

Washington Compendium of WIOA NPRM Responses

COMMENTS to 34 CFR Part 361 – Description of the One-Stop System Under Title I of the Workforce Innovation and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Eleni Papadakis, Workforce Training and Education Coordinating Board	§ 361.190 When are sanctions applied for failure to achieve adjusted levels of performance?	Congress' reluctance to fully fund the 15% Statewide Activities fund pool should be taken into account when writing rules for this section. Suggest that 5% sanction amount should be reduced proportionately in the first sanction year and then in subsequent sanction years if Congress doesn't fully fund.
Washington State Department of Services for the Blind	361.36 - Order of Selection “immediate need for services/equipment to maintain employment	Support. We strongly support the recognition that providing services towards keeping an individual working in their current job rather than losing it due to disability saves the system enormous resources, time and effort. We are highly appreciative of the ability to serve those job retention needs if and when the agency is under order of selection. This will allow greater opportunity to build and sustain relationship with business despite an order of selection.
Washington State Department of Services for the Blind	361.37 – Information and Referral – requirement to inform participants of vocational mandate for services	Support, with some concern. We support the vocational foundation for all VR services. With the change in IL administration, we have some concerns. We appreciate that in §361.42(a)(1)(iii) the regulations explicitly state there is a presumption for an eligible applicant to have a goal of employment. There is also a new requirement that the agency explicitly state intent to work is required for VR services. There is guidance within the draft regulations on referring those individuals who are not yet prepared to envision a vocational goal to other agencies, resources and organizations. Many of those programs have either been reduced or are underfunded – for example, funding for Independent Living Program has remained stagnant while need for services continues to grow. Is there guidance or flexibility for opportunities to develop those non-VR resources? In blindness rehab, an individual who has recently lost vision may not always understand their ability to re-enter the workforce until they have had a success as a blind person. In blind rehab, we prefer to work with the individual towards that success, until they can believe it of themselves. We don't want incentives to turn away customers who just don't yet believe in their ability to work. Vocational Rehabilitation is more than a “jobs program”; a key component of vocational counseling is assisting individuals to consider and discover employment as a potential for their future.
Washington State Department of Services for the Blind	361.37 – Required Benefits Planning	Support with question. We support Benefits Planning for all eligible participants who are entitled to Social Security Benefits, and applaud the addition to regulations. Question: will RSA support the development of Benefits Planning resources to ensure availability of providers for this critical service? Question: What documentation will be required to verify completion of Benefits Planning?
Washington State Department of Services for the Blind	361.42 - Eligibility Criteria includes “requires services to advance in employment”	This change is aligned with our current practice. We support VR services towards assisting an individual to meet their full potential within a career and the workforce.
Washington State Department of Services for the Blind	361.45 IPE development within 90 days	We are in agreement that developing a plan for services as quickly as feasible is important to have the VR participant making progress towards their vocational goals. We appreciate that an individual customer who requires more time and information to make vocational decisions can be allowed more than the 90 days, with documented justification and customer agreement.

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Andres Aguirre DSHA/DVR	361.45 Development of the individualized Plan for employment. - Standards for developing the individualized plan for employment.	The draft CFR requires “...the IPE to be developed as soon as possible, but not later than 90 days after the date of determination of eligibility, unless the State unit and the eligible individual agree to the extension of that deadline to a specific date by which the individualized plan for employment must be completed.” The draft CFR does not provide guidance on what to do when there is insufficient information to develop the IPE within 90 days <u>but</u> the individual does not agree to an extension. Clarity on this is needed.
Andres Aguirre DSHA/DVR	361.46 Content of the individualized plan for employment.	The WIOA Rehabilitation Act includes an additional requirement in Section 413, Eligibility and Individualized Plan for Employment, that content of an IPE must include “...for an individual who also is receiving assistance from an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320 b-19), a description of how responsibility for service delivery will be divided between the employment network and the designated State unit.” The draft CFR references all other statutory requirements for IPE content except this item and must add language to reflect this additional element.
Andres Aguirre DSHA/DVR	361.48 Scope of vocational rehabilitation services for individuals with disabilities. - (a) Pre-employment transition services. - (1) Availability of services.	The draft CFR states that “...Pre-employment transition services may be provided to all students with disabilities, regardless of whether an application for [VR] services has been submitted.” This is the first time the Rehabilitation Act has permitted services to be provided to non-VR applicants. The draft CFR provides guidance under section 361.49 for how general transition services may be provided to groups of students or youth with disabilities who are not VR applicants. However, there is not any guidance on how an individualized pre-employment transition service is to be funded for a student or youth with a disability who is not a VR applicant. Clarity on this is needed.
Washington State Department of Services for the Blind	361.48 - 15% set-aside for pre-employment transition services for students with a disability	<p>Desire more flexible interpretation. We approve of the greater emphasis on integrating vocational services for youth with disabilities at the earliest point. The 15% set-aside becomes a burden for Blind agencies when it is limited to only students with a disability – those who are actively enrolled in secondary school. Mandating who and how to spend 15% of our federal grant will have unintended consequences and ultimately defeat the intent of the law. It is an unfunded mandate. We understand the requirement applies to the state VR grant as a whole and not to each separate DSU. We believe there are other ways to incentivize youth services and preparation for the transition to adulthood. Our desire is that the regulations leave room for flexibility – that we have incentive and ability to serve youth whether they are actively enrolled in secondary school or not – that we are able to utilize the 15% to follow along services even as the student exits from school, where the need for VR services is critical. We would desire that actual impact on youth is considered rather than how the dollars are being spent.</p> <p>Benchmarking service delivery with measureable goals for improvement as opposed to an immediate set aside would be a possible solution. If the set-aside is kept in place, then provide greater flexibility in the narrow scope of who and how this 15% of the grant fund serves. Make the definitions of “students with a disability” and “youth with a disability” synonymous and equal.</p> <p>Blindness is a low-incidence disability that often emerges as an issue in early or later adulthood. It is a very small sub-group of our population base to commit such a significant amount of our budget, especially considering our blind and low vision youth are often recognized and served currently at low cost to the agency. Many youth services are provided by in-house staff. The need for services is often heaviest at last years of high school and immediately post-graduation.</p> <p>Group services as outreach to generate more awareness of VR services will take efforts and resources that won’t justify results in this low-</p>

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		<p>incidence population group.</p> <p>The set-aside creates artificial incentive to serve our small population of students with disability in ways that may not be appropriate, as we will need to spend a lot of money on a small group of students – great effort with disproportionate payback.</p> <p>If we happened to be in Order of Selection, we potentially could get students excited about VR services, and then be unable to serve them as they exited from school.</p> <p>Requiring a return of the unspent dollars will negatively impact services as a whole, and take away critical and necessary services from other populations.</p> <p>Washington state covers extensive territory, and statewide coverage requires travel times that impact our service delivery. Indirect travel time for staff work with youth should be considered in the 15% set-aside; otherwise large states are impacted unfairly with this un-funded mandate.</p>
Andres Aguirre DSHA/DVR	361.5 Applicable definitions. - 361.5(c)(43)(i)(D)	The definition of a “qualified” mediator who may assist in the resolution of a client disagreement with their VR Counselor adds a requirement that the mediator must be “...knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services.” This additional requirement is absent from the definition of mediators and mediation in 370.6, 370.43 & 381.5. It will impose an undue hardship on maintaining an adequate number of mediators, and is unnecessary to perform the essential function of neutrality as a mediator. It is unnecessary for a professional mediator to be a subject matter expert on VR regulations in order to play an effective role in the dispute resolution process.
Andres Aguirre DSHA/DVR	361.5 Applicable definitions. - 361.5(c)(51)(i)(C)(2)	The definition of a “student with a disability” includes “...a student who is an individual with a disability, for purposes of section 504.” However, it is unclear in the draft regulations whether this means the student must have a written section 504 educational plan, or simply meet the section 504 definition of “individual with a disability.” Additional clarity is needed. The CFR needs to clearly distinguish whether a written section 504 plan is required as a basis for defining a “student with a disability.”
Washington State Department of Services for the Blind	361.5 - Distinctions between definitions students and youth with a disability	Opposed. The distinction of participants served who are youth, and the subset of youth that are students within secondary education, creates unnecessary complexity and burden in documentation and tracking of services, with very little perceived benefit. Blind youth who have exited school require equivalent if not greater attention from VR services. We appreciate and support the emphasis on providing VR services to youth at the earliest point, and we are excited to expand the strong youth services we have had in place for years. However, we would prefer to concentrate on service provision, rather than documenting which sub-group services are being provided to.
Washington State Department of Services for the Blind	361.5(9) – Definition of competitive and integrated	<p>Support with concerns & questions</p> <p>Our agency has had a strong belief in competitive and integrated employment outcomes, and we support the heart and intent of this newer definition, but have concerns about the lack of flexibility accorded within the regulations around the definition. Our agency has aligned with competitive and integrated employment outcomes for many years.</p> <p>One challenge we will face in the stricter understanding of “integrated setting” is the unique entity of Washington State’s Lighthouse for the Blind, Inc., and limiting customer choice. The Lighthouse, Inc. has hired our customers in some high-powered, professional, well-paid executive and managerial positions that easily met the old definition of “integrated” through the TAC 06-01. Our state’s Lighthouse is a unique entity where</p>

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		<p>all jobs have comparable competitive wages, and they hire blind and low vision individuals into leadership positions among the organization. While the entity is by definition staffed majority by blind and low vision individuals, the community interaction for these positions is high and met the highest standard for “integrated” based on the old TAC 06-01. The stricter definition will limit choice for our customers by dismissing the Lighthouse, Inc. as a business that meets the criteria as described in the draft regulations. The Lighthouse provides special capacities to serve and employ individuals, such as those individuals who are deaf blind, who choose to work there because of shared climate, culture and communication. Even with accommodations, integration might be challenging if they were taken out of the Lighthouse environment. Customer choice and economic opportunity are limited by this stricter definition.</p> <p>Question: What documentation will be required for verifying “comparable wage & benefits” in determining validity of employment outcome? We assume counselor judgment.</p> <p>Question: What documentation will be required to verify consideration of comparable training, experience and level of skills? What is meant by “consideration of comparable training, experience and level of skills” and how can this be quantified? More clarity is needed for this.</p> <p>Question: What documentation will be required to verify consideration of opportunities for advancement? How can this be quantified? We assume counselor judgment.</p> <p>Question: Minimum wages are increasingly varying rates per locality. What level of documentation will be required of the agency to verify an employment outcome meets local standards?</p> <p>Question: How demonstrate/verify self-employment income? This data won’t be included in ESD wage data – a high ratio of our agency outcomes are self-employment. Will self-employment data be missed in performance measures at 2 and 4 quarters after exit?</p>
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COMMENTS to 34 CFR Part 363 – The State Supported Employment Services Program

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Andres Aguirre DSHA/DVR	363.4 What are the authorized activities under the State Supported Employment Services program? AND 363.22 How are funds reserved for youth with the most significant disabilities?	<ul style="list-style-type: none"> Under section 363.4 the draft CFR states that a state <u>may</u> use supported employment funds to “...(2) Provide <u>extended services</u>, as defined at 34 CFR 361.5(c)(19), to youth with the most significant disabilities, in accordance with § 363.11(f), for a period of time not to exceed four years...” However, under section 363.22 the draft CFR states that “A State that receives an allotment under this part <u>must reserve and expend</u> 50 percent of such allotment for the provision of supported employment services, including <u>extended services</u>, to youth with the most significant disabilities in order to assist those youth in achieving an employment outcome in supported employment.” <p>Additional language is needed to clarify whether the provision of extended services is optional, per 363.4, or mandatory, per 363.22.</p>

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COMMENTS to 34 CFR Part 371 – American Indian Vocational Rehabilitation Services Program (AIVRS)		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Washington State Department of Services for the Blind	371 – Subsistence employment	Does the definition of “subsistence employment” as an employment outcome refer only to participants enrolled in Tribal VR, or is it intended for all VR participants? If all, what limits to hobby-type self-employment outcomes are proposed – is subsistence income a valid goal for all?

COMMENTS to 34 CFR Part 396 – Training of Interpreters for Individuals who are Deaf or Hard of Hearing and Individuals who are Deaf-Blind		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
DSHS, Economic Services Administration	Misc. Depart of Education Programs 396.4 – What definitions apply?	<p>We particularly encourage the public to comment on the appropriateness of this definition [for an individual who is hard of hearing] in the context of this program.</p> <p>Current Regulations: 34 CFR part 396 does not contain a definition for an “individual who is hard of hearing.”</p> <p>Proposed Regulations: We propose to add the following definition in § 396.4(c): “an individual who has a hearing impairment such that, in order to facilitate communication, the individual depends upon visual modes, such as sign language, speech reading, and gestures, or reading and writing, in addition to any other auditory information.”</p>

COMMENTS to 34 CFR Part 462 – Adult Education and Family Literacy-Approval of Tests Suitable for Use in the NRS		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II	Sec. 462.3 What definitions apply?	Changing to English Language Acquisition more accurately describes the intent of programming and pathways. Support the change
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II	Sec. 462.40 Must a State have an assessment policy?	States, “If a local provider does not post-test a student, the provider must report that the student has not made an educational gain.” This seems contrary to the description of what constitutes a “measurable gain” in Docket No. ETA-2015-0002, Sec. 677.155(a)(1)(v). Recommended change/addition of measures identified as measures for interim progress of participants as follows: (1) attainment of a high school diploma or its equivalent; (2) a transcript or report card for either secondary or post-secondary education for 1 academic year (or 24 credit hours) that shows a participant is achieving the State unit’s policies for academic standards.

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Sec. 462.41 How must tests be administered in order to accurately measure educational gain for the purpose of the performance indicator in section 116(b)(2)(A)(i)(V) of the Act concerning the achievement of measurable skill gains?</p>	<p>“Test administration will be used to document education or academic progress under this indicator for purposes of AEFLA.” Requiring a standardized test with required minimum hours of attendance goes against pathway acceleration and outcomes-based models that allow students to progress as outcomes are met rather than based on seat time. Requiring only testing does not incent accelerated pathway models and is not supported by research as effective. Testing is a highly costly process with not value to the student’s pathway.</p> <p>Recommended change: Indicators for academic progress for AEFLA purposes should allow for measuring indicators that have meaning in an individual’s career pathway. This seems contrary to the description of what constitutes a “measurable gain” in Docket No. ETA-2015-0002, Sec. 677.155(a)(1)(v). We support the additional options described for measurable gains as options to standardized testing, (e.g., (1) attainment of a high school diploma or its equivalent; (2) a transcript or report card for either secondary or post-secondary education for 1 academic year (or 24 credit hours) that shows a participant is achieving the State unit’s policies for academic standards)</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 462.43(a), How is educational gain measured for the purpose of the performance indicator in section 116(b)(2)(A)(i)(V) of the Act concerning the achievement of measurable skill gains?</p>	<p>How an educational gain is measured for AFELA has absolutely no bearing on a student’s progression along a college and career pathway or skills development. It serves purely as a way to create targets with no meaning.</p> <p>Recommendation</p> <ul style="list-style-type: none"> • Instead of counting only a single level gain in a student’s lowest subject count all level gains. If a student’s lowest subject is math they may make 3 or more gains in reading that allows them to move into college-level career programs. Because they did not make a full level gain in math no progression/gain is recorded. This provides absolutely no motivation to programs to move students faster. In addition it does not capture the total picture of student gains. It has no meaning. • The current method of counting only one gain in the lowest subject area also seems to set up the possibility for states to game the system by not registering students for their lowest subject and registering the only for a subject area they know they will make gains. • If suggested changes are not made, it is essential that this be closely monitored to ensure all states are testing in two subjects. • In addition, the system needs to identify a way to include math for ELA students. Currently they must be registered for ABE math and if that is their lowest subject at placement, they show up as an ABE student and no ELA gains are counted.
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 462.43 (c), How is educational gain measured for the purpose of the performance indicator in section 116(b)(2)(A)(i)(V) of the Act concerning the achievement of measurable skill gains?</p>	<p>“Proposed (Sec.462.43 (c) would allow these States to measure and report education gain through the awarding of credit or Carnegie units”</p> <p>Recommended change: Allow AFELA programs to use this as a measure of progression as an option along with those described in “measurable gain” in Docket No. ETA-2015-0002, Sec. 677.155(a)(1)(v).</p>

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 462.44, Which educational functioning levels must States and local eligible providers use to measure and report educational gain in the NRS?</p>	<p>The biggest problem with the current CCRS is that these standards do not match up with ESL levels</p> <p>Recommendation: Create College and Career Readiness Standards that address ALL Basic Skills students including ELA students.</p> <p>Since the revised EFL descriptors will not be implemented until the Secretary determines that there will be at least one assessment is available, how will programs that have transition to the College and Career Readiness Standards test the higher level of college readiness outcomes? This greatly slows the implementation of comprehensive college and career pathway development.</p> <p>Recommended Change: Allow the measurable gains options described in “measurable gain” in Docket No. ETA-2015-0002, Sec. 677.155(a)(1)(v) to be used.</p>
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COMMENTS to 34 CFR Part 463 – Adult Education and Family Literacy Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.1, What is the purpose of the Adult Education and Family Literacy Act?</p>	<p>Expansion of purposes of AFELA Support the expansion</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.30, What are adult education and literacy programs, activities, and services?</p>	<p>Section 203(2) of WIOA further adds there new activities Support the addition</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.30, What are adult education and literacy programs, activities, and services?</p>	<p>Under WIOA, the program of instruction must also lead to attainment of a secondary school diploma or its recognized equivalent and transition to postsecondary education or training or lead to employment. Support the addition This is critical to the implementation of comprehensive career pathways.</p>

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.32, How does a program that is intended to be an English language acquisition program meet the requirement that the program leads to attainment of a secondary school diploma or its recognized equivalent and transition to postsecondary education and training or leads to employment?</p>	<p>ELA requirements Support the requirement; would change the “or” connecting (a) and (b) to “and” so that meeting the requirement is (a) AND [(b) or (c)]</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.33, What are integrated English literacy and civics education services?</p>	<p>Inclusion of workforce training as allowable in Integrated English Literacy and Civics Education (IELCE) Support additions Highly support the inclusion of those who are professionals with degrees or credentials and the inclusion of workforce training. Would support the inclusion of workforce training as a requirement.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.34, What are workforce preparation activities?</p>	<p>Definition of workforce preparation activities Support These are the 21st Century employability skills.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.37, How does a program providing integrated education and training under title II meet the requirement that the three required components be “integrated”?</p>	<p>Requirements of integration Support this regulation</p>

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.38, How does a program providing integrated education and training under title II meet the requirement that an integrated education and training program be “for the purpose of educational and career advancement”?</p> <p>Title II</p>	<p>Content Standards Support: The use of rigorous and challenging academic standards and career pathways that contextualize learning are recognized strategies to promote readiness for postsecondary education and work.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.63, How may funds under programs for corrections education and the education of other institutionalized individuals be used to support transition to re-entry initiatives and other post-release services with the goal of reducing recidivism?</p>	<p>States, “eliminates the need for it to be authorized and separately funded annually through the appropriations process.” Does this mean in the future AEFLA providers will only have one grant to apply for rather than the two (Master and ESL/Civics)?</p> <p>Support The requirement to only have a single grant application for AEFLA.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.73, What are the requirements for eligible providers that receive funding through the Integrated English Literacy and Civics Education program?</p>	<p>Requirements for eligible providers receiving funding for IEL Civics Support this regulation</p>

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title II</p>	<p>Part 463.74, How does an eligible provider that receives funds through the Integrated English Literacy and Civics Education program meet the requirement to provide services in combination with integrated education and training?</p>	<p>Clarification is needed on requirements for providing Integrated English Literacy and Civics Education</p> <p>Clarification and Recommendation Must IELCE students be co-enrolled in basic skills and workforce training programs that lead to a certificate or degree or industry credential? We suggest that on-ramp programming aligned with the career pathway leading to the certificate be included. This would allow lower level ELA students to be on a very defined career pathway and would accelerate their progression and completion.</p>
<p>Washington State Department of Services for the Blind</p>	<p>§463.100 - Unified State Plan</p>	<p>We support the notion of a unified state plan. The conversations with our core group partners leading up to implementation of the unified state plan have been important and meaningful, with opportunity to acknowledge the reasons that our customer base hasn't been able to take advantage of the other workforce grant partner program services due to lack of accessibility. The conversations are rich and there is cautious optimism that changes will be enacted that allow our customer base equal access to One-Stop resources, trainings and materials as well as real time labor market and regional & sector strategy information.</p> <p>The timeline of developing a unified state plan every four years, with a refresh every two years, seems do-able.</p> <p>We are hoping that all VR planning and documentation for RSA will align with this same schedule and timeline, and no additional planning burden is required by RSA separate from this so we can focus efforts on developing our programs within the WIOA partner system and maximize services and outcomes for our customer base.</p> <p>With the program year aligning with our state fiscal year (July – June), we anticipate a benefit for aligning state match, fiscal planning, and managing funds. There will be extra work at year end, but this additional intensity of work seems minor compared to the potential benefits of aligning federal and state fiscal years.</p>
<p>Washington State Department of Services for the Blind</p>	<p>§463.155 Primary Indicators of Performance</p>	<p>We are instructed to set targets for the six primary indicators, for adults and for youth. Setting targets for a small agency can be challenging due to the high variance that can occur with minor changes. Small agencies (and blind agencies) are at a disadvantage in this respect due to our numbers.</p> <p>For the 1st, 2nd, 4th, and 5th indicators, what is the comparator group/cohort?</p> <p>The 1st and 2nd ask for a percentage of those participants who are in unsubsidized employment at the 2nd and 4th quarters after exit – Percentage of what group and in what time parameter? A percentage of all customers exited? All customers served? Then what is the time period for that cohort? Is it the program year that follows a cohort along for the 2nd and 4th quarters? Is it total served in the same quarter?</p> <p>The same clarity is needed for the 4th and 5th indicators, where measures ask for percentage of participants who received credential or diploma,</p>

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		<p>and who are in a training program leading to credential or employment.</p> <p>The third indicator: median earnings of participants in unsubsidized employment second quarter after exit. By utilizing median rather than average, the measure will not recognize the particularly high income outcomes of our some of our customer population. The entry level outcomes will flatten the results. We would prefer reporting both average and median wages, to be able to capture both aspects, and to highlight the high income employment outcomes our agency has historically achieved.</p> <p>Another concern about the third indicator is that the Employment Security Division wage verification data will discount the income of our self-employment outcomes, of which we have a high ratio. Does RSA have suggestions for how to best verify and include incomes for self-employment outcomes in this measure?</p> <p>The fourth indicator requires tracking of our participant activity in obtaining a diploma or credentialed degree up to one year after exit from the program. Follow along will be a challenge to capture this data.</p> <p>Also in the fourth measure is an unnecessary complexity, in only counting those participants who have achieved a secondary school diploma (or equivalent) ONLY if that participant is employed or enrolled in a training program up to one year from program exit – what is the benefit for so much complexity in data tracking? Why is simply counting numbers who achieve secondary diploma or equivalent not adequate? How does this complexity drive to a better outcome?</p>
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COMMENTS to Part 603 – Federal-State Unemployment Compensation Program		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Robinson, Jeff (ESD) LMPA UI Research and Forecasting	Part 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>

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Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	Part 603.2(d)(2)–(5) Federal-State Unemployment Compensation Program Docket No. <u>ETA–2015–0001/</u>	Lack of support for expanded definition of “public official” for sharing of wage data that is necessary for performance accountability to include community and technical colleges. Support the expanded definition of “public official” for sharing of wage data that is necessary for performance accountability to include community and technical colleges.
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COMMENTS to 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: 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 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. 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>

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Sections 651.10-658.00: Migrant Seasonal Farmworkers (MSFW) and Complaints

Reviewer: Alberto Isiordia, Employment Security Department 360.902.9281, aisiordia@esd.wa.gov

SECTION	COMMENTS AND PROGRAM IMPACT
§ 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 State Workforce Agency (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.
§ 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.
§ 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.
§ 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.
§ 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.
§ 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.

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<p>§ 653.107 – Outreach and Agricultural Outreach Plan.</p>	<p>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 by the use of the term “adequate”.</p>
<p>§ 653.501 – Requirements for processing clearance orders.</p>	<p>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.</p>
<p>§ 653.501 – Requirements for processing clearance orders.</p>	<p>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 it 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.</p>
<p>§ 653.501 – Requirements for processing clearance orders.</p>	<p>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.</p>
<p>§ 653.501(c) – Requirements for processing clearance orders.</p>	<p>First week guarantee – Per 653.501(c)(5), “if an employer fails to comply under this section the order holding office may 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)?</p>
<p>§ 653.501(d) – Requirements for processing clearance orders.</p>	<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 clearance orders processed by Washington State are tied to H-2A.
<p>§ 653.501 (d)(4)– Requirements for processing clearance orders.</p>	<p>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.</p>

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§ 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.
§ 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.
§ 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.
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.
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.
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.

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Section 651.10 – 653.00: MSFW	
Reviewer: Craig Carroll, Employment Security Department, 509-826-7576, ccarroll@esd.wa.gov	
SECTION	COMMENTS AND PROGRAM IMPACT
20 CFR Part 651.1	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.” This is “circular definition” in which a term is used in its own definition. This does not clearly define what an employment-related law and is vague as to what “other” agencies enforce these laws. It is necessary 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.
20 CFR Part 651.1	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.
20 CFR Part 651.1	Job Development – Job development means the process of securing a job interview with a public or private employer for a specific applicant for whom the employment service office has no suitable opening on file. 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 for the participant. We recommend revising this language to include job development for a participant with an employer that does not have a job opening on file with the employment service office.
20 CFR Part 651.1	Migrant Farmworker – “...farmworker is unable to return to his/her permanent residence within the same day...” Literally defined, the term “unable” is overly restrictive as to who would qualify as a Migrant Farmworker. Practically interpreted, the intent of the regulation is to consider farmworkers that are “not reasonably able” to return to their permanent residence within the same day as Migrant Farmworkers. We recommend revising the language to reflect the intention of the regulations and to clarify what is meant by “unable to return to his/her permanent residence within the same day...”
20 CFR Part 651.1	Outreach Contact – means each MSFW that receives the presentation of information, offering of assistance, or follow-up activity from an outreach worker. There is no reference to the quality or depth of the information, offer of assistance or follow up provided to MSFWs by outreach staff, nor is there any reference to whether the contact needs to be made outside of the One-Stop Center. An outreach contact under this definition is extremely broad. We recommend revising the language to give more clarification regarding what type of contacts qualify as an outreach contact.
651.10 – Definitions of terms used in parts 651, 652, 653, and 658.	Seasonal Farmworker – The proposed definition only requires a person to have worked in farmwork in the past 12 months with no threshold for amount of time worked or percentage of wages earned in farmwork. Under this definition, a person employed in farmwork for one day during the past 12 months qualifies as a farmworker. Unless this is an intentional consequence of the proposed changes to the definition of seasonal farmworker, we suggest adding language that would clarify the threshold that should be used when identifying seasonal farmworkers.
20 CFR Part 653	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.
20 CFR Part 653	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.

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Section 652.202-652.30: Employment Services

Reviewer: Ken Kelnhofer, Employment Security Department, 425.861.3787 kkelnhofer@esd.wa.gov

SECTION	COMMENTS AND PROGRAM IMPACT
<p>652.202 May local Employment Service Offices exist outside of the one-stop service delivery system? (See also 678.310 & 315)</p>	<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 <u>centers</u>. But WIOA, like WIA, does not require more than one comprehensive one-stop center per workforce development area. Hence 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 <u>centers</u> [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 <i>one-stop centers</i>, <i>affiliated sites</i>, and even <i>affiliated centers</i>. 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.</p> <p>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.</p> <p>(NOTE: A Washington State example to try proposed changes on for size is WDA 8 and its largest populated MSA in the region—Wenatchee with about 111,000. Because only one comprehensive center is required per local area (which includes 5 counties and is larger than the MSA), 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</p>

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	<p>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 WIA 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 major core program partners concentrate on finding suitable facilities, even though that poses a hard problem in many localities.)</p>
<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>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.</p>
<p>652.207 How does the State meet the requirement for universal access to services provided under the Act?</p>	<p>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.</p>
<p>652.216 May the one-stop operator provide guidance to State merit staff employees in accordance with the Act?</p>	<p>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/entities who are deemed site managers 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? The Washington ES position is that the mandatory competitive procurement for local area operator should be clarified to apply to at least one entity that should address local system needs focused on more coordinated and high quality MOU partner operations short of any formal authority over day-to-day functional program management. We elaborate on the need for more clarity and consistency in the role of operators below with respect to 678.630. Additionally, we would suggest that the ES request for clarification and role assignment for operators voices possible concerns that DOE will similarly contemplate given it now has two programs incorporated into the WIOA core programs of American Job Centers.</p> <p>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>

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	<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. 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 to 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 to 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>
652.3 Public Labor Exchange services System	<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> <p>Wagner-Peyser 651 definitions:</p> <p>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 applications</i> and <i>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</p>

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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 *applicant* in favor of *participant* 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.

“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 CASAS for basic skills, 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:

§ 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 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:

(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;**

COMMENTS to Part 676 – Unified or Combined Plan under Title I, WIOA

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
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 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.

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John Page, Director, Career and Technical Education, Tacoma School District No. 10	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.
Will Sarett, Director - NEWTECH SKILL CENTER, Spokane	Part 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)
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.
Gerry Ringwood, ESD 123 CTE Director, Serving Columbia, Dayton, Finley, Kiona-Benton and North Franklin School Districts	Part 676, Unified or Combined State plan under Title I, WIOA	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.
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.

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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>
Debbie McClary, CTE Director, Kennewick School District	<p>Part 676 – Unified and combined State Plans under Title I of the Workforce Innovation and Opportunity Act</p> <p>What impact will there be when combining the Carl D. Perkins Career & Technical Education program resources into the Combined Plan?</p>	<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 • 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>
Lynn Green, Aberdeen School District	Part 676, Unified or Combined State plan under Title I, WIOA	<p>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.</p>

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<p>Brad Hooper, CTE Director North Thurston Public Schools</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA</p>	<p>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!!</p>
<p>Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA - 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>Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA - 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>
<p>Office of Refugee and Immigrant Assistance (ORIA)</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA - (§361.115 Dept. of Ed) 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?</p>	<p>Subsection (b)(2) specifies that a Unified Plan must include how eligible agencies "will provide direct and equitable access to funds" under WIOA title II Adult Education and Family Literacy Act (AEFLA). There is no specific mention of this requirement under sections addressing the Combined Plan. Does this requirement apply to both Unified and Combined Plans?</p>

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<p>DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA (FR 20628)</p>	<p>The purpose of a Unified or Combined State Plan is to “align” and “coordinate” the six core and any optional programs.</p>
<p>DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA (FR 20630)</p>	<p>TANF or employment & training or work programs authorized under the Food and Nutrition Act of 2008 are optional programs for a Combined Plan. Optional programs are subject to their own authorizing and governing requirements, plus the “common planning requirements” in Sec. 102(b) of WIOA. These common planning requirements include both “strategic” and “operational” planning elements. Strategic planning elements include analysis of the state economy, labor market, and workforce development activities and “vision and goals” for meeting the needs of jobseekers and employers. The WIOA goals also include “goals relating to performance accountability measures based on primary indicators of performance described in WIOA Sec. 116(b)(2)(A). In other words, it would appear that as an optional program in a Combined Plan, TANF would be subject both to its current statutory participation rate requirements under PRWORA and to the six performance measures specified in WIOA. This would appear to be the DOE/DOL intent even though the performance accountability sections in both WIOA and the NPRM (see 677.160 below) consistently refer to these measures in relation to the core and not the optional programs and it is the core programs’ funding alone that is tied to performance on these measures.</p> <p>The proposed rule makes a specific exception for CSBG employment and training activities that could be included in a Combined Plan, acknowledging that since they are a subset of a “broad range of anti-poverty activities”, only the former not the latter need be included in the Combined Plan. The same argument could be made for TANF which is a safety net in addition to an employment and training program. It would be helpful if the same logic were explicitly applied to TANF in rule.</p>
<p>Nova Gattman, Workforce Training and Education Coordinating Board</p>	<p>Part 676 – Unified or Combined State Plan under Title I, WIOA</p>	<p>The state requests guidance on how accountability metrics and reporting requirements for those programs included in the plan will not be a disincentive for inclusion. Specifically, we ask the Departments of Labor and Education to develop guidance for the inclusion of programs under your purview in a combined plan, such as Unemployment Insurance and Carl Perkins Act programs in a combined plan.</p>
<p>Anna Nikolaeva, SBCTC Workforce Education Division</p>	<p>Part 676, Unified or Combined State plan under Title I, WIOA</p>	<p>Issue/problem summary</p> <ol style="list-style-type: none"> 1. Perkins funding is intended to support, not supplant, existing professional/technical programs at the post-secondary level. Funding is intertwined with other funding sources, so measuring performance of this particular program in isolation would be nearly impossible. 2. These funds are not exclusively targeted to a defined clientele or specific population. The funding is used to pilot innovative strategies, purchase new equipment, allow faculty to return to industry to update their skills and knowledge, support college career advisers, and other activities. Tracking individual participant outcomes directly related to this program would also be nearly impossible. 3. Perkins funding already requires states to provide very specific and detailed accountability data and information. Inclusion in the plan for WIOA adds more and different accountability measures, creating more tracking, reporting and expense for the colleges. Any new accountability measures would likely require activities previously funded, in whole or in part with Perkins dollars to change significantly. This will result in less flexibility in the way colleges use this funding to support their local workforce education programs. WIOA metrics are additive and do not replace existing performance measures. Inclusion in the Combined Plan, and imposition of WIOA accountability measures, may inhibit our ability to serve all students who are perusing career and technical education. 4. The mandate already exists for post-secondary partners’ participation in funding local One-Stops. Colleges will productively contribute to the strategic goals set forth in WIOA without the potential effects of inclusion in the Combined Plan.

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Shani L.Watkins,, Seattle Schools	Part 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.
Dave Pavelchek, Workforce Training and Education Coordinating Board	676.130(a) & 676.135(b)(1) What is the submission and approval process of the Unified State Plan? What are the requirements for modification of the Unified State Plan?	The Federal agencies should use the state plan updating time frame to review the regulatory framework and other guidance under which WIOA is initially implemented, and how the implementation and our understanding of the challenges and opportunities involved have evolved.
Watkins, Shani L , Seattle Schools	Part 676.140 – What happens if we have a Combined State Plan?	<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.
Katie Siewert, Career and Technical Education, Vancouver Public Schools	Part 676.140 (f) What are the general requirements for submitting a Combined State Plan?	<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.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	Part 676.143, Unified or Combined State plan under Title I, WIOA (FR 20631)	<p>Optional programs would submit their own legally required information to their “appropriate secretary.” In other words, TANF would continue to report to HHS and BFET to FNS.</p> <p>For optional programs, the appropriate secretary would have 120 days to approve that portion of a Combined Plan.</p>

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<p>DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)</p>	<p>Part 676.145, Unified or Combined State plan under Title I, WIOA (FR 20631-20632)</p>	<p>A state may modify its Combined Plan at any time during its 4-year duration. The preamble (FR 20683) further clarifies that a state may add or subtract an optional program at any time. This provides considerable flexibility in timing as we plan for TANF/BFET integration with WIOA, i.e. a decision about including TANF or BFET in a Combined Plan could be postponed as planning continues.</p> <p>Modifications to the part of an optional program in a Combined Plan that do not affect the rest of the Plan can be limited to reporting to the authorizing Secretary/Department. Again. HHS or FNS for TANF or BFET respectively.</p>
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COMMENTS to Part 677 – Performance Accountability under Title I of the Workforce Innovation and Opportunity Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Part 677, Performance Accountability under Title I Docket No. ETA-2015-0002 Title I Sections E681-H684</p>	<p>Confusion about programs included in Pay for Performance</p> <p>Clarify if Title II providers are a part of this option? If not, recommend they are added.</p>
<p>Nova Gattman, Workforce Training and Education Coordinating Board</p>	<p>Part 677 – Performance accountability under Title I</p>	<p>The Departments should work closely with the employer community to develop a new system evaluating employer impact. We anticipate different industry sectors will have different views of effectiveness, and we support a measurement system that will allow any employer to see impact for their sector in the results. It would be beneficial and informative to state and local areas to have a national business impact measurement system that can help benchmark effectiveness in the wide variety of sectors served by the system. The new system should take into account the need for businesses to keep business information confidential and unidentifiable.</p>
<p>Office of Refugee and Immigrant Assistance (ORIA)</p>	<p>Part 677.150, Performance Accountability under Title I - What definitions apply to Workforce Innovation and Opportunity Act performance measurements and reporting requirements?</p>	<ul style="list-style-type: none"> • Subsection (a) defines a participant as someone who received staff-assisted services but it is not clear what staff-assisted services mean. Does this include handing information to a person or a full in person interview with assessment? Can the assessment be done via video conference or other media so long as it is done live? • Subsection (b) defines a “Participant” as someone who meets certain criteria: 1) has not received 12 contact hours under AEFLA, 2) did not only receive self-service, and 3) did not only receive information and referral. Need definition on: contact hour under AEFLA (what does this mean?), self-service (what does this include?), and information and referral (self-serve or done by staff?) • This definition is important because WIOA performance outcomes are pegged to “participants”, not other groups. Does an ESL (ELL) student who receives only ESL training at a college meet the definition of participant?
<p>DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)</p>	<p>Part 677.150, Performance Accountability under Title I (FR 20632)</p>	<p>This section defines “participant”, “reportable individual”, and “exit” for performance measurement purposes. There are inconsistencies between the WIOA and TANF definitions related to the TANF distinction between “assistance” and “non-assistance” and to the fact that TANF does not track individuals who only seek information on services.</p>

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<p>Andres Aguirre DSHA/DVR</p>	<p>Part 677.150, Performance Accountability under Title I - What definitions apply to Workforce Innovation and Opportunity Act performance measurement and reporting requirements? – The Departments are seeking comments on the costs and benefits of taking a program-exit approach or a common exit approach in defining “exit.”</p>	<p>DVR favors the “program-exit” versus “common exit” approach to defining exit from a core program because it encourages co-enrollment in multiple core programs without each program having to delay reporting until the participant exits the final program. The program-exit approach permits each program to report an exiter when the individual has met required criteria specific to the program. The common exit approach requires all core programs to delay reporting on a co-enrollee until the participant exits the final core program which could become a disincentive among core programs to co-enroll VR participants. This is because the VR program generally takes more time for participants to exit.</p> <p>For example, an individual may be co-enrolled in Title I Adult and Title IV Vocational Rehabilitation. They utilize Title I services to get a job as an Accounting Assistant within 6 months while continuing to receive Title IV services for another 3 years to get their Master’s degree and become employed as a Certified Public Accountant. Under the program-exit approach Title I and Title IV core programs each report their exit when it occurs. Under the common exit approach the Title I core program would have to wait 3 years to report their exit when the Title IV exit is reported.</p>
<p>Scott Wheeler, Employment Security Department, LMPA, System Performance</p>	<p>Part 677.150(a), Performance Accountability under Title I, WIOA</p>	<p>The participation definition that excludes self-service-only individuals from performance fails to recognize two recent developments: State workforce systems have increased their investment in technology, enhancing their ability to reach a larger and more diverse self-service population.</p> <p>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> <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>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Part 677.150(a), Performance Accountability under Title I, WIOA Docket No. ETA-2015-0002</p>	<p>Reportable individuals for the AEFLA program are those deemed eligible and who have completed 12 contact hours. Title is silent about requirements to complete a pretest to be eligible.</p> <p>Clarify whether or not a pretest is also required in order for individuals to be deemed reportable.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Part 677.150(a)(1)(iv), Performance Accountability under Title I Docket No. ETA-2015-0002</p>	<p>Support Transition to postsecondary education or employment is critical. Fully support limiting participants who obtain a secondary school diploma or its equivalent to be included in the education or training program leading to a recognized post-secondary credential with 1 year after exit from the program.</p>
<p>Scott Wheeler, Employment Security Department, LMPA, System Performance</p>	<p>Part 677.150(c), Performance Accountability under Title I, WIOA</p>	<p>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.</p>

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Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	Part 677.150(c), Performance Accountability under Title I, WIOA Docket No. ETA-2015-0002	Proposed definition of exit is not sufficient. Support an expanded definition that says “An individual should be considered as having exited after staff-assisted service has ended.”
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	Part 677.150(c), Performance Accountability under Title I Sec.116(d)(I)	The common exit approach to defining exit would be too cumbersome to provide clean data. Support a program exit approach to ensure clean data.
Office of Refugee and Immigrant Assistance (ORIA)	Part 677.155, Performance Accountability under Title I - What are the primary indicators of performance under the Workforce Innovation and Opportunity Act?	<ul style="list-style-type: none"> The supplementary information (DOL & ED comments) to subsection (1)(v) states that WIOA intends to track low-skill workers, including English learners, on their skills progress prior to completing high school credentials, post-secondary education or training or employment to encourage local adult education programs to serve all low-skill individuals. the rule is vague so without the commentary, it is unclear whether someone taking a 3 hour ESL class weekly to improve language skills in order to increase her employability (though there is no job lined up after graduation) is measurable under this rule. General comment about this section: since only 1, subsection (1)(v) measures skills improvement for ESL students while 3 of 6 measure employment, it could create a preference to put English learners into an employment category over skill acquisition.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	Part 677.155, Performance Accountability under Title I (FR 20632-20633)	This section lists the performance indicators for the core programs and requires states to “propose expected levels of performance” for each indicator. As stated above, it appears, but is not certain, that DOL and DOE intend to subject optional programs to these measures.
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.155(a)(1), Performance Accountability under Title I – Supplemental Retention Rate measure	If there is to be a supplemental retention measure, it should be a somewhat longer term assessment of employment dynamics that looks more fully at entire cohort employment over time and has adequate data about earnings and industry of employment to differentiate between instability and upgrading in employment.
Scott Wheeler, Employment Security Department, LMPA, System Performance	Part 677.155(a)(1)(i), Performance Accountability under Title I, WIOA	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	Part 677.155(a)(1)(II), Performance Accountability under Title I, WIOA	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.

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<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.155(a)(1)(II), Performance Accountability under Title I - What are the primary indicators of performance under the Workforce Innovation and Opportunity Act?</p>	<p>Whether to implement the 2nd measure (4th Q employment) as an employment measure or a retention measure should be thought through in terms of what service provision it will encourage, and in light of the other measures. The first and third indicators provide incentives for quality initial placements from the program by measuring employment rate and earnings in the 2nd quarter. This should be adequate to de-prioritize short-term and low hour or low wage placements. The existing Common Measure for Retention is observably the most boringly stable of the Common Measures, and therefore provides relatively little meaningful feedback. Given the new emphasis on post-exit follow-up services, I suggest that this 4th quarter measure be viewed as a measure of effectiveness of those follow-up services. From that point of view, it would be preferable to incentivize follow-up services to all members of the exit cohort, not only those who were employed in Q2, and without a disincentive to help them further upgrade their employment if it would involve a change of employers. This line of analysis supports keeping this measure as a simple 4th quarter employment rate, as it appears in the statute. Having a higher durable average rate of employment for the cohort seems a better policy goal than creating a slightly skewed follow-up focus on only that portion of the cohort who are employed at Q2.</p>
<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.155(a)(1)(iii), Performance Accountability under Title I - Earnings Measure</p>	<p>This measure should exclude the earnings of individuals who are enrolled in further education or training in the quarter of measurement. Participation in education or training has, on average, a significant suppressing effect on earnings during participation, often through fewer hours worked, and particularly for youth. There should be no disincentive for achieving the outcome of further post-program education and training, especially not for Youth participants.</p>
<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.155 (a)(1)(iv), Performance Accountability under Title I</p>	<p>The major clarifications needed for implementation are Clear national access mechanisms to obtain postsecondary records from both FERPA-compliant and non-FERPA education and training providers.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Title I / Sec.677.155(a)(1)(iv) Performance Accountability under Title I</p>	<p>Fully support limiting participants who obtain a secondary school diploma or its equivalent to be included in the education or training program leading to a recognized post-secondary credential with 1 year after exit from the program.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Part 677.155(a)(1)(v), Performance Accountability under Title I Docket No. ETA-2015-0002</p>	<p>Concerning the measure of interim progress of participants---Measurable Skill Gains</p> <p>Support the inclusion of the following measures of interim progress of participants:</p> <ol style="list-style-type: none"> (1) attainment of a high school diploma or its equivalent; (2) a transcript or report card for either secondary or post-secondary education for 1 academic year (or 24 credit hours) that shows a participant is achieving the State unit's policies for academic standards
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Part 677.155(a)(1)(v), Performance Accountability under Title I Docket No. ETA-2015-0002</p>	<p>While have full support for all included measures that report interim progress of participants, there is growing concern about how to count students who more and more refuse to provide SSNs due to concerns about consumer fraud, etc.</p> <ul style="list-style-type: none"> • Recommend adding a portfolio option to document interim measures. This is critical to outcomes based instruction, credit for prior learning, and acceleration to post-secondary completion. • Recommend allowing these additional measures to be used in place of NRS/EFL level completions that have no bearing on a student's competency in continuing education or the workforce. • Recommend additional identifier to the SSN.

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Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.155(a)(1)(v), Performance Accountability under Title I - Measurable Skill Gain Measure	<ul style="list-style-type: none"> Discuss the problems of measurement, standardization, and temporal issues in implementation. The NPRM request input on whether this should be a completion measure or a progress measure. Making it a completion measure would duplicate the Credential Measure (#5). A progress measure requires a lot of access to educational data from a number of sources, and is problematic even then for some types of education and training.
Scott Wheeler, Employment Security Department, LMPA, System Performance	Part 677.155(a)(1)(vi), Performance Accountability under Title I, WIOA	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 Division of Vocational Rehabilitation	Part 677.160, Performance Accountability under Title I, 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 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.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	Part 677.160, Performance Accountability under Title I (FR 20633)	This section describes the information to be included in the state's annual performance report, including: numbers of individuals who participated in and exited each core program, disaggregated by barriers to employment (as defined in WIOA) and co-enrollment (i.e. cross-program enrollment); performance levels on the primary indicators, disaggregated by barriers to employment, age, sex, race and ethnicity; number of participants and exiters who received "career services" in the current and three preceding years; and the amount of funds spent on each type of career service and average cost per participant. The preamble (FR 20588-20589) clarifies that core programs are only expected to report on services they actually provide, not the full range listed in this section. There is no reference to the optional programs in this section.
Dave Pavelchek Workforce Training and Education Coordinating Board	677.160 (a)(5), Performance Accountability under Title I - Data reporting on training related employment	Guidance is needed, as the information available from UI wage records does not include occupation, but rather only industry, and even occupation does not "map" exactly to subject or CIP of training or education. WE also know from surveys that a significant number of participants who say that their job is unrelated to the training received will also report that they use the skills received in training on the job, and/or that having had the training helped them get the job.
Dave Pavelchek Workforce Training and Education Coordinating Board	677.160 (a)(6), Performance Accountability under Title I	Requires disaggregation by "type" of service in reporting. What is the definition of "type" in this instance?
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.170, Performance Accountability under Title I - Performance Adjustment	Needs to explicitly include, particularly for implementation years, possibility of retroactive adjustment of performance for unanticipated effects from shifts in client populations across funding silo measures, particularly when those effects are not adequately included in statistical models.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	Part 677.170, Performance Accountability under Title I (FR 20634)	This section describes how performance levels will be adjusted for the core program primary indicators based on local economic conditions and the characteristics of participants. The characteristics of participants listed include low levels of English proficiency, homelessness, and "welfare dependency". Whether or not subject to the core performance measures, as a one-stop partner ESA would have to make TANF data available for this adjustment purpose.

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Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.170, Performance Accountability under Title I	In a multi-agency integrated service system with increased opportunities for sharing of clients across the system it is important that the performance measurement system not be a disincentive to share multiple barrier or hard to serve participants. Standardized data will never completely capture the relative difficulty of serving some participants, and even if it can, it will take time and an accumulation of new data on characteristics and outcomes to develop statistical models that provide appropriate adjustment of performance expectations. Performance adjustment processes need to be able to take into account this problem, particularly during the interim before a robust statistical approach can be implemented.
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.170(b), Performance Accountability under Title I	<p>In over ten years of work on regression modeling for both Federal and state WIA performance measures (and other analysis) in the state of Washington, a wide range of factors beyond those listed in WIOA or used in recent federal models have been tested, and many have been retained in final models due to reasons of statistical and/or structural significance. The following are the three broad categories of such factors, with notes on sources and examples of candidate factors:</p> <ul style="list-style-type: none"> - participant characteristics: often UI based, such as: length of prior unemployment or under-employment, minority, - area labor market conditions: LMI such as: wage rate for service jobs, proportion of labor in agriculture or manufacturing, recent change in employment - area demographic and social conditions: usually Census or CPS, such as: proportion of adults with BA, poverty rates <p>Depending on the final definitions of some of the performance measures, it may also be appropriate to add adjustment factors for such things as post-exit continuation in education or training. National Student Clearinghouse and SLDS' are the logical data sources for accessing data of this type.</p>
Agnes Balassa, Employment Security Department	677.170(c)(d) Performance Accountability under Title I	Implementation of the Act needs to recognize those states that are implementing integrated service delivery strategies and provide flexibility in the negotiation of performance expectations for those using co-enrollment as a key factor in designing integrated services approaches. This approach will likely result in lower performance on some measures, due to in the increased size of the denominator, even while serving and placing more individuals into work.
Scott Wheeler, Employment Security Department, LMPA, System Performance	Part 677.190(d), Performance Accountability under Title I, WIOA	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.
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.190(d), Performance Accountability under Title I - Definition of "fails to meet"	Consider a statistical variation standard for failure threshold – ie. expressed in terms of standard deviation units based on variation in adjusted performance over time, or variance against regression predictions.
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.190(d), Performance Accountability under Title I - timing of sanctions	Subsequent (2 nd & beyond) years for sanction purposes should start with the first year after "failure to meet" in which changes in management can reasonably be expected to affect performance.

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<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.190(d), Performance Accountability under Title I - timing of performance accountability system implementation</p>	<p>States must have substantial flexibility to implement the accountability system incrementally and on an interim basis while awaiting final regulations and subsequent non-regulatory guidance.</p>
<p>Nova Gattman Workforce Training and Education Coordinating Board</p>	<p>Part 677.195, Performance Accountability under Title I - What should States expect when a sanction is applied to the Governor’s Reserve Allotment?</p>	<p>We appreciate the clarification of Section 116(f)(1)(B) of WIOA cited as “the better reading” in section 677.195(a)(1) and (2) of the NPRMs. This section suggests the sanctions to the Governor’s Reserve Allotment to be a percentage of the total, instead of taking a full third of the allotment when performance targets are not met.</p> <p>We also want to request the Departments’ consideration of clarifying how the sanctions on the 15% will be assessed. Currently, although WIOA calls for a 15% Governor’s Reserve Fund, the congressional appropriation is only at the 10% level. We would appreciate clarification on this section to ensure that any sanction, if taken, comes from the actual amount appropriated instead of simply relying on the 15% amount listed for this purpose.</p>
<p>Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation</p>	<p>Part 677.205, Performance Accountability under Title I, What performance indicators apply to local areas?</p>	<p>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.</p>
<p>Andres Aguirre, M.S. Department of Social and Health Services Director Division of Vocational Rehabilitation</p>	<p>Part 677.210, Performance Accountability under Title I, How are local performance levels established?</p>	<p>The draft regs are silent on which core programs are subject to negotiation of local performance targets. Clarification is needed.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Part 677.210(d), Performance Accountability under Title I Docket No. ETA-2015-0002</p>	<p>Because local boards will have authority to establish performance targets, it is essential that a representative from each core program be added to the board. This must be a person working directly (frontline) with core programming. The grandfathering of boards does not include this as intended.</p> <p>Recommend a requirement that an individual responsible for programming be included as a voting member on the local board, including boards that are grandfathered in. E.g., a Title II Basic Skills director would be added to each local board.</p>

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<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.230, Performance Accountability under Title I & 680.400, Adult and Dislocated Worker Activities Under Title I – Eligible Training Providers</p>	<p>The requirements of this section are many and complicated. Not all of them appear to be rooted in statute. There are three separate training program evaluation processes in WIOA:</p> <ul style="list-style-type: none"> • adult & dislocated training services; on-the-job training, customized training, incumbent worker training, internships, paid or unpaid work experience opportunities, and transitional employment; Youth services <p>In addition, there are other distinctions among types of training services mentioned in the statute or NPRM (or omitted), but that can be interpreted in the draft regulations as being covered by these systems, for which different procedures, metrics and rubrics may be appropriate for performance evaluation: adult basic education, entrepreneurial education, occupational skill training not leading to credential, education services for in-school youth, pre-apprenticeship programs, and fiscal education. Specific authorization should be included for not limiting the procedures, metrics and criteria to only three rubrics under which to evaluate all training programs, but rather to make further distinctions among types of training and education services.</p> <p>Clarity is needed about both how these systems are the same/different, how different types of programs fit into these systems, and what the statutory basis is for the requirements.</p>
<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.230, Performance Accountability under Title I & 680.400, Adult and Dislocated Worker Activities Under Title I – Eligible Training Providers</p>	<p>While evaluating the effectiveness of for OJT etc. (sec. 122(h)) programs is an appropriate objective, the proposed use of an ETPL approach and public reporting of outcomes at the individual program or provider level is not a viable implementation of that concept. The substantial majority of these service providers each serve such small numbers that they would not be statistically reliable indicators of performance, and not meet the reliability and confidentiality requirements of sec. 116 (d)(6)(C). An alternative approach is needed both for using performance results for management, provider selection and public/consumer information. Of all the program types included in this category only a small minority of the providers and “slots” are likely to escaped this “small n” problem, and most of those will be for incumbent worker training.</p>
<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>Part 677.230, Performance Accountability under Title I & 680.400, Adult and Dislocated Worker Activities Under Title I – Eligible Training Providers</p>	<ul style="list-style-type: none"> • There needs to be a mechanism for a program to stay eligible after its provisional first year even if/though it has not yet had enough graduates (or exiters) to have statistically meaningful or reportable) outcomes adequate to establish eligibility under program metrics. • This might lead providers to “relabel” any program once a year and reapply as a new program, in order to stay eligible. If we want to have a training provision system that responds rapidly to demand for new types of training, we must recognize the substantial lead time providers face in designing curriculum, recruiting faculty and then students before they can begin to generate enough “output” such that there can be outcome statistics... and that is without including the development of a recognized credential (which is over-emphasized in the NPRM see comment elsewhere). The ETPL process must be put together thoughtfully, with regard for encouraging training providers to invest in responding to changing labor market demands in ways that make newly developed training available both in general and specifically to WIOA program participants. This program needs to be thought through both as it regards larger multi-program providers such as CTCs and technical schools, and from the viewpoint of smaller, single or few-program providers, such a focused non-profits and small private career schools.

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Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.230, Performance Accountability under Title I & 680.400, Adult and Dislocated Worker Activities Under Title I – Eligible Training Providers – Esp. request for comment at 677.230(e)(2)	By focusing on past results with WIA/WIOA participants the majority of programs and many providers will not have a sufficient number of recent participants to meet the 116 (d)(6)(c) requirements for statistical reliability and confidentiality. In Washington’s ETPL, we have focused on that by several methods: using multiple years of outcomes (3 most recent) and building criteria around “all students” results. The latter does mean that we have also worked at methods for providing some adjustment for differences in the “case mix” between the “all students” population and WIA participants. For non-ETP public information purposes on our Career Bridge website, in cases of insufficient “n” we aggregate across providers with the same CIP in a given area. For eligibility purposes, it may be more relevant to consider aggregating across multiple programs for a multi-program provider.
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 677.230(e)(2), Performance Accountability under Title I – How to facilitate data flow from training providers	Given the problems of verification, for both ETP and other evaluation and consumer information purposes, Washington State relies on obtaining annual student record files from training providers and using wage matches and (where possible) matches to further education sources, in order to compile performance statistics. This approach is still dependent on full reporting of students and their enrollment status, and it doesn’t deal well with self-employment and some other types and locations of employment as an outcome. But it relies on records every education or training provider keeps and avoids an additional data collection on their part.

COMMENTS to Part 678 – Description of the One-Stop System Under Title I of the Workforce Innovations and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Nova Gattman, Workforce Training and Education Coordinating Board	Section 678 – Description of the One-Stop system under Title I	The state would appreciate the Departments’ assistance in creating rules that allow for maximum flexibility at the local level so that CLEOs and local boards retain flexibility to make the necessary determinations for cost-sharing and operational procedures at the local centers.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.305 (FR 20638) - What is a comprehensive one-stop center and what must be provided there?	All partner program staff need not be physically present at a “comprehensive one-stop center” – electronic linkage is okay. Linkage for TANF or BFET via Washington Connection would be permissible. Physically present staff from other partner programs could also provide information on ESA programs.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.310 (FR 20638) What is an affiliated site and what must be provided there?	“Affiliated sites” do not need to provide access to all required partners. Physical staffing is locally-determined. Adds flexibility where co-location is not feasible.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.400 and 405 (FR 20639) Who are the required one-stop partners? and 405 Is Temporary Assistance for Needy Families a required one-stop partner?	TANF is a required one-stop partner. Even if the Governor opts out, local TANF programs may still be a one-stop partner or collaborate with the one-stop.

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DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.410 (FR 20639) What other entities may serve as one-stop partners?	SNAP employment and training programs are optional one-stop partners. These would include the BFET and ABAWD programs.
Office of Refugee and Immigrant Assistance (ORIA)	§ 678.410 What other entities may serve as one-stop partners?	Subsection (b)(6) opens the partnership to other federal employment and training programs. Does this include programs funded by the Office of Refugee Resettlement (ORR)?
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.420 (FR 20640) What are the roles and responsibilities of the required one-stop partners?	Responsibilities of one-stop partners: 1) provide access to its programs; 2) allocate funds to support “career services” and one-stop infrastructure; 3) enter into an MOU with the local board; 4) participate in the one-stop according to the MOU; and 5) participate on the state and local boards and committees as required. Issues for ESA would be the cost allocation scheme and the MOU structure, i.e. how would ESA negotiate MOUs with 12 local boards. Participation on the local boards is probably not an issue – at least 6 of the 12 WDCs currently have CSD representation (mostly CSOAs).
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.430 (FR 20640-20641) What are career services?	<p>This section details a range of “career services” to be delivered by one-stop partners but 678.425 states that each partner is only required to provide those services authorized under their program. The preamble for this section (FR 20601) states that since the TANF statute does not define “career services”, the TANF partner needs to “identify any employment services and related supports” it provides that are comparable to those listed in this section: “At a minimum, the TANF program partner must provide intake services at the one-stop for TANF assistance and non-assistance benefits via application processing and initial eligibility determinations.” Note that DOL and DOE seek comment on their proposal to include TANF employment and support services and intake functions as “career services”. While the comment states that these TANF intake functions are required to be provided locally within the one-stop, the question for ESA is whether this could be done electronically using existing systems such as Washington Connection.</p> <p>There is an information and referral provision in this section which includes child care, child support, food assistance, and TANF. This means that one-stop partner staff at all sites would have to be able to perform this I & R function.</p>
Office of Refugee and Immigrant Assistance (ORIA)	§ 678.430 What are career services?	Subsection (a)(3) requires one-stop career services to include initial assessment for skills including literacy and English language proficiency. There is no universal ESL testing under TANF or LEP Pathway (or any other ORIA employment and training programs) for every participant. Only participants who take ESL class are tested by the instructor. Participants who only want or receive employment services do not go through English proficiency testing. Our experience is that ESL providers are better at conducting language proficiency testing than employment service providers.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.505 (FR 20641) Is there a single Memorandum of Understanding for the local area, or must there be separate Memoranda of Understanding between the Local Board and each partner?	Allows for a single “umbrella” MOU including all partners or separate MOUs for individual partners or groups of partners. ESA may want to request separate MOUs to accommodate its unique one-stop integration challenges and could hopefully develop a “standard” MOU for use with all WDCs.

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Washington State Labor Council, AFL-CIO	678.605 How is the one-stop operator selected?	Draft regulations are clear that sole source contracts must only be permitted in limited cases; having said that, the process for a Workforce Investment Board to compete in the procurement process to be a one stop operator either alone or as a member of a consortium is not well defined. In Washington State, as well as a number of others across the nation, we believe, a number of workforce areas presently operate in this fashion, to the benefit of business and the job seeker clients served. We are seeking guidance on some defining parameters for procurement process' that will address providing quality services in local area procurement that would allow these entities to compete under WIOA regulations.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.700 (FR 20644) What are one-stop infrastructure costs?	One-stop infrastructure costs, to which all partners must contribute, are non-personnel costs including rent, utilities, equipment and technology. Whether the funding mechanism is determined at the local (678.715 and 720) or state (678.730 and 735) level, infrastructure costs should be allocated according to the "the proportionate use by or benefit to the partner program." In other words, the extent to which TANF or BFET clients use one-stop services would determine the level of ESA's contribution toward infrastructure costs. Given WIOA's emphasis on serving low-income and low-skilled individuals, this cost could be considerable even with the administrative caps described below. A question: would this contribution be in addition to the funds DSHS now provides to ESD for employment services for WorkFirst clients, for example?
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.720 (FR 20645) What funds are used to pay for infrastructure costs in the local one-stop infrastructure funding mechanism?	For locally-determined one-stop infrastructure funding, partners may determine what funds they use (according to their own statutory limitations) and there are no caps on amount or percent of their contribution. The exception will be that to the degree a program's authorizing statute defines WIOA infrastructure costs as administrative costs its cap on administrative costs will apply. <i>ESA should do more research comparing PRWORA and WIOA definitions of administrative costs.</i>
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	Sec.678.735(c) How are partner contributions determined in the State one-stop funding mechanism?	Confusion about the Title II 1.5 percent cap on contributions for funding one-stops. Is It a maximum of just 1.5% of funds set aside for administration of the grant or as 1.5% of the entire federal grant? Request clarification.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.740 What funds are used to pay for infrastructure costs in the State one-stop infrastructure funding mechanism?	For state-determined one-stop infrastructure funding, "other required one-stop partner programs" (such as TANF or BFET) as would be limited to the administrative funds at their disposal.
Washington State Labor Council, AFL-CIO	678.750 When and how can a one-stop partner appeal a one-stop infrastructure amount designated by the State under the State infrastructure funding mechanism?	Similarly to one-stop operators, the regulations do not clarify procurement processes to allow for workforce areas to compete for Adult and Dislocated Worker program contracts. In Washington State, as well as a number of others across the nation, a number of workforce areas presently operate in this fashion, to the benefit of business and the job seeker clients served. We are seeking guidance on some defining parameters for procurement process' that will address providing quality services in local area procurement that would allow these entities to compete under WIOA regulations.

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Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	Part 678.760, Description of the One-Stop System under Title I - Docket No. ETA-2015-0002	Confusion about whether the Title II 1.5% cap for contributions to one-stop funding includes the joint contribution to funding the cost of career services (e.g., intake, assessment, skill appraisals, etc.) Support maintaining a CAP of 1.5% for all support to one-stops to ensure funding is available to provide direct AEFLA services.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.760 (FR 20647) How do one-stop partners jointly fund other shared costs under the Memorandum of Understanding?	This section applies the same proportionate use principle to shared services costs such as intake, assessment, measuring basic skills, identification of service needs, and referrals to meet those needs. (See comment above.)
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	678.800 (FR 20647) How are one-stop centers and one-stop delivery systems certified for effectiveness, physical and programmatic accessibility, and continuous improvement?	Requires the State Board to review the one-stop delivery systems every two years as part of the review and modification of the state plan – for effectiveness, including customer satisfaction, physical and programmatic accessibility, and continuous improvement. The State Board must certify the one-stop center. Unclear what happens if they one-stop doesn't meet the evaluation criteria or get certified.

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

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	679.110(b)(3)(iii)(A)(1) and (2) – What is the State Workforce Development Board? Docket No. ETA-2015-0001	Requirement unclear about appointment to State Workforce Board of representatives of all core programs, remaining silent about single member representing multiple categories, even of boards that are grandfathered in. Support the requirement that the representatives of all core programs must represent only that single program, even on boards that have been grandfathered in.
Dave Pavelchek Workforce Training and Education Coordinating Board	§ 679.110(f)(3) What is the State Workforce Development Board?	Commentary for Proposed § 679.110(f)(3) cites Sec. 123 (c)(3) which does not exist.
Washington State Labor Council, AFL-CIO	679.120 What is meant by the terms “optimum-policy-making authority” and “demonstrated experience and expertise”?	WIOA permits flexibility for members on local workforce boards to represent the interests of two required board functions. We believe the rules should strongly discourage a board member serving two voices. The intent of WIOA is to ensure various interests are brought to the planning process and a board member serving the interests of two separate functions undermines that intent. There are also concerns that this will create conflict of interest issues under Sarbanes-Oxley and a Board Members’ heightened fiduciary responsibilities since passage of S-O.

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<p>Washington State Labor Council, AFL-CIO</p>	<p>679.120 What is meant by the terms “optimum-policy-making authority” and “demonstrated experience and expertise”?</p>	<p>The local workforce board appointment process must result in local board members who have optimal policy-making authority for their own organizations and demonstrated experience and expertise as defined in WIOA and the Notice of Proposed Rule Making to support the local strategic vision.</p> <p>Thus, we recommend the regulations clarify that all potential local workforce board members must be nominated by an appropriate nominating body for consideration in the appointment process. As per the Act, organized labor representatives and the joint-labor management registered apprenticeship program representatives must be nominated by local labor federations, and business representatives must be nominated by local business or trade associations.</p> <p>For all seats that do not have a clear nominator, recruitment should “cast a wide net” and include notification of various public media, business and trade organizations, including chambers of commerce, economic development organizations, local labor federations, social services networks, and others of the opportunity to nominate potential board members.</p>
<p>Eleni Papadakis Workforce Training and Education Coordinating Board</p>	<p>§ 679.130 What are the functions of the State Board?</p>	<ul style="list-style-type: none"> • WIOA directs multiple parties to execute the same functions. Many aspects of the “role of the state board” can potentially be in conflict with other entities’ roles, and might undermine good partnership practices. As an example, the law and proposed rules give responsibility for the development and oversight of the state’s Labor market information System to both the state board and state UI Administrator. Role clarification would be helpful. • The responsibility to develop a state technology plan as part of the state planning process is onerous and very expensive. States will need to identify funding first to perform rigorous analyses of what currently exists, what aspects of the current technological infrastructure can be modified adequately, and which aspects must be developed and built anew. This analysis and the development of useable design specifications will be more expensive than is available through discretionary WIOA funds. The build out of new systems will be exponentially more expensive than the first two stages. Can the Department develop rules that bring reason to this responsibility? Can the state plan describe the schedule for developing a plan for each responsibility on the technology list and/or prioritize investments as funds become available? Otherwise, technology plans are likely to be artificial and a waste of time given all that needs to be accomplished in a short period of time.
<p>Eleni Papadakis Workforce Training and Education Coordinating Board</p>	<p>679.210 What are the requirements for identifying a region? Department requests suggestions of additional data.</p>	<ul style="list-style-type: none"> • Suggest using poverty areas and areas of poverty concentration in identifying regions. Refer to the March 2015 Brookings Institution report depicting how jobs have moved further away from low income communities. Commute pattern data typically shows how employed individuals move to and from work. New efforts must be undertaken to ensure that poor people can access jobs. Brookings report at: http://www.brookings.edu/~media/research/files/reports/2015/03/24-job-proximity/srvy_jobsproximity.pdf • Similarly, poverty areas and concentrations in relation to location of training providers is important. Suggest that ability to use technological distribution methods, such as on-line programs should be part of the data analysis. I.e., if broadband distribution is not available, are there mobile units or other mechanisms for distributing relevant education and training options? Should travel and lodging options be made available? Multiple areas can problem solve on these matters more efficiently together.

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Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	Section 679.320 – Who are the required members of the Local Workforce Development Board?	Requires that Local Boards include a minimum of one member with experience providing adult education and literacy activities under title II of WIOA and at least one member from a higher education institution, which may include community colleges, that provide workforce training. Support the requirement that the representatives of all core programs must represent only that single program, even on boards that have been grandfathered in.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	679.320 (FR 20843) Who are the required members of the Local Workforce Development Board?	Representatives of public assistance programs are optional members of local boards, at the discretion of the local chief elected official.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	679.340 (FR 20843) What is meant by the terms “optimum policy-making authority” and “demonstrated experience and expertise”?	All members of local boards must have “optimum decision-making authority”, which means they must be able “to speak authoritatively when committing their organization to a decided course of action” (see preamble FR 20706). <i>DSHS has concerns about this language as TANF is administered at the state level and local leadership does not have “optimum decision making authority” for the agency. Request restating the guidance to qualify what “optimum decision making level” is at the local level.</i>
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	679.360 (FR 20843-20844) What is a standing committee, and what is its relationship to the Local Board?	Standing committees, whose members may not be on the local board, are another way for local partners to participate in the activities of the board. The NPRM encourages local boards to use standing committees to address the needs of targeted populations. <i>This will be helpful if there are situations where ESA is not represented on a local board.</i>
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	679.370 (FR 20844) What are the functions of the Local Board?	Local board functions include: creating career pathways by aligning employment, training, education and supportive services for individuals with barriers to employment; facilitating connections among intake and case management information systems of one-stop partners; promoting access in remote areas; and improving digital literacy skills. <i>Connecting intake and case management information systems will raise significant issues for ESA in terms of staffing, technology, and confidentiality. ESA’s large geographic footprint, including the mobile CSOs, will make it an attractive vehicle for expanding remote access.</i>
Dave Wallace, Workforce Training & Education Coordinating Board	679.370 – What are the functions of the Local Board?	We appreciate that the Departments have used WIOA's requirement for sector-based practices as a key mechanism for building meaningful partnerships with employers, and for achieving better outcomes for both employers and job seekers. However, sector partnerships should not be the end goal, but a stepping stone toward a system that truly engages employers in all industries and all geographic regions, including rural and remote areas. Rules should provide significant flexibility to local areas to work with the full spectrum of employers in their community, and encourage employer involvement in program development, implementation, resource sharing, evaluation, and accountability. Locals face significant resource limitations as well as great local expertise, both of which argue for allowing more flexibility in employer engagement.

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Dave Peterson, SkillSource	679.370(g)(6) What are the functions of the Local Board?	Delete all but "leverage support for workforce activities." 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. 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. 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 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.
Eleni Papadakis Workforce Training and Education Coordinating Board	§ 679.510. A single local area may not be split across two planning regions.	While this rule might seem compassionate to local boards, especially our smaller boards, it may hamstring areas that need to collaborate with multiple other areas, either because of commute patterns or where service populations reside, or because of where jobs or key industry sectors might be. We don't want to overtax local areas with new burdens, but to respect the coordination that is already taking place or should be taking place based on local need. If requirements for planning regions can be made less taxing, appropriate coordination across areas will ensue. We don't want to dissuade this highly valuable approach.
Dave Peterson, SkillSource	679.550 & 679.560 What are the requirements for the development of the local plan? What are the contents of the local plan?	These sections refer to Plan, Local Plan & Local Workforce Investment Plan. Are these the same? If so, pick a name and stick with it.
DSHS, Economic Services Administration (ESA) Department of Social and Health Services (DSHS)	679.560 (FR 20847-20849) What are the contents of the local plan?	The local workforce investment plan must describe how the one-stop operator will ensure that priority for adult career and training services will go to "recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient" (679.560(b)(21)). The preamble (FR 20711) points out that DOL is proposing "to include this requirement under the authority to require additional reporting, recordkeeping, and investigations." <i>This would indicate DOL's intention to hold local boards accountable for implementing this priority.</i>

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Eleni Papadakis Workforce Training and Education Coordinating Board	§ 679.560(b)(4) Entrepreneurial training and microenterprise development	<ul style="list-style-type: none"> • This is a valuable addition if the Departments can make it fit within the WIOA performance accountability system. For the ETPL, we need to develop performance criteria that make sense to this activity. It is unlikely that participants will start up new businesses upon program exit— or if they do, they are unlikely to be earning sufficient income within WIOA’s measurement period. • States and locals do not have access to a secondary data set that records the development stages of a business. Earnings are often linked to other jobs that an individual takes while they build their business. However, research shows those who complete entrepreneurial training are more likely to be employed and at higher wages (not sure that causality was truly demonstrated). • With funding from Kauffman Foundation, WA Workforce Board prepared this report about entrepreneurship as an activity within the state’s workforce development system. Above noted research is cited: http://www.wtb.wa.gov/Documents/June%202014%20Entrepreneurship%20Report.pdf • Microenterprise development is a different matter. The term must be defined by the Departments. Traditionally microenterprise development includes some type of financing support for entrepreneurs. There have been instances under WIA and JTPA, where Rapid Response and discretionary funds were used to provide loans and/or loan guarantees to banks and SBA. Is this the intention? Please clarify.
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	§ 679.560(b)(12) – What are the contents of the local plan?	<p>Requires a description of how the Local Board will carry out the review of local applications submitted under title II.</p> <p>Define parameters around the review of local applications to include specific language that limits the review to ensuring alignment with local plan.</p>

Section 680 and 681: Adult and Dislocated Worker Activities; Youth Activities

Reviewer: Tami Gillespie, Employment Security Department, 360.902.9768 tgillespie@esd.wa.gov

SECTION	COMMENTS AND PROGRAM IMPACT
Part 680 – Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Subpart A	<p>WIOA merges the categories of core services and intensive services under WIA into the category of career services. Impact: Burden for State and Local Areas to Change data collection systems (for WA SKIES). This Rule must be defined by DOL, there are two career services Basic Career Services and Individualized Career Services.</p> <p><i>§ 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: Burden on State and Local Areas to revise Policy & Procedures. Again, DOL must define Basic Career Services and Individualized Career Services and when do participants get placed into training.</i></p>
	<p>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: Please describe what “generally the availability” of funds. DOL must define how local boards are allowed local flexibility of funds. Burden to States to track local flexibility of funds.</p>
	<p>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: This rule change is 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. With this rule change DOL should provide States with an easier quicker process for requesting Waivers.</p>
	<p>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.</p>

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<p><i>Subpart C</i> <i>Individual Training Accounts</i></p>	<p>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. Burden for State and Local Areas very time consuming for local's and State to determine eligible providers.</p>
<p><i>Subpart D</i> <i>Eligible Training Providers</i></p>	<p>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 data collection and tracking for performance. Will DOL define what is the measure for apprenticeship programs performance?</p>
<p>Subpart E – Priority and Special Populations</p>	<p>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. Will DOL provide or recommend the type of assessment tool? Will this be a standard tool that all States will use?</p> <p>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.</p>
<p>Subpart F – Work-based Training</p>	<p>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: 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. DOL could help States with Educating employers as to the benefits they will receive with employment after training is completed. DOL-- Please define transitional jobs? DOL should earmark funding for Employer education and benefits of hiring either on the National level or State level.</p> <p>Proposed § 680.810 provides the criteria a Local Board must use when deciding on using funds for incumbent worker training with an employer. Impact: Burden on States to write a policy providing local areas a process for use of funds for incumbent worker training with an employer. What is the requirement for performance?</p> <p>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. Impact: Please define transitional jobs? What is the required funds for career services and supportive services?</p>
<p>Section 681 – Youth Activities Under Title I of the Workforce Innovation and Opportunity Act</p>	<p>§ 681.210 <i>“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.</i> Impact: Good-Low income not a requirement to meet eligibility.</p> <p>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</p>

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<p>Subpart B – Eligibility for Youth Services</p>	<p>meets the age eligibility at time of enrollment they can continue to receive WIOA youth services beyond the age of 24. Impact: Good clarification.</p> <p>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 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> <p><i>681.260 partment define “high poverty area” for the purposes of the special rule for low-income youth in Workforce Innovation and Opportunity Act. 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.”</i></p> <p>681.290 define “basic skills deficient” Impact: 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>Subpart C – Youth Program Design, Elements, and Parameters</p>	<p>681.400 Proocess used to select eligible youth providers Impact: Final Rule must be clear on the competitive selection requirement. What is the framework required by local areas?</p> <p>681.410 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. Propose keeping in final rule.</p> <p><i>681.420 Local Boards design Workforce Innovation and Opportunity Act youth programs. 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. State is burdened with tracking with an increase cost of tracking. What will be the requirements from DOL for performance and reporting? Will DOL change how States report?</i></p> <p>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. Impact: Burden to Local Areas to revise 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 Impact: (1) education offered concurrently with and in the same context as workforce preparation activities and</i></p>

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	<p>training for a specific occupation or occupational cluster; (2) financial literacy education; (3) 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: Major impact to provide Strategies that must be evident-based-key to local area plans. State policy/procedures to assist local areas. 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 to determine which elements to provide to a participant based on the participant’s assessment and individual service strategy. Impact: Burden to local areas plan and policy procedures. The final rule must clarify the 14 program elements why the increase?</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: DOL should provide clarification and guidance on performance and reporting of each program elements.so that State and Local area can include in local plan along with policy and procedures.</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>
	<p><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.</p> <p><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.</p>

COMMENTS to Part 680 – Adult and Dislocated Worker Activities under Title I of the Workforce Innovations and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Washington State Labor Council, AFL-CIO	Section 680 – Adult and Dislocated Worker Activities	In order to provide opportunities for partnership with greater apprenticeship and pre-apprenticeship nexus, the definition of employer needs to include apprenticeship’s contractual role as the HR DEPARTMENT of multi-employer groups, so that the JATC (Joint Apprenticeship Training Committee) is recognized as the department of employment, training and safety standards, and collection of attributable hours for wage advancement, benefit status, and pension and H and W accruals under that agreement, and stop calling each employer in a multi-employer agreement a single employer, when, for the above purposes, them have contractually bound themselves to act as one, and treat hours accrued at one location as counting toward all.

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		Multi-employer groups who 1) contractually agree to treat themselves collectively, 2) operate under the strict 50/50 Joint Business/Labor criteria, 3) agree to be monitored by either the SAT or BAT apprenticeship systems operating in their state, 4) who already publicly provide their standards, their training competencies and their wages and benefit progressions, 5) who have diversity targets established by their state authorizing agency and 6) performance outcomes for ongoing review and evaluation by the appropriate state agency, should be allowed to use the multi-employer definition described above, and should be considered a single employer for application to, or outcomes measured from, WIOA, WIOA 10% funds or WIOA grants, solicitations, or sub-grant funds.
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?
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.
Eleni Papadakis Workforce Training and Education Coordinating Board	680.330 ITAs for apprenticeship	ITAs may be used to pay the tuition and other costs associated with participation in an apprenticeship program. Many apprenticeship programs are covered by other fund sources, including Taft-Hartley trusts, industry associations, and state and federal funds. There should be rules to clarify how WIOA funds will be used in the event that other funds are available. Bear in mind that there is value in an apprenticeship program adding slots for cohorts of WIOA participants, beyond the program’s regular capacity, especially when there is employment demand for apprentices.
Lee Newgent, Washington Building Trades	680.330 ITAs for apprenticeship	Individual Training Accounts should be tailored to be able to attend and complete Pre-Apprenticeship Training and to recognize their entry into a state approved apprenticeship program. The registration into a state approved program should be counted as an “OUTCOME” and support should continue while receiving apprenticeship training. The starting wage as a state approved apprentice should continue to be tracked as further training outcomes. Important that the completion of the pre-apprenticeship be counted as an initial completion. This gives the student the ability to enter an apprenticeship program. Often they will receive a preferred entry into the apprenticeship program because they completed the initial pre-apprenticeship class.

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<p>Washington State Department of Labor and Industries Apprenticeship Section (L&I)</p>	<p>680.330 - How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?</p>	<p>Individuals seeking guidance within the one-stop delivery system on how to become enrolled in apprenticeship programs may be best served by :</p> <ul style="list-style-type: none"> • One-Stop centers building and maintaining relationships with apprenticeship programs that operate within their region, so there is a point of contact for individuals that would like to enroll. • One-Stop centers building and maintaining relationships with Washington State Apprenticeship and Training Council (WSATC) recognized pre-apprenticeship programs. WSATC recognized pre-apprenticeship programs are required to have articulation agreements with registered apprenticeship programs, and are often the best avenue for prospective enrollees to gain the knowledge and skills required for entrance into registered apprenticeship programs. <p>Individuals seeking guidance within the one-stop delivery system on how to become enrolled in pre-apprenticeship programs may be best served by:</p> <ul style="list-style-type: none"> • One-Stop centers building and maintaining relationships with Washington State Apprenticeship and Training Council (WSATC) recognized pre-apprenticeship programs. WSATC recognized pre-apprenticeship programs have articulation agreements with registered apprenticeship programs, and are often the best avenue for prospective enrollees to gain the knowledge and skills required for entrance into registered apprenticeship programs.
<p>Eleni Papadakis Workforce Training and Education Coordinating Board</p>	<p>§ 680.330 How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?</p>	<p>A robust Career Pathway system will include registered apprenticeships as a viable option for participants. It makes sense to make all registered apprenticeships available on ETPL. However, apprenticeship programs should be held to desired standards for performance in order to remain on the ETPL. New rules must be established for how apprenticeship programs are evaluated under WIOA. Often, apprentices exit before they reach journey level. This is usually because they attain employment at earnings levels that meet their needs at the time. ETPL performance measures should allow for such a positive outcome.</p>

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<p>Washington State Labor Council, AFL-CIO</p>	<p>680.330 How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?</p>	<p>Individual Training Accounts should be tailored to allow students to attend and complete Pre-Apprenticeship Training and to recognize their entry into a state approved apprenticeship program. The registration into a state approved program should be counted as an “OUTCOME” and support should continue while receiving apprenticeship training. The starting wage as a state approved apprentice should continue to be tracked as further training outcomes.</p> <p>It is important that the completion of the pre-apprenticeship program be counted as an initial completion. This gives the student the ability to enter an apprenticeship program. Often they will receive a preferred entry into the apprenticeship program because they completed the initial pre-apprenticeship class.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Section 680.330(c) How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?</p>	<p>Supportive services may be provided to support the placement of a participant into a registered apprenticeship program. Support the change</p>

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Section 680.330(d) How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?</p>	<p>Needs-related payments may be provided to support the placement of a participant into a registered apprenticeship program Support the change</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Section 680.330(e) How can Individual Training Accounts, supportive services, and needs-related payments be used to support placing participating adults and dislocated workers into a registered apprenticeship program and support participants once they are in a registered apprenticeship program?</p>	<p>Provides a citation to the regulations on using OJT funds with registered apprenticeships Support the change</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Section 680.410 (WIOA sec. 122 and refer to WIOA sections. 107, 116, and 134) What entities are eligible providers of training services?</p>	<p>Provides a citation to the regulations on using OJT funds with registered apprenticeships: Support the change</p> <p>Regarding the automatic qualification of registered apprenticeship for the Eligible Training Provider List (ETPL). The proposed regulations also explain how registered apprenticeship programs, which WIOA treats differently than other providers in some respects, are to be included in the list. Support as the registration process is a comprehensive review.</p> <p>Clarifies that ITAs and contracts for services may be used to support registered apprenticeship, and that supportive service and needs related payments may be provided to support the placement of a participant into a registered apprenticeship program. Clarify agencies eligible or responsible for payment for placement activities</p>

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<p>Dave Pavelchek Workforce Training and Education Coordinating Board</p>	<p>680-410, 680.420, 681.540, 680.xxx - Adult and Dislocated Worker Activities</p>	<ul style="list-style-type: none"> • What is the relationship between the following terms: • 680-410 “eligible providers of training services • 680.420 “programs of training services • 681.540 Occupational skills training • 680 “eligible training provider” as throughout the section, eg 680.490 and/or 680.500 <p>And which of those definitions include the following types of programs: entrepreneurial training, financial education, Adult literacy training (freestanding), training in occupational skills not leading to a credential, pre-apprenticeship, programs for in-school youth, summer youth programs combining work experience with academic skill retention</p>
<p>Eleni Papadakis Workforce Training and Education Coordinating Board</p>	<p>§680.470 Apprenticeship on ETPL</p>	<p>Pre-apprenticeship should also be included on the ETPL, but with a performance measurement model that makes sense to the activity (i.e., enrollment in an apprenticeship program or a community college program are both positive outcomes).</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Section 680.470 What is the procedure for registered apprenticeship programs that seek to be included on the State’s eligible training provider list?</p>	<p>Requires state to adopt a mechanism by which registered apprenticeship programs may indicate interest in appearing on the ETPL. Support</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>Section 680.480 May an eligible training provider lose its eligibility?</p>	<p>Defines pre-apprenticeship as “a program or set of strategies designed to prepare individuals to enter and succeed in a registered apprenticeship program and has a documented partnership with at least one, if not more, registered apprenticeship program(s).” Clarification: what describes or defines the partnership? Is it direct entry or is some other collaboration sufficient? WIOA did not include a definition for pre-apprenticeship.</p>
<p>Eleni Papadakis Workforce Training and Education Coordinating Board</p>	<p>680.600(c) Additional service priority populations</p>	<p>The proposed rule states that the Local Board and Governor may establish a process that also gives priority to other individuals for Adult Services. Is the intention that additional targeted subpopulations are a second tier priority? That is, if funds are available after all low-income individuals, public assistance recipients, or individuals who are basic skills deficient are served. Is the intention to further prioritize within the WIOA-identified groups—subsets of low-income individuals, public assistance recipients, or individuals who are basic skills deficient. Or would additional priorities be on par with WIOA targeted populations? If the latter, how would the Departments view fewer low-income individuals, public assistance recipients, or individuals who are basic skills deficient being served if a different subpopulation was prioritized for service?</p>
<p>Gary Kamimura, Employment Security Department</p>	<p>680.700 – What are the requirements for on-the-job training?</p>	<p>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.</p>

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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.
Lee Newgent, Washington Building Trades	680.740 – How can on-the-job training funds be used to support placing participants into a registered apprenticeship program?	<p>There are a number of difficulties in supporting OJT. OJT is not the true problem since apprentices earn wages while doing OJT. The part that lacks funding is the pre-apprentice Training and the registered apprenticeship training. The vast majority of OJT in apprenticeship occurs with multiple employers and would be difficult to track. We would also question the need for an employer to be paid.</p> <p>If we cannot find a way to support a pre-apprenticeship class of 15-20 students for a 90 day training class then WIOA funding for apprenticeship may not be useful. Additional funding for state approved apprenticeship training would be a big plus. Currently apprenticeship funding from the State Board is being used for administrative fees and not training. It would be a big plus if WIOA funding could go directly to the program and not a middleman like the State Board.</p>
Washington State Department of Labor and Industries Apprenticeship Section (L&I)	680.740 – How can on-the-job training funds be used to support placing participants into a registered apprenticeship program?	<ul style="list-style-type: none"> • For single-employer programs, OJT contracts can be made without difficulty, however the vast majority of registered apprenticeship programs are multi-employer. This means that multiple employers hire apprentices from the registered apprenticeship program, rather than hiring applicants. This dynamic makes it difficult to offer OJT contracts to employers as an incentive to hire apprentices, as they are not the sole hiring entity. Rather, it would be far more productive if OJT contracts could be utilized as an incentive for registered apprenticeship programs to enroll OJT contract eligible individuals in their apprenticeship programs. This would create a dynamic where there is an incentive to bring qualified WIA/WIOA eligible individuals into registered apprenticeship programs on a priority basis, as opposed to the status quo, where there is no incentive for apprenticeship programs to enroll individuals that are anything other than the most qualified for the position. • As noted, apprenticeship programs vary in length. The Washington State Department of Labor and Industries Apprenticeship section recommends that the OJT support be made available for the entire duration of training, to a maximum of the anticipated completion date. However, half of the funding should be made available at the start of the enrollee’s apprenticeship, while the other half is made available when the apprentice enters the final phase of their apprenticeship program. This will effectively incentivize not only hiring the apprentice, but also retaining the apprentice through the entirety of their training program.
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.

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

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
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.
Dave Pavelchek Workforce Training and Education Coordinating Board	681.540 What is occupational skills training?	The definition includes a requirement that any such training “result in attainment of a recognized post-secondary credential” and the explanatory text states: “local areas must first seek training programs that lead to recognized post-secondary credentials in in-demand industries or occupations and only if none are available should they refer a participant to a training program that does not lead to a recognized post-secondary credential” This oversteps the statutory language “priority consideration for training programs that lead to recognized postsecondary credentials” and would leave appropriate and suitable placements into non-credentialing training outside of both the definition of “occupational skills training” and outside the reach of those participants for whom an adequately performing non-credentialing training is more suitable, appropriate or preferred for/by a given individual. The statute’s prioritization should be embodied in procedures that require justification, rather than absolute rules and exclusion from the definition.
Dave Pavelchek Workforce Training and Education Coordinating Board	681.540 What is occupational skills training?	The definition includes a requirement that to qualify as “occupational skill training” a program must “result in attainment of a recognized post-secondary credential” and the explanatory text states: “local areas must first seek training programs that lead to recognized post-secondary credentials in in-demand industries or occupations and only if none are available should they refer a participant to a training program that does not lead to a recognized post-secondary credential”. This oversteps the statutory language “priority consideration for training programs that lead to recognized postsecondary credentials” and would leave appropriate and suitable placements into non-credentialing training outside of both the definition of “occupational skills training” and outside the reach of those participants for whom an adequately performing non-credentialing raining is more suitable, appropriate or preferred for/by a given individual. The statute’s prioritization should be embodied in procedures that require justification, rather than absolute rules and exclusion from the definition. It also eliminates skill training that advances a participant toward - but does not in itself result in – a post-secondary credential. Beyond these operational issues, it does not appear that the regulations defining OST does not include entrepreneurial training, financial education, and much of the current activity classified as Customized training and incumbent training.

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<p>Dawn Karber, Spokane Area Workforce Development Council</p>	<p>681.590 – What is the work experience priority?</p>	<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> <p><u>The Solution</u></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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COMMENTS to Part 682 – Statewide Activities under Title I of the Workforce Innovation and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Dave Pavelchek Workforce Training and Education Coordinating Board	§ 682.200 - What are required statewide employment and training activities?	What is the definition of nontraditional training provision, and what is the statutory basis for this requirement? There is no formal definition in WIOA or the NPRM, and the only contextual use of a similar term refers to the eligibility of certain types of secondary level programs (such a night-time high school completion programs) to be eligible to be one-stop operators. Other uses of the term non-traditional in the NPRM are also undefined, but refer to “nontraditional employment” “nontraditional occupations” and “nontraditional hours” of work.
Dave Pavelchek Workforce Training and Education Coordinating Board	682.200 What are required statewide E&T activities?	@(b)(5) requires collection and dissemination of cost of attendance information for youth and for OJT et al (sec. 122(h) programs; what is the statutory authorization for this requirement?
Dave Pavelchek Workforce Training and Education Coordinating Board	Part 682.200, What are required statewide employment and training activities? vs 680.350, What is meant by “provision of additional assistance” in the Workforce Innovation and Opportunity Act?	Conflict over requirements of for OJT et al (sec. 122(h) programs/data – the former appears to draw on Sec 134 (a)(2)(B)(v)(II) while the latter uses 122(h)(1)

COMMENTS to Part 683 – Administrative Provisions under Title I of the Workforce Innovation and Opportunity Act		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I	683.110(c)(ii)(2) Title I Docket No. ETA-2015-0002 What is the period of performance of Workforce Innovation and Opportunity Act title I and Wagner-Peyser Act funds?	Clarification needed about whether or not the requirements relate to just title I funds or all titles and funds. There is concern with restriction on AEFLA leadership funds and the proposed restrictions about to whom states can give carryover funds. Recommend that if this effects Title II funds, this portion of section 683.110(c)(ii) should be removed.

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>683.120(a)(2) Title I Docket No. ETA-2015-0002 How are Workforce Innovation and Opportunity Act title I formula funds allocated to local areas?</p>	<p>Within-State allocations must be made: (i) In accordance with the allocation formula in secs. 128(b) and 133(b) of WIOA and in the State Plan</p> <p>Lack of clarity about if this relates to only Title I funds or all title funds.</p> <p>If this relates to Title II funds, unclear if Title II programs can use the formula described in their basic skills state plan for distribution to local basic skills providers? Clarify which titles are included.</p> <p>Recommend regulations continue to allow state AEFLA agencies to allocate funds to approved basic skills providers by funding methodology described in their state ABE plans.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>683.125(a) What minimum funding provisions apply to Workforce Innovation and Opportunity Act adult, dislocated worker, and youth allocations?</p>	<p>The regulations indicate that funding authorized in Sections 128(b)(2)(ii), 133(b)(ii), and 133(b)(2)(B)(iii) require that a local area must not receive an allocation percentage for fiscal year 2016 or subsequent fiscal year that is less than 90 percent of the average allocation percentage. It is not clear if funding for Title II programs – adult basic education – are included.</p> <p>Clarify the inclusion of AEAFLE funds in Sections 128(b)(2)(ii), 133(b)(ii), and 133(b)(2)(B)(iii) requirements.</p>
<p>Washington State Labor Council, AFL-CIO</p>	<p>683.130 Does a Local Board have the authority to transfer funds between the adult employment and training activities allocation and the dislocated worker employment and training activities allocation?</p>	<p>Regulations need to provide greater clarity on the ability to transfer 100% of funds between Adult and Dislocated worker programs. There is a significant concern that this policy may be used to enroll everyone as an Adult and run one funding stream, rather than to supplement one program in cases where there are un-used funds. We are strongly opposed to this practice.</p> <p>Eliminating the funding stream of a full program could impact state measures negotiated with US DOL and local performance measures of neighboring WIBs that share a labor shed with the WIB which decided to transfer all funds. Dismantling an entire structure for serving Title 1B- Dislocated Worker may achieve cost savings in the back of the office, but close the door to opportunities on the front end.</p> <p>Enrolling all participants in the Adult program threatens a WIB’s flexibility to work with the greater Economic Development/ADO community, and to partner in application for funding to provide pre-layoff service and layoff aversion activities for workers and business. Dismantling Dislocated Worker infrastructure would impact a local area’s ability to access additional Rapid Response funding at the state level, actually limiting choices for workers. For Employers availing themselves and their workers of the Federally provided system and it would limit their choices to “after the fact” activities, with no pre-layoff services for employers.</p>
<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>683.200(c)(6) Title I What general fiscal and administrative rules apply to the use of Workforce Innovation and Opportunity Act title I and Wagner-Peyser funds?</p>	<p>The addition method, described in 2 CFR 200.307, must be used for all program income earned under title I of WIOA and Wagner-Peyser grants.</p> <p>It is not clear if this methodology also applies to Title II.</p> <p>Clarify the programs that will use the methodology described in 2 CFR 200.307</p> <p>If Recommend the methodology apply to other programs with earned income, including those authorized in Title II.</p>

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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>683.200(f) Title I What general fiscal and administrative rules apply to the use of Workforce Innovation and Opportunity Act title I and Wagner-Peyser funds?</p>	<p>Unclear if the Buy-American requirements stated in sec. 502 of WIOA for all funds authorized in title I of WIOA and Wegner-Peyser stipulating that they be expended on only American-made equipment also apply to other titles.</p> <p>Clarify if Buy American requirements apply to Title II funds.</p>
<p>Tom O’Brien Director Eastern Washington Partnership WDC</p>	<p>683.215 – What Workforce Innovation and Opportunity Act title I functions and activities constitute the costs of administration subject to the administrative cost limitation?</p>	<p>DOL should change Section 683.215 which defines the entities that must charge administrative costs in the course of delivering services to WIOA customers. The proposed language in the regulation states that:</p> <p>(a) The costs of administration are expenditures incurred by ... local grant recipients, local grant subrecipients, local fiscal agents and one-stop operators that are associated with those specific functions identified in paragraph (b) of this section and which are not related to the direct provision of workforce investment services, including services to participants and employers.</p> <p>By applying the cost of administration to service providers (including one-stop operator service delivery staff) below the board level, DOL would be reverting back to what was initially proposed in the draft regulations for WIA but was subsequently revised before the final regulations were issued. DOL issued WIA Admin TEGl 1-00 which explained how the feedback it received and its own field investigation convinced the Department that the 10% admin ceiling would not be feasible if admin was charged at the service provider level. The TEGl stated the following:</p> <p>“After extensive consultation with State and local partners in the system, the Department conducted an independent study sampling ten areas to determine whether the One-Stop service delivery model could be supported with a 10% administrative ceiling, using the WIA interim final rule definition of administrative costs. Based on the consultations and the study, the Department has redefined how to classify costs under WIA, and this will be reflected in the WIA Final Rule.”</p> <p>DOL’s Statement that was included in the Final Rule (from page 49366 WIA Final Rules (20 CFR Part 652 et al.) further re-enforced the Department’s rationale for its decision to revise the admin cost definition. In the end the final definition (at 667.220(c)(4) was as follows: "Except as provided at paragraph (c)(1), all costs incurred for functions and activities of subrecipients and vendors are charged to the program category."</p> <p>((c)(1) states that "Awards to subrecipients or vendors that are solely for the performance of administrative functions are classified as administrative costs.")</p> <p>Since little has changed administratively between WIA and WIOA (except for a significant reduction in actual admin funds since 2000), I believe that local boards and service providers would be placed in serious jeopardy if DOL was to implement the proposed definition of admin. I recommend that it revise the definition to mirror the language in WIA. This change should also be applied when considering the service delivery staff of a one-stop operator if the operator entity was also delivering career services.</p>

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<p>Tom O'Brien Director Eastern Washington Partnership WDC</p>	<p>683.215 – What Workforce Innovation and Opportunity Act title I functions and activities constitute the costs of administration subject to the administrative cost limitation?</p>	<p>There is ambiguity between DOL’s Statement (in the preamble) about what entities are subject to the WIOA administrative cost limitation in Section 683.215 and how the actual regulation is currently written. In the Statement section that is written about Section 683.215, it says that “the proposed rule is the same as the WIA regulation at 20 CFR 667.220 with a few exceptions.” WIA 667.220(c)(4) is as follows: "Except as provided at paragraph (c)(1), all costs incurred for functions and activities of subrecipients and vendors are charged to the program category."</p> <p>However, in WIOA 683.215 it states that “The costs of administration are expenditures incurred by ... local grant recipients, local grant subrecipients, local fiscal agents and one-stop operators that are associated with those specific functions identified in paragraph (b) of this section and which are not related to the direct provision of workforce investment services, including services to participants and employers.</p> <p>I have heard this interpreted two ways. One is that if the super-circular definition of a subrecipient is applied, then “pure” service providers who were awarded contracts by the local board would be subject to the application of WIOA administrative costs. The other interpretation was that DOL does not intend for service providers who are neither staff of the fiscal agent nor the staff of the one-stop operator to be subject to the WIOA admin charges based upon what was written in the DOL Statement section in the first paragraph.</p> <p>The outcome of the final definition will be extremely important to the viability of the local boards to function within the 10% administrative cost limitation. It is urgent that DOL provides clarification on this issue.</p> <p>The super-circular (2 CFR Part 200) section that addresses what entities are subrecipients is located at 200.330 and states the following: § 200.330 Subrecipient and contractor determinations</p> <p>The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.</p> <p>(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:</p> <ol style="list-style-type: none"> (1) Determines who is eligible to receive what Federal assistance; (2) Has its performance measured in relation to whether objectives of a Federal program were met; (3) Has responsibility for programmatic decision making; (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity. <p>Using this definition, it seems that all service delivery organizations would be subject to the admin charges.</p>
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<p>Council of Basic Skills and SBCTC Staff Feedback on the WIOA Proposed Regulations for Title I</p>	<p>683.215(c)(2) Title I Docket No. ETA-2015-0002 What Workforce Innovation and Opportunity Act title I functions and activities constitute the costs of administration subject to the administrative cost limitation?</p>	<p>Unclear if the stipulations Under Title I that personnel and related non-personnel costs of staff that perform both administrative functions in paragraph (b) of this section and programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objective/categories based on documented distributions of actual time worked or other equitable cost allocation methods also relates to all other title funds.</p> <p>Recommendation Do not require AEFLA programs to keep time and effort by category within a grant. This would be heavy time consuming and an unfunded requirement.</p> <p>Remove this portion of Section 683.215(c)</p>
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COMMENTS to Part 684 – Indian and Native American Programs Under Title I of the Workforce Innovation and Opportunity Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
<p>Jim Weatherly, NAWDP Region 10 Director; Scholarship Advisement & Job Training Coordinator, Jamestown S’Klallam Tribe</p>	<p>684.350 – What will the Department do to strengthen the capacity of Indian and Native American program grantees to deliver effective services?</p>	<p>I am seeking clarification or—ideally—expansion around the language citing that: “TAT will assist INA program grantees to improve program performance and improve the quality of services to the target population(s), as resources permit.” What are said resources?—and what’s permitting them? And how is the “quality of services” being defined ((specifically and culturally-appropriate) within Indian country? What are said resources?—and what’s permitting them? And how is the “quality of services” being defined ((specifically and culturally-appropriate) within Indian country?</p>

COMMENTS to Part 687 – National Dislocated Worker Grants Under Title I of the Workforce Innovation and Opportunity Act

NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
<p>Department of Commerce Molly Onkka, Commerce Specialist CSHD-CEO, Community Economic Opportunity and Carolyn McKinnon, Policy Advisor, External Relations Division</p>	<p>Title I and Title III Programs 687.110 – What are major economic dislocations or other events which may qualify for a national dislocated worker grant?</p>	<p>The Department of Commerce requests that natural and man-made disasters are included in the definitions of major economic dislocations or other events which may qualify for a national dislocated worker grant. Recent Washington-based examples include the Oso/SR 530 landslide (2014) and Carlson Complex fire, the largest wildfire in Washington state’s recorded history (2014).</p>

Washington Compendium of WIOA NPRM Responses

COMMENTS to WIOA Section 133 – (Within State Allocations)		
NAME/ ORGANIZATION	SECTION/TOPIC	VERBATIM INDIVIDUAL COMMENTS
Gary Kamimura, Employment Security Department	WIOA Section 133(b)(4) Transfer Authority	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.