

State of California Labor and Workforce Development Agency
Employment Development Department
California Workforce Investment Board
Employment Training Panel

WIOA 2015 Comments
Departments of Education (ED) and Labor (DOL) Combined NPRM
RIN 1205-AB74

The comments below do not represent the California Department of Education or the local workforce areas.

CFR Citation and Page Number: 677.150(b), Page 20632

Preamble Page Number: 20585

Language: Seeking comment on the appropriate point of receipt of staff-assisted services.

Question or Concern: California requests clarification/guidance from DOL to provide clear definition of what constitutes a staff-assisted service, as it applies to both individually and group-delivered staff services, along with staff-assisted self-service (e.g., staff-assisted labor market, interview technique workshop, etc.).

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 677.150(c)(1)(i)(A), Page 20632

Preamble Page Number: 20585

Language: Whether an individual's continued use of self-service offering should extend the individual's exit date, or if participant should be considered having exited after the final staff-assisted service.

Question or Concern:

If a concern, Proposed Solution/Recommendation: Self-service activities should not extend the individual's exit date; only staff-assisted services should be considered when determining the date of exit.

CFR Citation and Page Number: 677.150(c), Page 20632

Preamble Page Number: 20585

Language: DOL is seeking comments on state's feasibility of taking a program-exit or a common-exit approach.

Question or Concern: California does not see a common-exit based approach as feasible, as each participating agency/core program currently uses a different reporting system. To develop a system interface for all core programs to implement a common exit creates a resource and capacity burden for the State at this time. If greater system interoperability and data integration is achieved over time, California may be interested in pursuing a common exit.

If a concern, Proposed Solution/Recommendation: As a result, California proposes taking a program-exit approach.

CFR Citation and Page Number: 677.155(a)(1), Page 20633

Preamble Page Number: 20585

Language: Primary indicators of performance under WIOA.

Question or Concern: DOL has asked for comments on the ways States can measure and document participants' for the six primary indicators.

If a concern, Proposed Solution/Recommendation: California agrees that incorporating JVSG and other discretionary funding will be beneficial and lower the burden on the States to have separate reporting requirements and negotiating processes.

CFR Citation and Page Number: 677.155(a)(1)(i), Page 20633

Preamble Page Number: 20586

Language: Whether and how to collect information on the quality of employment and how WIOA's programs help employed and underemployed individuals find new or better jobs.

Question or Concern: California has the following concerns:

1. Employers do not report hours worked with the base wage report, and they do not use an industry-specific voiced code per employee when reporting employment; therefore, reporting data may be ambiguous.
2. Too many unknown factors could skew data and the State recognizes that results may not be representative of participant employment outcomes aligned with policy.
3. While it may produce an undue burden for employers having to report employee job status change, it is the most valid and reliable means to capture said data.

If a concern, Proposed Solution/Recommendation: California recommends that the federal government encourage states to work with employers in the collection of the North American Industry Classification System (NAICS) codes for inclusion into the quarterly wage record.

CFR Citation and Page Number: 677.155(a)(1)(ii), Page 20633

Preamble Page Number: 20586

Language: Seek comment on the advantages and disadvantages of collecting or reporting the employment retention rate in addition to the employer rate.

Question or Concern:

1. Advantage: One-year tracking would provide employment stability data; however, California would not want this data to be considered as an additional performance indicator. It should be used only for data purposes.
2. Disadvantage: If deemed an additional performance indicator, it would create a burden on State staff to report an additional performance indicator.

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 677.155(a)(1)(iv), Page 20633

Preamble Page Number: 20586

Language:

1. Seek clarifications needed to implement the measurable skill gain indicator.
2. Seek comment on the ways States can measure and document participants' measurable skill gains in a standardized way, including whether time intervals are required and what the time intervals might be.
3. Performance targets for this indicator should be set at the indicator or documented progress measure level.

Question or Concern: California seeks clarification on:

1. Definition of "indicator" versus "documented progress" levels.
2. Clarification on measurable observable performance based on industry—preamble 677.155 (a)(1)(v)(6).
3. Clarification needed if State would have the ability to gain multiple skills attainment credit throughout participation, and receive a positive gain at the completion of each indicator gain.
4. Clarification needed as to whether the same measure is applied across all programs. Could multiple programs get credit on a skills gain measure in which participants are co-enrolled?

If a concern, Proposed Solution/Recommendation: California believes that there should be a time interval, and it should be set at one year from the date of participation and each year after.

CFR Citation and Page Number: 677.155(a)(1)(vi), Page 20633

Preamble Page Number: 20587

Language:

1. It is important to hear from States and stakeholders on what they consider core functions of their services to employers in order to best determine how to understand and measure the effectiveness of the services provided.
2. The Department seeks comment around the feasibility of measuring employee retention rates tied to the employment they obtained after receiving WIOA services.
3. Feasibility and effectiveness to measure the repeat/retention rate for employers' use of the core programs.
4. Feasibility of capturing this data, validity of such an approach in measuring effectiveness of program services, and the usefulness of this approach in managing employer services.
5. Seek comments on the relative merit of each approach. Will a single metric be sufficient, or should multiple metrics be utilized?
6. Additional ways that programs' effectiveness in serving employers can be captured.

Question or Concern:

1. California is concerned about the additional burden of reporting for employers.
2. California has concerns that there are too many variables beyond employee/employer control, and therefore would not provide an accurate measure. In addition, there is concern with the focus on highlighting the entered employment and the employment retention rates as this will impede the system's transition from WIA to WIOA.
3. In Titles I and III this is workable; however, California seeks clarification/guidance:
 - i. If it is DOL's intent is to *collectively* capture all core programs data, how will that be accomplished, as each core program has its own individual database?
 - ii. Whose responsibility is it to determine the number of all employers served in a geographic area, and/or statewide area versus the percent of employers' core program services? With 49 LWIAs, some employers interact with multiple areas. Which LWIA would receive indicator credit?
 - iii. Having two types of employers in the labor exchange system, i.e., "preferred" vs. "spidered," and the impact on reporting.
 - iv. It would be difficult to ascertain in large urban areas such as the San Francisco Bay Area and Los Angeles what constitutes an "area," especially as

it concerns a percent for what to be used for a denominator. Some areas are bedroom communities with the majority of its workforce commuting out to work; others are industrial areas with most of its workers commuting in. You could find every mix of such “areas” in the region rendering a percent useless as any sort of valid measurement.

4. Title III is able to report statewide service delivery to employers, but knowing whether the LWIAs are meeting employer’s needs cannot be captured. Unsure if this ability to capture will provide valid and useable data to determine a successful or unsuccessful indicator. Multiple metrics should be utilized in an effort to provide a broad picture of the accurate level of service delivery to employers.
5. Concern that a single metric will not provide sufficient data that can be utilized as a meaningful indicator of success.
6. Concern as to how areas will be determined if employers utilize the core programs in multiple areas. Who would receive the credit down to the LWIA and core program level?

If a concern, Proposed Solution/Recommendation:

1. California supports a single employer indicator with multiple metrics utilized for States and LWIAs to provide a broad picture of the accurate level of service delivery to employers.
2. It is recommended that DOL and ED utilize an employer focus group to quantify and define the best way to implement the employment measure.
3. It is recommended that the entered employment rate and the employment retention rates are used for informational purposes only and not for performance accountability.
4. It is recommended that local areas leverage employer measures at a regional level, so metrics used at a local level may assist the regional planning efforts, service coordination, and effectiveness of providing services to employers.

CFR Citation and Page Number: 677.155(c), Page 20632

Preamble Page Number: 20588

Language: How to measure the Wagner-Peyser Employment Services’ effectiveness in serving employers.

Question or Concern: California’s concern is that historically, CA EDD has not found an effective way to measure effectiveness of employer services.

If a concern, Proposed Solution/Recommendation: California would want to use the same measure for Title III as all the other core programs. It is also recommended that the Department consider private sector measures, e.g., online customer satisfaction surveys. While surveys may not be cost effective and require additional

resources, it is a tool that may provide comprehensive analytics. Additionally, the administration of a survey instrument should take into account the regional effectiveness of serving employers.

CFR Citation and Page Number: 677.160(a), Page 20633

Preamble Page Number: 20588

Language: Seeking comments on the report templates

Question or Concern: No concerns.

If a concern, Proposed Solution/Recommendation: California strongly agrees that templates be created at the federal level for performance reporting.

CFR Citation and Page Number: 677.175(b), Page 20634

Preamble Page Number: 20590

Language: Definition of “quarterly wage record information”.

Question or concern: California requests clarification on this definition. The definition does not include the name of the individual for whom quarterly wages are paid. California’s Base Wage File currently contains information from 1.3 million employers who report over 22 million wage lines. There are instances where a single social security number may be associated with multiple names in a single quarter. California continuously acts to ensure the accuracy of the wage data submitted; however, it depends on the information reported by the employer who, in turn, depends on the information reported by their employees. This definition also does not include industry sectors in which individuals work as part of the quarterly wage information to be shared under WIOA.

If a concern, Proposed Solution/Recommendation: California recommends the names of wage earners with their associated social security numbers and quarterly wages be included in the definition of “quarterly wage record information” used by States to measure performance accountability since it would allow verification of the WIOA participant and increase accuracy. California also recommends using an industry identifying component such as the North American Industrial Classification System NAICS code which would provide a comprehensive means of measuring the impact of WIOA services. An Employer’s Federal identification Number (FEIN) will not reveal whether an individual who received WIOA services is actively employed in the industry of that training or education service.

CFR Citation and Page Number: 678.300, 678.305, Page 20638

Preamble Page Number: 20598

Language: Comprehensive one stop delivery center and what must be provided.

Question or concern: As a new required one-stop partner, California is concerned with the mandates for unemployment insurance participation in these centers. Required one-stop partners must ensure that customers have access to programs, services and activities through a direct linkage during regular business hours. Required partners must also use a portion of their funds to provide career services and pay for one-stop infrastructure costs. California seeks clarification whether this is an unfunded mandate that will significantly impact the unemployment insurance program's ability to effectively serve its customers.

If a concern, proposed solution/recommendation: In recent years, unemployment insurance programs across the country have moved to more effective self-service delivery models to serve as many customers as possible. California's unemployment insurance program provides an interactive voice response (IVR) telephone system, and recently implemented an internet-based customer service portal, UI online. These service delivery models greatly increase the number of customers that the unemployment insurance program is able to serve. California would recommend less restrictive regulation that allows States to have the flexibility to provide unemployment insurance services in the most efficient and effective manner possible in order to enable California's unemployment insurance program meet the federal "when due" legal requirements under Section 303 (a) of the Social Security Act.

CFR Citation and Page Number: 678.315, Page 20639

Preamble Page Number: 20599

Language: Standalone Wagner-Peyser employment service office as one-stop site

Question or concern: Wagner-Peyser is a state, merit staff operated program and WIOA is locally controlled. California has concerns that mandating that there be at least one other partner physically present more than 50 percent of the time that a Wagner-Peyser site is open may be contradictory to the local areas who have the flexibility who choose whether to co-locate with Wagner-Peyser sites.

If a concern, proposed solution/recommendation: California recommends strengthened language that details how core partners might operate in an integrated partnership with Wagner-Peyser employment services. This could potentially allow other WIOA core partners to operate in conjunction with Wagner-Peyser employment services and could set up a system that will be fully integrated in an innovative manner that WIA was never able to accomplish.

CFR Citation and Page Number: 678.430, Page 20640

Preamble Page Number: 20601

Language: Definition of career services

Question or concern: The proposed section 678.410 contains the WIOA requirement that the local board determine partners in the one-stop and that the State cannot mandate partners other than those specifically required under WIOA. It also states that this change places greater discretion at the local level in identifying the appropriate mix of services provided and the DOL expects that such decisions will be based on local or regional labor market information and population demographics. California seeks clarification because section 678.430 appears contradictory as it mandates that program partners must provide intake services at the one-stop for TANF assistance and non-assistance benefits via application processing and initial eligibility determinations.

If a concern, proposed solution/recommendation: California recommends DOL clarify the intent of these two sections.

CFR Citation and Page Number: 678.605, Page 20643

Preamble Page Number: 20603

Language: How is the local operator selected?

Question or concern: In addition to the local boards' requirement to select the one-stop operator through a competitive process, California is concerned that the regulation does not provide incentives to reward high performing local operators.

If a concern, proposed solution/recommendation: California would recommend that the local area be allowed to extend the operator's contract (one time only) for two years to serve as a reward for high performing local operators. This would serve as an incentive for good performance by the one-stop operator and reduce the disruption caused by frequent bidding processes.

CFR Citation and Page Number: 678.620, Page 20643

Preamble Page Number: 20605

Language: What is the one-stop operator's role?

Question or concern: California seeks clarification on the limitations on a one-stop operator to avoid conflict of interest.

If a concern, proposed solution/recommendation: California recommends that a one-stop operator should not convene system stakeholders to assist in the development of the local plan, but if appropriate firewalls and conflict of interest policies and procedures are in place they should be allowed to participate in the

development of the local plan since they are responsible for carrying out the plan and are in the best position to understand customer needs and labor market conditions.

CFR Citation and Page Number: 678.710, Page 20644

Preamble Page Number: 20606

Language: How are infrastructure costs funded?

Question or concern: California seeks clarification on the funding mechanisms.

If a concern, proposed solution/recommendation: California recommends that DOL and ED update guides and provide technical assistance on cost allocation methodologies pertaining to the use of variable in-kind service costs against the building fixed costs. Such arrangements may result in inflated in-kind costs and the partner that is responsible for the facility costs may end up with an unfair cost sharing arrangement.

CFR Citation and Page Number: 678.800, Page 20647

Preamble Page Number: 20608

Language: One-stop certification

Question or concern: California requests clarification on how the criteria would apply to smaller offices primarily located in rural areas and for special populations.

If a concern, proposed solution/recommendation: California recommends that DOL offer flexibility in the service delivery to smaller offices that are located primarily in rural areas, especially in how services can be delivered to special populations. For example, in an office of 5 people where one of the staff is a Jobs for Veterans State Grant (JVSG) funded person, the requirement that a Veteran must be first served/screened by someone other than the DVOP is doing a disservice to the customer by requiring that person to see two staff when the JVSG funded staffer may be able to assist the Veteran directly. In addition, the restriction to allow JVSG staff to not work 50% serving Veterans and allow them to charge to the Wagner-Peyser grant causes longer distances to receive Vet services from DVOPs that are stationed in busier offices. Grants funded for special populations should not be allowed to disrupt the seamless intent of the delivery of services of customers because of inflexibility of the federal grant management of the programs. Priority of service should always be maintained but staffing flexibility should be allowed to provide the best service in a fully integrated service delivery center.

CFR Citation and Page Number: 678.800 (a)(3), Page 20647

Preamble Page Number: 20608

Language: One-stop certification

When the Local Board is the one-stop operator as described in § 679.410 of this chapter, the State Board must certify the one-stop center.

Question or Concern: The proposed regulations recognize the inherent conflict with a local board participating as a separate entity in a competitive solicitation that itself is issuing. With the increased roles and functions of the local board articulated in the proposed regulations and the intent of the Congress to create a firewall between the local board and its system operators, it is unclear how a local board effectively performs both oversight and service delivery functions without this conflict of interest always being a factor.

678.800(a)(3). These two lines appear to address the inherent conflict of interest of a local board fulfilling the role of the One-Stop operators. However, it provides additional administrative burden to the State Board by adding the responsibility of providing administrative oversight of a locally controlled, locally built delivery system, which is clearly outlined in the roles and responsibilities of the local board.

If a concern, Proposed Solution/Recommendation: Eliminate the language allowing the local boards to be operators, except in dire or extremely unique circumstances. Strengthen the role of the Governor by ensuring that any local board that intends to compete in the solicitation provides the State the conflict of interest policies for review prior to the solicitation. This will ensure a free, open and competitive solicitation and evaluation process.

Clarify how the State Board is to carry out the oversight of local day to day operations and what the role of the local board will be in these situations.

CFR Citation and Page Number: 678.900, Page 20648

Preamble Page Number: 20609

Language: Common identifier to be used by each one-stop delivery system

Question or concern: California seeks clarification on States' ability to use additional identifiers on their products, programs, activities, services, facilities, and related property and materials.

If a concern, proposed solution/recommendation: California does not object to the "American Job Center" or the tagline "a proud partner of the American Job Center network", so long as states can use any related co-branding that they have developed since the American Job Center brand was adopted. In this case, California would like to continue using its America's Job Center of California brand which California has spent considerable resources to implement and market.

CFR Citation and Page Number: 677.160(a)(9), Page 20633

Preamble Page Number: 20589

Language: California seek comment on how to structure such a measure (e.g., using the net promoter score) and whether the inclusion of such a measure would be valuable.

Question or Concern:

1. A score on a customer survey is not necessarily indicative of the level of service provided, and thus cannot be utilized as a valuable indicator.
2. California is concerned that this additional data collection may create a resource and capacity burden on the State and the local areas.
3. Historically, this requirement created inefficiency in integrated services, and did not yield meaningful data at the state level.

If a concern, Proposed Solution/Recommendation: It is recommended that the State provides a uniform methodology, yet also allow local areas to have the flexibility of how said State methodology is implemented. The State would be looking to leverage cost-effective strategies to implement a uniform methodology in a manner that makes sense at a local level.

CFR Citation and Page Number: 677.170(c), Page 20634

Preamble Page Number: 20590

Language: Should additional factors be considered when developing the model, and the best approach to updating the model as necessary.

Question or Concern: Yes, additional factors should be considered in the statistical adjustment model. California understands that some local areas have a disproportionate population that faces significant barriers to employment and underperforming labor markets. California is concerned that external factors may influence participant outcomes and program performance and may also influence the statistical adjustment model. Such external factors as high crime rates in local areas, poor public transportation infrastructure, and where there may be geographic barriers to accessing services and resources, should be considered when determining a statistical adjustment model for a local area.

If a concern, Proposed Solution/Recommendation: California requests that the statistical adjustment model take into consideration external factors as mentioned above, only if they bear statistical significance as they pertain to participant outcomes, performance and to the level of influence on the statistical adjustment model.

CFR Citation and Page Number: 677.190(c), Page 20635

Preamble Page Number: 20591

Language: Seek comment on whether to use a weighted average or a straight average for purposes of each overall indicator score.

Question or Concern:

1. Do States have discretion to utilize weighting?
2. The State would like more clarification on how Average Indicator and Average Program Scores will be determined. Concern that if programs are not weighted by the number of participants, Title III will dominate the average.

If a concern, Proposed Solution/Recommendation:.

CFR Citation and Page Number: 677.190(d), Page 20635

Preamble Page Number: 20592

Language: Seeking comment on:

1. Established levels of success/failure in assessing performance for the core programs.
2. Implications of the proposed methodology, including the three criteria and associated thresholds for failure established under this proposed regulations.
3. How to define “fails to meet the state adjusted levels of performance.”
4. Specific timelines on reporting outcomes on the core indicators of performance.
5. The timing on using the annual state report to determine success or failure.
6. Specific operational timelines for determining which performance outcomes to use for assessing performance.
7. Which state report should be the first annual state report used to set performance against the state’s adjusted levels of performance.
8. When the performance improvement plan should be developed in the event that there is performance failure in the second year, when should the financial sanction is applied?
9. How to tie delay of sanction to a state executing the reforms establish in a performance improvement plan.
10. Timelines for implementing the full accountability system to include determining performance failure for sanctions.
11. Transition timing of the performance accountability system as WIOA is implemented.

Question or Concern:

1. Anything higher than a 90% performance rate may not be feasible for accountability purposes.
2. Clarification is needed on how a core program could have an indicator that is successful by meeting 50% of the goal and in return the State must be able to pass the Average Program and Average Indicator measure at 90%.
3. See proposed recommendation below.
4. California seeks clarification/guidance: Will it still require built in time lags for base wage match?
5. See proposed recommendation below.
6. Seek clarification on “operational timelines.”
7. See proposed recommendation below.
8. See proposed recommendation below.
9. See proposed recommendation below.
10. See proposed recommendation below.
11. See proposed recommendation below.

If a concern, Proposed Solution/Recommendation:

1. California supports maintaining the 90% performance rate.
2. Need further clarification prior to recommendation.
3. California defines failure as:
 - a. Failure = State’s *Overall* Program Score is < 90% (as opposed to each *Individual* Program Score).
4. If the same time lags from WIA are used in WIOA, then PY17 annual report would be the first report for performance.
5. California supports the Assessment of Failure or Success being made when the first complete set of program indicators becomes available, i.e., the Annual Report for PY 2017.
6. Need further clarification prior to recommendation.
7. 2nd year, PY 17-18.
8. At the end of 3rd PY.
9. 2 years after the initial failure.
10. Once California receives DOL approval for its Improvement Plan, California seeks two full quarters for its Improvement Plan implementation.
11. California seeks data for one full PY, per each performance indicator with an additional year = 3 years.

CFR Citation and Page Number: 677.230, Page 20636

Preamble Page Number: 20595

Language: How to make the ETP report a useful tool for WIOA participants, ETPs, interested stakeholders and the general public. For clarification, this is a joint report across all agencies that receive federal WIOA dollars, not just the WIOA dollars from DOL.

Question or Concern:

1. The intended range of the ETP reports is questioned. More clarification is required for the extent and reach of the report – including clarification on types of training providers that will be required to report all students (just current occupational skills training providers or all training, such as customized training that is paid for by WIOA).
2. The State sees merit in collecting performance data for the universe of clients who attend a training program and believes that this is the right policy given the resources and ability to collect the information. However, operational and resources constraints have sometimes limited the collection of outcome data for all students who attend relevant programs.

If a concern, Proposed Solution/Recommendation: Include all students enrolled in ETPL programs, where data sharing and confidentiality agreements apply, in the Annual Report, and aggregate the performance to ensure non-identification of students. California would like the regulations to grant states the flexibility to waive the collection of performance data for non-WIOA funded students where there is a compelling policy rationale, as well as other reliable performance data indicating that the programs are high quality. Further the state would request that the regulations state that these waivers may only be granted on a case by case basis, ensuring that proper justification for said waivers is always provided. California further suggests that the proposed language strengthen the role of public officials for access to quarterly wage data.

CFR Citation and Page Number: 677.230(a), Page 20636

Preamble Page Number: 20596

Language: Ways to support registered apprenticeship programs that are interested in providing performance information, and what that information might look like.

Question or Concern: Currently, California EDD can only track WIOA clients sent to apprenticeship programs, and cannot track all clients sent to apprenticeship programs.

The State sees merit in collecting performance data for the universe of clients who attend a training program and believes that this is the right policy given the resources and ability to collect the information. However, operational and resource constraints have limited the collection of outcome data for all students who attend relevant programs.

If a concern, Proposed Solution/Recommendation: It is recommended that all pre-apprenticeship programs provide performance in the ETPL Annual Report, when feasible. California would like the regulations to grant states the flexibility to waive the collection of performance data for non-WIOA funded students where there is a compelling policy rationale, as well as other reliable performance data indicating that the programs are high quality. Further, the state would request that the regulations state that these waivers may only be granted on a case-by-case basis, ensuring that proper justification for said waivers is always provided.

CFR Citations and Page Number: 677.235, 677.235 (b), Page 20597 and Subpart F 677.235, Page 20637

Language: The requirements for individual records for core Workforce Innovation and Opportunity Act title I, II, III, and IV programs.

Question or Concern: In Proposed WIOA Regulations § 677.235, 677.235(b), and Subpart F § 677.235, it is California's interpretation that its Employment Development Department (EDD), and its Department of Education (DOE) will be separately and equally responsible for managing and reporting their WIOA performance to their respective federal agency, i.e., the Department of Labor, and the Department of Education.

More specifically, currently it appears that EDD will be responsible for Title I and Title III performance management and reporting. California Department of Education (CDE) will be responsible for Title II performance management and reporting, and California Department of Rehabilitation (DOR) will be responsible for Title IV performance management and reporting. Additionally, it will be incumbent upon EDD to streamline its reporting methodologies to assure that all Title I and Title III core program participant data are submitted in a single, integrated performance report. The State Board plans to work with all core program partners to ensure timely and complete reporting.

If a concern, Proposed Solution/Recommendation: If the Secretary of Labor and the Secretary of Education require California's EDD, CDE, and DOR to integrate and submit their performance reporting as a single, aggregate report, i.e., Titles I, II, III, and IV as one all-comprehensive report, California may incur an undue and unrealistic burden. Therefore, California recommends that once all identified responsible state agencies submit their data to their respective federal agency, that those federal agencies be responsible for data integration by developing and implementing a single, aggregate, all-comprehensive reporting program. This would remove the foreseeable burden from California and all other individual states to develop such a program in a short amount of time and with no additional resources, while simultaneously assuring that all states collect, integrate and report their data in a single and uniform format.

CFR Citation and Page Number: 677.230(a)(3), Page 20636

Preamble Page Number: 20596

Language: Best way to calculate cost-per-participant.

Question or Concern:

1. Clarification of the average cost-per-participant calculation is required – including books, supplies etc.
2. California is concerned that the cost for reporting all students (and not just WIOA funded students) may result in training providers not accepting WIOA funded students to avoid the attendant reporting burden.

If a concern, Proposed Solution/Recommendation: Include all students from the ETPL from the cost-per-participant count in an efficient and less burdensome process when feasible. Additionally, California suggests a list of recommended published research studies that have approached implementation of cost-per-participant calculations before.

CFR Citation and Page Number: 677.230(e)(2), Page 20636

Preamble Page Number: 20596

Language: Seeking comments on:

1. Specific aspects of this new performance reporting requirement as it relates to reporting burden for training providers.
2. Ways the Departments may reduce this burden for training providers as well as how the Departments may leverage this performance reporting requirement to be of more use to the ETPs.
3. What would facilitate the reporting process to make it easier for ETPs to report on multiple programs of study, including programs that they would like to have on the list, but do not have currently any WIOA funded participants enrolled.

Question or Concern:

The State sees merit in collecting performance data for the universe of clients who attend a training program and believes that this is the right policy given the resources and ability to collect the information. However, operational and resources constraints have sometimes limited the collection of outcome data for all students who attend relevant programs.

If a concern, Proposed Solution/Recommendation:

California would like the regulations to grant states the flexibility to waive the collection of performance data for non-WIOA funded students where there is a compelling policy rationale, as well as other reliable performance data indicating that the programs are high quality. Further the state would request that the regulations state that these waivers may only be granted on a case by case basis, ensuring that proper justification for said waivers is always provided.

California further suggests that the proposed language strengthen the role of public officials for access to quarterly wage data.

CFR Citation and Page Number: Preamble Only, Pages 20614-20615

Preamble Page Number: 20614-20615

Language:

Preamble

For State Boards, DOL estimates that there will be costs associated with State planning attributed to the extra effort to coordinate and develop a plan between the six core programs administered by the Departments of Education and Labor, respectively, which is a new requirement under WIOA. The Departments estimate the costs for this new requirement to coordinate among the six core programs in the State plan under (f) Unified or Combined State Plan and (g) Local Plan Revisions. WIOA requires more substantial labor market information (LMI) data be included in the State Plan than was required under WIA. This is a cost that DOL estimates will impact the State level DOL core programs because the State typically provides the LMI data to local areas for the formulation of the local plan. Furthermore, WIOA will allow States to use existing data for their initial State Plan, so the additional cost will be offset substantially for the first State Plan required. For the required modification of State Plans and any subsequent State Plan under WIOA, the State will incur this cost to include substantial LMI data.

Question or Concern:

If a concern, Proposed Solution/Recommendation:

Question or Concern:

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.410, Page 20639

Preamble Page Number: 20600

Language:

Preamble

§ 678.410 What other entities may serve as one-stop partners? Partnerships across programs are critical to supporting the one-stop vision for service delivery. Proposed § 678.410(a) reinforces the sec. 121(b)(2)(B)(vii) of WIOA, which states that other Federal, State, local, or private sector entities that carry out workforce development programs may serve as additional one-stop partners if the Local Board and CEOs approve. Proposed § 678.410(b) provides a list of possible additional partners. In addition to the optional partners listed, Local Boards may partner with a wide range of organizations, including but not limited to CBOs, non-profit community action agencies, disability service providers, nonprofit workforce providers, and nonprofit

English-as-a-second-language (ESL) providers. In contrast to the former WIA requirement, the proposed rule does not contain an allowance for the State to require that optional partners be included as a partner in all of the local one-stop delivery systems in the State. This omission reflects the WIOA requirement that the Local Board determine partners in the one-stop and that the State cannot mandate partners other than those specifically required in WIOA. This change places greater discretion at the local level in identifying the appropriate mix of services provided and the Departments expect that such decisions will be based on local or regional labor market information and population demographics.

Proposed Rule

§ 678.410 What other entities may serve as one-stop partners? (a) Other entities that carry out a workforce development program, including Federal, State, or local programs and programs in the private sector, may serve as additional partners in the one-stop system if the Local Board and chief elected official(s) approve the entity's participation. (b) Additional partners may include: (1) Employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency Program established under sec. 1148 of the Social Security Act (42 U.S.C. 1320b-19); (2) Employment and training programs carried out by the Small Business Administration; (3) Supplemental Nutrition Assistance Program (SNAP) employment and training programs, authorized under secs. 6(d)(4) and 6(o) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)); (4) Client Assistance Program authorized under sec. 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732); (5) Programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and (6) Other appropriate Federal, State or local programs, including employment, education, and training programs provided by public libraries or in the private sector.

Question or Concern:

The proposed rule doesn't explicitly state that local boards must use regional labor market information and population demographics to help inform the appropriate mix of services. Without this visible emphasis in the proposed rule, it could be difficult to promote the value of LMI in accordance with WIOA's original vision for the use of regional labor market information and population demographics to improve the selection of an appropriate mix of services.

If a concern, Proposed Solution/Recommendation:

Add a specific reference to local or regional labor market information and population demographics to clarify and communicate the WIOA's vision for the use of labor market information to drive data-driven analysis and strategic planning in local board/partnership decisions in order to determine the appropriate mix of services.

Note: These comments, concerns, and solutions apply to § 678.410 for the Department of Labor, but also apply to § 361.410 and § 463.410 for the Department of Education.

CFR Citation and Page Number: 678.300, Page 20598

Language:

The one-stop system brings together partners and programs for the benefit of customers so that they have access to workforce development program services.

Question or Concern:

There is not currently a data system that exists for mandatory partners to share program and/or outcome data.

If a concern, Proposed Solution/Recommendation:

It would be great to be able to share program data between mandatory partners to benefit the customer and achieve outcomes. There is a need for a common release of information form.

CFR Citation and Page Number: 678.305(d)(1), Page 20638

Language:

A “direct linkage” means providing direct connection at the one-stop, within a reasonable time, by phone or through a real-time Web-based communication to a program staff member who can provide program information or services to the customer.

Question or Concern:

What’s the definition of “within a reasonable time”?

CFR Citation and Page Number: 678.430, Page 20640

Language:

What are career services? Section 134 (c)(2) requires as a career service the provision of both information and assistance to customers regarding filing a UI claim. In the context of providing assistance with UI claims, the proposed rule defines “meaningful assistance” as having staff well trained in Unemployment Compensation claims filing and the right and responsibility of claimants available in the one-stop centers to provide customers with assistance in filing a claim if they request it or are identified as meeting the service due to barriers such as limited English proficiency or disabilities.

Question or Concern:

There is a potential issue with the definition of “filing”. For those filing an initial application there are dedicated computers and dedicated phones for UI applicants at the One-Stops. One-Stop and Wagner-Peyser staff do not advise individuals in completing any of the information but will provide any technical assistance requested by the applicant regarding the online form. The phones are a direct line to UI. Once an individual has filed a claim and if there is a dire emergency (eviction etc.) with an UI claimant, Wagner-Peyser staffs are able to do what is referred to as a Specific Point

Of Contact (SPOC) call to connect the claimant with UI. It should not be a function of One-Stop or Wagner-Peyser staff to actually file UI applications on behalf of the unemployed. This would be a de facto way of promoting in person claims filing through the One-Stop Centers.

If a concern, Proposed Solution/Recommendation:

Access to UI through the One-Stops should be improved through the remote access suggestions included in this section: One-Stop phone connections to UI that are exclusive to the One-Stops; Live Web Chat applications, video conference applications or other similar technology.

CFR Citation and Page Number: 678.430(a)(3), Page 20640

Language:

“Initial assessment of skill levels including literacy, numeracy and English language proficiency, as well as aptitudes, abilities...”

Question or Concern:

Is the DOL recommending use of standardized assessment tools to carry out this career service or will the decision on what tool(s) to use be left up to the State or Local Board?

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.430(b)(3)(4), Page 20641

Preamble Page Number: 20601

Language:

“...(3) Group Counseling; (4) Individual counseling;...”

Question or Concern:

What is the definition of “group counseling” and “individual counseling”? It’s not clear if it’s in reference to personal counseling or career counseling.

If a concern, Proposed Solution/Recommendation: If the latter, a recommendation to insert the word “career” after “group” and “individual” to avoid confusion.

CFR Citation and Page Number: 678.430(c), Page 20641

Language: Follow-up services must be provided....for up to 12 months after the first day of employment.

Question or Concern: Is there flexibility in the length of time of the follow up period as long as it doesn’t exceed 12 months? Use of the verbiage “up to 12 months” implies flexibility.

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.430(10)(i)(B), Page 20641

Language:

Providing assistance by phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time.

Question or Concern: What's the definition of "within a reasonable time"?

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.620(b), Page 20644

Language: A one-stop operator may not perform the following functions... An entity serving as a one-stop operator may perform some or all of these functions if it also serving in another capacity, if it has established sufficient firewalls and conflict of interest policies

Question or Concern: California requests clarification as to the definition of "serves in another capacity"?

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.800(a), Page 20647

Language:

The State Board, in consultation with chief elected officials and Local Boards, must establish objective criteria and procedures for Local Boards to use when certifying one-stop centers.

Question or Concern:

Does the federal government plan to provide guidance on how State Boards might develop objective criteria and procedures as well as technical assistance/training to share with Local Boards on implementing the certification procedures?

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.800(a)(2), Page 20647

Language:

...the criteria must evaluate the one-stop centers and one stop delivery system for effectiveness, including customer satisfaction, physical and programmatic accessibility and continuous improvement.

Question or Concern:

Will the State or Local Board be responsible for developing overall measures of “effectiveness” including customer satisfaction measures? Will the evaluation of the physical and programmatic accessibility be coordinated by the State Equal Opportunity Office as done under WIA?

If a concern, Proposed Solution/Recommendation:

California recommends that all one-stops use the same tools and methodology to enable comparisons and establish benchmarks.

CFR Citation and Page Number: 678.800(d), Page 20648

Language:

Local Boards must assess at least once every 3 years the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery systems using the criteria and procedures developed by the State Board.

Question or Concern:

What is the first date that all one-stops will need to be certified? What are the financial and/or programmatic consequences if a one-stop fails to achieve certification? Will technical assistance be provided to one-stops failing certification?

If a concern, Proposed Solution/Recommendation:

CFR Citation and Page Number: 678.430, Page 20640

Preamble Page Number (if applicable): 20601

Language:

WIOA merged core and intensive services into a single “career services” category, and clarified that the law does not prescribe a sequence of services. The DOL is proposing classifying career services into three categories, basic career services, individualized career services, and follow-up services.

Question or Concern:

It may be confusing to categorize and differentiate career services into basic and individualized.

If a concern, Proposed Solution/Recommendation: