreement
- Federal Award
- Federal Financial Assistance
- Grant Agreement
- Non-Federal Entity
- Obligations
- Pass-Through Entity
- Recipient
- Subaward
- Subrecipient
- Unliquidated Obligations,
- Unobligated Balance

# Definitions §675.300

- **Register** - the point at which an individual seeks more than minimal assistance. This is also when performance information begins to be collected. At a minimum, individuals must provide identifying information to be registered.
- **Self-Certification** is the certification made by an individual that they are eligible to receive title I of WIOA services
- **Note:** DOL has kept the WIA regulations at 20 CFR parts 660 -672
- **Consultation** DOL has added to the definition of consultation to emphasize convening, robust conversation, and an opportunity for all stakeholders to share their thoughts and opinions as follows:
- **Consultation** means the process by which State and/or local stakeholders convene to discuss changes to the public workforce system and constitutes a robust conversation in which all parties are given an opportunity to share their thoughts and opinions.

# Definitions

- **Contract.** The definition at 2 CFR 200.22 refers to the legal document that a non-Federal entity uses to purchase property or services to carry out its duties under WIOA. If DOL determines that a particular transaction entered into by the entity is a Federal award or subaward it will not be considered a contract.
- **Contractor.** The definition at 2 CFR 200.23. replaced the term “vendor” with the term “contractor” includes WIOA “vendors.” Contractors are not subrecipients.
- **Subgrant or Subaward.** 2 CFR 200.92 replaces the term “subgrant” found in WIA at 20 CFR 660.300. “Subgrant” and “subaward” are interchangeable
- **Subrecipient.** is synonymous with the term “subgrantee.”

# Definitions

- Family” updated to reflect the Supreme Court decision in United States v. Windsor, 133 S. Ct. 2675 (2013). .
  - Two or more persons related by
    - Blood
    - marriage, or
    - Decree of court
  - Who are living in a single residence, and
  - Are included in one of the following categories:
    - A married couple and dependent children
    - A parent or guardian and dependent children; or
    - A married couple.
- Individual with a disability – inconsistent in the NPRM now uses the WIOA definition based on the ADA
  - Note that this includes case law and interpretive guidance
- Workforce development system was substituted for WIOA system and WIA system throughout

**Title I**  
**State and Local**  
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**State Workforce Board**  
**20 CFR 679.100(a) – (e)**

# State Board Membership



- While double hatting is prohibited:
  - For WIOA title I and ES programs, a single lead State official with primary responsibility for those programs may represent more than one of those programs.
  - WIOA title II programs must have a single, unique representative
  - The Vocational Rehabilitation (VR) program administered by ED under title I of the Rehabilitation Act of 1973, as amended by WIOA title IV (VR program), must have a single, unique representative. See § 679.110(b)(3)(iii)(A)(1)(i) through (iii).
- Awarding voting privileges to non mandatory appointees is allowable as long as the required percentages of categories still apply



## § 679.120 “ Optimum policy-making authority” and “demonstrated experience and expertise”

- “Optimum policy-making authority”
  - An individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action – same as WIA
- “Demonstrated experience and expertise”
  - An individual who has documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function.
- Added to the definitions above
  - A reference to § 679.110(b)(3)(ii)(C) and (D) to encompass leadership and expertise in education and training of job seekers
- Definition applies to local WDB appointees also

# State WDB and Labor

- The State WDB must include not less than 20% labor representation
- The State WDB must at a minimum include two labor representatives and one joint labor-management of a registered apprenticeship members.
  - There is no requirement for nomination of joint labor management appointees
- To make up the balance of the 20% representatives of non union employees can be appointed
- DOL: Many system partners with experience with specific job seeker populations, such as required one-stop partner programs, tribal organizations, and those serving the disadvantaged and disabled populations are no longer required members of the WDB and have asked to be included. There is no change
  - They can be appointed to complete the 20% requirement or
  - The Governor can appoint “other appropriate representatives and officials”

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# Workforce Development Areas

## 20 CFR 679.200

# Local Areas and Regions

- DOL: WIOA envisions a workforce development system that is:
  - Customer focused on both the job seeker and business
  - Able to anticipate and respond to the needs of regional economies.
- DOL: WDBs and CEOs are required to design and govern the system regionally, by
  - Aligning workforce policies and services with regional economies
  - Supporting service delivery strategies tailored to these needs.
- States are asked to identify intrastate or interstate regions.
  - A region with more than one local area must plan regionally.

# The difference between the identification of regions and the designation of local areas.

- §§ 679.220 and 679.230
  - The purpose of a local area is to administer workforce development activities.
- §§ 679.200 and 679.210
  - The purpose of a regional area is to align workforce development activities and resources with larger regional economic development areas and resources.

# Can a Local Area be Attached to Multiple Regions?

- No a local area can only be assigned to one region
  - WIOA §106(a)(2): “A single local area may not be split across two planning regions.”
- DOL: The market of a local area may lend itself to more than one region. In such instances they can exist as a singular local region and partner with the neighboring areas.

## New role for Local WDBs that are part of a planning region § 679.3(b)

- Local WDBs that are part of a planning region must develop and submit a regional plan in collaboration with the other Local WDBs in the region.
- As required in WIOA §106(c)(2), the local plan is incorporated into the regional plan, where required, in accordance with § 679.540.

# Requirements for Designation of Local Areas

## §679.240

- **Applies to areas not designated under WIA – new designees**
- Governors do not have the flexibility to apply the §679.240(a) factors to areas designated previously under WIA
  - WIOA §106(b)(3) provides the requirements for subsequent eligibility after initial designation.
  - Governors **shall** approve requests for subsequent designation if the local area
    - Performed successfully
    - Sustained fiscal integrity
    - In the case of a local area in a planning region, met the requirements described in subsection (c)(1).
    - No other criteria may be applied. Existing areas may continue so long as they meet the statutory criteria.



# Performed Successfully § 679.260

- Performance will not be measured in the aggregate based on total outcomes for all performance indicators
- Performance will also no longer be based on achieving 80 percent of the negotiated goal.
- 20 CFR 679.260 - local areas must not fail any individual measure for 2 consecutive years.
- 20 CFR 679.260(a) clarifies that the local area must meet or exceed the performance levels the Governor negotiated with Local WDB and CEO
- Note: It will be assumed the measures were negotiated and agreed to unless objected to or appealed at the time they were set.

# Sustained Fiscal Integrity § 679.260

- Means:
  - The Secretary has not made a formal determination, during either of the last 2 consecutive years preceding the designation regarding such integrity, that either the grant recipient or the administrative entity of the area misexpended funds . . . due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.”
- §679.260(c) No changes in the final regulation

# The Duration of Initial Local Area Designation

- Initial designation is applicable to:
  - PY 2016 - 2017 and
  - PY 2017 – 18
- New – Original §679.260(a)(1) and (2) are deleted as duplicative
- New - § 679.260(c) clarifies that subsequent designation cannot be made before the conclusion of PY 2017.

# Title I State and Local Governance Part 679

## **Subpart A**

The State WDB

## Subpart B

Designation of Regions and  
Local Areas

## **Subpart C**

**The role of local chief  
elected officials & WDBs,  
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# Local Workforce Development Boards

## 20 CFR 679.300

# The Local WDB

- The Local WDB:
  - Represents a wide variety of individuals, businesses, and organizations in the local area
  - Serves as a strategic convener to promote and broker effective relationships between the CEOs and economic, education, and workforce partners.
  - Must develop a strategy for continuous improvement and strengthening of the workforce system through innovation in, and alignment and improvement of, employment, training, and education programs to promote economic growth. Local WDB members must establish a platform in which all members actively participate and collaborate closely with the required and other partners of the workforce development system, including public and private organizations.

# Local WDB Membership Requirements

- § 679.310(g)(7) is changed to say the local elected officials select not elect local board members
- § 679.310(g)(7) now refers to membership on the Local WDB, rather than the State WDB when referring to the conditions of appointment to the local board.
- DOL: WIOA reduced the required local WDB membership in an effort to streamline the Boards and provide Chief Elected Officials the flexibility to establish Local WDBs that best reflect the diversity of job seeker and employer communities.
  - § 679.320 (e)(4) gives the CLEO flexibility to appoint "other appropriate individuals DOL did not add any other required members

# Required Local WDB Members

## §679.320

- Local WDBs must follow State guidelines to document lack of a member type in the area.
- Local WDB must follow state policy on membership criteria
  - This includes criteria for selecting the representative of a title II eligible provider of adult education and literacy activities
  - 107(b)(2)(C)(i), § 679.320(d)(1) They must follow WIOA on soliciting nominations when there is multiple entities

# 20% Organized Labor

## § 679.320(c)(4)

- In filling the 20% organized labor after the mandatory 3 members DOL does not specify the type of organization that meets the ‘organizations with experience serving youth’
  - This is to be determined first by Governor policy/criteria if any
  - By the CLEO(s)



# Adult Literacy Members

- WIOA §107 and § 679.320 requires a nomination process if there are multiple eligible providers of title II adult education and literacy

# Business Members

- § 679.320(b) WIOA §107(b)(2)(A)(ii), describes Local WDB membership criteria
  - Small businesses representatives means more than one
  - If the following meet the membership criteria in § 679.320(b)(1)&(2) [Note: if they are not considered to be business members they can fill the CLEO category]
    - large non-profit organizations
    - trade associations
    - chambers of commerce
    - aspirational industries.”
- The terms “high-quality, work-relevant training” as it applies to business representatives is left to be defined at the local level

# Standing Committees

## 20 CFR 679.360(a)

- If a WDB wants standing committees their membership
  - Must include individuals who are not members of the Local WDB and
  - Who have demonstrated experience and expertise in accordance with § 679.340(b) as determined by the Local WDB.
- DOL does not specify who should be on a committee

# WDB By-Laws

- It was assumed that WIOA 107 required local elected officials to establish by-laws for themselves clarifying the nomination process
- DOL: 107 delegates the establishment of WDB by-laws to the CLEO
- The final regs say § 679.310(g) the CLEO establishes local WDB By-Laws to address
  - Nomination
  - The process to ensure Local WDB members actively participate in convening system stakeholders, brokering relationships with employers, and leveraging support for workforce development activities.
  - Actions to address board turnover
  - Increasing board participation
  - Improving board functionality and
  - Assuring actions take place in the sunshine
- Through the agreement between the WDB and the CLEO they can allow the WDB to have a role in future by-laws

# WDB Functions

- § 679.370(h)(1) Requires local boards to develop strategies for technological improvements to improve one-stop services by facilitating connections among the intake and case management information systems of the one-stop partner programs
  - Comment: connecting intake and case management information systems will raise significant issues in terms of staffing, technology, and confidentiality.
  - DOL:
    - 20 CFR 679.370(h) does not outline specific technology requirements expectations
    - The WDB is responsible for developing strategies for aligning technology and data systems across one-stop partner programs.
    - The Local WDB may connect intake and case management systems, but neither WIOA nor the regulations require a single case management system among one-stop partners.

# WDB Functions - Review of Adult Education Provider Applications § 679.370(n)

- Local WDBs are to review applications from adult education and literacy Title II providers to determine whether the applications are consistent with the local plan and to make recommendations to the eligible entity
- 34 CFR part 463, requires the eligible (oversight) agency to establish i a processes as a part of the RFP by which applications must be submitted to Local WDBs for review prior to its submission to the eligible agency.
- New - Only WDB members who do not have a conflict of interest can participate in the review of an eligible training provider applications
- The eligible agency retains final approval authority.
- Local WDBs must also replicate and implement cooperative agreements in accordance with 101(a)(11) (B) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)), and implementing cooperative agreements to enhance the provision of services to individuals with disabilities and other individuals.

# WDB Functions - Ensuring Appropriate Use and Management of WIOA Funds

## § 679.370 (h)(4)(i)(2) of

- Requires Local WDBs, & the CLEO to ensure appropriate use and management of funds.
  - Local areas should establish policies, interpretations, guidelines, and definitions to implement provisions of title I of WIOA to the extent that such policies, interpretations, guidelines, and definitions are not inconsistent with WIOA and the regulations, federal statutes and regulations governing one-stop partner programs, and State policies.
  - States should also establish policies, interpretations, guidelines, and definitions to implement provisions of title I of WIOA to the extent that such policies, interpretations, guidelines, and definitions are not inconsistent with WIOA and the regulations issued under WIOA, as well as Federal statutes and regulations governing one-stop partner programs. Local WDBs, therefore, can set policies but those policies must not conflict with State policy, or WIOA. No change to the regulatory text was made in response to these

# Functions - Negotiating Methods for Funding One-Stop Infrastructure Costs § 679.370(k)

- The CLEO role:
  - The local WDB and the CEO must agree upon the methods that will be applied to determine the infrastructure funding



# Functions -Selection of Youth Services, Training, and Career Services Providers (§ 679.370(l))

- WIOA sec. 122 and 20 CFR part 677 of the Joint WIOA Final Rule states:
  - Providers must be approved via the Governor's process
  - However, Local WDBs may set additional criteria for providers on the local list.

# The WDB as a Career Services Provider

## § 679.410(b)

- New - DOL: A local WDB may act as a provider of career services **only** with the agreement of the CLEO in the local area and the Governor.
- DOL: There is no statutory requirement for Local WDBs to undertake a competitive process for the career services
- §679.410(d) The restrictions on the provision of career and training services by the Local WDB, also apply to staff of the Local WDB.

## Internal Controls And Conflict of Interest For Entities Performing Multiple Functions in a Local Area § 679.430

- There must be a written agreement between the local WDB and chief elected official when a single entity operates in more than one of the specified roles
- The Regs do not dictate the specific contents of the agreement
  - The agreement must state how the organization will carry out its responsibilities in compliance with WIOA , the Uniform Guidance, and the State’s conflict of interest policy.
  - New - To clarify the multiple roles this section was changed to “the direct provider of services” instead of “the direct provider of career and training services” to include cases where the entity may be directly providing youth services

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# Regional and Local Plans

## 20 CFR 679.500

# Regional and Local Plans

## 20 CFR 679.500

- The Plan - Regions and local must develop employment and training systems tailored to regional economies, meeting the needs of learners and workers, including those with barriers to employment and the skills needs of regional employers
- Local WDBs which are a part of a region submit their local plan as part of the regional plan. There is no separate local plan.
- The local plan must represent a collaborative process among local elected officials, boards, and required and other partners to create a shared understanding of the local area's workforce investment needs, a shared vision of how the workforce development system can be designed to meet those needs

## Approval of a Regional Plan §679.520

- WIOA sec. 108(e), says the plan “shall be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the plan.”
- §§ 679.520 and 679.570 are revised to reflect the statutory language of approval 90 days after receipt of the local plan.
- § 679.530(b)(2) aligns the modification of local and regional plans

# Reflecting Local Planning Requirements in a Regional Plan §679.540

- DOL: A copy of each local plan must be included in the regional plan to accompany the plan's discussion of regional strategies.
  - § 679.510(a) Each Local WDB and CEO will respond to the local planning requirements at § 679.560(b) through (e) individually.
  - §679.540(a) & (b) Local WDBs and CEOs in a planning region must cooperate to develop a common response to local planning requirements that discuss regional labor market information, and any other appropriate requirements permitted by the Governor
  - When these activities are completed, the planning region submits the regional plan in a single document.

## Part 680

### Subpart A – Delivery of Adult and Dislocated Worker Activities

Subpart B – Training  
Services

Subpart C – Individual  
Training Accounts

Subpart D – Eligible  
Training Providers

Subpart E – Priority and  
Special Populations

# Adult and Dislocated Worker Activities



# Career Services §680.160

- Career Services must be delivered through the OS system
- They can be delivered by
  - The OS Operator
  - Service providers approved by the local board
  - The local board with approval of the CLEO and the Governor
  - Local board means board staff
- § 680.170 Individual Employment Plan
  - Note the replacement of the words “case manager” with “career planner” to be more consistent with WIOA
  - DOL encourages IEPs in the career planning process but they say there is no sequence of service requirement in WIOA and determining when an IEP is appropriate for individuals is a local decision.
  - IEP can also be done by ES under the amendments so it can be a part MOU governing the role of the ES in the one-stop delivery system

## The Role Of The Adult And Dislocated Worker Programs In The One-stop Delivery System §680.100

- WIOA §107: The CEO for the local area is the local grant recipient.
- As the grant recipient for the adult and dislocated worker programs, the CEO or his/her designee is a required one-stop partner in the governance and delivery of services in the one-stop delivery system consistent with §121(b)(1) & 20 CFR part 678 (Joint WIOA Final Rule).
- This may be a consideration for certain types of OS operator procurements

## Registration and Determination an Individual is a Participant §680.110

- State and local areas have the discretion to determine appropriate intake methods, which may include electronic and virtual means.
- A service provided to an individual electronically or virtually can be sufficient for the individual to be considered a “participant,” if it meets the standards of the definition provided at 20 CFR 677.150(a) (Joint WIOA Final Rule).
- Participation occurs after registration /collection of documents for eligibility and only after a staff assisted WIOA service

# Registration and Determination an Individual is a Participant §680.110

- New - § 680.110(a) to clarifies when an individual is considered a “participant.” DOL will provide additional guidance on what services count as self-services or information-only services and activities.
- The distinction between reportable individual and participant is used for the purposes of reporting on performance
- An IEP will cause an individual to be considered a participant, but there are other ways to qualify for participation because there is no sequence of services requirement in WIOA.
- IEP is an individualized career service and can be provided under either title I of WIOA or under the Wagner-Peyser Act

# Dislocated Worker Eligibility

## § 680.130

- Unlikely to return to their previous occupation –
  - § 680.130(b)(3) allows Governors and Local WDBs to establish policies and procedures for one-stop centers to use in determining when an individual is unlikely to return to his or her previous industry or occupation.
  - Any policy or procedure must be consistent with §680.660, which provides that separating service members meet this criterion.

# Required & Permissible WIOA Title I Activities

## WIOA §134(d) §680.140

**ALL LOCAL AREAS MUST PROVIDE CAREER & TRAINING SERVICES**

**Local WDBs decide the career and training services or type and mix of services they want to provide among the menu below**

- Job Seeker Services
  - Customer support
  - Training for displaced homemakers and non traditional occupations
  - Work support activities which may be in combination with a OS partner
  - Support services
    - § 680.900. “reasonable accommodations for individuals with disabilities” is an allowable support service for OJT training.
- Transitional jobs
- Employer services
- Coordination activities
- Pay for Performance
- Technical Assistance for OS
- Activities to adjust economic self sufficiency
- Implementing Promising Services
- Incumbent Worker Services

## Adults And Dislocated Workers Internship / Work Experience §680.180

- Internships and work experiences under WIOA may be paid or unpaid
- To be eligible for work experience an individual must meet adult and dislocated worker program eligibility
- There is no requirement for comprehensive career and supportive services.
- This type of paid work experience is not subject to a statutory funding cap
- No minimum or maximum duration requirements for work experiences in the regs

# Work Experience and Transitional Work Experience

- New - Work-based training that establishes an employer-employee relationship must follow applicable laws
  - Wage and hour laws
  - Minimum wage laws
  - Unemployment insurance
  - Workers' compensation.
- LWDBs determine who to target for transitional jobs
- LWDS determine the length of a transitional job
- Allowable uses of transitional jobs funds include
  - Participant wages
  - Supportive services such as transportation vouchers.
  - Staff and infrastructure improvements are not allowable uses of transitional jobs funds.
  - 100% of the cost of the job



# Transitional Jobs – 10% Cap

## §§ 680.190 and 680.195

- The citation to transitional jobs at § 680.190 has been moved from § 680.830 to reflect the DOL's position that transitional jobs are a type of work experience, and a career service.
- A work experience that takes place in the context of an employee-employer relationship
  - The program provider may act as the employer
- The definitions of "inconsistent work history" and "chronic unemployment" are up to Local WDB
  - Individuals labor market history
  - Unemployment status,
  - Durations of unemployment
  - Long-term unemployment
  - Chronically unemployed
  - Other
- Must include comprehensive and support services
- Time limited
- Be careful not to trigger ACA

# Transitional Jobs §680.195

- DOL considers transitional jobs to be a targeted service that includes
  - Comprehensive career and
    - Basic and individualized career services based on the participant's needs
    - Are not subject to the 10 percent cap
  - Supportive services.
- Non-transitional job work experiences
  - Have no requirement that they must be paid or unpaid
  - They do not have the same requirements for comprehensive career and supportive services.
  - They also are not subject to the 10 percent funding cap that transitional jobs are.

# GED

## §680.350.

- It is a training service
- It can be on the ETP
- However it must still be concurrent or coordinated with a WIOA occupational training activity

# Follow Up § 680.150

- New – Change in Language
- DOL: Followup “as determined appropriate by the Local WDB” to § 680.150(c) to clarify how the determination is made to provide follow-up services.
- This is consistent with WIOA §134(c)(2)(xiii), which states that follow-up services are provided “as appropriate.”
- New - DOL did not provide a regulatory option to give supportive services to adults and dislocated workers for up to a year after exit as section 134(d)(2)(A) of WIOA requires that adults and dislocated workers must be participants to receive supportive services.

## Part 680

**Subpart A – Delivery of  
Adult and Dislocated  
Worker Activities**

**Subpart B – Training  
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Subpart C – Individual  
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# Training Services

§§ 680.200 - 680.230

# Assessment

- DOL does not mandate a certain length of time that previous assessments may go back
- Previous assessments must be recent.
- Governors and Local WDBs should develop policies for the use of recent assessments appropriate for the individual and the one-stop center.
- The recent assessment must have sufficient information to make an eligibility determination for training services.

# Eligible for Training

- DOL: There are two types of eligibility
  - Eligibility for program services and
  - Eligibility for training services.
- An individual must meet program service eligibility to be considered for training service eligibility.

# What is Training Services?

- Training services are provided to equip individuals to enter the workforce and retain employment.
- Training services may include
  - Occupational skills training
  - OJT
  - Registered apprenticeship (which incorporates both OJT and classroom training)
  - Incumbent worker training
  - Pre-apprenticeship training
  - Workplace training with related instruction
  - Training programs operated by the private sector
  - Skill upgrading and retraining
  - Entrepreneurial training
  - Transitional jobs.



# Who Gets Training?

- Individuals who, after interview, evaluation or assessment, and case management are determined to be unlikely or unable to obtain or retain employment that leads to self-sufficiency or higher wages than previous employment through career services alone.
- The participant must be
  - Determined to be in need of training services and
  - **Possess the skills and qualifications to participate successfully in the selected program.**
  - It also must be determined that they are unlikely or unable to retain employment that leads to self-sufficiency or higher wages.
  - Some participants may need additional services to assist their vocational training, such as job readiness training, literacy activities including English language training, and customized training.

# Training

- DOL: Training programs for WIOA title I adult and dislocated worker programs are to be linked to in-demand industries and occupations identified in the local plan.
- New - § 680.200 now includes the list of training services found in WIOA §134(c)(3)(D).

# Digital Literacy

- DOL: Digital literacy is an individualized career service and not a training service
  - Is a pre-vocational service or
  - A workforce preparation activity
  - It is a service that may be made available based on individual need as determined by the local area.

# Who may receive training services

## § 680.210

- WIOA §134(c)(3)(A)(i) individuals 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.
- Individuals must need the training to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment.
- Who determines self-sufficiency with respect to training?
  - WIOA §134(a)(3)(A)(xii), States using statewide funds to adopt or commission an economic self-sufficiency standard for the State that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.
  - WIOA §134(d)(1)(A)(x), Local areas using employment and training funds to adjust the State standard locally, or to commission their own study that specifies the same factors required of the State standard

# Career Services and Training

## §680.220

- There is no sequence of service requirement
- There is no requirement that career services must be provided before training services.
- §680.220(b) Local WDB must document the circumstances that justified its determination to provide training without career services.
- Eligibility for training must be determined by:
  - An interview
  - Evaluation, or
  - Assessment, and career planning or
  - Any other method through which the one-stop partner or partners can obtain enough information to make an eligibility determination for training services.
- There must be a case file that includes a determination of need for training services, based on the criteria discussed in § 680.220
- The need for training services should be determined prior to training enrollment

# Non ITA Training

- §§ 680.320 and 680.530 - Requirements for individuals receiving training from entities other than ETPs
- § 680.530 - Describes training that can be provided through entities other than ETPs

## Part 680

**Subpart A – Delivery of  
Adult and Dislocated  
Worker Activities**

Subpart B – Training  
Services

**Subpart C – Individual  
Training Accounts**

Subpart D – Eligible  
Training Providers

Subpart E – Priority and  
Special Populations

# Individual Training Accounts

# ITA's

- For maximum flexibility the regulations do not establish
  - Payment procedures
  - Restrictions on the duration or amounts of the ITA, or
  - Policies regarding exceptions to the limits.
- These decisions reside with the State or Local WDBs who cannot restrict the duration or funding of ITAs to arbitrarily exclude eligible training providers.
- One-stops must provide individuals with quality and performance information on training providers
- ITAs allow participants the opportunity to choose the training provider that best meets their needs



# ITA Payments

- Paying ITAs at the beginning of the training rather than incrementally
  - Allows Local WDBs to budget and manage their ITAs more easily
  - Eliminates the concern about putting customers into training that straddles 2 program years
  - Simplifies the determination of how much carry over funding to include in the next program year's budget.
- DOL: It's up to the local WDBs

# ITAs and Training Contracts

- Local areas must have a full ITA system in place even if it decides to provide training through contracts
- Combined use of ITAs and OJT as well as any other contracted training services under WIOA sec. 134(c)(3)(G)(iv) are allowable.
- Other career services, such as work experience, may be used in combination with ITAs.

# Pre-apprenticeship

- Pre-apprenticeship programs may be eligible for an ITA if they are on the ETPL.
- Pre-apprenticeship programs must be directly partnered with at least one registered apprenticeship program to be on the ETPL

## Part 680

**Subpart A – Delivery of  
Adult and Dislocated  
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- Eligible Training Providers

# Eligible Training Providers

- The process for qualifying as eligible training providers of training
- The roles and responsibilities of the State and Local WDBs in managing this process
- The List and accompanying information must be easily understood and disseminated widely to maximize informed consumer choice
- The Governor, in consultation with the State WDB, must establish eligibility criteria and procedures for initial and continued eligibility for training providers
- DOL encourages Governors to establish minimum performance levels for initial and continued eligibility considering the need to serve targeted populations.
- Except for registered apprenticeship programs, the Local WDB may establish higher performance levels or require additional information from State eligible training providers to receive funds through the local ITAs

# The process for determining eligible training providers § 680.400

- §§ 680.400(a), 680.430, and 680.490 clarify which requirements apply to the eligible training providers and programs that serve OSY aged 16 through 24 with ITAs.
- § 680.410(a) ETPs are the only entities that can receive funding for training services through an ITA. If an entity is not on the State ETPL, the entity may not receive ITA funds to pay for training services.

# Eligible Training Providers

- DOL: Governors should work with ETP to return aggregate performance information to the providers in ways that will help improve their program performance.
- State and Local WDBs must work together to ensure sufficient numbers and types of training providers and programs to maximize customer choice
- Community-based organizations (CBOs) can be eligible training providers, provided they meet the requirements to become eligible training providers in WIOA §122 and the regs

# Eligible Training Providers

- DOL: New - § 680.400(b) requires States to disseminate information to consumers in formats accessible to individuals with disabilities.
- DOL: OS's must take into account older workers' different training needs
- DOL: The ability to provide services to individuals with barriers to employment is a factor that must be taken into account in the Governor's eligibility procedures under §680.460(f)(9)
- New § 680.410(c) provides that ETPs must provide a program of training services as that term is defined at §680.420.



# Entities that can be ETPs

## § 680.410(d)

- Institutions of higher education that provide a program which leads to a recognized postsecondary credential,
- Entities that carry out programs registered under the National Apprenticeship Act (29 U.S.C. 50 et seq.)
- Other public or private providers of training include
  - Community-based organizations (§ 680.410(d)(3)(i))
  - Joint labor-management organizations § 680.410(d)(3)(ii)
  - Eligible training providers of adult education and literacy activities under WIOA title II if such activities are provided in combination with the training services described at § 680.350 §680.410(d)(3)(iii)

# A “program of training services”

## §680.420

- The new definition of “program of training services” is consistent with the program outcomes in WIOA §116(b)(2)(A) and 20 CFR part 677 (see Joint WIOA Final Rule).
- Programs of training services include non-credentialed training, such as incumbent worker training, work-based learning opportunities, or single courses that fall within a career pathway. Programs that are components of such a regimen may be eligible programs.
- Training services that “lead to” any of the outcomes listed at § 680.420, which includes employment, is a program of training services.
- The term “industry-recognized certificate or certification” is an evolving term and is not defined
- A program of training may involve one course or a course less than 3 days if the course leads to one of the outcomes as described in the definition of a program of training services at § 680.420.

# Eligible Training Providers

- States and local areas are the only entities authorized to determine new provider or program eligibility under WIOA.
- State and Local WDBs do not have authority under WIOA to waive initial or continued eligibility requirements.

## Training Providers And Programs Outside The Local Area Or Outside Of The State **§680.520**

- Individuals may choose training providers outside of the local area provided that the training program is on the State List and it is consistent with local policies and procedures.
- For State ETPs that are outside of the local area or that do not meet the local area's criteria for eligibility, local policies and procedures determine whether participants in the local area may utilize ITAs for training.
- The local area may choose to make exceptions to its local eligibility criteria.

# Local WDB as Training Providers

- Local WDBs may provide training services, including short-term and/or eLearning assisted training, if the Local WDB meets the conditions of WIOA sec. 107(g)(1), which includes the information required in a written waiver request to the Governor.

# Eligible Training Providers

- There employers are not required to report outcomes for OJT and customized training unless required by the Local WDB.
- § 680.340(b) to emphasize that the ETPL is a separate list from the list that the Governor may require for work-based training providers.
- DOL:
  - WIOA is not an entitlement program. Determinations for training are made consistent with the law, including WIOA sec. 134(c)(3)(A), State and local policies, funding availability, and other appropriate considerations.

# Registered Apprenticeship Programs

- A training service for both Individual Training Accounts (ITAs) and OJT
- Registered apprenticeship programs are automatically eligible for the ETPL
  - States must notify them of their automatic eligibility and allow them an opportunity to consent to be on the State ETPL § 680.470\
  - Local areas can set more stringent standards than the State for eligibility of training providers, but not for registered apprenticeship programs
  - They aren't required to report as other ETPs
  - They are a part of the State annual ETP performance report under 116(d)(2).
- Apprenticeship programs that are not registered are not automatically on the eligible list they have to go through the ETP process
- Apprenticeship programs may be removed from the State ETPL for enforcement reasons other than performance, such as a violation of WIOA § 680.470

# GED

- alternative secondary school (formerly GED) preparation is considered a career service or a training service.
- Department Response: The Department considers a program that leads to a secondary school diploma to be a training service.
- A program that leads to a secondary school diploma or its equivalent can be eligible as a State ETP, see § 680.420.
- Note – for adults GED must be combined with occupational skills



## Part 680

**Subpart A – Delivery of  
Adult and Dislocated  
Worker Activities**

Subpart B – Training  
Services

Subpart C – Individual  
Training Accounts

Subpart D – Eligible  
Training Providers

**Subpart E – Priority  
and Special  
Populations**

# Priority and Special Populations

# Who Gets Served?

- Under WIOA, priority access to services by members of this group is always in effect regardless of funding levels. Nonetheless, WIOA allows one-stop centers to provide individualized career services to individuals who are not members of these groups, if determined appropriate by the one-stop center.

# Eligibility

- DOL: On the subject of aligning eligibility among the core partners particularly for refugees WIOA 189(i)(3)(A)(i) prohibits the Department from waiving or otherwise altering eligibility criteria.

## Plan: Priority of Service for the Adult Program §20 CFR 679.560(b)(21)

- DOL: Priority of service is for adult funding stream and must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient.
- Veterans and certain service members have access to adult and dislocated worker programs. Under WIOA, as was the case under WIA, veterans receive priority of service in all Department-funded employment and training programs

# Adult eligibility for career services

## Priority of Service §680.120

- WIOA § 134(c)(3)(E) is the statutory priority for public assistance recipients, other low-income, and basic skills deficient individuals. See WIOA § 3 (5). These individuals must be considered a priority regardless of limited funds
  - This is not a criterion for eligibility
  - It is a statutory emphasis on providing individualized career services and training services to these populations
- WIOA allows one-stop centers to provide individualized career services to individuals who are not members of these groups, if determined appropriate by the one-stop center
- Ref § 680.600, which governs the priorities in the adult program and provides Governors and Local WDBs the authority to designate other priorities

# Veteran's Priority

- Department of Veterans Affairs benefits for education and training services are not included in the category of “other sources of training grants” listed in § 680.230(b).
- Veterans and spouses are not required to first use any available benefit entitlements associated with their military service before being considered eligible for WIOA funded training

# Displaced Homemakers

- Work, without a formal connection to the workforce may need WIOA services to develop further work skills.
- WIOA expands the definition of displaced homemakers to include dependent spouses of the Armed Forces on active duty to ensure they have access to WIOA title I services.
- May be served with both adult and dislocated worker funds.
- Displaced homemakers qualify
  - As an “individual with a barrier to employment” WIOA §3(24)(A) and § 680.320(b).
  - Under the definition of a “dislocated worker,” WIOA § 3(15)(D).

## Part 680

**Subpart A – Delivery of  
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**Subpart F – Work  
Based Training**

# Work-Based Training

## § 680.700 - 680.850



# Work Based Training

- OJT, customized training, incumbent worker training, and transitional jobs.
- Work-based training is employer-driven with the goal of unsubsidized employment after participation.
- Generally involves a commitment by an employer or employers to employ successful participants after they have completed the program.
- Registered apprenticeship and pre apprenticeship training is a type of work-based training that can be funded in the adult and dislocated worker programs
- Non registered apprenticeship training may also receive OJT if they meet the requirements in §680.700 – §680.730

# Intent ~ DOL

- OJT is designed to first hire the participant and provide them with the knowledge and skills necessary for the full performance of the job. OJT is focused on learning on the job
- Incumbent worker training is designed to ensure that employees of a company are able to acquire the skills necessary to retain employment and advance within the company or to provide the skills necessary to avert a layoff.
- Customized training is designed to provide local areas with flexibility to ensure that training meets the unique needs of the job seekers and employers or groups of employers. Customized training is generally classroom based and is often provided by a third party for the employer.

# Matching Requirements

- Matching requirements
  - § 680.700 for OJT
  - § 680.760 for customized training
  - § 680.820 for incumbent worker training.

# OJT Wage Rate Reimbursement

- Governors or Local WDB can increase the reimbursement rate for OJT from 50 to 75 percent to give flexibility in developing OJT opportunities that work best for local employers.
- For more than 50% reimbursement it is not required that the employers be small employers it is just a factor for local and state consideration

# Customized Training §680.760

- The "commitment to hire"
  - is a statutory requirement WIOA § 3(14) and §134(c)(3)(g)(1) and
  - Requires a contract between the employer and the Local WDB
- This training is generally for
  - hiring new or
  - recent employees and
  - not for retraining existing employees.
  - Incumbent worker training is for current employees as a layoff aversion strategy
  - Note that this not as clear in the statute see next slide
- WIOA §3(14)(C) requires employers to pay a "significant cost of the training"
  - Local WDBs have the discretion to define the term "significant cost"

# Customized Training for Employed Workers

## §680.770

- Employed workers must be under the self-sufficiency wage to participate in customized training
- USDOL Comments:
  - Incumbent worker training is the most appropriate training for layoff aversion.
  - Customized training is generally for hiring new or recent employees and not for retaining existing employees
  - There may be instances where customized training is appropriate for retaining employees and could be used for individuals making more than self-sufficient wages if all appropriate criteria are met.
  - Customized employment can be used for individuals making more than self-sufficient wages as long as it leads to comparable to or higher than previous employment (in response to preventing an employee from being laid off)
-

# Customized Training and 3<sup>rd</sup> Party Trainers

- Comment: A commenter stated that procurement requirements should not apply to the selection of a trainer for customized training
- **DOL:**
  - Grant recipients and sub-recipients must adhere to the procurement rules in the Uniform Guidance at 2 CFR 200.317 through 326.
  - States procuring property and services under a grant must follow the policies and procedures used for procurements from its non-Federal funds 2 CFR 200.317
  - All entities that are not States must ensure that procurements are conducted in a manner that is consistent with 2 CFR 200.318-326.

# Incumbent Worker Training §680.780

- Local areas may use up to 20 % of their adult and dislocated worker funds (this does not apply to employed workers)
- Training designed to either assist workers in:
  - Improving and obtaining the skills necessary to retain employment, or
  - To avert layoffs
- Training must increase the participant's and company's competitiveness – which should be defined by the state or locals
- Training should ultimately lead to an increase in wages.
- To receive incumbent worker funding under WIOA, an incumbent worker must have:
  - An employer-employee relationship for at least 6 months
    - Exception: § 680.780 cohort training where a majority of the cohort must meet the 6-month requirement.
  - An established employment history, with the employer.
- Local areas can seek incumbent worker training that results in a promotion and an opportunity to backfill the incumbent worker's position.



# Incumbent Worker Training

- The employer must meet the eligibility criteria established in § 680.810.
  - State and local policy
- The incumbent worker must meet the requirements established in § 680.780
  - They do not have to meet the Adult/DW eligibility criteria
  - An employed worker must meet Adult/DW eligibility for adult to receive career services, and/or must meet the wage requirements of WIOA §134(c)(3)(A)(i) and § 680.210(a)(1-2) to receive training services while employed at the beginning of participation
  - § 680.780 If an incumbent worker receives other services in addition to incumbent worker training, then they must meet the eligibility requirements like all other adult/DW participants.
- The incumbent worker training requirements are described in § 680.790,

# New – Incumbent Worker Training

- Individuals only receiving incumbent worker training and no other WIOA title I service are not considered participants.
- They will not be included in calculations for the State Primary Indicators of Performance.
  - § 680.810(a) and (b) no longer reads “participant” it reads “individual”
  - States and Local WDBs must report on incumbent workers employment status & wages after training, and credential attainment

# New - Labor Disputes

- § 680.840 “May funds provided to employers for work-based training and other work experiences be used to fill job openings as a result of a labor dispute?”
- NO!

## Part 680

### **Subpart A – Delivery of Adult and Dislocated Worker Activities**

Subpart B – Training Services

Subpart C – Individual Training Accounts

Subpart D – Eligible Training Providers

Subpart E – Priority and Special Populations

Subpart F – Work Based Training

**Subpart G – Supportive Services**

# Supportive Services

-

# Support Services

- The regulations provide local areas the discretion to provide the supportive services they deem appropriate
- Support services may be made available to anyone participating in WIOA title I activities.
- Local WDBs must develop policies and procedures to ensure
  - Coordination with other entities
  - Non-duplication of resources and services and
  - To establish limits on the amount and duration of such services.
  - Supportive services are funded only when these services are not available through other agencies
  - The services are necessary for the individual to participate in title I activities.

# Support Services

- The definition has been expanded
- It is not conclusive
- Applies to adult/DW and youth
- §680.920 Support services are limited in duration to enable participation in career and training services – **not after exit**

# Needs Related Payments

- To receive needs-related payments, individuals must be unemployed and must not qualify for or have ceased to qualify for unemployment compensation
- The amount of the needs related payment is up to local WDB.
- Underemployed individuals are not eligible for needs-related payments but there is no prohibition on providing them with other support services
- WIOA §134(d)(1)(B) allows for work support activities for low-wage workers.

## Part 681

Subpart A – Standing  
Youth Committee

Subpart B – Eligibility

Subpart C- Program  
Design

Subpart D – Youth and  
One Stop

# Youth Activities



# Youth

- WIOA calls for customer-focused services based on the needs of the individual participant.
- This includes the creation of career pathways for youth in all title I youth programs, including a connection to career pathways as part of a youth's individual service strategy (ISS) in the youth formula-funded program.
- The ISS must directly link to one or more of the performance indicators.
- WIOA also calls for participants to be intimately involved in the design and implementation of services so the youth voice is represented and their needs are being met.

# Youth

- States and local areas were given a year to show progress towards meeting the new 75% minimum OSY expenditure rate requirement.
- WIOA increases the focus on providing youth with work experience opportunities, requiring that local areas spend a minimum of 20% of local area funds on work experience.
- New Program Elements
  - Work experience is the most critical of the program elements.
  - Financial literacy
  - Entrepreneurial skills training;
  - Services that provide labor market and employment information about in-demand industry sectors or occupations available in the local areas;
  - Activities that help youth prepare for and transition to postsecondary education and training;
  - Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or cluster.

# Local WDBs may deliver Youth services

## § 681.400

- DOL clarifies that youth activities may be conducted by the local grant recipient
- When the Local WDB chooses to award contracts to youth service providers, awards must be made using a competitive procurement process in accordance with WIOA sec. 123.

# Stay Tuned

- **Definition of Attending**
- Commenters recommended DOL define what “attending” means when determining the eligibility of an individual.
  - Clarification as to whether taking one course at a community college would count as “attending” and thus, render an individual ineligible for OSY services.
  - Being enrolled in a non-credit granting course or continuing education class would be classified as attending school, making those individuals ineligible for OSY services
- DOL will provide guidance.

# Eligibility

- § 681.230 High school equivalency programs and dropout re-engagement programs are additional types of programs that are not considered “schools” for the purposes of determining in school status.
- §§ 681.210 and 681.220 includes an individual who has attained 16 years of age and left foster care for kinship guardianship or adoption,”
- 681.220: individuals who leave foster care after remaining there until late adolescence may not technically “age out” of the system and yet remain disadvantaged.
- Foster care youth, homeless and runaway youth are now in separate eligibility categories

# Offender Eligibility

- WIOA uses slightly different wording between ISY and OSY eligibility criteria.
  - OSY eligibility WIOA §129(a)(1)(B)(iii)(IV) states, “An individual who is subject to the juvenile or adult justice system,”
  - ISY Eligibility §129(a)(1)(C)(iv)(III) says, “offender.”
  - WIOA sec. 3(38) defines “offender” as “an adult or juvenile
    - (A) who is or has been subject to any stage of the criminal justice process, and for whom services under this Act may be beneficial; or
    - (B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.”
  - DOL changed the wording in the Final Rule to use “offender” for the eligibility criteria for both ISY and OSY,
  - § 681.210(c)(4) includes all individuals who fit the definition of “offender” under sec. 3(38).

# Pregnant or Parenting

- An individual who is pregnant or parenting does include noncustodial parents, such as fathers.

# “School” §681.230

- “Not attending or attending any school” in the out-of-school and in-school eligibility criteria
  - Secondary and
  - Postsecondary school
- School is not
  - Adult education under Title II
  - Youthbuild
  - Job Corps
  - High School Equivalency
  - Drop Out Reengagement



# Calculating the 5% for ISY

## §681.250 § 681.310(b)

- All ISY must be low-income with the exception
  - That up to 5 % of ISY youth who meet all the other eligibility requirements need not be low-income.
  - The up to 5 % is calculated based on all newly enrolled youth who would ordinarily be required to meet the low-income criteria in a given program year.
  - For example, a local area enrolled 200 youth.
  - 100 of those youth were OSY who were not required to meet the low-income criteria
  - 50 were OSY who were required to meet the low-income criteria (i.e., either § 681.210(c)(3) or (c)(9)), and
  - 50 were ISY.
  - The 50 OSY required to be low income and the 50 ISY are the only youth factored into the 5 percent low-income exception calculation.
  - Therefore, in this example, 5 of the 100 youth who ordinarily would be required to be low-income do not have to meet the low-income criteria based on the low-income exception. This percent is calculated at the end of a program year based on new enrollees in that program year.

# Additional Assistance §681.310

- “requires additional assistance to complete an educational program, or to secure and hold employment”
- Is to be defined by States and/or local areas
- If not defined at the State level the local area must define this criterion in its local plan.

# More Income Calculation

- When determining up to what age an OSY is considered a dependent child of the parent or guardian the IRS definition of dependent applies

# High Poverty Area

## §681.260

- Youth living in a high poverty area requires no further income verification
- This is one of the eligibility criteria for ISY and for some OSY.
- Local areas must decide how to combine census tracts into larger contiguous areas and the weighted average of the poverty rates of the census tracts in each contiguous area to meet the threshold of a poverty rate of at least 25 percent

# Technical Correction on Income

- Final Rule: OSY with disabilities do not need to meet low-income eligibility requirements
  - “All other OSY meeting OSY eligibility under §681.210(c)(1), (2), (4), (5), (6), (7) and (8) are not required to be low-income.
  - Additionally, § 681.280 provides that OSY with disabilities are not required to be low income.
- ISY with a disability - the youth’s own income rather than his or her family’s income must meet the low-income definition and not exceed the higher of the poverty line or 70 percent of the lower living standard income level.
- Even though OSY may have been low-income if they received or were eligible to receive free or reduced lunches the Final Rule states OSY CANNOT USE free or reduced lunch to document low income

## §681.320

- There is no self-service concept for the WIOA youth program and every individual receiving services under WIOA youth must meet ISY or OSY eligibility and formally enroll in the program.
- Local WDBs may provide services to youth through one-stop centers even if the youth are not eligible for the WIOA youth program.
- It defines enrollment as the collection of information to support an eligibility determination and participation in any 1 of the 14 program elements.
- Program participation does not begin until after the youth is determined eligible, the youth receives an objective assessment, and the youth participates in 1 of the 14 program elements

# Other Eligibility

- What about WIOA eligibility for youth who are eligible to work under Deferred Action for Childhood Arrivals (DACA)
- **DOL:** Declined to address DACA in the WIOA Final Rule (due to pending court decisions). The Department issued guidance on DACA in TEGL No. 02-14  
[https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_2-14.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_2-14.pdf).

# How Many OSY

- OSY may require additional resources for services and expects local programs to provide the necessary resources to ensure the success of OSY.
- There is no specific expectation on the number of OSY programs must serve,
- Only on the % of funds spent on OSY.
- States and local areas will have the opportunity to set performance targets based on the population they serve.
- Local area administrative expenditures are not a part of the 75 percent OSY minimum expenditure calculation.



# Dual Enrollment §681.430

- Youth may participate in both the WIOA youth program and the adult program at the same time if they are eligible for both and it is appropriate.
- Youth who are eligible under both programs may enroll concurrently in WIOA title I and II programs.
- For ISY who cannot access ITAs through the Youth Program ISY ages 18 or older may access ITAs through the adult program.

# Making the 14 + 5 Elements Available

- The Department acknowledges that in some areas mentoring is particularly challenging and has changed §681.490 to allow case managers to serve as adult mentors.
- § 681.460(c) “When available, DOL encourages local programs to partner with existing local, State, or national entities that can provide program element(s) at no cost to the local youth program.”
- If a local program does not fund an activity with WIOA title I youth funds, the local area must have an agreement in place with a partner to offer the program element and ensure that the activity is connected and coordinated with the WIOA youth program

# Occupational Skills

- DOL noted concerns around occupational skills training needing to result in attainment of a recognized postsecondary credential.
- DOL has changed this language in the Final Rule to state that occupational skills training must lead to the attainment of a recognized postsecondary credential.
- A job readiness certificate relates to foundational work readiness skills and does not result from occupational skills training.
- Career preparation services are not a type of occupational skills training

# Support Services

- Needs related payments are allowed for youth ages 18-24 enrolled in WIOA youth services.

# Follow Up

- § 681.580(c) Follow-up services must be provided to all participants for a minimum of 12 months unless the participant declines to receive follow-up services or the participant cannot be located or contacted.
- Local programs should have policies in place to establish when a participant cannot be located or contacted.
- For youth - supportive services are allowed to be provided during follow-up.

# Incentives

- Incentive payments § 681.640.
  - Incentives under the WIOA youth program are permitted per 2 CFR part 200
  - Example: Federal funds may not be spent on entertainment costs. Incentives may not include entertainment, such as movie or sporting event tickets or gift cards to movie theaters or other venues whose sole purpose is entertainment.
  - There are requirements related to internal controls to safeguard cash, which also apply to safeguarding of gift cards, which are essentially cash.
- incentives must be connected to recognition of achievement of milestones in the program tied to work experience or training improvements marked by testing or other successful outcomes.
- WIOA funds cannot be used for incentives for recruitment and eligibility documentation
- Incentive payments may be provided to both ISY and OSY

# Standing Youth Committees §681.100

- Youth councils are no longer required
- WDBs are encouraged to establish a standing youth committee to
  - provide information and
  - to assist with planning, operational, and other issues relating to the provision of services to youth (WIOA §107(b)(4)(A)(ii)).
  - WDB can serve as the Standing (oversight) Committee
- The DOL has issued guidance on standing youth committees, in TEGGL No. 23-14 and in TEGGL No. 8-15

Part 683

# Administrative Provisions



# Transfers Between Adult and DW

- New – Governors must establish criteria for approving Local WDB transfers of funds between the adult and dislocated worker programs
  - The criteria must be in a written policy or in the State Plan

# Pay-for-Performance contracts

- Requires a feasibility study prior to implementing a Pay-for-Performance contract strategy
- No longer limited to 10% of funds.

# Administrative Costs and Cost Caps

- DOL: WIOA allows Local WDBs to use
  - up to 10 percent of adult /dislocated worker funds on Pay-for-Performance contract strategies (see WIOA sec. 134(d)(1)(A)(iii) and § 683.500),
  - 20 percent on incumbent worker training (see WIOA sec. 134(d)(4)),
  - 10 percent on transitional jobs (see WIOA sec. 134(d)(5)). See also § 680.140(b)(1)(v), (b)(4), and (b)(8).
- If the activity is considered program under § 683.215, then the cost would be subject to the caps discussed above.
- If the activity is considered administrative under § 683.215, it may be paid for out of the Boards' usual administrative funds, and it is not subject to the caps. Boards would not need to specifically account how much of the administrative funds are spent on these particular programs.

## Part 651

# General Provisions Governing the Wagner- Peyser Act Employment Service

# WIOA and the Employment Service

- Identifies the ES as a core program in the one-stop delivery system
- Embeds ES State planning requirements into the unified plan
- Requires the colocation of ES offices into the one-stop centers.
- Parts 651 - 654, and 658 make changes to ES program:
  - Definitions aligned for core programs
  - Data submission
  - Collaboration requirements.
  - Emphasis on reemployment services for UI claimants
  - Differentiates ES services from WIOA career services
  - Promoting robust Workforce Labor Market Information
  - Development of electronic tools for job seekers and businesses
  - Dissemination of best practices
  - Professional development for ES staff – out of the Governor's reserve

# Merit System Management

- Commenters said the regulations should require State workforce agencies to include a clearly defined management reporting structure for State merit-based employees
- **DOL:** Declined but States can if they want

§ 678.600

Subpart D

## Who May Operate a One Stop

# The One-stop Operator

## § 678.600

- A single entity
- A consortium of entities
- If the consortium is of OS partners, it must include 3 of the OS partners
- The one-stop operator may operate one or more one-stop centers.
- There may be more than one one-stop operator in a local area.



# Who Can be an Operator?

- An institution of higher education
- The Employment Service
- A community-based organization
- A nonprofit organization
- A workforce intermediary
- A private for-profit entity;
- A government agency;
- A Local WDB, with the approval of the chief elected official and the Governor;
- A local chamber of commerce
- A business organization
- A labor organization.
- A nontraditional public secondary school, i.e. night school, adult school, or a career and technical education school

# Who Cannot Operate A OS

- Elementary schools
- Secondary schools

# One-stop Operators

- Must disclose any potential conflicts of interest arising from the relationship of the operators with training service providers or other service providers ref § 679.430
- Cannot establish practices that create disincentives to serving individuals with barriers to employment who may require longer-term career and training services
- Must comply with Federal regulations and procurement policies relating to the calculation and use of profits ref. §683.295 and 2 CFR part 200

# Selecting the OS Operator

## § 678.605

- The OS Operator must be competitively procured
  - See WIOA §121(d)(2)(A) of WIOA
  - At least once every 4 years.
  - Based on local procurement policies and 2 CFR 200.318 -200.326. References to “noncompetitive proposals” in 2 CFR 200.320(f) should be read as “sole source procurement” for purposes of WIOA
- WDBs must document the procurement and the nature of the competitive process followed

# OS Sole Source Selection

## § 678.610

- WDB's may sole source a OS operator when consistent with 2 CFR 200.320.
- § 678.605(c) requires written documentation of the process of making such a selection.
- Sole source procurement must include conflict of interest policies and procedures that conform to § 679.430 for demonstrating internal controls and preventing conflict of interest.
- A Local WDB may be selected through a sole source procurement only with agreement of the chief elected official and the Governor.
  - The Local WDB must establish sufficient conflict of interest policies and procedures
  - The policies and procedures must be approved by the Governor.

# Current OS Operators

## § 678.615

- Local WDBs may compete for and be selected as one-stop operators, as long as:
  - Appropriate firewalls and conflict of interest policies and procedures are in place.
  - These policies and procedures must conform § 679.430 demonstrating internal controls and preventing conflict of interest.
- The same applies to State and local agencies

# The OS Operator's Role

## § 678.620

- At a minimum, the one-stop operator must coordinate the service delivery of required one-stop partners and service providers.
- Local WDBs may establish additional roles such as
  - coordinating service providers
  - being the primary provider of services
  - providing some of the services
  - coordinating service delivery in a multi-center area
- The selection process must articulate the role of the one-stop operator.
- A OS operator may not
  - Convene system stakeholders to develop the local plan
  - Prepare and submit local plans
  - Be responsible for oversight of itself
  - Manage or significantly participate in the competitive selection process for OS operators
  - Select or terminate OS operators, career services, and youth providers
  - Negotiate local performance
  - Develop and submit budget for activities of the Local WDB
- Entities serving as OS operator, and a different role in the OS system must establish firewalls and conflict of interest policies and procedures

# One-stop Operator as a Service Provider

## § 678.625

- There must be appropriate firewalls in place in regards to competition, and subsequent oversight, monitoring, and evaluation of performance of the service provider.
- The operator cannot develop, manage, or conduct the competition of a service provider in which it intends to compete.
- Where an operator is also a service provider, there must be firewalls and internal controls within the operator-service provider entity, as well as specific policies and procedures at the Local WDB level regarding oversight, monitoring, and evaluation of performance of the service provider.



# State Merit Staff § 678.630

- Where the operator is not a governmental entity State merit staff can continue to perform functions and activities in the one-stop center.
- The Local WDB and OS operator must establish a system for management of merit staff in accordance with State policies and procedures.
- Continued use of State merit staff for the provision of Wagner-Peyser Act services or services from other programs with merit staffing requirements must be included in the competition for and final contract with the one-stop operator