



May 29, 2014

Summary of Major Policies Included in the Workforce Innovation and Opportunity Act, Including Amendments to the Rehabilitation Act

On May 21, 2014, a group of key lawmakers from both parties and both houses of Congress announced a deal to improve the nation's workforce development system, including improvements to the vocational rehabilitation programs under Title I of the Rehabilitation Act of 1973. This bill is a compromise between the SKILLS Act, which passed the House of Representatives in March 2013 ([H.R. 803](#)), and the Workforce Investment Act of 2013, which was reported out the Senate Health, Education, Labor, and Pensions (HELP) Committee in July 2013 ([S. 1356](#)). The consensus bill uses the House bill, H.R. 803 (complete substitute to original House bill) and the title of the bill is the *Workforce Innovation and Opportunity Act* (WIOA). The Leadership of the authorizing committees are working to have the bill considered and passed by both the House and Senate before the August recess. It is also expected that the President will sign the bill into law.

Below is a summary of the major amendments to the Rehabilitation Act and the Workforce Investment Act from a disability perspective.

Amendments to the Rehabilitation Act of 1973

1. Structural Changes

Rehabilitation Services Administration (RSA). Under the consensus bill, RSA remains in the Office of Special Education and Rehabilitative Services (OSERS) of the Department of Education.

National Institute on Disability and Rehabilitation Research (NIDRR). Under the bill, NIDRR, authorized under Title II of the Rehabilitation Act, is renamed "The National Institute on Disability, Independent Living, and Rehabilitation Research" and relocated from OSERS to the Administration for Community Living of the Department of Health and Human Services.

Independent Living. The administration of the independent living programs authorized under Title VII of the Rehabilitation Act is relocated from RSA of the Department of Education to the Administration for Community Living of the Department of Health and Human Services.

Assistive Technology. The assistive technology programs are also moved to the Administration for Community Living of the Department of Health and Human Services.

2. Elimination of Authorized Programs

The bill eliminates authorization for the following programs—

- Projects with Industry under Title VI of the Rehabilitation Act
- Recreation Programs under Title III of the Rehabilitation Act
- Migrant and Seasonal Farmworker Program under Title III of the Rehabilitation Act

3. Relationship to Workforce Development System

Unified or Combined State Plan. Under the bill, the VR agency must include the provision of the State plan for vocational rehabilitation services within a unified or combined State plan, to be approved by the Secretary of Education and Secretary of Labor.

4. Authorization of Appropriations

Current law authorizes to be appropriated “such sums as may be necessary” for each fiscal year. The bill includes authorizations of appropriations for a specific dollar amount in each section of the bill, for each fiscal year 2015-2020. The bill retains the current funding structure for State vocational rehabilitation programs (Title I) i.e., the amount to be appropriated for a fiscal year shall not be less than the amount appropriated for the immediately preceding fiscal year, increased by the percentage change in the CPI for the immediately preceding fiscal year.

5. Role of CRPs

Purpose of the Rehabilitation Act. The bill clarifies that the purpose of the Rehabilitation Act is to increase employment opportunities and employment outcomes for individuals with disabilities, including through encouraging meaningful input by vocational rehabilitation service providers on successful and prospective employment and placement strategies.

6. Focus of VR Program on Competitive Integrated Employment

Definition. The bill defines the term “competitive integrated employment” in a manner consistent with the definitions of the terms “competitive employment” and “integrated setting” currently set forth in the RSA regulations. The term “competitive integrated employment” means work that is performed on a full-time or part-time basis (including self-employment)—

- (A) for which an individual
 - (i) is compensated at a rate that—

(I)(aa) shall be not less than the higher of the rate specified in section (a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate specified in the applicable State or local minimum wage law; and

(bb) is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(II) in the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(ii) is eligible for the level of benefits provided to other employees;

(B) that is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(C) that, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

Administration of the Act. In carrying out the Act, the Commissioner of RSA may provide technical assistance to entities carrying out community rehabilitation programs to build their internal capacity to provide individualized services and supports leading to competitive integrated employment, and to transition individuals with disabilities away from nonintegrated settings.

Focus on Competitive Integrated Employment. On multiple occasions throughout the bill, references are included to the term “competitive, integrated employment.”

Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities. The bill directs the Secretary of Labor to establish an Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities. The Committee must submit periodic reports and terminate on the day after the date on which the Committee submits its final report (2 years after the Committee is established). The Committee is composed of designated political appointees and representatives from constituencies consisting of—

- Self-advocates for individuals with intellectual or developmental disabilities;
- Providers of employment services, including those that employ individuals with intellectual or developmental disabilities in competitive integrated employment;
- Representatives of national disability advocacy organizations for adults with intellectual or developmental disabilities;
- Experts with a background in academia or research and expertise in employment and wage policy issues for individuals with intellectual or developmental disabilities;
- Representatives from the employer community or national employer organizations; and

- Other individuals or representatives of organizations with expertise on increasing opportunities for competitive integrated employment for individuals with disabilities.

The Committee’s duties include studying and preparing findings, conclusions, and recommendations for the Secretary of Labor on—

- Ways to increase the employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive integrated employment;
- The use of the certificate program carried out under section 14(c) of FLSA for the employment of individuals with intellectual or developmental disabilities or other individuals with significant disabilities; and
- The ways to improve oversight of the use of such certificates.

7. Supported Employment, Customized Employment

Definition of Customized Employment. The bill includes a definition of the term “customized employment.” The term “customized employment” means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability, is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer, and is carried out through flexible strategies, such as—

- (A) job exploration by the individual;
- (B) working with an employer to facilitate placement, including—
 - (i) customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;
 - (ii) developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;
 - (iii) representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement; and
 - (iv) providing services and supports at the job location.

Definition of Supported Employment. The bill retains the current definition of supported employment with an amendment (underlined) relating to the aspect of the definition concerning “working toward competitive integrated employment.” The term “supported employment” means competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, for individuals with the most significant disabilities—

- (A)(i) for whom competitive integrated employment has not historically occurred; or
- (ii) for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and
- (B) who, because of the nature and severity of their disability, need intensive supported

employment services and extended services after the transition in order to perform the work involved.

Definition of Supported Employment Services. The bill modifies the length of time supported employment services may be provided (without securing an extension) from 18 to 24 months.

8. Youth with Disabilities; Transition Services

Youth with disabilities. The bill includes numerous new references to youth with disabilities.

Definition of Pre-Employment Transition Services. The bill adds a new term to VR program. The term “pre-employment transition services” means services provided in accordance with section 113.

Pre-Employment Transition Services. Section 113 provides that from the funds reserved [see below] and any funds made available from State, local, or private funding sources, each State shall ensure that the VR agency, in collaboration with the local educational agencies involved, must provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services under this title.

Required Activities. Funds available must be used to make available to students with disabilities—

- 1) job exploration counseling;
- 2) work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment to the maximum extent possible;
- 3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- 4) workplace readiness training to develop social skills and independent living; and
- 5) instruction in self-advocacy, which may include peer mentoring.

Authorized Activities. Funds available and remaining after the provision of the required activities described above may be used to improve the transition of students with disabilities from school to postsecondary education or an employment outcome by—

- 1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;
- 2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;
- 3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;
- 4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;

- 5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
- 6) applying evidence-based findings to improve policy, procedure, practice, and the
- 7) preparation of personnel, in order to better achieve the goals of this section;
- 8) developing model transition demonstration projects;
- 9) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and
- 10) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.

Pre-Employment Transition Coordination. Each local office of a designated State unit must carry out responsibilities consisting of—

- 1) attending individualized education program meetings for students with disabilities, when invited;
- 2) working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;
- 3) work with schools, including those carrying out activities under the Individuals with Disabilities Education Act (2010 U.S.C. 1414(d)(1)(A)(i)(VIII)), to coordinate and
- 4) ensure the provision of pre-employment transition services under this section; and
- 5) when invited, attend person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

National Pre-Employment Transition Coordination. The Secretary must support designated State agencies providing services under this section, highlight best State practices, and consult with other Federal agencies to advance the goals of this section.

Support. In carrying out this section, States must address the transition needs of all students with disabilities, including such students with physical, sensory, intellectual, and mental health disabilities.

Set-Aside for Pre-Employment Transition Services. From any State allotment for a fiscal year, the State must reserve not less than 15 percent of the allotted funds for the provision of pre-employment transition services.

State Plan. The bill adds a new provision specifying that the State plan must provide an assurance that, with respect to students with disabilities, the State has developed and will implement strategies to address needs identified in the statewide assessment; strategies to achieve the goals and priorities identified in the State to improve and expand VR services for students with disabilities on a statewide basis; and has developed and will implement strategies to provide pre-employment transition services.

The bill also adds a construction clause specifying that “Nothing in this part shall be construed to reduce the obligation under the Individuals with Disabilities Education Act of a local educational agency or any other agency to provide or pay for any transition services that are also considered

special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.”

Title VI (Supported Employment). Under the bill, a state that receives an allotment under Title VI of the Rehabilitation Act must reserve and expend half of such allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities in order to assist those youth in achieving an employment outcome in supported employment. In addition, the bill specifies that funds allotted under Title VI or Title I of the Rehabilitation Act for the provision of supported employment services also may be used to provide extended services to youth with the most significant disabilities. Such expenditures shall be available for a period not to exceed 4 years. The bill also provides that with respect to supported employment services provided to youth with the most significant disabilities, the VR agency will provide, directly or indirectly through public or private entities, non-Federal contributions in an amount that is not less than 10 percent of the costs of carrying out such services.

9. Focus on Individuals with the Most Significant Disabilities

The bill strengthens the provisions in the Act relating to eligibility determinations, including a new provision that ineligibility determination shall be an individualized one, based on the available data, and shall not be based on assumptions about broad categories of disabilities. The bill also specifies that the ineligibility determination shall be based on clear and convincing evidence.

10. State Plan, in General

Order of Selection. The bill amends the order of selection provision to permit the State, in its discretion, to elect to serve eligible individuals (whether or not receiving vocational rehabilitation services) who require specific services or equipment to maintain current employment.

Comprehensive System of Personnel Development. With regard to appropriate and adequate training, current law focuses on “national standards” and “highest requirements in the state applicable to a specific profession or discipline” The bill amends the provision regarding “appropriate and adequate training” to read as follows—

“(ii) the establishment and maintenance of education and experience requirements, to ensure that the personnel have a 21st century understanding of the evolving labor force and the needs of individuals with disabilities, including requirements for—

(I)(aa) attainment of a baccalaureate degree in a field of study reasonably related to vocational rehabilitation, to indicate a level of competency and skill demonstrating basic preparation in a field of study such as vocational rehabilitation counseling, social work, psychology, disability studies, business administration, human resources, special education, supported employment, customized employment, economics, or another field that reasonably prepares individuals to work with consumers and employers; and

(bb) demonstrated paid or unpaid experience, for not less than 1 year, consisting of—

(AA) direct work with individuals with disabilities in a setting such as an independent living center;

(BB) direct service or advocacy activities that provide such individual with experience and skills in working with individuals with disabilities; or

(CC) direct experience as an employer, as a small business owner or operator, or in self-employment, or other experience in human resources, recruitment, or experience in supervising employees, training, or other activities that provide experience in competitive integrated employment environments; or

(II) attainment of a master's or doctoral degree in a field of study such as vocational rehabilitation counseling, law, social work, psychology, disability studies, business administration, human resources, special education, management, public administration, or another field that reasonably provides competence in the employment sector, in a disability field, or in both business-related and rehabilitation-related fields.

Standards and Indicators. Current law includes standards and indicators specifically applicable to the VR program. The bill incorporates by reference the standards and indicators applicable to core partners in the workforce development system, including the VR program. The State may establish and provide information on additional performance accountability indicators, which must be identified in the State plan.

Annual Review of Individuals in Extended Employment. The bill adds an assurance that the State will report information for each of the individuals in extended employment to the Administrator of the Wage and Hour Division of the Department of Labor for each fiscal year, not later than 60 days after the end of the fiscal year.

11. Limitations on the Use of Subminimum Wage (Section 511)

The bill adds a new provision to Title V of the Rehabilitation Act— “Limitation on Use of Subminimum Wage.” Under the provision—

(a) no entity, including a contractor or subcontractor of the entity, which holds a special wage certificate as described in section 14(c) of the Fair Labor Standards Act of 1938 may compensate an individual with a disability who is age 24 or younger at a wage (referred to in this section as a ‘subminimum wage’) that is less than the Federal minimum wage unless 1 of the following conditions is met—

(1) The individual is currently employed, as of the effective date of this section, by an entity that holds a valid certificate pursuant to section 14(c) of the Fair Labor Standards Act of 1938.

(2) The individual, before beginning work that is compensated at a subminimum wage, has completed, and produces documentation indicating completion of, each of the following actions—

(A) The individual has received pre-employment transition services that are available

to the individual, or transition services under the Individuals with Disabilities Education Act.

(B) The individual has applied for vocational rehabilitation services under title I, with the result that—

- (i)(I) the individual has been found ineligible for such services and has documentation regarding the determination of ineligibility; or
- (II)(aa) the individual has been determined to be eligible for vocational rehabilitation services;
- (bb) the individual has an individualized plan for employment;
- (cc) the individual has been working toward an employment outcome specified in such individualized plan for employment, with appropriate supports and services, including supported employment services, for a reasonable period of time without success; and
- (dd) the individual’s vocational rehabilitation case is closed; and
- (ii)(I) the individual has been provided career counseling, and information and referrals to Federal and State programs and other resources in the individual’s geographic area that offer employment-related services and supports designed to enable the individual to explore, discover, experience, and attain competitive integrated employment; and
- (II) such counseling and information and referrals are not for employment compensated at a subminimum wage provided by an entity described in this subsection, and such employment-related services are not compensated at a subminimum wage and do not directly result in employment compensated at a subminimum wage provided by an entity described in this subsection.

(b) CONSTRUCTION.—

(1) RULE.—Nothing in this section shall be construed to—

- (A) change the purpose of the Rehabilitation Act to empower individuals with disabilities to maximize opportunities for competitive integrated employment; or
- (B) preference employment compensated at a subminimum wage as an acceptable vocational rehabilitation strategy or successful employment outcome.

(2) CONTRACTS.—A local educational agency or a State educational agency may not enter into a contract or other arrangement with an entity described in subsection (a) for the purpose of operating a program for an individual who is age 24 or younger under which work is compensated at a subminimum wage.

(3) VOIDABILITY.—The provisions in section 511 shall be construed in a manner consistent with the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), as amended before or after the effective date of this Act.

(c) DURING EMPLOYMENT.—

(1) IN GENERAL.—The entity described in subsection (a) may not continue to employ an individual, regardless of age, at a subminimum wage unless, after the individual begins work at that wage, at the intervals described in paragraph (2), the individual (with, in an appropriate case, the individual’s parent or guardian)—

(A) is provided by the designated State unit career counseling, and information and referrals, delivered in a manner that facilitates independent decision making and informed choice, as the individual makes decisions regarding employment and career advancement; and

(B) is informed by the employer of self-advocacy, self-determination, and peer mentoring training opportunities available in the individual’s geographic area, provided by an entity that does not have any financial interest in the individual’s employment outcome, under applicable Federal and State programs or other sources.

(2) TIMING.—The actions required under subparagraphs (A) and (B) of paragraph (1) shall be carried out once every 6 months for the first year of the individual’s employment at a subminimum wage, and annually thereafter for the duration of such employment.

(3) SMALL BUSINESS EXCEPTION.—In the event that the entity described in subsection (a) is a business with fewer than 15 employees, such entity can satisfy the requirements of subparagraphs (A) and (B) of paragraph (1) by referring the individual, at the intervals described in paragraph (2), to the designated State unit for the counseling, information, and referrals described in paragraph (1)(A) and the information described in paragraph (1)(B).

In addition, Section 511 includes specific provisions regarding documentation and verification.

12. National Council on Disability

The bill reduces the number of members of the National Council on Disability from 15 to 9 members and changes the process for appointment of members. Currently, all members are appointed by the President. Under the bill, 5 members will be appointed by the President, 1 by the Majority Leader of the Senate, 1 by the Minority Leader of the Senate, 1 by the Speaker of the House of Representatives, and 1 by the Minority Leader of the House of Representatives. The bill provides for a transition period from the 15 member to the 9 member Council.

Amendments to Title I of the Workforce Investment Act from a Disability Perspective

This section of the memo describes the major provisions in Title I of the *Workforce Innovation and Opportunity Act* from a disability perspective i.e., those provisions in the legislation of particular applicability to individuals with disabilities. The description is not intended to be comprehensive.

1. Repeal of the Workforce Investment Act of 1998 and Specified Authorized Programs

The Workforce Investment Act of 1998 is repealed. In lieu thereof, the new legislation is referred to as the *Workforce Innovation and Opportunity Act* (WIOA) and Title I of WIOA is referred to as *Workforce Development Activities*.

The bill eliminates authorization for a number of programs, some of which haven't been funded in recent years—

- Youth Opportunity Grants
- 21st Century Workforce Commission
- National Institute for Literacy under Adult Education
- Health Care Gap Coverage for Trade Adjustment Assistance participants
- WIA Incentive Grants
- WIA Pilots and Demonstration Projects
- Community-based Job Training Grants
- Green Jobs Act
- WIA Veterans Workforce Investment Program
- WIA Workforce Innovation Fund
- Grants to States for Workplace and Community Transition Training for Incarcerated Individuals under the 1998 Amendments to the Higher Education Act

2. Definitions

Core Program Provision. The term “core program” includes Title I of the Rehabilitation Act relating to vocational rehabilitation services, other than Section 112 (Client Assistance program) or Part C of that Title (American Indian Vocational Services).

Individual with a Barrier to Employment. The term individual with a barrier to employment includes individuals with disabilities, including youth who are individuals with disabilities.

Individual with a disability. The term individual with a disability means an individual with a disability as defined in Section 3 of the Americans with Disabilities Act of 1990.

3. State Workforce Development Boards

Membership. The Board shall include representatives of government who shall include the lead State officials with primary responsibility for the core programs (e.g., VR program) and may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, including organizations that provide or support competitive, integrated employment for individuals with disabilities.

Functions. The State Board shall assist the Governor in, among other things—

- The development of strategies to support the use of career pathways for the purpose of providing individuals, including individuals with disabilities, with workforce investment activities, education, and supportive services to enter or retain employment;
- The identification and dissemination of information on best practices, including best practices for the effective operation of one-stop centers relating to service delivery strategies, including strategies for serving individuals with barriers to employment; and
- The development of strategies for technological improvements to facilitate access, including improvements to ensure such technology is accessible to individuals with disabilities.

4. Unified State Plan

Scope. The unified State plan must include, with respect to programs carried out under Title I of the Rehabilitation Act other than Section 112 (Client Assistance program) or Part C of that Title (American Indian Vocational Rehabilitation Services), the information related to the VR State plan.

Specific Provisions Applicable to Individuals with Disabilities. The unified State plan must describe how the lead State agency with responsibility for administration of a core program (e.g., VR program) will implement the strategy for aligning core programs, including a description of how the one-stop delivery system, including one stop operators and the one-stop partners, will comply with Section 188 (nondiscrimination), if applicable, and applicable provisions of the ADA, regarding physical and programmatic accessibility of facilities, programs, services, technology, and materials for individuals with disabilities,

including complying through staff training and support for addressing the needs of individuals with disabilities.

Assurances. The State plan must include an assurance that the State has taken the appropriate action to be in compliance with Section 188 [nondiscrimination], as applicable.

Submission and Approval. The VR State plan must be approved both by the Secretary of Education (after approval of the Commissioner of RSA) and the Secretary of Labor.

5. Local Workforce Development Boards

Membership. The Local Workforce Development Board must include an appropriate representative of the programs carried out under Title I of the Rehabilitation Act, other than section 112 (Client Assistance program) or part C of that title (American Indian Vocational Rehabilitation Services), serving the local area and may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that provide or support competitive, integrated employment for individuals with disabilities.

Standing Committees. At a minimum, the Local Workforce Development Board may designate, among others, the following standing committee—A standing committee to provide information and assist with the operational and other issues related to the provision of services to individuals with disabilities, including issues related to compliance with Section 188 (nondiscrimination), if applicable and applicable provisions of the ADA regarding programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities, for, individuals with disabilities.

Functions of Local Board.

The local board must, among other things—

- Lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, and workers and jobseekers (including individuals with barriers to employment) in the local workforce development system, including providing physical and programmatic accessibility in accordance with Section 188 [nondiscrimination], if applicable, and applicable provisions of the ADA, to the one-stop delivery system.
- Develop strategies for using technology to maximize accessibility, including strategies for better meeting the needs of individuals with barriers to employment and leveraging resources and capacity within the local workforce development system, including resources and barriers for services for individuals with barriers to employment.

- Annually assess the physical and programmatic accessibility, in accordance with Section 188, if applicable, and applicable provisions of the ADA, of all one-stop centers in the local area.

6. Local Plan (Content)

The local plan must include a description of how entities within the one-stop delivery system, including one-stop operators and the one-stop partners, will comply with Section 188 [nondiscrimination], if applicable, and applicable provisions of the ADA, regarding physical and programmatic accessibility of facilities, programs, services, technology, and materials for individuals with disabilities, including providing staff training and support for addressing the needs of individuals with disabilities.

In addition, the local plan must include a description of the replicated cooperative agreements described in the VR State plan with respect to efforts that will enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination.

7. Performance Accountability System

The **primary indicators of performance** for specified core programs, including Title I of the Rehabilitation Act, shall consist of—

- 1) the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;
- 2) the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;
- 3) the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;
- 4) the percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent, during participation in or within 1 year after exit from the program;
- 5) the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment; and
- 6) the indicators of effectiveness in serving employers.

State Levels of Performance. For each State submitting a State plan, there must be established levels of performance for each of the corresponding primary indicators of performance for, among other things, the program authorized under Title I of the Rehabilitation Act (other than Section 112 [Client Assistance Program] or Part C of that Title [American Indian VR Services]).

State Adjusted Levels of Performance. In reaching agreement regarding levels of performance, the State and Secretaries of Labor and Education, shall ensure that the levels

are adjusted, using the objective statistical model established by the Secretaries based on, among other things, the characteristics of participants (including disability status) when the participants entered the program involved.

Local Performance Accountability Measures. The local performance accountability measures for, among other things, the VR program, shall consist of—

- The primary indicators of performance;
- Additional indicators of performance, if any identified for such program;
- The local level of performance for each indicator.

Performance Reports. Performance reports must include, among other things:

- information specifying the levels of performance achieved with respect to the primary indicators of performance for each program (e.g., VR program) with respect to individuals with barriers to employment, disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age;
- the average cost per participant of those participants who received career and training services; and
- the number of individuals with barriers to employment served by each program, disaggregated by each subpopulation of such individuals.

Contents of Eligible Training Providers Performance Reports. The performance report for an eligible training provider of training services must include, with respect to each program of study of such provider, among other things—

- 1) information specifying the levels of performance achieved with respect to the primary indicators of performance with respect to all individuals engaging in the program of study (or the equivalent);
- 2) the total number of individuals exiting from the program of study (or the equivalent);
- 3) the total number of participants who received training services through each of the adult program and the dislocated worker program disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years;
- 4) the total number of participants who exited from training services, disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years;
- 5) the average cost per participant for the participants who received training services, disaggregated by the type of entity that provided the training, during the most recent program year and the 3 preceding program years; and
- 6) the number of individuals with barriers to employment served by each of the adult program and the dislocated worker program disaggregated by each subpopulation of such individuals, and by race, ethnicity, sex, and age.

Sanctions for State Failure to Meet State Performance Accountability Measures. If a State fails to meet the State adjusted levels of performance relating to indicators for a program for any program year, the Secretary of Labor and the Secretary of Education shall provide technical

assistance, including assistance in the development of a performance improvement plan. If such failure continues for a second consecutive year (except in the case of exceptional circumstances) or a State fails to submit a report, the percentage of each amount that would be reserved by the Governor under Section 128(a) [Reservations for Statewide Activities] for the immediately succeeding program years shall be reduced by 5 percentage points until such date as the Secretary of Labor and the Secretary of Education, as appropriate, determines that the State meets such State adjusted levels of performance and has submitted such reports for the appropriate program years.

Sanctions for Local Area Failure to Meet Local Performance Accountability Measures. If a local area fails to meet local performance accountability measures established for the youth, adult, or dislocated worker or any specified program (e.g., VR program) for any program year, the Governor, or upon request by the Governor, the Secretary of Labor, shall provide technical assistance, which may include assistance in the development of a performance improvement plan or the development of a modified local plan (or regional plan).

If such failure continues for a third consecutive year, the Governor shall take corrective actions, which shall include development of a reorganization plan through which the Governor shall—

- 1) require the appointment and certification of a new local board;
- 2) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or
- 3) take such other significant actions as the Governor determines are appropriate.

8. Establishment of One-Stop Delivery System

One-Stop Partners. Required partners include programs authorized under Title I of the Rehabilitation Act (other than Section 112 [Client Assistance Programs] or Part C of Title I of such Act [American Indian VR Services]). Additional partners may include employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency Program and programs carried out under Section 112 of the Rehabilitation Act [Client Assistance Programs].

Memorandum of Understanding. The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding between the local board and the one-stop partners. Each memorandum of understanding must contain, among other things, funding for ongoing one-stop service delivery system operations, including funding of the infrastructure costs of one-stop centers.

One-Stop Operators. To be eligible to receive funds to operate a one-stop center an entity must, among other things, be designated or certified as a one-stop operator through a competitive process.

One-Stop Delivery System. A one-stop delivery system must provide—

- career services,
- training services,

- access to specified employment and training activities,
- access to programs and activities carried out by one-stop partners, and
- access to data, information and analysis.

Certification and Continuous Improvement of One-Stop Centers. The State Board, in consultation with chief elected officials, and local boards must establish objective criteria and procedures for use by local boards in assessing at least once every 3 years the effectiveness, physical and programmatic accessibility in accordance with Section 188, if applicable, and the ADA, and continuous improvement of one-stop centers and the one-stop delivery system.

Funding of One-Stop Infrastructure. The local board, chief elected officials, and one-stop partners in a local area may fund the costs of infrastructure of one-stop centers in the local area through methods agreed on by the local board, chief elected officials, and one-stop partners and described in memorandum of understanding or if no consensus agreement on methods described in the statute. The statute includes maximum amounts regarding the contribution to the funding of one-stop infrastructure by the VR program (.75 percent of the amount of Federal funds provided to carry out the VR program in the State for the second full program year that begins after the date of enactment; 1.0 percent for the third full program year; 1.25 percent for the fourth full program year; and 1.5 percent for the fifth and each succeeding full program year). The costs of infrastructure include assistive technology for individuals with disabilities.

9. Identification of Eligible Providers of Training Services

The Governor, after consultation with the State board, shall establish criteria, information requirements, and procedures regarding the eligibility of providers of training services. The local board in the State may establish criteria and information requirements in addition to the criteria and information requirements established by the Governor, or may require higher levels of performance than required by the criteria established by the Governor.

10. Use of Funds for Employment and Training Activities

Required Statewide Employment and Training Activities shall include disseminating information on physical and programmatic accessibility in accordance with Section 188, if applicable, and the ADA for individuals with disabilities.

Permissive Statewide Employment and Training Activities may include activities to improve coordination of employment and training activities with programs carried out in local areas for individuals with disabilities and financial literacy activities.

Required Local Employment and Training Activities shall be used for, among other things, **career services and training services.**

Career Services shall include, at a minimum—

- 1) determinations of whether the individuals are eligible to receive assistance
- 2) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;

- 3) initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;
- 4) labor exchange services, including—job search and placement assistance and, in appropriate cases, career counseling, including— provision of information on in-demand industry sectors and occupations; and provision of information on nontraditional employment; and appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services such as providing information and referral to specialized business services not traditionally offered through the one-stop delivery system;
- 5) provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop delivery system and, in appropriate cases, other workforce development programs;
- 6) provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—job vacancy listings in such labor market areas; information on job skills necessary to obtain specified jobs and information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations; and
- 7) provision of performance information and program cost information on eligible providers of training services provided by program, and eligible providers of youth workforce investment activities, providers of adult education, providers of career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006, and providers of vocational rehabilitation services described in title I of the Rehabilitation Act of 1973;
- 8) provision of information, in formats that are usable by and understandable to one-stop center customers, regarding how the local area is performing on the local performance accountability measures and any additional performance information with respect to the one-stop delivery system in the local area;
- 9) provision of information, in formats that are usable by and understandable to one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act, benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008, assistance through the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and other supportive services and transportation provided through funds made available under such part, available in the local area; and referral to the services or assistance, as appropriate;
- 10) provision of information and assistance regarding filing claims for unemployment compensation;
- 11) assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under this Act;
- 12) services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of—comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—

diagnostic testing and use of other assessment tools; and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals; development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals, including providing information on eligible providers of training services, and career pathways to attain career objectives; group counseling; individual counseling; career planning; short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training; internships and work experiences that are linked to careers; workforce preparation activities; financial literacy services; out-of-area job search assistance and relocation assistance; or English language acquisition and integrated education and training programs; and

- 13) follow-up services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

Training services may include—

- 1) occupational skills training, including training for nontraditional employment;
- 2) on-the-job training;
- 3) incumbent worker training;
- 4) programs that combine workplace training with related instruction, which may include cooperative education programs;
- 5) training programs operated by the private sector;
- 6) skill upgrading and retraining;
- 7) entrepreneurial training;
- 8) transitional jobs;
- 9) job readiness training provided in combination with services described above;
- 10) adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with services described above; and
- 11) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

Eligibility for Career and Training Services. Nothing in the Act shall be construed to mean an individual is required to receive career services prior to receiving training services. Title I of the WIOA shall be used to provide training services for adults and dislocated workers, respectively—

- 1) who, after an interview, evaluation, or assessment, and career planning, have been determined by a one-stop operator or one-stop partner, as appropriate, to—be unlikely or unable to obtain or retain employment, that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment, through the career services; be in need of training services to obtain or retain employment that leads to

economic self-sufficiency or wages comparable to or higher than wages from previous employment; and have the skills and qualifications to successfully participate in the selected program of training services;

- 2) who select programs of training services that are directly linked to the employment opportunities in the local area or the planning region, or in another area to which the adults or dislocated workers are willing to commute or relocate;
- 3) who meet specified qualification requirements; and
- 4) who are determined to be eligible in accordance with the priority system in effect.

Use of Individual Training Accounts. In general, training services must be provided through the use of individual training accounts and must be provided to eligible individuals through the one-stop delivery system.

Permissible Local Employment and Training Activities may include—

- 1) customer support to enable individuals with barriers to employment (including individuals with disabilities) and veterans, to navigate among multiple services and activities for such populations;
- 2) technical assistance for one-stop operators, one-stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures;
- 3) improved coordination between employment and training activities and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of chapter 1 of title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in section 702 of such Act (29 U.S.C. 796a);

11. National Programs

Training Capacity. The Secretary of Labor shall ensure that the Department has sufficient capacity to, and does, provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including assistance in replicating programs of demonstrated effectiveness to states and localities; the training of staff of recipients, including the staff of local boards and State boards; and the training of members of State boards and local boards.

Promising Practices. The Secretary of Labor shall establish a system through which States may share information regarding promising and proven practices with regard to the operation of workforce investment activities; evaluate and disseminate information regarding such promising and proven practices and identify knowledge gaps; and commission research to address knowledge gaps.

12. Nondiscrimination (Section 188)

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of, among other things, disability.