ETPL and Registered Apprenticeship

Q: Did I understand correctly that Registered Apprenticeships can opt in as an ETPL but not provide WIOA performance data?

Q: I thought all RA trainers were vetted by DOL and automatically added to the vendor lists?

The requirements for inclusion of Registered Apprenticeship programs on state Eligible Training Provider Lists (ETPLs) are covered under 20 CFR 680.470. RA programs are automatically eligible for inclusion on the state ETPL, and are not subject to the initial eligibility requirements that apply to other training providers. The state must notify RA programs of their eligibility to be included on the ETPL, and RA programs must consent to being included on the list. RA programs are not required to submit cost or performance information otherwise required under 20 CFR 680.490. The Department of Labor explains in 20 CFR § 677.230(b), registered apprenticeship program sponsors can choose to voluntarily report the same information as other ETPs. Any such information submitted is required to be part of the State annual ETP report.

Q: Is it accurate to state that pre-apprenticeship programs have the same rights as Registered Apprenticeship programs when it comes to ETPL and performance measurements?

Pre-apprenticeship programs and non-registered apprenticeship programs are NOT treated in the same manner as registered apprenticeship programs. They are instead treated in the same manner as other applicants to be on the Eligible Training Provider List.

Q: Is ETP self-reporting of employment and median wages of participants permissible? If so, are states responsible for verifying self-reported data?

Yes, the Governor may permit self-reporting of training provider performance but the state is responsible for establishing a procedure to ensure the validity of the information. Language in 20 CFR § 677.175 makes clear that wage records should be the primary source for reporting on employment and wages.
Performance Accountability

Q: Regarding (v) Successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade-related benchmarks such as knowledge-based exams. (v) Successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade-related benchmarks such as knowledge-based exams. Isn’t this the same as industry standards demonstrated?

The Departments had considered another, additional measure of progress in meeting industry skill standards, but declined to include it in the Final Rule.

20 678.720 and 678.740 clarify that infrastructure costs for adult education programs authorized under WIOA Title II must be paid from funds made available for local administration and may be paid from funds made available by the state or from other non-Federal resources.

Q: Can you explain 90% and 50% thresholds?

A: Under 20 CFR § 677.190, the thresholds are the ratios of actual performance compared to the adjusted level of performance for the indicator and compare the results each core program achieved to the adjusted level of performance for each of the indicators. If a State program score or overall State indicators fall below 90% for the program year, or if any of the State’s individual indicator scores are below 50% for the program year, a performance failure occurs. If a failure occurs in 2 consecutive years, sanctions may be applied.

Q: Was there anything about reduced performance targets for people with barriers If not, do you know if these will be negotiated individually with each state or determined at the federal level later?

Performance targets are negotiated at the state level, for each of the six programs within WIOA. Negotiations should take into account adjustments by a statistical model that includes factors associated with barriers to employment, such as participants’ level of education, disability status, and previous employment: the greater the barriers to employment, the lower the targets. State and local performance targets are adjusted using the statistical model. However, there is no separate target for “people with barriers.”

Q: The new “Reportable Individual” definition (those individuals that intend to access services including self-services and/or electronic information services and who provide identifying information but have fewer than 12 hours) will they be included in the denominator for reporting the common performance measures?
For Title II, individuals must participate for 12 hours in order to be counted in the denominators.

**Q: MSG in Corrections - would this include progress in ESL, ABE level gain, completing GED exams, completing GED, college intake exam, participation and graduation from a Corrections Work Based Employment program inside the institutions?**

There are five ways that Measurable Skill Gain can be reported, per Final Rule at 20 CFR 677.155(a)(1)(v). These five ways are also spelled out on page 4 of the WIOA Statewide Performance Template:

1. Achievement of at least one educational functioning level of a participant who is receiving educational instruction below the postsecondary level
2. Attainment of a secondary school diploma or its equivalent
3. Transcript or report card for either secondary or post-secondary education that shows a participant is achieving the state unit’s academic standards
4. Satisfactory or better progress report, towards established milestones, from an employer/training provider who is providing training (e.g., completion of on-the-job training (OJT), completion of 1 year of an apprenticeship program, etc.)
5. Successful passage of an exam that is required for a particular occupation, progress in attaining technical or occupational skills as evidenced by trade-related benchmarks such as knowledge-based exams

**Q: Is the Joint Performance ICR out yet, and if not, do we know when it will come out? The regulations cited this quite often as a further resource on performance.**

**Q: When is the final ETP performance reporting template expected to be released?**

Final performance ICR documents, including the ETP reporting template, may be found at: [https://www.doleta.gov/performance/reporting/eta_default.cfm](https://www.doleta.gov/performance/reporting/eta_default.cfm). There are two sets of documents on this page. First, there are Common Performance Reporting forms that must be submitted by all WIOA core programs. Second, there is a package of additional information required for programs funded by DOL. Additional Title II program reporting tables detailing information to be submitted through the National Reporting System are available here: [http://www.nrsweb.org/foundations/tables.aspx](http://www.nrsweb.org/foundations/tables.aspx). A revised Case Service Report manual for Vocational Rehabilitation programs is available here: [http://www2.ed.gov/programs/rsabvrs/rsa-911-case-service-report-manual-2016.pdf](http://www2.ed.gov/programs/rsabvrs/rsa-911-case-service-report-manual-2016.pdf)
You can view National Skills Coalition’s comments on the performance ICR at:

Q: is a MSG met through high school equivalency?

Yes, attainment of a secondary school diploma or equivalent is countable as a measurable skill gain, per 20 CFR 677.155(a)(1)(v)(B).

Q: Where can I find more info on the statistical model?

DOL provided a webinar about the statistical model in 2015. A recording, transcript, and slides are available at: https://www.workforcegps.org/events/2015/12/21/14/02/Overview_-Statistical_Adjustment_Model_Methodology

Title II Services

Q: Are students whom do not have a SSN able to access Title II services moving foward as they have been able to under WIA?

Yes, students who do not have a SSN are still eligible to participate in Title II services, as they were under WIA. (This answer refers to federal requirements; at the state level, Arizona and Georgia have imposed additional immigration-related restrictions on Title II services.)

In recognition of the fact that these students will not show up in the wage-record matching that is required for performance data, the federal government has made clear that states can collect “supplemental data” to show the employment status and median wages of these participants.

Q: IS the Effectiveness of Serving Employers as it relates to Title II separate from the other titles

No, it is shared across titles.

Q: Will Title II performance measures require reporting on ALL participants even those who are not seeking IET and related employment goals?

An individual’s motivation for enrollment is not a factor in determining if they count for the primary indicators of performance.

Q: It's great that students can have goals other than employment or postsecondary, but they are automatically put into that cohort for outcomes? So why wouldn't programs choose not to serve those students?
All students who participate for at least 12 hours will be included in the cohort for employment and wage outcomes. However, the secondary school credential attainment outcome is calculated based on a smaller cohort of students (those whose pre-test placed them at the 9th grade level or above at program entry), while the postsecondary credential outcome is calculated based on the number of students who were enrolled in Integrated Education and Training programs. (In both cases, students who are still incarcerated are not counted.) See page 12 of the AEFLA/NRS Reporting Tables.

Regarding programs potentially choosing not to serve students without an employment/postsecondary goal: The Department of Education stated in the final regulations that such learners “should not be dissuaded” from participating and that “We believe it is clear that English language acquisition programs should not discourage or exclude eligible individuals from participation, regardless of whether they are seeking a secondary school diploma or its recognized equivalent, or transition to postsecondary education, or training and employment.” (pages 66, 70 of the Title II final rules).

Finally, the Title II regulations at Sec. 463.20(d) make clear that when selecting adult education providers, states must take into account the degree to which the eligible provider would be responsive to serving individuals in the community who were identified in the local WIOA plan as most in need of adult education.

Q: Can you please explain reporting requirements for Title II regarding median earnings? The PIRL seems to indicate that Title II has to report these quarterly while earlier IRCs seemed to indicate that Title II needed to report these at year end.

20 CFR 677.1615 requires states to report data annually for all six core programs; however, some programs will report data quarterly, specifically the WIOA Title I programs, the Wagner-Peyser Act Employment Service Program, and the VR program.” NSC is interpreting this language to indicate that Title II data must only be reported on an annual basis.

Q: Is “exit” considered from Title II or from any services provided by core partners?

20 CFR 677.150(c) defines exit for all WIOA core programs, including Title II. Exit means that an individual has not received any services for 90 days and no future services are planned. Participants in Title II programs are considered to “exit” based on receipt on Title II services, regardless of whether they continue receiving or plan to receive services from other core programs. States may choose to utilize a common exit, but only for DOL programs.
Additionally, note that all core programs must now report on outcomes for participants each time they exit a program, even if they exit more than once in a program year. This is a change from the way Title II programs handled repeat exiters under WIA.

**One Stop Operator and Career Services Procurement**

**Q:** Is competitive bidding for One-Stop Operators at the local county Fiscal Agent or Job Centers level or at Area level activities?

The requirements for selection of one-stop operators are set out at 20 CFR 678. In general, local workforce development boards are responsible for selection of one-stop operators, though in certain circumstances states carry out the selection process. Per 20 CFR 678.600(b), local boards may select more than one operator for a local area.

**Q:** do career services need to be competitively procured like the one-stop operator?

No. In the joint final rule, the agencies clearly state that “Career services are provided by the various partner programs participating in the one-stop center, the details of which are set out and agreed upon in the MOU. As mentioned above, these partners are not required to be procured in a competitive process under WIOA, but they may be under State or local procurement policies.” (Joint Rule, p.395) The general requirements relating to career services can be found at 20 CFR 678.425 and 678.430.

**One Stop Infrastructure Costs**

**Q:** One Stop Infrastructure cost - all partners must contribute to infrastructure cost. However, what if a partner does not receive funds from One Stop? Do they have to contribute to infrastructure cost?

The regulations relating to one-stop infrastructure costs are found in 20 CFR 678.700 through 678.760. 678.700(c) clarifies that each entity carrying out programs or activities in a local one-stop center must use a portion of the funds available for the program and activities to maintain the one-stop delivery system, including infrastructure costs. Infrastructure costs charged to each partner must be proportionate use of the one-stop centers and relative benefit received by the program, and must be included in the local Memorandum of Understanding (MOU). There is no requirement in the final rule that partner programs be receiving funds from the one-stop before the infrastructure cost requirements are triggered.

**Q:** Would you clarify the funding stream for infrastructure costs as regards Perkins postsecondary? Will this come from local funds or from Perkins State Admin funds?
Q: Where can we get more information on Perkins funds to use in the adult education program?

The final rule at 20 CFR 678.738(c)(2) indicate that Perkins contributions are based on “the funds made available by the State for postsecondary level programs and activities under sec. 132 of the Carl D. Perkins Career and Technical Education Act and the amount of funds used by the State under sec. 112(a)(3) of the Perkins Act during the prior year to administer postsecondary level programs and activities, as applicable.”

Youth Services

Q: You just provided clarification on the youth procurement that the competitive bid isn’t necessary unless Local Board decides. You stated that the fiscal entity can provide the youth services. And you will provide further clarification. My question: in a multi-county LWDB-can the subgrantees provide the youth services in their areas (not just the grantee or fiscal agent)?

Q: Did we hear correct that local WDBs can provide youth services directly and not procure?

Q: Can States as well as Area Workforce Boards still require Youth Procurement?

In general, the chief local elected official for the local area serves as the local grant recipient for Title I youth funds, though under WIOA sec. 107(d)(12)(B) the CLEO may designate an entity to serve as the grant recipient or fiscal agent. Under the April 2015 Notice of Proposed Rulemaking, the department indicated that the competitive procurement requirements under WIOA sec. 123 for youth services did not apply to certain “design framework services,” which were defined as intake, objective assessments and the development of individual service strategy, case management, and follow-up services. The final rule at 20 CFR 681.400 indicates that the local grant recipient or fiscal agent may provide all youth services without entering into grants or contracts to provide such services; the competitive procurement requirements only apply where the local WDB chooses to award grants or contracts to youth service providers. The final rule does include language encouraging local WDBs to continue contracting for services where the local area has access to experienced and effective providers. It is unclear from the regulations whether a state can mandate that LWDBs procure specific youth services.

WIOA and TANF

Q: Do any changes in the regs even modestly address to continuing disconnect of WIOA and TANF measures other than allowing local TANF programs to be partners even if the Governor has opted out, but not specified that the programs cannot cooperate.
States may choose to apply the WIOA common measures under sec. 116 to other programs, including TANF, for the state’s own purposes. In addition, the final rules at 20 CFR 678.405 include a clarification that even in states where a governor has opted not to include TANF as a required one-stop partner in the state or in local areas, local TANF programs may still collaborate with their local one-stop centers unless this is inconsistent with the governor’s direction. 20 CFR 678.430(d) provides clarification on the career services that TANF programs must offer through the one-stop system.

Q: Would a shared exit mean an individual dual enrolled in TANF and WIOA would exit from both programs at the same time?

Not necessarily. The definition of “exit” for performance purposes under WIOA applies only to the six core programs authorized under Title I-IV. Under 20 CFR 361.150, a state may adopt a common exit policy for any core programs or required partner programs administered by the US Department of Labor, but the final regulations do not provide for a common exit policy relating to TANF.

**Services for Immigrant Populations**

Q: Would programs funded by both Title I and Title II be able to serve undocumented immigrants?

While the statute and regulations are clear that Title II participants need not be work-authorized, and Title I participants must be work-authorized, there is less clarity about how programs that are braiding together funding from both sources should address this issue.

The final Title II regulations do affirm that Title II participants are not required to be co-enrolled in both Title I and Title II, stating: “We also agree that eligible individuals’ co-enrollment in workforce development programs should be optional and based upon individuals’ needs and abilities.” (See page 119.)

However, this affirmation does not necessarily address cases in which a program might be funded by both titles, rather than simply Title II. We know this is a topic of significant interest to the field, and will be seeking further clarification from the Departments as they continue to release guidance.

Q: You mentioned that immigrant information would be addressed later. Was that addressed?

National Skills Coalition will be doing an entire webinar on WIOA Final Regs & Immigrants on August 9, 2016. You can register for that now on our website under "Webinars".
Other Issues

Q: Need small state info that are for single area state and have no local boards for Industry or Sector Partnerships.

Under WIOA sec. 107(c)(4) and 20 CFR 679.270, in single state local areas the state Workforce Development Board (WDB) carries out local WDB functions. The requirements relating to industry or sector partnerships must therefore be carried out by the state WDB.

Q: Is DOL issuing "clean-up regs"?

We are not anticipating significant additional regulations from the agencies at this point, although the Department of Labor will be issuing updated non-discrimination and equal employment opportunity rules at some point in the near future. The agencies indicate throughout the final rules that there will be additional guidance and technical assistance to states and other stakeholders as the implementation process moves forward.

Q: Are the boards referred to the WIBs?

Yes. WIOA changes the term from “workforce investment board” to “workforce development board” at both the state and local levels.