

Washington WIOA NPRM Responses

Part 603 – Federal-State Unemployment Compensation Program

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Robinson, Jeff (ESD) LMPA UI Research and Forecasting	603 - Federal-State Unemployment Compensation Program	<p>I reviewed the proposed WIOA rules regarding the disclosure of confidential Unemployment Compensation information under WIOA and it greatly expands access of confidential UC information to “public officials”. It expands and makes clear of who and what entities are considered “public officials”. The new rules they are proposing do not change any requirements relating to the permissible or mandatory disclosure of confidential UC information.</p> <p>My one comment is on page 26, first paragraph, which specifies “quarterly wage record information” to include only three data elements or categories of data elements: (1) a program participant’s SSN(s); (2) information about the wages program participants earn after exiting from the program; and (3) the name, address, State and (when known) the Federal Employer Identification Number (FEIN) of the employer paying those wages.</p> <p>Instead of limiting the disclosure of the wage information to just wages after exiting from the program I believe it should be expanded to include all program participant wages, pre and post exit. Evaluation studies, as well as state and local performance measures, typically require pre-program wage information and this would be difficult without such information.</p>

Part 651- General Provisions Governing the Federal-State Employment Service System

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Ken Kelnhofer Administrator, WorkSource Redmond Employment Security Department	Part 651, General Provisions Governing the Federal-State Employment Service System	<p>There appears to be incongruence between WIOA Title 3 amendments to Wagner-Peyser regulations at part 651 and WIOA stemming from the following DOL explanation at--20802 Federal Register / Vol. 80, No. 73 / Thursday, April 16, 2015 / Proposed Rules. The definition of <i>tests</i> is proposed to be deleted because the Department does not offer tests to ES participants.</p> <p>Diagnostic testing has some relevance in a one stop setting as WP business outreach staff attempt to identify applicants for employers who are becoming more selective of candidates who have the necessary skills. For example, Boeing IAM apprenticeship programs are presently recruiting for applicants who must meet minimum cutoff scores on COMPASS assessments/tests. In King County WorkSource ES leadership is contemplating the ability to proctor ACT COMPASS tests as a licensed satellite of a willing community and technical college to ensure applicants meet minimum standards as applicants. Candidates may or may not be students of the college.</p> <p>Contrary to DOL's explanation at 20802 Federal Register / Vol. 80, No. 73 that ES does not offer tests, and therefore by implication any diagnostic skills-related individualized career services are irrelevant to WP staff or ES customers, the following proposed regulations contradict the department's explanation:</p> <p>20938 Federal Register / Vol. 80, No. 73 / Thursday, April 16, 2015 / Proposed Rules:§ 652.206 May a State use funds authorized under the Act to provide applicable "career services," as defined in the Workforce Innovation and Opportunity Act? Yes, funds authorized under sec. 7(a) of the</p>

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		<p>Act [Wagner-Peyser] must be used to provide basic career services as identified in § 678.430(a) of this chapter and secs 134(c)(2)(A)(i)-(xi) of WIOA, and may be used to provide individualized career services as identified in § 678.430(b) of this chapter and sec. 134(c)(2)(A)(xii) of WIOA. Funds authorized under sec. 7(b) of the Act may be used to provide career services. Career services must be provided consistent with the requirements of the Wagner-Peyser Act.</p> <p>Federal Register /Vol. 80, No. 73 /Thursday, April 16, 2015 / Proposed Rules 20641 Sec 678.430(b): Individualized career services must be made available if determined to be appropriate in order for an individual to obtain or retain employment. These services include the following services, as consistent with program requirements and Federal cost principles:(1) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include-(i) Diagnostic testing and use of other assessment tools; 134(c)(2)(A)(xii) services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of-(I) comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include-(aa) diagnostic testing and use of other assessment tools.</p>
Reviewer: Alberto Isiordia, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Definition of Farmwork – We support eliminating references to NAICS codes. In doing so, it reduces complexity by no longer requiring cross-referencing on separate web sites and researching each individual code. We also support the inclusion of food “processing” which allows for the elimination of “migrant food processing workers”. This change allows the SWA to more easily train staff to identify MSFWs and creates stronger alignment with WHD and OFLC regulations. We also support the addition of “fish farming” to allow for alignment with WIOA sec. 167. Alignment with WIOA 167 definitions allows for enhanced collaboration among SWA and WIOA 167 partners that serve MSFWs.
Reviewer: Alberto Isiordia, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Definition of Field Checks – DOL’s reliance the term “placements” is inconsistent with WIOA common measures. Given placements are not a required performance measure and are an unreliable measure (placements do not always align with entered employments), many SWAs do not actively seek out placement information. Instead, many SWAs rely on unemployment insurance data collected from employers that is lagged and may not be reported until a job order has closed. By relying on SWAs to confirm placements, DOL will in effect reduce the SWAs obligation to conduct field checks which could be viewed contrary to the Department’s intent to ensure greater oversight of agricultural clearance orders. It should also be noted that requiring SWA staff to seek out placements beyond normal standard procedures may impose a burden that is not expected from other job orders given many agricultural employers do not immediately report placements during busy harvest periods. Lastly, it should be noted that in Washington all agricultural clearance orders are tied to the H-2A program. While H-2A requires employers to track placements, these employers are not required to report such data to the SWA. Only to DOL. If DOL intends to use “placements” as a means to grant SWA staff jurisdiction to conduct field checks, it is recommended that DOL require participating employers in the agricultural clearance system to report placements after work has begun to the SWA as a condition of participation.
Reviewer: Alberto Isiordia, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Definition of Field Visits – We support the addition of the definition of field visits. This allows SWA staff and employers to better understand the difference between a field check and a field visit. This has been a topic of discussion and confusion in Washington State.
Reviewer: Alberto Isiordia, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Definition of Outreach Contact – We support the addition of the definition of outreach contact. The addition of this term provides clarity, particularly when considering the inclusion of the word “each”, and raises the importance of the work done by MSFW outreach staff when considering outreach contacts don’t always result in the registration of a participant.

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Reviewer: Alberto Isiordia, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Definition of Seasonal Farmworker – The proposed definition eliminates thresholds tied to number of days (25) and proportion of total wages (majority in farm work) an individual must have to qualify as a farmworker under WIA. While eliminating such language may expand consideration of individuals that may otherwise not have qualified as seasonal farmworkers, it may also make it difficult to implement integrity processes that validate the SWA’s classification of individuals as MSFWs.
Craig Carroll, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Employment-Related Laws - The definition for employment related laws, “...means those laws enforced by DOL’s Wage and Hour Division (WHD), Occupational Safety and Health Administration (OSHA), or by other Federal, State, or local agencies enforcing employment-related laws.” I don’t think it can be clearly defined what an employment-related law is when it is vague as to what “other” agencies enforce these laws. You would need to know what the definition of employment-related laws is in order to identify the agencies that enforce them. This doesn’t define the term. We would like to request clarification.
Craig Carroll, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Field Visits - Definition includes, “...The monitor advocate or outreach personnel must keep records to discuss ES services...” We don’t understand, “...must keep records to discuss...” This appears to be poor wording. We recommend revising this language.
Craig Carroll, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Job Development - The definition relates to the applicant rather than the employer in that there can be no suitable opening on file for the applicant in order to provide a job development. It is possible that there could be a suitable opening on file for the same type of job that the applicant doesn’t want to be referred to for whatever reason, or was previously not hired for, and this should not restrict staff from providing a job development opportunity.
Craig Carroll, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Migrant Farmworker - “...farmworker is unable to return to his/her permanent residence within the same day....” How is “unable” defined? This is very different than “not reasonably able”, or some other definition. Taken literally, if someone is 5 hours from their home and finish work at 6:00pm, they are able to return to their home and be there by 11:00pm.
Craig Carroll, Employment Security Department	651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Outreach Contact - Just a note that there is no reference to the quality or depth of the information, offer of assistance or follow up provided to MSFWs by outreach staff. An outreach contact under this definition is extremely broad.

Part 652 – Establishment and Functioning of State Employment Services; Employment, Grant programs-labor, Reporting and recordkeeping requirements

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Ken Kelnhofer, Employment Security Department	652.202 May local Employment Service Offices exist outside of the one-stop service delivery system? (See also 678.310 & 315)	<p>The proposed Wagner-Peyser regulation and cross references in proposed Title 1 regulations concern physical co-location to enhance services integration in high-quality one-stop centers. Departments seek feedback, particularly from workforce programs outside WIOA title I and III, on whether the proposed requirement that other partners be present more than 50 percent of the time creates an impediment to participating in the one-stop system and whether any other changes would facilitate colocation.</p> <p>The Department is proposing to delete paragraph (b) of 652.202 to provide a clear statement that ES offices must be collocated in one-stop centers. But WIOA, like WIA, does not require more than one comprehensive one-stop center per workforce development area. Hence</p>

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Paragraph (b) of the WIA Title III amendments discusses ES Affiliated offices/sites where ES staff are in addition to ES staff in one-stop centers [section 121 (e) (2)(A)] or, alternatively, possibly where there might be an absence of a full center and need to create a new one. The related discussion in proposed 678.310 and primarily 678.315 is meant, over time, to address greater partner integration where ES labor exchange services are delivered. However, the discussion is very confusing with overlapping references to *one-stop centers*, *affiliated sites*, and even *affiliated centers*. Intentionally, the remedy addressed to the goal of eliminating standalone Wagner-Peyser employment service centers does not require co-location obligations for non-ES partner programs. Our observations from WIA is that, in all practicality, proposed co-location requirements for standalone ES affiliates would hardly be a force for change where there is less than ideal program co-location as even a single non-ES partner program staff present more than 50 percent of the time would minimally satisfy the new Wagner-Peyser requirement. Arguably where stand alone Wagner-Peyser services are an issue, higher minimum expectations for integrated services seem in order. But the problem should not be approached unilaterally with this single core program.

Choosing the treatment for the ailment, where it exists, must be formulated recognizing the reality of Wagner-Peyser as a predominant long-term leaseholder in many local workforce development systems. Financial stability with long leases and fluctuating WP staffing drive co-location to the extent that a particular facility has space. This is predictable as staff levels generally lower counter to the business cycle and with diminished unemployment rates. Perhaps Title 1 and Title III should be required to co-locate in proportion to participants served forming, over time, the basis of a more financially sound, center-based system with fewer affiliates and locally unique inviting core and non-core program partners as space is available. The proposed regulations fall decidedly short of movement in that direction for the two DOL majority core programs where it has not already happened under WIA. Requiring standalone ES offices to find a single part-time program partner is too minor an incentive to incite relocation where possible to existing centers. The more likely scenario for standalone ES affiliates with space is to absorb WIA staff so that the two core programs form a new center. Proposing a 2 DOL core program requirement would be an easier path for ES stand alones to become centers thereby generating more centers. And where there is no space the policy would create an incentive to work toward acquiring new locations suitable for a full center.

(NOTE: A Washington State example to try proposed changes on for size is WDA 5 and its largest populated MSA in the region—Wenatchee with about 90,000. Because only one comprehensive center is required per local area, the comprehensive center rule is not applied to Wenatchee since Moses Lake and Omak have one-stop centers. In Wenatchee, ES and SkillSource--the Wenatchee WIA Title 1B provider--have long maintained substantial separate facilities two miles apart. This is not to imply any indication of discord between ES and SkillSource. In fact, from time to time the North Central WDC staffed by SkillSource has opened discussions for establishing a common center, provided space and parking becomes available at marketable rates meeting all the desirable specifications. Collaboration between the core programs is excellent, but co-location is not foreseeable even after many years as it is not seen as a priority. Applying proposed changes in 652.202, 678.310, 315 will not impact movement toward a center in Wenatchee since ES has usually accommodated at least one other partner program. For years that was the 167 program until it moved out around 2006 seeking less costly rent. Adding one alternative program staff to the ES office simply for complying the proposed Wagner-Peyser no-standalone rule would be fairly simple to accomplish just about anywhere ES may be in a standalone situation, but meaningless as far as the stated goals for improved service, and coordination, less duplication and greater access. And the proposal as minimally stated will do little to improve efficiencies and stabilization of facilities costs. However, a requirement to co-locate Adult and DW with ES into full centers is likely to be sufficient impetus over time to have the core program partners concentrate on finding suitable facilities, even

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		though that poses a hard problem in many localities.)
Ken Kelnhofer, Employment Security Department	652.206 May a State use funds authorized under the Act to provide applicable “career services” as defined in the Workforce Innovation and Opportunity Act?	The Department is seeking comments on how services provided by the ES can be more aligned with other services in the one-stop delivery system etc. Four suggestions offered are (1) to require, over time, maximum co-location of ES and Title 1 Adult and DW program staff forming full one-stop centers with foundations of at least these two core programs in each labor market area (which may be sub-areas of WDAs); (2) voluntary but standardized triage processes/forms used by staff, but voluntary for customers; (3) mandatory coordination of business services; and (4) more purposeful and deliberate ongoing joint staff development training.
Ken Kelnhofer, Employment Security Department	652.207 How does the State meet the requirement for universal access to services provided under the Act?	The Department proposes to include “virtual services” as a type of <i>self-service</i> provided by the ES. We can recommend expanding the characterization of <i>virtual services</i> to include <i>facilitated self-help services</i> . New labor exchange staff tools are allowing for data mining of management information systems and email outreach to large numbers of participants for individualized job matching. This is might be considered <i>facilitated self-help service</i> as staff initiate email invitations to consider applying for matched job openings, versus a passive <i>self-help service</i> modality comprised mainly of providing access to technology without staff guidance. In other words, virtual does not mean ES staff are passive.
Ken Kelnhofer, Employment Security Department	652.216 May the one-stop operator provide guidance to State merit staff employees in accordance with the Act?	<ul style="list-style-type: none"> • The DOL seeks comment on whether any other changes are needed to allow the one-stop operator to ensure the efficient and effective operation of the one-stop center. As proposed 678.605 requires a competitive selection of the one stop operator. It would be helpful to clarify whether the rule for one stop operator competitive bidding is applied only at the region/state sub-area level (WDA), or if it also applies to operators of one-stop sites. If the WDB holds a competition for a single WDA one-stop system-wide operator, but maintains site operators designated or appointed without competition, is that sufficient for compliance? • Proposed 678.630 affirmatively addresses the concern about State merit staff continuing to work in a one-stop where the operator is an entity other than the State. But the Department’s explanations include a real example that implies it is satisfactory under WIA for a large-scale non-profit to put State merit staff under the <i>operational direction</i> of the one-stop operator. Detail is not provided on the extent of <i>operational direction</i> which is appropriate beyond the minimal expectation proposed in 678.620(a) for local <i>coordination across one stop partners and service providers</i>. We would comment that while it is clear <i>operator guidance</i> is permitted, State merit staff operate their program responsibilities and processes under SWA state level program direction to ensure policy, grant and contract compliance, and to achieve consistency perceived by the public as official, lawful and equitable. Providing meaningful assistance to UI claimants is an especially sensitive responsibility exemplifying this point. Non-ES operational program <i>guidance</i> in this respect must be welcomed when offered. That is understood. However, <i>operational direction</i> even within divisions of SWAs concerning UI assistance in one-stops is difficult without adding another possible layer of non-governmental authority. <p>Under WIA in Washington state, wherever ES is the leaseholder or has majority staff, ES is usually the sole or consortia operator. With these mostly natural operator arrangements that have evolved, <i>management/operational direction</i> of State merit staff by non-ES operators has not been a widespread concern. In a few instances there has been some confusion at the local and state program coordination level because state ES policies may contradict particular <i>non-ES operator directions</i> at the local level.</p>

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		<p>Under a mandatory competitive process for choosing operators, the chance for other entities as operators overstepping their appropriate span of control over SWA staff from <i>guidance</i> to <i>operational direction</i> concerning ES programs is predictably increased and presents unnecessary risk. This risk is the potential erosion of continued ES grantee responsibility implied from section 652.203 for funds authorized under Wagner-Peyser.</p> <p>States have long understood that with federal grant funding comes the necessary and appropriate expectation of agency grantee management control and direction of State merit staff. We might suggest that the rule requiring competitive bidding for one-stop operators should include approved contract statements making absolutely clear that the one-stop operator's authority does not extend to processes that override direct grantee responsibilities for legitimate program management control. Grantee program management of operations should not be inadvertently superseded by a Workforce Development Board not providing clear boundaries in their contract with the operator given that the operator may not be a state agency and understand the responsibilities unique to the government environment. It might seem that the boundaries to not override agency authority should be obvious, but as the system matures and expands bringing in some new entities into leadership roles that may not be the case. The lack of express limitations on operator scope of authority is likely to result in situations where non-profits (and even for-profits) become operators and have inadequate controls over their own personnel resulting in unnecessary conflict for ES line staff of what to do and who to follow on program specific matters.</p> <p>State Workforce Agencies would have particular concerns with regard to multiple non-ES operators across the state drifting beyond guidance to giving different policy or process direction to its Wagner-Peyser, JVSG and TANF staff. This is an important concern with respect to the SWA's expectation to manage its operations for quality and consistency statewide through program coordinators subject to Governor oversight as a state executive agency. The concern born by occasional negative experience is that it's a slippery slope at the local level from <i>operational guidance</i> to <i>operational direction</i> considering the many locations where ES staff are the majority and the SWA is the facility leaseholder. May we emphasize again that DOL should make clear in the regulations that the role of operators should not be management of other entity program staff and especially of processes operated by State merit staff. Under WIA there are instances when this has caused occasional confusion or paralysis of efforts to develop standard work processes from the SWA statewide program coordinator level. The rule might define the operator role more rigorously as well. A suggestion is that it entails duties similar to coordinating partner team meetings and projects; improving coordination between job seeker employment, training and education programs; improving inter-partner communications/technology; marketing; business outreach and services coordination; general training for local partners; and improving the common customer satisfaction, experience and outcomes.</p>
<p>Ken Kelnhofer, Employment Security Department</p>	<p>652.3 Public Labor Exchange Services System</p>	<p>The Department is seeking public comments on any issues or challenges in aligning labor exchange services described under WIOA with the labor exchange services provided by the ES.</p> <ul style="list-style-type: none"> • Wagner-Peyser 651 definitions: <ul style="list-style-type: none"> ○ The rule proposes replacing of references to <i>applicants</i> with <i>participants</i>. The Department makes clear that this does not involve the narrower definitions applied for purposes for performance calculations. The central purpose of the ES is “to improve the functioning of the nation’s labor markets by bringing together individuals seeking employment with employers seeking workers” [652. Section 1 intro]. The language of the ES Wagner-Peyser funded labor exchange has long standing parlance rooted both in the notion of social program <i>participation</i>, and in <i>applying</i> for jobs. Labor exchange staff do not carry “caseloads” of participants, but interact with businesses and job seekers to achieve suitable and successful <i>job</i>

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		<p><i>applications and job placements.</i> Employer customers are not familiar with their need for <i>participants</i>, and people do not <i>participate</i> in jobs. Applicants would find the substitution of terms, if ES labor exchange staff begin referring <i>job applicants</i> as <i>job participants</i>, as odd and resonant of something foreign to their intention to get help applying for jobs. Successful <i>participation</i> is language describing social service/program enrollment, pre-job search barrier removal. <i>Participation</i> is not in the context of the employer. We believe there is insufficient justification provided in the proposed rule to purge across the board the term <i>applicant</i> in favor of <i>participant</i> just to match mainly enrolled program references in WIOA. There should be room for both terms since ES does operate eligibility programs with enrolled participants with the intent of preparing them to be successful job applicants as it integrates JVSG, TAA, UI Reemployment and TANF participants with labor exchange.</p> <ul style="list-style-type: none"> ○ “The definition of tests is proposed to be deleted because the Department does not offer tests to ES participants.” Assessments and tests have been and are integrated into career assessments and planning. Sometimes employers request diagnostic testing such as Keyboarding speed tests, WorkKeys or minimal passing scores on ACT COMPASS tests to qualify for apprenticeships. By implication of DOL’s statement above, any diagnostic skills-related individualized career services are irrelevant to WP staff or ES customers, the following proposed regulations contradict the department’s explanations: <p>§ 652.206 May a State use funds authorized under the Act to provide applicable "career services," as defined in the Workforce Innovation and Opportunity Act?</p> <p>Yes, funds authorized under sec. 7(a of the Act [Wagner-Peyser] must be used to provide basic career services as identified in § 678.430(a) of this chapter and secs.134(c)(2)(A)(i)-(xi) of WIOA, and may be used to provide individualized career services as identified in § 678.430(b) of this chapter and sec. 134(c)(2)(A)(xii) of WIOA. Funds authorized under sec. 7(b)of the Act may be used to provide career services. Career services must be provided consistent with the requirements of the Wagner-Peyser Act. Sec 678.430(b) Individualized career services must be made available if determined to be appropriate in order for an individual to obtain or retain employment. These services include the following services, as consistent with program requirements and Federal cost principles:</p> <p>(1) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include- (i) Diagnostic testing and use of other assessment tools; 134(c)(2)(A)(xii) services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of- (I) comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include- (aa) diagnostic testing and use of other assessment tools;</p>
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Part 653 – Agriculture, Employment, Equal employment opportunity, Grant programs-labor, Migrant labor, Reporting and recordkeeping requirements		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Craig Carroll, Employment Security Department	Part 653 – Agriculture, Employment, Equal employment opportunity, Grant programs-labor, Migrant labor, Reporting and recordkeeping requirements	Elimination of “vigorous” - This is worth noting as without the word vigorous, some ESD employees might well interpret this as not being a priority or requirement.
Craig Carroll, Employment Security Department	Part 653 – Agriculture, Employment, Equal employment opportunity, Grant programs-labor, Migrant labor, Reporting and recordkeeping requirements	Monitor Advocate – We support the removal of the requirement in paragraph (c) for SMAs to work in State central office because there are instances where it may be more productive and logical for them to work in an office that is more centrally located to the State’s MSFW population.
Reviewer: Alberto Isiordia, Employment Security Department	653.107 – Outreach and Agricultural Outreach Plan.	Outreach Threshold - It is strongly recommended that the Department define a minimum threshold for the amount of time that is to be spent by MSFW outreach workers at places where MSFWs live, work and congregate (outside of their local office). This is particularly important in the top 20 states with the highest estimated year round MSFW activity. Given the reduction in available resources, local managers increasingly rely on MSFW outreach staff to backfill for other positions or to primarily perform in-office activities that may reduce MSFW outreach staff’s ability to effectively reach MSFWs where they live, work and congregate. Establishing a minimum threshold would strengthen the Monitor Advocate’s ability to hold local offices accountable that may otherwise not be allowing MSFW staff to conduct outreach to their fullest potential. We recommend that a minimum threshold of at least 50% MSFW outreach staff total work hours be considered as a threshold. Such a threshold stills allows MSFW staff to support local office efforts during periods when MSFWs highly frequent their local office, which is usually after the harvest season concludes.
Reviewer: Alberto Isiordia, Employment Security Department	653.107 – Outreach and Agricultural Outreach Plan.	MSFW Outreach Staffing – Language in 653.107(a)(1) states that each State agency must employ an <i>adequate</i> number of outreach workers to conduct MSFW outreach in their service areas. Language in 653.107(a)(4) further clarifies this requirement by stating that the 20 States with the highest estimated year-round MSFW activity, must assign full-time, year-round staff to conduct outreach duties. While the language in these sections articulates an expectation for the SWA to assign outreach staff, it does not provide a threshold. In doing so, this language appears to allow SWAs the ability to reduce staffing levels below one MSFW outreach FTE per significant MSFW office. While some areas may be able to justify such a reduction thanks to the local partnerships in existence, others may not but could still be subject to a reduction due to reduced availability of resources which would contradict the intent of the Richey Order. Washington State would request clarification on what is meant

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		by the use of the term “adequate”.
Reviewer: Alberto Isiordia, Employment Security Department	653.501 – Requirements for processing clearance orders.	State Agency Responsibilities – Inclusion of the language in 653.501(1)(i) in a job order may limit the SWAs ability to effectively communicate job requirements, particularly with MIS systems or job match systems that contain character limits. Inclusion of such language on a job order may also impact the look and format, which may make such an announcement less visibly pleasing. Furthermore, it could be argued that the language in this section could be required for all job orders, not just those in the agricultural recruitment system. If such language is required, it should not called out on agricultural clearance orders alone.
Reviewer: Alberto Isiordia, Employment Security Department	653.501 – Requirements for processing clearance orders.	Family Transportation & Family Housing – Language in 653.501(c)(2)(ii) and 653.501(c)(2)(vi) require participating employers to pay for the transportation of worker families if is determined to be a <i>common</i> practice. Meanwhile, H-2A regulations at 20 CFR 655.122(d)(ii)(5) only require housing to be provided for worker families if it is found to be <i>prevailing</i> in the area of intended employment. The H-2A regulations do not specify whether a participating employer is obligated to pay for the transportation of a worker’s family. While ESD does not have a position on this issue, we would like to point this issue given the attention family housing tied to H-2A has received in Washington State from worker advocates and growers.
Reviewer: Alberto Isiordia, Employment Security Department	653.501 – Requirements for processing clearance orders.	SWA Notification – Language at 653.501(c)(2)(iv) allows for employers to provide notification by “telephone”. Allowing such a notification procedure may result in miscommunication. It would become difficult for a SWA to confirm that an employer provided appropriate notice in a situation where an employer states that a call was made to the SWA. We recommend requiring an employer to provide notification in writing (which may include e-mail), in alignment with H-2A notification procedures noted in 20 CFR 655.145. It should also be noted that any changes prompted by this comment may need to be applied to the language in 653.501(d)(8).
Reviewer: Alberto Isiordia, Employment Security Department	653.501 – Requirements for processing clearance orders.	Outreach – Language at 653.501(c)(2)(vii) should be clarified if the intent is for outreach staff to only provide outreach services to US workers for clearance orders where a placement has been confirmed. It should be noted that such clarification would eliminate the SWA ability to conduct outreach to H-2A clearance orders were a placement has not been made.
Reviewer: Alberto Isiordia, Employment Security Department	653.501(c) – Requirements for processing clearance orders.	First week guarantee – Per 653.501(c)(5), “if an employer fails to comply under this section the order holding office <i>may</i> notify DOL’s Wage and Hour Division for possible enforcement.” We recommend that this language be modified to align with employment service complaint procedures, which could require an immediate referral to WHD (therefore making the word “may” inaccurate). We also recommend that language in this section be clarified with regards to qualifying workers. Specifically, does the Department intend for the first week wage guarantee to be applicable to all workers referred (including local workers) or only those workers that live beyond the local area of intended employment (migrant workers)?
Reviewer: Alberto Isiordia, Employment Security Department	653.501(d) – Requirements for processing clearance orders.	<ul style="list-style-type: none"> • First week wage guarantee – Per 20 CFR 653.501(d), “this section does not apply to clearance order attached to application for foreign temporary agricultural workers pursuant to 20 CFR 655 subpart B.” Based on this statement, the first week wage guarantee noted in 20 CFR 653.501(d)(4) would not be applicable to H-2A clearance orders, which are the all of clearance orders processed by Washington State. This provision, in effect, reduces protections for farm workers. Under WIA, the first weeks wage guarantee applied to all ARS orders, including those tied to H-2A. • Work Rights Notice - Per 20 CFR 653.501(d), “this section does not apply to clearance order attached to application for foreign temporary agricultural workers pursuant to 20 CFR 655 subpart B.” Based on this statement, the workers’ rights brochure used by Washington State to comply with rules under WIA would no longer be applicable to H-2A clearance orders and would be eliminated, given the all of

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		<i>clearance orders processed by Washington State are tied to H-2A.</i>
Reviewer: Alberto Isiordia, Employment Security Department	653.501 (d)(4)– Requirements for processing clearance orders.	Verification of date of need – Language in 653.501(d)(4), places the burden on the job seeker to contact the applicant holding office nine to five days before the date of need to secure the first weeks wage guarantee and on the SWA to document such communication. It is not common for SWA staff to document such communication. Furthermore, it is not common for job seekers to check with the local order holding office, especially if those job seekers live beyond the local area. It is, however, common for such job seekers to check with the employer if a hiring commitment has been made. We recommend removing this section.
Reviewer: Alberto Isiordia, Employment Security Department	653.503 – Field Checks.	Field Check Notification – We recommend that language in 653.503(a) be eliminated. Instead, employers interested in participating in the agricultural recruitment system should be informed that a field check may be conducted if a worker is placed. We recommend such language be added on the ETA 790 or it’s supporting required documents. Notifying the employer after a placement is made would not be as transparent and would add an unnecessary burden on SWA staff.
Reviewer: Alberto Isiordia, Employment Security Department	653.503 – Field Checks.	Field Checks Requirements – In consideration of language provided in 653.501(b), please see the comments offered on the definition of field checks tied to the use of the word “placement” (which is intended to serve the indicator that grants SWAs jurisdiction). In addition, we would like to request clarification as to what is meant by “or at 100 percent of the worksites where less than 10 employment service placements have been made”. In Washington, such language may mean that the SWA would have to conduct field checks on more than 25 percent of all clearance orders where a placement has been made given that less than 10 placements are achieved in each of our H-2A job orders. This appears to be contrary to the intent of the regulation as written. It also appears that the department intends to require states to conduct field checks on 100% of clearance orders if a placement is achieved on 10 or less clearance orders.

Part 658 – Administrative practice and procedure, Employment, Grant programs-labor, Reporting and recordkeeping requirements		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Reviewer: Alberto Isiordia, Employment Security Department	658.410 – Establishment of local and state complaint systems.	Follow-up on unresolved complaints – The requirements in 658.410(m) to follow-up with enforcement agencies once a referral has been made does not consider the fact that most enforcement agencies and their staff do not follow-up with SWA staff or do not share outcomes of investigations with SWA staff due to confidentiality requirements. This requirement, which was also under WIA, was ineffective despite technological advances for the reasons explained above. The burden to follow-up with the complainant and to investigate falls on the agency with jurisdiction. We recommend removing this section or only requiring that SWA staff to request that an enforcement agency follow-up once a resolution to the complaint has been achieved.
Reviewer: Alberto Isiordia, Employment Security Department	658.411 Action on complaints.	Complaint Form – Language in 658.411(a)(3) requires staff to ensure complaints are filed using a form or process prescribed by the Department. We recommend that staff be additional given flexibility to consider use of other complaint forms when it is immediately determined that the complaint falls under the jurisdiction of another agency and such a complaint form is available. For example, our Washington State Department of Labor and Industries (L&I) does not accept DOL’s complaint form. Instead, complainants are asked to fill a form prescribed by their agency. This, in effect, results in complainants having to fill out two separate forms. Such flexibility would be helpful given most of the employment law related complaints received by the SWA involve allegations of lack of payment of wages, which mainly fall under the jurisdiction of L&I.

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Reviewer: Alberto Isiordia, Employment Security Department	658.411 Action on complaints.	Complaints via letter or e-mail – Language in 658.411(a)(4) allows for the consideration of complaints filed through submission of a letter or e-mail. While we agree with allowing such flexibility for customers looking to exercise their right to file a complaint, the language provided in this section does not provide the SWA with a distinction of what the difference is between a customer concern that does not require formal processing versus a formal complaint. Further, it would be helpful to receive guidance on what can be considered as a signature in an e-mail and what minimum information is needed to establish that the SWA has sufficient information to initiate an investigation. For all the reasons noted above, we would like the department to consider revising the definition of “complaint” in section 651.1.
Reviewer: Alberto Isiordia, Employment Security Department	658.411 Action on complaints.	Complaints regarding an employment-related law – Language in 658.411(b)(1)(ii)(C) requires local office staff to attempt a local resolution on a complaint that alleges the violation of an employment law for which the SWA lacks investigative authority. In doing so, SWA staff are being asked to engage in situations that may delay investigation and appropriate action from enforcement agencies with jurisdiction. Furthermore, if a local resolution is achieved, such a complaint would no longer be referred to an enforcement agency with jurisdiction and would result in such agency not being able to document the allegation and the resolution within their management information system.

Part 676 – Unified or Combined Plan under Title I, WIOA		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Brad Hooper, CTE Director North Thurston Public Schools	Part 676 - Unified or Combined State plan under Title I, WIOA	As a secondary education program, a combined state plan would NOT be supported. We definitely need the direct the funds to local programs. These programs support the ability to add/adapt programs that are in demand, provide the necessary professional development to keep programs current to industry standards, replace specialized equipment, and get students ready for careers outside high school. Secondary training is the pipeline to post secondary education and training. The Workforce Board does not have jurisdiction over course offerings, curriculum, and trainings that are offered to students. Schools need the ability to develop programs and support them, that isn't the Workforce Boards charge. OSPI should be given control to direct funds to support CTE program development, and then oversee that they are doing this correctly. There needs to be a PARTNERSHIP to be successful, if one entity is controlling it isn't a partnership. CTE has been and is currently highly successful in Washington State, lets make sure it stays that way. Partnerships!!
Debbie McClary, CTE Director, Kennewick School District	Part 676 – Unified and combined State Plans under Title I of the Workforce Innovation and Opportunity Act <i>What impact will there be when combining the Carl D. Perkins Career & Technical Education program resources into the Combined Plan?</i>	<p>I do not support combining Carl D. Perkins funds in the Combined Plan.</p> <ul style="list-style-type: none"> • The Carl D. Perkins Career & Technical Education funds support students and teachers in our high school Career & Technical Education programs; resources directly support technical skill development, work readiness, and the attainment of a high school diploma. Combining these resources could derail the successful efforts that have resulted in an increased graduation rate for students in CTE. • Local school districts are not required One-Stop partners and therefore could be excluded...we need to have a voice to assure that the K-12 system is connected to post-hs entities – education, training, etc. • We have been highly successful in the development of high school CTE programs/courses in high-demand areas • We have been highly successful in providing the necessary training and opportunities for students to attain industry recognized certifications at the secondary level • Students who have completed a Program Of Study in CTE are graduating at a higher rate than students who do not complete a POS • At risk of losing pre-apprenticeship opportunities that have been highly successful in introducing and connecting high school students to apprenticeship options • Our high school CTE programs serve more students than can possibly be served through the WIOA Youth Program

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		<ul style="list-style-type: none"> • Our high schools offer a multitude of program services that cannot be offered outside the school system effectively which would greatly reduce the effectiveness of these dollars • Only schools can offer students credit for wbl; directing the funds to a WDC increases the cost of wbl if credit is a desired component <p>No requirement of representation on the WDC from the K-12 system – those who are most prepared to serve students ages 16-21</p>
Gerry Ringwood, ESD 123 CTE Director, Serving Columbia, Dayton, Finley, Kiona-Benton and North Franklin School Districts	<u>Section 676 – “Combined State Plan”</u>	We are opposed to “pursuing a Combined State Plan” that would include the allocation of the Perkins Grant. We support the current system where OSPI oversees the K-12 Perkins allocations to the school districts. I serve five small schools in SE Washington as their CTE Director. The Perkins allocation that we receive is vital to support the fiscal needs of our programs and the current system of allocation of these funds through OSPI works well. In my opinion, K-12 is already at a disadvantage in the breakdown of Perkins Funds when compared to the amount that goes to community colleges, but we do get a share. In a “Combined State Plan”, I fear that this would further erode the potential for Perkins Grant support for our CTE programs.
John Page, Director, Career and Technical Education, Tacoma School District No. 10	WIOA NPRM Part 676, Unified or Combined State plan under Title I, WIOA	I am opposed to the proposal of co-mingling of funds between Career and Technical Education (United States Department of Education) and Workforce Development (United States Department of Labor) through the Workforce Innovation and Opportunity Act (WIOA), 2014. Categorical funding needs to remain separate for continuance of annual and long-term plans in meeting the goals and benchmarks of each entity. While Workforce Development serves a purpose in supporting placements and entry into the workplace, Career and Technical Education provides a comprehensive program for all students to be successful in high school completion with access and opportunities to enter post-secondary education [and the workforce] prepared for upward mobility in a career pathway of their choosing.
Kathi Hendrix, K12	Part 676 - Unified or Combined State plan under Title I, WIOA	I am very against the combined state plan. There is too much that might or could happen that would negatively affect Perkins allocations to secondary education. I would like to continue with the unified plan.
Lynn Green, Aberdeen School District	Part 676 - Unified or Combined State plan under Title I, WIOA	The proposal for a combined state plan is not supported in my district. The federal funding that is currently administered through OSPI for local secondary career and technical programs is essential in supporting growth and sustainability of high demand programs. Funding is utilized for specialized professional development for teachers, replacement of industry equipment and program expansion to meet industry employment demands. It allows local school districts to better meet career and college readiness benchmarks for students and to better prepare for post-secondary education and training. OSPI should continue to have the control and oversight of funding that supports secondary program development and Programs of Study. The next step is for the post-secondary system to support programs at that level. This allows a balanced partnership in terms of funding and program implementation that is necessary for Programs of Study to be viable. That balance will not be possible if funding flows through one source.
Paul Randall, Tri-Tech Skills Center	Part 676 - Unified or Combined State plan under Title I, WIOA	I recommend maintaining the current Unified Plan model. The Unified Plan model is working well allowing local control of Perkins funds to meet individual school/school district needs. Currently Perkin funds support “ALL” students. Moving to a Combined State Plan might lead to a loss of local control, duplicated and unnecessary reporting and direction of funds to meet out of school youth requirements (25% in school youth, 75% out of school youth). This constraint would be detrimental and a step back in our already successful efforts.
Teri Pablo, CTE Director Yelm Community Schools	Part 676, Unified or Combined State plan under Title I, WIOA	As a secondary education program, a combined state plan would not be supported. We need to direct the federal funds to local programs to support the ability to grow high demand programs, provide teacher training in specialized fields, replace specialized equipment and address college and career readiness barriers for students. Secondary education is the pipeline to post-secondary education and training. The Workforce Board does not have jurisdiction over the curriculum and course offerings that can be offered. If we want students to begin developing plans in

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		high school to step into all levels of education and employment, we need to give the schools the ability to develop programs that align and the resources to support program development. OSPI should be given the control to direct funds to support CTE program development and oversee the implementation of the Programs of Study. A partnership is needed for this to be successful. If funds are controlled by one entity there is no partnership.
Tara Richerson, Tumwater School District	Part 676 - Unified or Combined State plan under Title I, WIOA	<p>We do not support a combined state plan.</p> <p>As Washington is a local control state for K – 12 public education, we need the ability to identify areas of program need, such as professional development for teachers and upgrading equipment, then direct federal funds to fill these gaps. We also use these funds to remove barriers for low-income youth as we support them in becoming career and college ready. We do not believe that the Workforce Board should dictate our course offerings or the curriculum provided—we already have advisories and other checks in place to ensure rigor.</p> <p>In addition, the reporting requirements for both WIOA and Perkins would be prohibitive. Many of us in smaller districts do not have full-time CTE directors. We wear many other hats for a district and adding to our plate while changing the funding structure is a poor decision, at best.</p>
Will Sarett, Director - NEWTECH SKILL CENTER, Spokane	676 – Unified or Combined State plan under Title I, WIOA	<p>My concern regarding the pursuit of a “Combined plan” as WA State’s Workforce Board has indicated, is the impact to individual school district CTE/career training programs. The people best able to determine how funding is most impactfully spent are the local advisory boards, teachers and administrators of those programs. Students in WA State already do not have the resources needed to continue their career training programs as evidenced by the current McCleary funding decision. As pressure continues to mount for basic education to be fully funded, why would WA decide to move the decision making for a supplemental funding source to a State Agency with little to no understanding on the career readiness needs of local school districts?</p> <p>Impacts of losing Perkins funding at NEWTECH would mean:</p> <ul style="list-style-type: none"> *The loss of a career readiness coordinator (850 students impacted) *The loss of desperately needed technology critical to the implementation of curriculum (850 students impacted) *The loss of professional development opportunities for teachers (22 Teachers impacted) *The loss of students’ career exploration activities in the community (850 students impacted) *The loss of recruitment and retention activities designed to attract young men and women to careers that typically have much higher participation from the opposite gender. (countless students impacted)
Shani L.Watkins,, Seattle Schools	676.115 – What are the Program – specific requirements in the Unified State Plan for the Adult Education and Family Literacy Act program in Workforce Innovation and Opportunity Act title II?	<ul style="list-style-type: none"> • Currently under a unified plan and it works well • Currently of the federal funds allocated to the workforce board, 54% are provided to Post-Secondary programs, and 46% is provided for Secondary CTE programs • Of the funds that are provided to Secondary CTE programs, 85% of the funds go directly to individual schools to meet their needs. 10% goes to a reserve fund to help support those areas across the state with the greatest needs. 5% is provided for administration of the funding provided to OSPI; funding CTE staff. 1% goes to non-traditional program implementation, 1-2% provides additional grant opportunities • At this time, funds that go directly to schools are used locally and with local accountability – if the unified plan is not selected, that loss of local control of the funds could negatively impact local program development and decrease opportunity for student success.

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<p>Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation</p>	<p>676.130 What is the submission and approval process of the Unified State Plan?</p>	<p>The VR portion of the plan must be approved by the DOE Rehabilitation Services Administration (RSA) Commissioner prior to the full Unified Plan being approved by the DOE and DOL Secretaries who must approve it within 90 days of receipt. The draft regs are unclear whether the “90-day” timeframe starts when the Unified Plan is approved by the RSA Commissioner or when it is subsequently forwarded to the DOE and DOL Secretaries for approval. Clarification is needed.</p> <p>The draft regs do not address what happens to the full Unified Plan if the RSA Commissioner does not approve the VR portion of the state plan. Clarification is needed.</p>
<p>Shani L Watkins, Seattle Schools</p>	<p>676.140 - What happens if we have a Combined State Plan?</p>	<ul style="list-style-type: none"> • Increases the work need to meet accountability measures – would need to meet both WIOA performance measures in addition to Perkins Accountability Measures – doubling the work for K-12 and post-secondary partners • Could result in co-mingling of funds for out-of-school/low income youth which could negatively impact the ability to serve every student (thus eliminating ability to use Perkins effectively in conjunction) • Current plan allows for each individual district to meet individual needs of the district to ensure the greatest impact on students in the district. A combined plan could change that to encompass a geographical area to develop the WIOA plan, effectively eliminating the district ability to best support those in its community. Local districts would then not receive money directly, but would become more ‘consortium’ based with non-educational entities.
<p>Katie Siewert, Career and Technical Education, Vancouver Public Schools</p>	<p>676.140 (f) What are the general requirements for submitting a Combined State Plan?</p>	<ul style="list-style-type: none"> • Under this rule, would Perkins funding need to meet the WIOA performance measures as well as the Perkins performance measures? If so, this could pose a significant issue for CTE programs. • Our current Perkins system is working well from the perspective of our district and regardless of whether the final answer is a unified or combined plan, districts need to be able to maintain local control of the Required and Allowable uses of Perkins funding to meet the needs of the students within the district.
<p>Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation</p>	<p>676.143 What is the submission and approval process of the Combined State Plan?</p>	<p>The draft regs are silent on whether the VR portion of a Combined Plan must be approved by the RSA Commissioner prior to the full Combined Plan being approved by the DOE and DOL Secretaries. Clarification is needed.</p>

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Part 677 – Performance Accountability under Title I of the Workforce Innovation and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Scott Wheeler, Employment Security Department, LMPA, System Performance	677.150(a) What definitions apply to Workforce Innovation and Opportunity Act performance measurements and reporting requirements?	<ul style="list-style-type: none"> • The participation definition that excludes self-service-only individuals from performance fails to recognize two recent developments: <ul style="list-style-type: none"> ○ State workforce systems have increased their investment in technology, enhancing their ability to reach a larger and more diverse self-service population. ○ Improvements in job search and placement technology has narrowed the gap between the outcomes of self-service only participants and basic career service participants. <p>For these reasons, we recommend that self-service only participants be included in the Wagner-Peyser employment measures or be measured separately (as a stand-alone cohort) in the 2nd quarter after exit measure (but excluded from all others).</p>
Scott Wheeler, Employment Security Department, LMPA, System Performance	677.150(c) What definitions apply to Workforce Innovation and Opportunity Act performance measurements and reporting requirements?	The state recommends that common exit is maintained for the states and programs who have the common measures waiver under WIA, with the expectation that Adult ED, DVR and additional new programs initially will follow program exit rules. Eventually, the goal should be to align all six core programs under a single participation and exit infrastructure, based upon 90 days without service.
Scott Wheeler, Employment Security Department, LMPA, System Performance	677.155(a)(1)(i) What are the primary indicators of performance under the Workforce Innovation and Opportunity Act?	The employment rate that measures wages 2 nd quarter after exit should include job seekers who were both employed and unemployed at the time of participation. Multiple measures that have overlapping or shared timeframes are confusing and more difficult to continuously improve. Measuring these outcomes, regardless of employment status, will reduce mandatory data elements at intake and determine how effective the system is at helping both the unemployed and those looking for career progression. States can then decide whether to separate these two cohorts out as a local indicator.
Scott Wheeler, Employment Security Department, LMPA, System Performance	677.155(a)(1)(II) What are the primary indicators of performance under the Workforce Innovation and Opportunity Act?	The 4 th quarter after exit measure should only include those positive outcomes included in 677.155(a)(1)(i) to determine if those who were employed the 2 nd quarter after exit retained their employment one year after exit. This measure will then represent the quality of the initial job placement.
Scott Wheeler, Employment Security Department, LMPA, System Performance	677.155(a)(1)(vi) What are the primary indicators of performance under the Workforce Innovation and Opportunity Act?	The state recommends that DOL adopt an employer measure that can effectively link the outcomes for employers directly back to a program’s effort. We believe that measuring 2 nd and 4 th quarter wages for those job seekers maintaining employment at the same employer (FEIN) is the most effective and least burdensome approach to this issue.
Andres Aguirre, M.S. Department of Social and Health Services Director	677.160 What information is required for State performance reports?	The draft regs require reporting by all Core Programs on “(6) The amount of funds spent on each type of career and training service for the most recent program year and the 3 preceding program years, as applicable to the program; (7) The average cost per participant for those participants who received career and training services, respectively, during the most recent program year and the 3 preceding program years for, as applicable to the program.” The draft regs do not define “career and training service.” The Title IV VR draft regs do not include a reference to “career and

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Division of Vocational Rehabilitation		<p>training service,” but do define “vocational and training services.” The regs need align the terms “career and training services” and “vocational and training services” between Title I and Title IV for the sake of clarity. <i>The draft regs require reporting by all Core Programs on “(6) The amount of funds spent on each type of career and training service for the most recent program year and the 3 preceding program years, as applicable to the program; (7) The average cost per participant for those participants who received career and training services, respectively, during the most recent program year and the 3 preceding program years for, as applicable to the program.” The draft regs do not define “career and training service.”</i></p> <p><i>The Title IV VR draft regs do not include a reference to “career and training service,” but do define “vocational and training services.” The regs need align the terms “career and training services” and “vocational and training services” between Title I and Title IV for the sake of clarity.</i></p>
Scott Wheeler, Employment Security Department, LMPA, System Performance	677.190(d) When are sanctions applied for failure to achieve adjusted levels of performance?	We recommend that DOL use the 1 st WIOA Annual report (PY16) to evaluate a state’s performance. It will be possible to evaluate a state’s performance on the measures that are dependent upon wages the 2 nd quarter after exit. The additional measures that are more delayed should not be evaluated until the PY17 annual report.
Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation	677.205 What performance indicators apply to local areas?	<i>The draft regs state that “(a) Each local workforce investment area in a State under title I of WIOA is subject to the same primary indicators of performance for the core programs for WIOA title I under §677.155(a)(1) and (d) that apply to the State.” However, the draft regs only cite local reporting requirements for Title I Adult, Dislocated Worker, and Youth Programs, and are silent on local reporting for the other core programs. Clarification is needed whether the other core programs are exempt from local reports.</i>
Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation	677.210 How are local performance levels established?	The draft regs are silent on which core programs are subject to negotiation of local performance targets. Clarification is needed.

Part 679 – Statewide and Local Governance under Title I of the Workforce Innovations and Opportunity Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Dave Peterson, SkillSource	679.370(g)(6) What are the functions of the Local Board?	<p>Delete all but "leverage support for workforce activities."</p> <p>679.370 lists functions of the Board including (d) convene stakeholders. Most of this work will delegate to Board staff. However, 310(g)(6) specifically requires the Chief LEO ensure board members actively participate convening stakeholders.</p> <p>This is staff work. Volunteer board members do not have the time or expertise to engage various partners' public administrators. Further, brokering relationships with employers is also typical staff work. Typically transactions are brokered, not relationships.</p> <p>Finally, to expect the Chief LEO to police the frequency and extent of volunteer activity is unreasonable. Rural elected officials are often part-time or operate without staff. They don't have the time or interest to meddle or interfere with a Board that meets performance and sustains fiscal</p>

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		integrity,
Dave Peterson, SkillSource	679.420 (c) What are the functions of the local fiscal agent?	Change "may" to "must". It is impossible for a fiscal agent to ensure fiscal integrity if it does not also deliver services or procure contracts, monitor and ensure audits.
Dave Peterson, SkillSource	679.500 (a)(1) What is the purpose of the regional and local plan?	Delete "economic". Every county has an ADO and in eastern Washington an EDD. Plus many cities have community and economic development managers. This rule says the Local Board's Plan is going to direct economic investments. This is overreach and unrealistic. Boards do not have the expertise to direct investments in physical capital. The rule goes far enough saying the Local Plan serves as an action plan to align and integrate.
Dave Peterson, SkillSource	679.550 & 560 – Local plan requirements	These sections refer to Plan, Local Plan & Local Workforce Investment Plan. Are these the same? If so, pick a name and stick with it.

Part 680 – Adult and Dislocated Worker Activities under Title I of the Workforce Innovations and Opportunity Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Tami Gillespie, Employment Security Department	Part 680– Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Subpart A	<ul style="list-style-type: none"> • WIOA clarifies that individuals receiving services in the one-stop centers must receive the service that is needed to assist the individual to meet his or her job search goals, and does not need to follow a fixed sequence of services that may not be necessary to effectively serve the individual. Impact: Policy for local areas to ensure sequent of services meet individual need. • WIOA merges the categories of core services and intensive services under WIA into the category of career services. Impact: Change to data collection systems (for WA SKIES). Should make it easier for local areas providing services. • Proposed § 680.110 addresses the important distinction between registration and participation—two separate actions in the process by which adults and dislocated workers seek direct, one-on-one staff assistance from the one-stop system. The distinction is important for recordkeeping and program evaluation purposes. Individuals who are primarily seeking information are not treated as participants and their self-service or informational search requires no registration. When an individual seeks more than minimal assistance from staff in taking the next step towards self-sufficient employment, the person must be registered and eligibility must be determined. Impact: Policy & Procedures required. • § 680.120 What are the eligibility criteria for career services for adults in the adult and dislocated worker programs? An individual must be 18 years of age or older to receive career services in the adult program. Priority for individualized career services and training services funded with title I adult funds must be given to low-income adults and public assistance recipients and individuals who are basic skills deficient, in accordance with WIOA sec. 134(c)(3)(E) and proposed § 680.600. Impact: Policy & Procedures

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<p>Tami Gillespie, Employment Security Department</p>	<p>Part 680 – Title I Adult and Dislocated Worker Activities Subpart C Individual Training Accounts, Subpart D Eligible Training Providers</p>	<ul style="list-style-type: none"> Proposed § 680.300 explains that in most circumstances an individual will receive training services through an ITA. An ITA is established on behalf of the participant, where services are purchased from eligible providers selected in consultation with a career planner. Payments may be made through electronic transfers of funds, vouchers, or other appropriate methods. Impact: Requires local areas to obtain a waiver to provide training services or get a waiver. That is an impact to local areas. Proposed § 680.420 defines the term “program of training services,” which is used throughout this part. The Department explains that a program of training services includes a structured regimen that leads to specific outcomes. <i>No Impact</i> Proposed § 680.440 explains the procedure established by WIOA sec. 122(c) for training providers that were eligible as of the date WIOA was enacted, July 21, 2014, to continue their eligibility under WIOA. Impact: Requires application procedure in order to retain eligibility. Time consuming for local areas and the State to determine eligible providers. Proposed § 680.470 explains how registered apprenticeship programs are included and maintained on the ETPL. Registered apprenticeship programs are not subject to the application procedures and information requirements of other training providers to be included on the ETPL, in light of the detailed application and vetting procedures under which apprenticeship programs become registered. Impact: No impact. This will make it easier for Apprenticeship programs to be on the ETPI by indicating interest. Impact for performance: State and Local areas will have to determine and establish In proposed § 680.530, the Department explains that providers of OJT, customized training, incumbent worker training, internships, paid or unpaid work experience, or transitional employment are not subject to the eligibility requirements under WIOA secs. 122(a)-(f), but are required to provide performance information established by the Governor. The Department further explains that the local one-stop operator is required to collect and disseminate information that identifies these providers as meeting the Governor’s performance criteria. Impact: State and Locals will have to determine performance information that will include the one stop operator. This shouldn’t be an impact to WA with our statewide data system for reporting performance.
<p>Tami Gillespie, Employment Security Department</p>	<p>Part 680 – Title I Adult and Dislocated Worker Activities Subpart E – Priority and Special Populations</p>	<ul style="list-style-type: none"> Proposed § 680.600 provides priority access to career services and training services funded under WIOA sec. 134(c)(2)(A)(xii) and adult title I. In § 678.430(b), the Department proposes to categorize these services as individualized career services. WIOA builds on the priority given under WIA to providing training services to low-income individuals and individuals receiving public assistance. Under WIOA, the priority also extends to individuals who are basic skills deficient. Impact: Basic Skills assessment must be given to the Adult population. Local areas must set priority for use of WIOA funds.

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		<ul style="list-style-type: none"> Proposed § 680.620 explains how the TANF program relates to the one-stop delivery system. Cooperation among required partner programs is vital to build pathways to the middle class for individuals on public assistance and low-income individuals. Partners, working together, can ensure the best mix of services for each individual seeking to enhance their lives and employment. Impact: State and local areas must work with required one-stop partners to ensure the best mix of services. If the required partner is not co-located in the one stop it will be more difficult to ensure individuals are given the best services. Co-location was an issue under WIA and will continue unless funds are directed to help co-location. Proposed § 680.630 explains displaced homemakers’ eligibility for dislocated worker activities. A displaced homemaker can qualify for either adult or dislocated worker funds. First, if 179 an individual meets the definition of a displaced homemaker under WIOA sec. 3(16), the individual is eligible for dislocated worker career and training services. Second, the displaced homemaker may be served with title I adult funds if the individual meets the eligibility requirements for this program; generally priority in the adult program is given to low-income individuals, individuals on public assistance, or if they lack basic work skills. A State may also use reserve funds that target displaced homemakers in which they would be eligible. Under WIOA, the definition of a displaced homemaker is expanded to explicitly include dependent spouses of a member of the Armed Forces on active duty (as defined in sec. 101(d)(1) of title 10, United States Code) and whose family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change in station, or the service-connected death or disability of the service member. Impact: None. Opens the eligibility requirements for displaced homemakers. This make it very clear.
<p>Tami Gillespie, Employment Security Department</p>	<p>Part 680 – Title I Adult and Dislocated Worker Activities</p> <p>Subpart F – Work-based Training</p>	<ul style="list-style-type: none"> Proposed §§ 680.700 through 680.850 are proposed regulations for work-based training under WIOA. The proposed regulations apply to (OJT) training, customized training, incumbent worker training, and transitional jobs. The proposed regulations include specific information about general, contract, and employer payment requirements. Work-based training is employer- driven with the goal of unsubsidized employment after participation. Impact: Employer driven with the goal of unsubsidized employment is always a struggle for local areas. The challenge is to increase the goal for employers by having a better connection/partnership with businesses. Educate employers as to the benefits they will receive with employment after training is completed. Proposed § 680.700(a) explains that OJT may be provided under contract with an employer in the public, private non-profit, or private sectors. Under WIOA, the reimbursement level may be raised up to 75 percent of the wage rate, in contrast to 50 percent of the wage rate under WIA Impact: None with up to 75 percent of the wage rate without a waiver will give local areas the ability to offer a higher incentive without delay and providing justification. Proposed § 680.760 explains that customized training is to be used to meet the special requirements of an employer or group of employers, conducted with a commitment by the employer to employ all individuals upon successful completion of training. The employer must pay for a significant share of the cost of the training. Impact: Local areas have the burden showing and convincing the employer the benefits of

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		<p>paying for training and long term employment.</p> <ul style="list-style-type: none"> Proposed § 680.800 provides that under WIOA, local areas may use up to 20 percent of their combined total of adult and dislocated worker allotments for incumbent worker training. States may use their statewide activities funds and Rapid Response funds for statewide incumbent worker training activities. Impact: Local areas have an option of using formula funds or RR funds, the burden will be on the State for getting justification from the local areas if they use RR funds. This can be a good for a layoff aversion strategy. Proposed § 680.810 provides the criteria a Local Board must use when deciding on using funds for incumbent worker training with an employer. Impact: States must write a policy providing local areas a process for use of funds for incumbent worker training with an employer. Proposed § 680.820 clarifies that there are cost sharing requirements for employers participating in incumbent worker training to pay for the non-Federal share of the cost of providing training to incumbent workers of the employers. Impact: Ensuring employers provide a match for the cost of training. Should be included in the State Policy. Proposed § 680.840 states that local areas may reserve up to 10 percent of their combined total of adult and dislocated worker allotments for transitional jobs and must be provided along with comprehensive career services and supportive services.
Tami Gillespie, Employment Security Department	<p>Part 680 – Title I Adult and Dislocated Worker Activities</p> <p>Subpart G – Supportive Services</p>	<ul style="list-style-type: none"> Proposed § 680.910 states that supportive services may only be provided to participants who are in career or training services, unable to obtain supportive services through other programs providing supportive services, and that they must be provided in a manner necessary to enable individuals to participate in career or training services. Impact: Revise State Policy to include career or training services. Proposed § 680.930 defines needs-related payments as financial assistance to a participant for the purpose of enabling the individual to participate in training. Impact: To ensure the State and Local Policy includes needs-related payments meet their purpose of enabling participants to receive training services.
Tami Gillespie, Employment Security Department	680.130 What are the eligibility criteria for career services for dislocated workers in the adult and dislocated worker programs?	<i>§ 680.130 What are the eligibility criteria for career services for dislocated workers in the adult and dislocated worker programs?</i> Proposed § 680.130(a) states that an individual must meet the definition of “dislocated worker” in WIOA sec. 3(15) to receive career services in the dislocated worker program. Impact: Policy and Procedures.
Tami Gillespie, Employment Security Department	680.140 What Workforce Innovation and Opportunity Act title I adult and dislocated worker services are Local Boards	Proposed § 680.140 describes generally the availability of funds for use in providing services for adult and dislocated workers under title I of WIOA. Impact: Allow local flexibility of funds.

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	required and permitted to provide?	
Tami Gillespie, Employment Security Department	680.160 How are career services delivered?	Proposed § 680.160 explains that career services must be provided through the one-stop delivery system. Career services may be provided by the one-stop operator or through contracts with service providers approved by the Local Board. A Local Board may not be the provider of career services unless it receives a waiver from the Governor and meets other statutory and regulatory conditions. Impact: Major on Locals who run their own programs will have to get a waiver to provide services. Getting a waiver is not an easy process.
Tami Gillespie, Employment Security Department	680.200 What are training services for adults and dislocated workers? Subpart B Training Services	Proposed § 680.200 directs the reader to WIOA sec. 134(c)(3)(D) for a description of available training services. The proposal provides a series of examples that is not all-inclusive. Impact: Difficult finding list, should make simple in more than one location.
Gary Kamimura, Employment Security Department	680.200 – Who may receive training services?	This commenter requests that DOL clarify or define more what constitutes appropriate/qualified “entrepreneurial training” as cited at Section 134(c)(3)(D)(vii); for example, must there be a recognized certificate and/or credential granted at program completion or must the training provider merely be on the state’s Eligible Training Provider List?
Tami Gillespie, Employment Security Department	680.210 Who may receive training services?	Proposed § 680.210(b) requires that individuals, for whom training has been deemed appropriate, select a training program linked to employment opportunities in the local area or in an area to which the individual is willing to commute or relocate. Impact: Providing performance report for all training providers will delay training services to participants.
Gary Kamimura, Employment Security Department	680.320 – Under what circumstances may mechanisms other than Individual Training Accounts be used to provide training services?	This commenter requests that DOL define the duration of unemployment (weeks?) that must be reached to be “long term unemployed individuals” as cited in subsection (b)(13) as a category of individuals with barriers to employment.
Tami Gillespie, Employment Security Department, 360.902.9768 tgillespie@esd.wa.gov	Part 680.650 and 660 – WIOA Veteran Priority of Services	<ul style="list-style-type: none"> Proposed § 680.650 builds on the Department’s efforts to ensure veterans are entitled to priority of service in all Department-funded training programs under 38 U.S.C. 4215 and 20 CFR 1010. The proposal states that veterans must receive priority of service in programs for which they are eligible. In programs that require income-based eligibility to receive services, amounts paid while on active duty or paid by the Department of Veterans Affairs (VA) for VR, disability, or other related VA programs are not considered as income when determining low-income status. Generally, this means many separating service members may qualify for the WIOA adult program because it provides priority for low-income individuals and military earnings are not to be considered income for this purpose. Impact: No impact, this is clear

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		<p>to ensure Veterans receive priority services.</p> <ul style="list-style-type: none"> Proposed § 680.660 explains, consistent with the Department’s long-standing policy, that service members exiting the military qualify as dislocated workers. Dislocated worker funds under title I can help separating service members enter or reenter the civilian labor force. No impact, this is clear to ensure Veterans receive priority services.
Gary Kamimura, Employment Security Department	680.700 – What are the requirements for on-the-job training?	This commenter requests that DOL consider adding to subsection (b) that OJT training contracts not be entered into with employers with unpaid unemployment insurance and workers compensation taxes as payment of those particular taxes reflect a commitment to worker safety and protection.
Gary Kamimura, Employment Security Department	680.730 – Under what conditions may a Governor or Local Board raise the on-the-job training reimbursement rate up to 75 percent of the wage rate?	This commenter requests that DOL numerically clarify or define “small businesses” as it applies to the employer size factor used to determine whether or not the on-the-job training reimbursement rate is allowed to rise above 50 percent and up to 75 percent.
Gary Kamimura, Employment Security Department	680.810 – What criteria must be taken into account for an employer to be eligible to receive local incumbent worker funds?	This commenter requests that DOL consider adding a subsection (d) that incumbent worker training contracts not be entered into with employers with unpaid unemployment insurance and workers compensation taxes as payment of those particular taxes reflect a commitment to safety and protection of the incumbent workforce.
Gary Kamimura, Employment Security Department	680.820 – What is a transitional job?	This commenter requests that DOL clarify the substantive distinction between transitional jobs (as a training service) and subsidized limited work experience (as a career service) defined at 680.170 since the latter can also be provided to an individual with barriers to employment due to chronic unemployment or inconsistent work history and because the latter also enables an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment. What are the critical elements that would enable a service provider to determine whether the service being provided is coded as a career service or a training service? If the distinction centers on the phrases “chronic unemployment” and “inconsistent work history”, please provide more substantive and quantifiable definitions of those two phrases.

Part 681 – Youth Activities Under Title I of the Workforce Innovation and Opportunity Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Tami Gillespie, Employment Security Department	Part 681 – Youth Activities Under Title I of the Workforce Innovation and Opportunity Act	The biggest change under WIOA is the shift to focus resources primarily on OSY. WIOA increases the minimum percentage of funds required to be spent on OSY from 30 percent to 75 percent. This intentional shift refocuses the program to serve OSY during a time when large numbers of youth and young adults are out of school and not connected to the labor force. Impact: State Development Policy and Grant requirements. Local Areas to change local area strategies for OSY and include in local plans. Local areas must come up with a greater partnership with employers for more WEX’s.

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<p>Tami Gillespie, Employment Security Department</p>	<p>Part 681 Subpart A – Standing Youth Committees</p>	<p>This proposed section describes the members of a standing youth committee if the Local Board chooses to establish such a committee based on WIOA secs. 107(b)(4)(A)(ii) and 129(c)(3)(C). The members must include a member of the Local Board, who must chair the committee, members of CBOs with a demonstrated record of success in serving eligible youth and other individuals with appropriate expertise and experience who are not members of the Local Board. Impact: To Local Areas.</p>
<p>Tami Gillespie, Employment Security Department</p>	<p>Part 681 Subpart B – Eligibility for Youth Services</p>	<p>§ 681.210 “out-of-school youth OSY youth must not attend any school, be between the ages of 16 and 24 at time of enrollment, and meet one or more of a list of eight criteria. Impact: Good-Low income not a requirement to meet eligibility.</p> <ul style="list-style-type: none"> • With one exception, the WIOA criteria are generally the same as those under WIA. The section clarifies that age is based on time of enrollment and as long as the individual meets the age eligibility at time of enrollment they can continue to receive WIOA youth services beyond the age of 24. Impact: Good clarification. • However, low income is now a part of the criteria for youth who need additional assistance to enter or complete an educational program or to 202 secure or hold employment. Also, WIOA has made youth with a disability a separate eligibility criterion. In addition, WIOA includes a new criterion: a youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent school year calendar quarter. Because school districts differ in what they use for school year quarters, the time period of a school year quarter is based on how a local school district defines its school year quarters. WIOA lists this criterion as the second on the list of eight that satisfy the third of the three primary requirements. Impact: This section should be clarified for OSY Program. Way too many exceptions. The local areas will have to understand the local school districts school year quarters. <p>681.220 “in-school youth: WIOA includes a youth as low-income if he or she receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act. Impact: None, this will make it so much easier for local areas for eligibility of low income. Finally, just keep this in the Final Rule.</p> <ul style="list-style-type: none"> • Section 681.230-250 will require State and Local Policy and Procedures. Very complex sections. <p>681.260 Department define “high poverty area” for the purposes of the special rule for low-income youth in Workforce Innovation and Opportunity Act</p> <ul style="list-style-type: none"> • While there is no standard definition for the term “high-poverty area” in Federal programs, the Census Bureau uses two similar concepts. One is “poverty area,” that is an area with a poverty rate of at least 20 percent and the other is “area with concentrated poverty,” that is an area with a poverty rate of at least 40 percent. The term high poverty area implies an area that has more poverty than a “poverty area” but not as much poverty as an “area with concentrated poverty.” In addition, current Department competitive grant programs for ex-offenders define high poverty areas as communities with poverty rates of at least 30 percent. The Department is seeking comments on whether the poverty thresholds the Department is proposing are the most appropriate levels for youth living in a high poverty area. Impact: Must be clearer in final rule. This section makes it unclear how a local area can determine if they are a “high poverty area.”

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		<p><i>681.290 define “basic skills deficient”</i> Impact: Doesn’t define an assessment tool for local areas. Local areas must be clear in the local plan of how they will assess individuals. State should provide a State policy for basic skills deficient.</p> <p><i>681.300 define the “requires additional assistance to complete an Educational program, or to secure and hold employment” criterion.</i> Impact: Local Area to define in local plan. Left up to local areas to define what is additional assistance.</p>
<p>Tami Gillespie, Employment Security Department</p>	<p>Part 681 Subpart C – Youth Program Design, Elements, and Parameters</p>	<p><i>681.400 process used to select eligible youth providers</i> Impact: Final Rule must be clear on the competitive selection requirement. What is the framework required by local areas?</p> <p><i>681.410</i> This proposed section describes the new minimum expenditure requirement under WIOA that States and local areas must expend a minimum of 75 percent of youth funds on OSY. Under WIA, local areas were required to spend at least 30 percent of funds to assist eligible OSY. Impact: State and Local policy will be required.</p> <p><i>681.420 Local Boards design Workforce Innovation and Opportunity Act youth programs</i></p> <ul style="list-style-type: none"> • A new provision in WIOA allows the Local Board to use up to 10 percent of their funds to implement pay-for-performance contracts for the program elements described in § 681.460. Pay for-performance contracts are further described in § 683.500. Impact: State Policy is required and local areas must include in Local Plan. Procedures must be in place at the local area to cover pay for performance. <p><i>681.440 local youth program determine if an 18 to 24 year old is enrolled in the Workforce Innovation and Opportunity Act youth program or Workforce Innovation and Opportunity Act adult program.</i> Impact: Local policy and procedures to ensure services are provided to an eligible individual into either youth or adult program. Funds will be a factor in the local area.</p> <p><i>681.460 services must local programs offer to youth participants</i> Impact: (1) education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster; (2) financial literacy education; (3) 213 entrepreneurial skills training; (4) services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and (5) activities that help youth prepare for and transition to post-secondary education and training. In addition, WIOA has revised some of the WIA program elements. Impact: Strategies must be evident-based-key to local area plans. State policy/procedures to assist local areas.</p> <ul style="list-style-type: none"> • WIOA expands the description of the occupational skill training element to provide for priority consideration for training programs that lead to recognized post-secondary credentials that are aligned with in-demand industry sectors or occupations if the programs meet WIOA’s quality criteria. This change is consistent with WIOA’s increased emphasis on credential attainment. The section clarifies that while local WIOA youth programs must make all 14 program elements available to WIOA youth participants, local programs have the discretion

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		<p>to determine which elements to provide to a participant based on the participant’s assessment and individual service strategy. Impact: To local plan and policy procedures in place.</p> <p><i>681.470 the Department require local programs to use Workforce Innovation and Opportunity Act funds for each of the 14 elements.</i> This proposed section clarifies that local WIOA youth programs must make all 14 program elements available to youth participants, but not all services must be funded with WIOA youth funds. Local programs may leverage partner resources to provide program elements that are available in the local area. Impact: Local program leverage is key along with policy and procedures both State and Local.</p> <p><i>681.480 pre-apprenticeship program:</i> The definition is based on TEN No. 13-12 that defined a quality pre-apprenticeship program. Local youth programs must coordinate pre-apprenticeship programs to the maximum extent feasible with registered apprenticeship programs, which are defined in WIOA sec. 171(b)(10), and require at least one documented partnership with a registered apprenticeship program. Impact: Policy/Procedures</p>
Tami Gillespie, Employment Security Department	Part 681 Subpart D – One-Stop Services to Youth	<ul style="list-style-type: none"> • <i>681.700 the connection between the youth program and the one-stop service delivery system</i> This proposed section reiterates the connections between the youth program and the one stop system that were provided in the WIA regulations and includes additional examples of such connections including collocating WIOA youth program staff at one-stop centers and/or equipping one-stop centers and staff with the information necessary to advise youth on programming to best fit their needs, Impact: None • <i>681.710 Local Boards have the flexibility to offer services to area youth who are not eligible under the youth program through the one-stop centers</i> Consistent with WIA, this proposed section clarifies that Local Boards may provide services to youth through one-stop career centers even if the youth are not eligible for the WIOA youth Program. Impact: None Local areas must be clear in Local Plan.
Gary Kamimura, Employment Security Department	681.460 – What services must local programs offer to youth participants?	This commenter requests that DOL clarify or define more what constitutes appropriate “entrepreneurial skills training” as cited at subsection (a)(13); for example, must there be a recognized certificate and/or credential granted at program completion or must the training provider merely be included the state’s Eligible Training Provider List.
Tami Gillespie, Employment Security Department	681.490 – What is adult mentoring?	<i>681.490 adult mentoring</i> this proposed section describes the adult mentoring program element. It provides that mentoring must last at least 12 months and defines the mentoring relationship. It clarifies that mentoring must be provided by an adult other than the WIOA youth participant’s assigned case manager since mentoring is above and beyond typical case management services. Impact: Use of evidence-based models of mentoring to design their programs. Local areas will have to research models to put into place. Local procedures and design in local plan.

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Tami Gillespie, Employment Security Department	681.500 – What is financial literacy education?	<i>681.500 financial literacy education</i> This proposed section describes the financial literacy program element, new under WIOA. Financial literacy is described in the allowable statewide youth activities in WIOA sec. 129(b)(2)(D) and the proposed section reiterates what was stated in the allowable statewide activities section of supporting financial literacy. Impact: Local areas have the burden of finding a training that will include identify theft included.
Tami Gillespie, Employment Security Department	681.550 - Are Individual Training Accounts permitted for youth participants?	<i>681.550 Individual Training Accounts for youth participants</i> This proposed section allows ITAs for older OSY aged 18 to 24. This change will enhance individual participant choice in their education and training plans and provide flexibility to service providers. ITAs also reduce the burden for local areas by eliminating duplicative paperwork needed for enrolling older youth in both youth and adult formula programs. Impact: No waiver required that is a good thing.
Dawn Karber, Spokane Area Workforce Development Council	681.590 – What is the work experience priority?	<p>WIOA 20% Work-based Learning Expenditure Requirement to Adversely Impact Private Support</p> <p>The Spokane Area Workforce Development Council (SAWDC), local workforce board for Spokane County, Washington, is committed to leveraging non-formula/private resources in order to provide the highest quality and quantity of services for young adults. This is accomplished through grant writing and other resource development activities, which have been quite successful. Through this model, we have offered over 1,000 internships for young adults during the past five years, as well as operate a thriving career and education center for young adults, which receives over 3,500 visits annually.</p> <p><u>The Problem</u></p> <p>WIOA requires that at least 20 percent of youth formula funds are expended on work-based learning annually (§ 681.590). While our board fully appreciates the intent of the law, we are deeply concerned that this spending requirement will adversely impact our ability to utilize private and other non-WIOA resources to directly support youth work-based learning programming.</p> <p>Until the release of the WIOA NPRMs, our strategic goal was to continue to seek and increase private and other non-WIOA funds to be used for work-based learning. However, it has become apparent this may no longer be possible due to the WIOA “20 percent work-based learning rule.” Annually, we spend more than the equivalent of 20 percent of our WIA allocation on work-based learning through a combination of WIA and other/private funds. It is our experience, and well known in the funding world, that private donors, foundations and businesses have little interest in supporting program staff; some contracts even stipulate that funds cannot be used for staff. Our tactic is to utilize WIA primarily for staffing and infrastructure while spending non-WIA/private funds on youth for work-based learning experiences.</p> <p>The challenge is that WIOA requires we spend a specific amount of federal resources on a service we could otherwise fund by alternative means. If maintained, this rule will force us to use WIOA funds only, or at least first, in order to ensure we spend 20 percent from the WIOA budget each year. As we cannot be out of compliance with federal law, we will likely have to limit the amount of private and other fund sources we accept so that we can spend federal resources. This situation has the potential to negatively impact any entrepreneurial local board that utilizes non-formula funds for work-based learning.</p>

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		<p>The Solution</p> <p>At this time, there is no WIOA guidance that permits local boards to leverage and count non-WIOA funds toward the 20 percent spending requirement. In order to make effective use of non-formula/private funds, we strongly urge waivers or policies that grant local boards the ability to count non-formula leveraged funds towards the WIOA work-based learning spending requirement. Short of a timely solution, we will be forced to spend federal funds unnecessarily.</p> <p><i>This position is supported by the SAWDC Services and Oversight Committee.</i></p>
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Part 682 – Statewide Activities Under Title I of the Workforce Innovation and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Randy Bachman, Employment Security Department	Section 682 – Statewide Activities under Title I of WIOA	<i>Policy Impact:</i> State and local area rapid response providers must establish policies and procedures that allow them to serve the most companies and affected workers or to determine the specific scenarios which meet this criterion and for which they will provide rapid response services.
Randy Bachman, Employment Security Department	Section 682.300 – What is rapid response, and what is its purpose?	<ul style="list-style-type: none"> The two critical phrases in this section—“plan for and respond” and “as quickly as possible”—demonstrate that rapid response must include <u>strategic planning</u> and other activities that will ensure that dislocated workers can be reemployed as soon as possible. Explains that the purpose of rapid response is a proactive, strategic set of actions, not simply a response to layoffs. Establishes Layoff aversion as a key component and identifies it as a required RR activity
Randy Bachman, Employment Security Department	Section 682.330(a) – What rapid response activities are required?	Describes layoff aversion as a required rapid response activity. Layoff aversion strategies and activities are described in proposed § 682.315. The proposal requires that States and local areas have the capability to conduct layoff aversion; however, it is left to the discretion of the operators of rapid response programs to determine which strategies and activities are applicable in a given situation, based upon specific needs, policies , and procedures within the State and operating areas.
Randy Bachman, Employment Security Department	Section 682.330(g) – What rapid response activities are required?	Discusses the requirement that State or local rapid response programs collect and utilize data as a core component of their work. Proposed § 682.330(g)(1) requires States and/or local areas to identify sources of information that will provide early warning of potential layoffs, and to gather this data in a manner that best suits their needs. Proposed § 682.330(g)(2) requires the processing and analysis of a range of economic data and information to ensure the best possible services are delivered to businesses and workers at the appropriate time. Proposed § 682.330(g)(3) requires that States and/or local areas track data and other information related to the activities and outcomes of the rapid response program, so as to provide an adequate basis for effective program management, review, and evaluation of rapid response and layoff aversion efforts.

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Randy Bachman, Employment Security Department	Section 682.340 – May other activities be undertaken as part of rapid response?	Provides for the creations and operation of community transition teams
Randy Bachman, Employment Security Department	Section 682.360 – What rapid response, layoff aversion, or other information will States be required to report to the Employment and Training Administration?	Does not appear in the current regulations; it requires that States report information about the receipt of rapid response services by <u>individuals enrolled</u> as dislocated workers. Currently required under the WIASRD
Randy Bachman, Employment Security Department	Section 682.370 – What are “allowable statewide activities” for which rapid response funds remaining unspent at the end of the the year obligation may be recaptured by the State?	Addresses the WIOA provision at sec. 134(a)(2)(B) that allows a State to “recapture” any funds reserved for rapid response that remain unspent at the end of the <u>PY of obligation</u> and utilize them for State set-aside activities. Rapid response funds will now be included in the calculation of unobligated funding to determine if a <u>State</u> is subject to reallocation if not at 80% obligation.

WIOA Section 133 – Within State Allocations

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Gary Kamimura, Employment Security Department	WIOA Section 133(b)(4)	This commenter would like to request that DOL create rules (none are presently proposed) for WIOA Section 133(b)(4), which allows local boards the ability to transfer, if approved by the Governor, up to and including 100 percent of funds between their adult and dislocated worker programs. Specifically, this commenter would like DOL to address whether or not either adult or dislocated worker common measure targets would be rescinded if 100 percent of funds were transferred from one program to another.