

WIA is Now WIOA: WHAT THE NEW BILL MEANS FOR PEOPLE WITH DISABILITIES

By David Hoff

Suggested audience for this brief: policymakers, federal and state agency personnel, service providers, educators

With the passage of the Workforce Innovation and Opportunity Act (WIOA), Congress has reauthorized the Workforce Investment Act of 1998 (WIA), including the Rehabilitation Act, through 2020. Commenting on the bill's passage, President Obama stated that the bill "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."

What does this 300-page legislation mean for people with disabilities? Major highlights include:

- ▶ A much larger role for public vocational rehabilitation (VR) as people with disabilities make the transition from school to adult life.
- ▶ Efforts intended to limit the use of sub-minimum wage.
- ▶ Required agreements between state VR systems and state Medicaid systems, and state intellectual and developmental disability (IDD) agencies.
- ▶ A definition of "customized employment" in federal statute, and an updated definition of "supported employment" that includes customized employment.
- ▶ A definition for "competitive integrated employment" as an optimal outcome.
- ▶ Enhanced roles and requirements for the general workforce system and One-Stop Career Centers in meeting the needs of people with disabilities.
- ▶ A number of disability agencies moving from the Department of Education (DOE) to the Department of Health and Human Services, including the Independent Living Program.
- ▶ Changes in performance measures, with potentially major implications for VR.

In general, WIOA has the potential for significant advancement in employment of people with disabilities. Here are some more details about the act's anticipated impact:

Increased VR role in transition: Each state's public VR program will now have a much larger role in the transition from school to adult life. Under WIOA, 15% of public VR funds must now be used for transition services, specifically pre-employment transition services as defined within the act.

These services include job exploration counseling, work-based learning experiences, counseling on post-secondary opportunities, workplace readiness training, and training on self-advocacy. Other services are also allowed if funds are available.

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In addition, each local VR office must undertake pre-employment transition coordination activities, including working with schools and the local workforce development system to engage these entities in transition activities.

Limitations on sub-minimum wage: A new section has been added to the Rehabilitation Act, Section 511. It requires (as of 2016) a series of steps before an individual under the age of 24 can be placed in a job paying less than minimum wage (almost all of which are positions with community rehabilitation providers in sheltered workshops or enclaves). Section 511 also prohibits schools from contracting with sub-minimum wage providers.

Requirement for formal cooperative agreement between VR and state Medicaid and IDD agencies: WIOA requires that state public VR agencies have formal



cooperative agreements with the state agency responsible for administering the state Medicaid plan, and with state IDD agencies, with respect to the delivery of VR services, including extended services.

This means that VR must have in place agreements with those agencies responsible for long-term supports for people with disabilities, impacting in particular individuals with IDD, those with significant mental health issues, and those with other issues requiring long-term care funded by Medicaid.

Movement of federal programs: Under another proposed version of WIOA, the Rehabilitation Services Administration, or RSA (the parent agency of public VR), would have moved to the Office of Disability Employment Policy at the U.S. Department of Labor. While RSA will remain under the DOE, a number of other agencies will be moving from DOE to the Administration for Community Living (ACL) at the Department of Health and Human Services. This is where the Administration on Intellectual and Developmental Disabilities, and the Center for Aging and Disability, are currently based.

Agencies moving to the ACL include the National Institute on Disability and Rehabilitation Research, operating under a new name (the National Institute on Disability, Independent Living, and Rehabilitation Research), and the Independent Living Program, which will be moving from RSA to ACL.

Competitive integrated employment defined: The Rehabilitation Act previously used the term *competitive employment* extensively, but never defined it (although it was defined in regulations). The WIOA now defines *competitive integrated employment* as full-time 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. This is considered the optimal outcome under WIOA.

Customized employment part of Rehabilitation Act: There is now a definition of *customized employment* in federal statute, defined 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 among the available services from public VR nationally.

Changes in definition of supported employment: The definition for *supported employment* has been modified. The adapted definition makes it clear 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. Also, the standard post-employment support services under supported employment have been extended from 18 to 24 months.

Focus of supported employment state grants on youth: While supported employment can be funded by public VR through general VR funds (\$3 billion in 2014), under the supported employment state grant program, funds are available to states to supplement supported employment services funded via the general VR funding (in 2014, the total supported employment state grant allocation was \$27 million).

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Under WIOA, half of the money that states receive under the supported employment state grants will now have to 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 four years. The definition of “youth with the most significant disabilities” in the implementing regulations will be a key issue.

Technical assistance for post-secondary education: The new law 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.”

Role of VR in One-Stop system: In 1998, WIA established a national network of One-Stop Career Centers, where assistance with employment and training is available to any individual (including people with disabilities). There are currently 1,700 One-Stops (known as American Job Centers) across the United States.

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Under WIA, all One-Stop partners had representation on the state and local workforce boards. Under WIOA, this is no longer the case.

However, WIOA designates certain programs as “core programs” in the workforce development system. Public VR 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, the state Employment Service (Wagner-Peyser), and Adult Education and Literacy.

Changes in performance measures: Under WIOA, the core programs are subject to common indicators of performance. For adults, these include a) entering and retaining employment, b) median earnings, c) obtaining an educational credential (high school diploma, post-secondary credential), d) skill gains via post-secondary education and training, and e) effectiveness in serving employers.

These performance measures are a new requirement for state VR programs, and the changes in current VR performance indicators will be a critical implementation issue.

Funding of One-Stop infrastructure: As noted, public VR remains a mandated One-Stop partner under WIOA. One-Stops are overseen by a local workforce board, of which public VR is a member. A major issue under the WIA was payment of the cost of the One-Stop infrastructure by One-Stop partners, which WIA was unclear on. WIOA attempts to resolve this issue.

Under the new law, payment for One-Stop infrastructure and other costs will be determined at the local board level. However, if agreement cannot be reached, the governor will develop the requirements for payment of One-Stop costs by One-Stop partners. Under WIOA, public VR can be required to use a maximum of 0.75% of its funds for One-Stop infrastructure, which will gradually increase to a maximum of 1.5% after five years.

Increased emphasis on role of general workforce

development system: A number of provisions in WIOA 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:

- ▶ Local workforce development boards will have to ensure that there are sufficient service providers in the local area with expertise in assisting individuals with disabilities with their career and training needs.
- ▶ WIOA explicitly states that state and local workforce development boards, which provide oversight of the workforce development system, may include (as members) community organizations that provide or support competitive integrated employment for individuals with disabilities.
- ▶ 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 the development of strategies to support career pathways for individuals with disabilities to enter and retain employment.
- ▶ WIOA states that local workforce development boards may have standing committees. Among the three standing committees specified in the legislation is one on the provision of services for individuals with disabilities. This could serve as an important forum to influence the ability of the workforce system to meet the needs of job seekers with significant disabilities.
- ▶ Annual assessment of physical and programmatic access of One-Stop Career Centers for people with disabilities is now required by federal statute.
- ▶ Disability is to be a consideration in development of state performance requirements in use of workforce development funds.
- ▶ The obligation of the general workforce system to serve youth with disabilities is emphasized within WIOA in multiple places.
- ▶ Under 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 allowable activities is improving coordination of employment and training activities with programs for individuals with disabilities. Programs under state IDD agencies, State Independent Living Councils, and centers for independent living are cited as specific entities this would apply to. WIOA also states that local workforce development funds, overseen by local workforce development boards, may be used for similar activities.

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WHAT'S NEXT

Implementation of WIOA will occur over the next couple of years. A major next step will be publication of proposed regulations for public comment by mid-January 2015. These regulations will provide details on the implantation of WIOA. All major provisions of WIOA, except as specifically noted in the legislation, will go into effect on July 1, 2015.

FOR FURTHER INFORMATION

FOR MORE ON THE WIOA, CHECK OUT THE FOLLOWING WEBSITES:

US Department of Education - Rehabilitation Services Administration
www2.ed.gov/about/offices/list/osers/rsa/wioa-reauthorization.html

US Department of Labor
www.doleta.gov/wioa

Full bill text:
<https://beta.congress.gov/bill/113th-congress/house-bill/803/text>



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