



STATE OF WASHINGTON
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

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Dear Secretary Perez and Secretary Duncan:

Washington's Workforce Training and Education Coordinating Board (Workforce Board) is excited about the potential of the Workforce Innovation and Opportunity Act to improve our state's workforce development system, achieving better results for both job seekers and employers.

The Workforce Board solicited comments on the Notices of Proposed Rulemaking (NPRM) issued by the U.S. Departments of Labor (DOL) and Education (ED) on April 16. A number of key themes and concerns emerged from the comments received from the state's workforce system. These themes are described in greater detail in this letter. The full compendium of verbatim comments received is attached and sorted by theme. Broadly, these themes focus on:

- **Regulatory flexibility** that provides concrete guidance on WIOA's overall goals, but gives the state and local areas room to innovate and adapt programs to best serve their communities.
- Additional guidance on **roles and responsibilities in One Stop** infrastructure, funding and management.
- **WIOA funding and the financial challenges** to make meaningful changes to our state system as directed by the law.
- More meaningful **performance measurement models that incent desired behaviors**.
- Guidance on **creating aligned career pathways**, including a better examination of how apprenticeships and pre-apprenticeships fit into the career pathways approach.
- Strategies to maximize WIOA's emphasis on **leveraging advances in technology to virtually deliver services** to participants.
- A desire for guidance in integrating new partners into **Unified and Combined Plans**, specifically how to incorporate DOL and ED programs such as Unemployment Insurance and Carl Perkins Act programs into a combined plan.
- Methods to increase **employer engagement** in the workforce system.
- The need to **clarify the meaning of key terms** in WIOA and the proposed rules.

WIOA offers a fresh opportunity to strengthen the workforce development system to include system partners and customers that may not have been served as well, or at all, under the current system. The Board is exploring all of these possibilities to best determine how an improved system can best address long-standing issues in workforce development. Planning and implementation must be a thoughtful process, and system transformation cannot be rushed. We ask that the Departments keep this in mind when creating the final rules for WIOA implementation.

We need time and flexibility to craft policies at the state and local level that effectively integrate service delivery across a wide range of programs. This should include sufficient room for trial and error and learning from practical experience as WIOA is implemented.

We also see a need for increased interagency collaboration between the Labor and Education Departments; specifically, more coordinated guidance on implementation of the law, demonstrated permeability between and among funding streams, flexibility on performance accountability, and more incentives for programs within the two Departments to participate in a Combined Plan.

The following themes emerged from comments collected from Washington's workforce stakeholders.

Regulatory Flexibility

A key theme of the statewide comments is a call for federal regulations that allow states and local areas maximum flexibility in WIOA implementation and that account for the varying economic and demographic composition of local areas.

The Board views WIOA implementation as a partnership. Ideally, DOL and ED will set the course by offering an overarching vision for the nation's workforce development system, while also defining the key features of a high-performing system. In turn, state and regional boards should have maximum flexibility to determine how the act is implemented at the local level. Our system's desire for maximum flexibility threads through Washington's comments on all aspects of WIOA implementation—from designing integrated service delivery models and useful performance measures to aligning career pathways and programmatic strategies presented in our state's unified or combined plan.

Guidance on rules for the combined plan programs is also warranted. Specifically, where are the points of flexibility in the authorizing statutes of these programs that provide states the discretion to braid resources together differently?

Even after federal rules are adopted, WIOA's framework must not be static. We seek reassurance from the Departments that the regulatory framework that emerges from this comment process will be refined over time as states and local areas take full advantage of WIOA's opportunity for transformative change. States have an obligation to reconsider their state plan after the first two program years. We ask that the Departments consider reviewing WIOA's regulatory framework at the same time.

Infrastructure, Roles & Responsibilities

Washington has a number of comments focusing on infrastructure, roles, and responsibilities of the state and local boards. These largely relate to concerns and requests for clarification on resource sharing and flexibility in One Stop Center requirements. WIOA is comprehensive in outlining service and operational expectations for a fully-integrated and seamless One Stop delivery system. However, various

One Stop system partners are governed by their own program goals and guidelines, in addition to WIOA requirements. These historically have not always aligned.

Washington's Workforce Board and workforce partners encourage the Departments to clarify guidelines on infrastructure cost-sharing, including in-kind contributions and the use of administrative vs. program funds. There were also a number of questions around the role of system partners in One Stop Centers and lack of clarity on staff oversight in the centers. Some commenters shared concerns about integration of combined plan partners, and potential confusion over responsibility for performance outcomes and operations for combined and core partners. Ideally, we would appreciate rules that allow the local boards and Chief Local Elected Officials (CLEOs) to retain flexibility to make the necessary determinations for cost-sharing and operational procedures at the local centers.

Funding

One of the major challenges in WIOA implementation is the large amount of system modification the Act directs—in the near total absence of funding for new or upgraded infrastructure, technology, or staff training. The small amounts available do not even fully cover the costs of consultation and planning for implementation or formal plan development. Therefore, states need both flexibility in scheduling and deploying limited funds, and clarity, both in the fiscal rules and about what the Departments identify as the essential priorities for implementation.

Performance Measurement

WIOA makes many changes in defining which services are provided under the Act, along with adding measures to the accountability system to assess performance. However, WIOA doesn't create performance accountability metrics to evaluate the system as a whole. Instead, the Act continues to evaluate individual program performance. If we want to use performance evaluation as a diagnostic tool for continuous improvement, the tool must be relevant to the systemic changes we want to make. If WIOA is a model for single participants to be served by multiple programs, one question that goes unanswered is how people in larger demographic groups—from those with disabilities to those deficient in basic skills to those who are dislocated—fare across multiple programs. We need a performance measurement system that reflects participation in multiple programs and provides more accurate results that can lead to change.

Also, because the performance framework remains focused on individual programs, partners may be wary of collaborating with programs serving customers with multiple barriers for fear of driving individual program results down.

The performance metrics themselves can also cause problems and unintended consequences. For example, when it comes to youth, the earnings performance measure may come into conflict with encouraging further education. While rising education levels boost median earnings in the long term, in the short term further education tends to push down earnings. That's because those enrolled in postsecondary education often work fewer hours in lower-wage jobs.

WIOA's added emphasis on entrepreneurship training is not likely to produce exiting applicants who will score well on the earning measures. A new business often takes time to become profitable. Further, it's difficult to measure how many customers actually launch their own businesses without better access to

self-employment data. Entrepreneurship training also will not score well on the credential measure unless recognized entrepreneurship credentials are developed.

Finally, if we are to truly enlarge the workforce development system to embrace a broader number of programs and a more challenging customer base through combined planning, then federal performance measures will need to reflect this change. The Departments should re-evaluate performance targets by starting at “ground zero” and conduct goal-setting from a new baseline. Performance targets must make sense for the additional people the system is trying to serve.

Additional areas in need of flexibility include:

- Allowing states to use ABE/ELA progress measures aligned with state education and workforce systems rather than standardized testing.
- Allowing changes in training provider eligibility criteria for providers that are different from WIA occupational skill providers (and possibly different from each other), such as pre-apprenticeship, entrepreneurial training, customized and incumbent worker training, and youth services.
- Allowing training programs initial eligibility to last longer than one year when more time is required to generate enough exiters to provide a meaningful outcome measurement.

Career Pathways

WIOA has motivated our workforce system to fine tune the alignment of education, training, counseling, support services, credentials, and work experiences into coherent career pathways with sequential routes to certification or employment. This requires maximum flexibility for our system partners as they work together to create successful career pathways programs.

Registered apprenticeships are a key part of a career pathways approach. Under WIOA, registered apprenticeships *and*, presumably, pre-apprenticeships are a part of the Eligible Training Provider List. However, it’s not clear whether the performance measures fit well with these programs. A number of comments we received from our workforce stakeholders suggest the proposed rules might serve as a disincentive to forging closer partnerships. Specifically:

- More guidance is needed in the federal regulations about appropriately measuring and reporting apprenticeship performance. For example, many apprentices do not complete their program because they’re able to land jobs with sufficiently high earnings before they reach journey level. It’s not clear whether, or how, completion rates should be reported for apprenticeship programs on the ETPL.
- Pre-apprenticeships should be assessed with criteria that makes sense to the activity, rewarding positive outcomes such as enrollment in an apprenticeship program or a community college program, not simply employment and earnings.

The WIOA regulations should account for these objectively positive outcomes even when the outcome is not necessarily “completion” of the pre-apprenticeship or apprenticeship program.

Virtual Service Delivery

Technology has become an even more integral part of our daily lives since WIA's enactment in 1998. WIOA reflects this emphasis on using technology to maximize service delivery, including self-service. However, the proposed rules exclude self-service-only individuals from the definition of "participants" for measuring performance. This cuts against WIOA's focus on leveraging technology to improve service delivery. State workforce systems have made substantial investments in technology over the past decade to reach a larger and more diverse self-service population. Improvements in job search and placement technology have narrowed the performance results between self-service participants and participants who received staff assistance. Guidance is now needed on how our system should handle the growing number of people who use technology to connect with jobs and career resources. At the same time, states need credit for serving additional people through self-service, and for providing the technological tools that boost this participation.

Funding also matters. For example, while our system recognizes the need to strategize how we will use technology to improve service delivery, the responsibility to develop a state technology plan as part of the state planning process is onerous and potentially very expensive. States must first identify funding to fully evaluate the technology that currently exists, decide which aspects of the technological infrastructure can be adequately modified, and determine which aspects must be developed or built anew. This analysis and the development of useable design specifications will require more resources than currently available in WIOA discretionary funds. Building out a system will cost far more than the initial assessment and planning stages. Our state would benefit from further guidance on where to focus our efforts on technology planning, specifically whether the state strategic plan can describe a schedule for developing a comprehensive technology plan, and how our state should prioritize investments in technology as funds become available.

Unified and Combined Plans

WIOA provides states with the option of crafting either a unified or a combined state plan. While WIOA speaks to a system of broad inclusivity, upon examination, there is little incentive for states to immediately embrace the development of a combined plan. Washington's Workforce Board encourages the Departments to reach consensus on how a combined plan can benefit not only the workforce system as a whole, but individual programs as well. We request guidance that allows states to develop a combined plan without the threat of a loss of funds if elements of the individual programs are not specifically identified. We also ask for further guidance on how accountability metrics and reporting requirements for those programs included in the plan will not be a disincentive for inclusion.

Specifically, we ask the Departments of Labor and Education to develop guidance for the inclusion of programs under your purview in a combined plan, such as Unemployment Insurance and Carl Perkins Act programs.

Employer Engagement

Employer engagement is a central principle of WIOA. Washington's Workforce Board has worked for many years to move employers from the category of policy stakeholders to actual shareholders and co-investors in the state's workforce development system. We believe that new service allowances and flexibility in WIOA can help us move more rapidly toward this goal.

We appreciate that the Departments have used WIOA's requirement for sector-based practices as a key mechanism for building meaningful partnerships with employers, and for achieving better outcomes for both employers and job seekers. However, sector partnerships should not be the end goal, but a stepping stone toward a system that truly engages employers in all industries and all geographic regions, including rural and remote areas. Rules should provide significant flexibility to local areas to work with the full spectrum of employers in their community, and encourage employer involvement in program development, implementation, resource sharing, evaluation, and accountability.

Employer satisfaction with workforce development should be measured through the lens of the employer, not the program. Whether or not an employer is involved in a sector partnership, as proposed in the NPRM, is of little consequence if the employer's business needs are not met. Effectiveness in meeting employers' needs should be evaluated based on outcomes for those employers. The Departments should work closely with the employer community to develop a new system evaluating employer impact. We anticipate different industry sectors will have different views of effectiveness, and we support a measurement system that will allow any employer to see impact for their sector in the results. It would be beneficial and informative to state and local areas to have a national business impact measurement system that can help benchmark effectiveness in the wide variety of sectors served by the system. The new system should take into account the need for businesses to keep business information confidential and unidentifiable. The NPRM option stated in Proposed §677.155(a)(1)(vi) "...to look at this as a shared indicator across programs, as many employers are served by multiple programs" is the right direction to go in measuring effectiveness in serving employers.

Need for Clarification

Finally, Washington received over 50 combined pages of comments from stakeholders across workforce development providers, coordinators, and advocacy groups. Over half of the comments received requested clarification on definitions, terms, proposed regulations, and implementation strategies. We would appreciate the Departments' attention to these requests for clarification from our state's system partners.

Thank you for your time and consideration of Washington's response to the NPRMs. We have sorted the comments by themes, and verbatim comments by section are attached to this document. We have also submitted all comments electronically. Please feel free to contact Eleni Papadakis, Executive Director of the Workforce Board, if you would like to communicate further about these comments.

Sincerely,



Cindy Zehnder, Workforce Board Chair