

**Minnesota Workforce Council Association – WIOA Rulemaking
Recommendations
DRAFT 5: October 23, 2014**

The Minnesota Workforce Council Association (MWCA) represents the collective interests of the Chief Local Elected Officials (LEOs), Workforce Investment Board (WIB) Leadership, and Title IB (Adult, Dislocated Worker, and Youth Program) service providers across Minnesota's sixteen workforce service areas.

MWCA thanks DOL for the great number of opportunities afforded to the local system to provide input and recommendations to the WIOA rulemaking process.

Workforce Development Regions: Sec. 106(a)(1)

While we understand that funding is a separate issue than WIOA implementation, we strongly encourage DOL to advocate for or provide an infusion of resources to carry out regional activities that would not draw dollars away from services and strategies being carried out at the local level.

Local Areas: Sec. 106(b)(1) and (2)

MWCA applauds the continued inclusion of local elected officials in determining workforce development areas, to ensure that service delivery structures and strategies are responsive to community needs. We encourage DOL to maintain the intent of the law in allowing current local areas who are performing successfully and have sustained fiscal integrity to be continued under WIOA.

Workforce Development Board Committees: Sec. 107 (b)(4)

We strongly believe that the WIOA Programs, the One-stop delivery system and associated services should be accessible to all jobseekers and employers, including individuals with disabilities.

We feel that the local board have the flexibility to establish the committees they believe necessary to respond to local needs, and are in alignment with board member expertise and responsive to local needs. Additionally, local boards should maintain the responsibility to determine the size of committees, frequency of meetings, roles and responsibilities.

Employer Engagement: Sec. 107 (d)(4)

Labor markets and economies are local and regional in nature. We strongly believe that local boards be provided with the authority to lead and coordinate efforts across the WIOA programs to engage with diverse employers locally and within the region. Therefore we recommend the regulations state: "The State Workforce Board and Local Boards shall work in a coordinated manner in the provision of business services, and local boards will be the primary point of contact for employer relationships."

Question: Will additional resources be provided to carry out the increased emphasis on employer outreach?

Concentrated Employment Programs Sec. 107(c)(2)(C)

DAN WENNER: Do we need anything specific here?

Performance Measures- General

MWCA advises DOL to seek early input on the definition and strategies regarding performance measures. Performance measures will be key in determining how the system will address various program aspects.

MWCA recommends that all of the Federal partners work closely together on all of the proposed measures and get timely recommendations out to the states/local areas for review and comment.

We would like to see policy similar to current WIA law in regard to meeting performance goals; achieving 80% qualifies as meeting a performance measure, and not every performance measure must be met for an area to be considered successful. MWCA also recommends a statewide performance standard in regard to sanctions.

MWCA is interested in language in regard to the responsibility of the Workforce Board; that Boards will not be penalized or deemed out of compliance if partner organizations within the service area do not meet their performance measures. Boards should only be held accountable for performance measures of programs who are under their fiscal jurisdiction.

Finally, despite the fact that Minnesota traditionally meets or exceeds performance measures, we feel that the Department of Labor has recently set unreasonably high expectations for performance. We encourage the DOL to take the challenges of implementing a new system into account when negotiating performance measures in the future and support the WIOA requirement that DOL provide states with regression model data for use in the yearly negotiation of statewide performance goals.

Measurable Skills Gain: Sec. 116 (2)(V)

Defining “measurable skills gain” will be necessary to ensure a uniform national approach to understand skills attainment. Measurable skill attainment is vastly different in a program for dislocated workers compared to a program for youth and/or vocational-rehabilitation programs targeting individuals with severe disabilities, which should be considered when implementing this measure. How will the baseline be determined.

Question: At what point in time is the skills gain measured?

Credentials Sec. 116(b)(2)(A)(iii)

MWCA recommends that the definition of credentials be broadened; we should ensure that the credentials mean something to employers to ensure a demand driven system.

Employer Engagement Sec. 116 (2)(VI)

We applaud the inclusion of employer engagement as a metric within WIOA, as Minnesota has been very proactive on this activity.

We strongly encourage the use of employer engagement metrics that are sensitive to mandating a reporting burden on employers, and utilize available reporting systems.

Examples could include: successful completion rates of OJTs and apprenticeships, or employer contacts/job listings; WIB identification of relevant sectors and connecting with leaders within those sectors to identify needs for hiring, training, etc.

Because WIOA will measure employer engagement, we strongly recommend that Workforce Development Boards have the authority to provide direction on engaging with employers, and resources are provided to carry out this work.

MOUs: Sec. 121 (c)(1)

MWCA encourages specific guidelines around the implementation of Memorandums of Understanding.

Question: What is the role of required partners? Do they need to be onsite at all One-Stops; just one location; and/or through virtual services?

Question: What if the required partner cannot or will not complete the MOU process? MWCA recommends partners be required to go before the joint powers board to give viable reasoning for not partnering in a One-Stop.

One Stop Operator (Sec. 121 (c)(2)(d))

MWCA encourages the utmost clarity in regard to the process of determining the One-Stop operator and the process required to establish that entity. MWCA maintains that competition should be considered a tool that can be deployed to ensure excellent service delivery, rather than a goal in and of itself.

MWCA recommends language similar to the following:

If a local workforce board (or consortium) currently, under WIA, is a One-Stop Operator certified by the Governor of the State and sanctioned by the local elected officials, and demonstrates a proven and successful delivery of WIA programs and services, the WIB can be grandfathered in by the Governor and the local elected officials as the One-Stop Operator.

Further clarification: Demonstrating this could mean a two documented years of meeting and exceeding performance standards, submitting local unified plans, 2-3 years of outstanding fiscal audits, WIB demonstrates sector strategies, strong regional partnerships, employer engagements, and other high board performance.

Question: What will the timeframes be for competitive procurement of the One-Stop Operator? If the notices of proposed rulemaking don't get released until January, that does not give us enough time to draft an RFP, hold a bidders' conference, give sufficient time for response, review proposals, get a WIB vote on proposals, and negotiate contracts prior to 7/1/2015. Furthermore, we would be conducting the procurement under the old WIA-approved board rather than the new WIOA board.

Branding: (Sec. 121 (e)(4))

We recommend the federal government phase in rebranding, and provide supplemental funding to States to defray costs of the changes. Local areas should be able to determine how to incorporate the branding into their own logo designs.

Infrastructure Funding: Sec. 121(h)(1)(A)

We urge the regulations to be clear in stating the responsibility of partners in provided funding to support infrastructure and the eligible costs, as well as compel the federal partners to alleviate any real or perceived barriers to contributing.

Question: Are specific mandated partners expected to contribute, i.e. only those on sight or all partners? Are there limits on what proportion of costs can be provided in-kind?

Youth: Chapter 2

MWCA emphasizes the need to have time to “ramp up” to the requirement that 75% of WIOA Youth formula funds be expended on out of school youth. Minnesota recommends that states presenting a clear case, using up to date data, in the WIOA waiver process, be allowed to permit youth service providers to serve OSY at a 50% level.

We also recommend that states be allowed to continue service to under-credit students enrolled in alternative schools; those who, without the youth services, would be dropouts. A youth who received their GED as part of an adult education funded program and advances to a Title I youth funded activity (as part of a career pathway) should still be considered a dropout. Older youth with disabilities should be considered out of school youth, rather than in school.

MWCA recommends that high poverty areas should be defined at the census tract level and should be above a 30 percent threshold.

Workforce Development Areas need time to get new RFPs for the WIOA Youth Program in place at the local level since WIOA Regulations will not be available until mid-January of 2015. DOL should expect that RFPs may not be issued until February of 2015 (at the earliest) since the RFP process for selection of WIOA youth service providers takes time to complete. We recommend existing contracts be permitted to transition to WIOA or that there is an appropriate transition timeframe for completing a new RFP process.

Administrative Costs: Sec. 128 (b)(4)

Under WIOA the roles and responsibilities of Local Workforce Investment Boards is expanded to increase coordination across the Programs, Convening, Brokering and Leveraging, Employer Engagement, and promotion of Proven and Promising Practices, and Career Pathways development. We strongly suggest providing guidance for what is considered an allowable activity, balancing the duties of Workforce Board staff, and the staffing activities/demands necessary to deliver outstanding services. Additionally, due to the unevenness of fiscal and program monitoring under WIA, we feel strongly that State Financial and Oversight Technical Assistance Units and programmatic monitors be required to take a federal training on what is allowable under administrative costs.

Sequence of Services Sec. 134 (c) (2)(A)

The elimination of the 'sequence of services' and the intent to streamline a jobseeker customer's experience is a welcome change. In order to enable local areas to continue to meet the needs of its customers, we recommend the regulations reflect local flexibility to assess the need for, and deliver career services. For example the regulations could state, "To be consistent with the goal of maximizing customer access to the services needed for successful skills development and employment attainment and retention, local workforce areas are best positioned to determine the timing, duration, and appropriate mix of services for participants." Furthermore, MWCA suggests that lesser core-type services not require enrollment.

Question: At what point should we actually enroll participants?

Career Services: Sec. 134 (c) (2)(A) (x) and (xi)

Partnership is a critical element to the success of high performing local workforce areas. Throughout the "Career Services" section of the law, there are references to "assistance" provided by the One-Stop or its contractor as it relates to financial aid eligibility and filing for unemployment compensation. We recommend "assistance" be defined as, "Providing an eligible jobseeker with information pertaining to access and/or direct assistance from the One-Stop staff or partner staff, and/or referral to a qualified partner organization for direct assistance."

Assessments: Sec. 134 (c) (2) (B) "Career Services" and Sec. 134 (c) (3)(ii) "Training Services" both referring to "Use of Previous Assessments"

It is favorable to enable local workforce areas and partners to utilize recent prior assessments to understand eligible jobseekers' needs as it relates to career services. We recommend the definition of "prior assessments" to mean, "a documented assessment that occurred within that past twelve months to determine an individual's educational attainment, skills level, soft skills, or services required, as described under Sec. 134 (b)(2)."

Question: When WIOA goes into effect, will current customers (in the system as of June 30, 2015) have to be reassessed; or are the current assessment grandfathered?

Diagnostic Testing: Sec. 134 (c)(2)(A)(xxi)(I)(aa)

Diagnostic testing can be a valuable tool to understand an individual's skills proficiency and job readiness. Due to the variability of jobseeker needs (i.e. barriers to employment, soft skills, literacy/numeracy, and/or industry-required skills), we believe that maximum flexibility should be provided to local workforce areas, and partners, in selecting an appropriate diagnostic tool to assess a jobseeker's readiness and skills level. For example the regulations could state, "To ensure that State and local workforce areas retain maximum flexibility, we have refrained from including additional regulatory requirements."

Provision of Information: Sec. 134 (c)(2)(A)(vii), (viii), and (ix)

We are strongly in favor of a transparent system that enables customers of the One-Stop and statewide workforce system to understand, compare, and ultimately make informed decisions as it relates to the selection of services. In the spirit of “reducing the reporting burdens and requirements” for local workforce areas, we strongly encourage States be held responsible (as stated in Sec. 116) for producing and providing publicly available, quarterly reports, by local workforce area, relating to local area performance, performance information and program cost on eligible training providers of training, and statewide availability of supportive services (available through State agencies). This will improve the consistency of reporting, and understandability for customers who may utilize services throughout the State. Additionally, to supplement these reports, local workforce areas could provide information about additional local performance measures, training standards, and/or supportive services available.

Training Services/Flexibility: Sec. 134 (c)(3)

Local boards, and providers, are best positioned to collect and understand local labor market information and intelligence, build employer relationships, and provide effective training in response to the current and future labor market needs. We strongly recommend that local flexibility be preserved as it relates to Sec. 34 (c)(3) (D-H), to determine the appropriate availability and mix of training services that are offered locally to individuals and employers.

Incumbent Worker: Sec. 134 (a)(3)(D)(iii)

MWCA applauds the ability to respond to employer needs by allowing training services to incumbent workers. We encourage clarity around eligibility regarding incumbent workers and strongly discourage “layoff aversion” as a determining factor. MWCA maintains that if an employer does not have the resources to train front line staff, has a workforce that is largely of advanced age, or cannot find qualified skilled labor to fill high skilled positions, the business is in jeopardy of remaining competitive. Having to wait until a layoff is imminent to offer incumbent worker training is neither strategic nor proactive.

Effective Dates

As stated at the DOL Town Hall meeting in Chicago on October 15, clarity around the expectations of implementation will be crucial. Guidance should include how current WIA program participants would be transitioned into WIOA.