



Workforce Innovation and Opportunity Act (WIOA) and its Application to Youth and Young Adults with Mental Illness

Issue Brief

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OVERVIEW

The Workforce Innovation and Opportunity Act (WIOA) became law on 7/22/2014 though most of intended changes to the now superseded Workforce Investment Act (WIA) did not take effect until 2015 or 2016 except for the part pertaining to the state-federal Vocational Rehabilitation (VR) system (Title IV of the Act). The law covers the entire workforce system including VR. The majority of the relevant areas covered in this brief will focus on the issues related to disability, for which generally VR has specific responsibilities. Nevertheless, the workforce system as a whole has a mandate under this law to be programmatically accessible to all people with disabilities, including those with mental health challenges.

The U.S. Department of Labor (DOL) sees this law as one that outlines a broader youth vision supporting an integrated service delivery system and giving a framework through which states and local areas can best leverage resources to support in-school and out-of-school youth. DOL envisions WIOA as a governmental commitment to providing high quality, continuous, and seamlessly delivered services for youth and young adults beginning with career exploration and guidance, continued support for educational attainment, opportunities for skills training in in-demand industries and occupations, and culminating with a good job along a career pathway or enrollment in post-secondary education. DOL's vision, endorsed by the Rehabilitation Services Administration, is that WIOA is quality-focused, employer-driven customer-centered, and tailored to meet the needs of regional economies. It is designed to increase access to and opportunities for the employment, education, training, and support services that individuals need to succeed in the labor market, particularly those with barriers to employment.

The actual implementing regulations have not been issued yet. These changes took legal effect upon enactment in 2014. WIOA implements the Department of Labor's model for the entire workforce system and VR for adults and youth. Many sections are specific to students with disabilities and youth with disabilities. Though none pertain specifically to youth with significant psychiatric disabilities there are many areas that providers, advocates, family, members, and youth and young adults with mental illness themselves should be aware of as avenues for possible employment related services and interventions.



The law is quite complex and also still lacks at this time an approved regulatory structure so this brief will highlight some of the key topics to consider, without going into great depth. A listing of resources for those seeking more information can be found at the end of this report.

REQUIREMENTS IN THE LAW

Within Title IV of the Act (VR title), the specific definitions of both student and youth with a disability are important considerations. The term "student with a disability" in the law refers to an individual with a disability who is not younger than the earliest age for the provision of transition services in the state, no older than 21 unless the state has a higher maximum age for services under the Individuals with Disabilities Act (IDEA) (e.g., in Michigan the upper age is 26), is receiving special education services under an IEP or is a Section 504 identified student, who may not be under a school based IEP. The term "youth with a disability", refers to anyone

with a disability aged 14 to 24, regardless of whether they are in school. There are areas of the law where the formulation “significant disability” or “most significant disability” come into play. These are technical terms and referring to both the number of functional life areas a person’s disability interferes with and the potential need for vocational rehabilitation services. Both these terms are defined as they were previously for use by the public VR system; specifics of who is covered by them vary slightly from state to state.

Within Title I of WIOA, there are further technical distinctions related to in school and out of school youth but essentially out of school youth dovetails with the definition of “youth with a disability” except the minimum age set is 16 due to school drop-out laws. The simple formulation to keep in mind is that all students with disabilities are “youth”, but not all youth with disabilities are “students” under these definitions. Current draft regulations include a definition of “student” that does not seem to allow for the inclusion of youth who have dropped out, or pursuing a GED, being home schooled, in educational programs in juvenile justice institutions, or other alternative but not yet graduated prior to age 22.

Workforce systems are required to spend at least 75% of their youth funding for services for out of school youth. Out of school youth, whether meeting the definition of disability or not, are exempt from the financial necessity requirements that other youth participants must meet if they are in one or more of “high-risk” categories including:

- school dropouts;
- individuals who are within the age of compulsory attendance but have not attended school for at least one calendar quarter of the most recent complete school year;
- individuals subject to the juvenile or adult justice systems;
- homeless individuals;
- runaways;
- current and former foster care or out-of-home placement youth;
- youth in poverty areas;
- individuals who are pregnant or parenting.

Some key areas for youth and young adults to explore with their local VR agency and/ or One Stop Career Center (DOL calls them now American Job Centers):

- The law creates an expectation that the VR system will have a major presence in school systems to help with transition related activities for student with disabilities (called Pre Employment Transition Services or PETS



in the law) who are already VR eligible or potentially eligible (which would cover almost any student with a serious mental health disability).

- WIOA specifies the need for multi-agency coordination to plan for and deliver employment services among various systems including workforce, VR, the public educational system, education providers, and disability systems such as mental health.
- PETS must include at a minimum the following, with other related yet optional services as possibilities:
 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)
 3. Counseling on opportunities for enrollment in comprehensive transition services or post-secondary education programs
 4. Workplace readiness training to develop social skills and independent living
 5. Instruction in self-advocacy, which may include peer mentoring.
- There is an expectation within WIOA that both PETS and any other employment services for youth and students with disabilities must focus on integrated competitive employment situations or one in which the person is working on a short-term basis toward competitive integrated employment (the draft regulations define “short term” as 6 months or less). The law strongly discourages and in most cases prohibits focus on segregated or sheltered settings and/ or ones in which subminimum wages are paid.
- There are specific requirements within the law for VR agencies to commit certain minimum proportions of federal funding that they receive to PETS or Supported Employment services or, in some cases

(Supported Employment), spent only for youth with the most significant disabilities. Until the final regulations are promulgated there is a degree of uncertainty on what these minimum proportions would entail for individual agencies.

- With these funds targeted for Supported Employment with youth with the most significant disabilities, states may provide extended services, for a period up to four years, to youth with the most significant disabilities. Prior to the enactment of WIOA, these extended services were not permitted under either the VR program or the Supported Employment program.

MEASURES OF ACCOUNTABILITY & SUCCESS

- WIOA includes common measures of accountability across the entire workforce system, including VR agencies. There are 6 common measures that must be adhered to, specific to educational issues that affect youth. These common measures in the law are:
 1. The percentage of participants, who are in unsubsidized employment during the second quarter after exit from the program;
 2. The percentage of participants, who are in unsubsidized employment during the fourth quarter after exit from the program;
 3. Median earnings of participants, who are in unsubsidized employment during the second quarter after exit from the program;
 4. The percentage of participants who obtained a recognized post-secondary credential or a secondary school diploma, or its recognized equivalent during participation in or within 1 year after exit from the program. A participant who has obtained a secondary school diploma or its recognized equivalent is only included in this measure if the participant is also employed or is enrolled in an education or training program leading to a recognized post-secondary credential within 1 year from program exit;
 5. The percentage of participants who, during a program year, are in an education or training program that leads to a recognized post-secondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational or other forms of progress, towards such a credential or employment; and
 6. Effectiveness in serving employers. (AUTHOR'S NOTE: Indicators for this measure are not yet developed).



Specific Issues Relevant to Youth and Young Adults with Mental Illness and Advocates

- There are many areas of the new law that specify services for youth and young adults with and without disabilities. It is important for youth and their advocates to contact both their VR and Workforce systems (One Stop Career Centers/ American Job Centers) to ask how they will use these to support employment related services for youth and young adults with mental illness. Often youth with mental illness are not readily acknowledged as being part of this group in comparison to youth with disabilities that tend to elicit more overt public sympathy such as those with intellectual/developmental disabilities or serious physical impairments. Therefore, advocacy for service access may need to be a significant priority for consumers, families, and advocates seeking assistance under WIOA authority.
- WIOA emphasizes the need for a variety of real life work experiences ("work based learning") for students in school as part of transition planning and programming. This focus should include youth with mental health needs still in school under an IPE or a 504 plan.
- Section 511 of WIOA puts significant restrictions on the use of subminimum wage unless certain specified activities take place first, generally including referral to the state VR agency. VR must apply stringent criteria before supporting the use of subminimum wages when these youth are employed. As a practical matter, youth, young adults, and their advocates should assume that any employment will be at minimum or local prevailing wage for the position and strenuously oppose any attempt to apply the sub minimum wage exemption to their situation.

- The regular workforce system (represented in the structure of One Stop Career Centers or American Job Centers) has an obligation to ensure “programmatic” as well as physical accessibility for all its services including those targeted for youth. Thus, youth with mental illness and their advocates should work with their local centers to identify the accommodations needed to ensure their programs meet the needs of youth with serious mental health barriers.
- Many youth services specified under WIOA require falling below a threshold of low income eligibility. However, many youth and young adults with mental health problems who may not be formally identified as being a youth with a “disability” would be exempt from this requirement because they may often meet one of the “high risk” categories definitions.
- There are several minimum percentage of funding requirements for workforce system general youth services and VR transition services for students with disabilities including those with serious mental illness. These requirements relate to making sure such services are work based and employment enhancing (e.g., internships, work shadowing, summer work experience).
- VR agencies are encouraged to work with the local educational agencies and State educational agencies to develop a process so that individuals expressing interest in VR services are able to access the program and apply for services through a referral process that is simple and engaging, not burdened by overly complex and time consuming procedures.
- The “teeth” of this and most laws are in the implementing regulations which the Departments of Labor and Education will issue after reviewing the comments they have already received to the draft regulations. So youth and their advocates should make sure they are informed when these final regulations are issued and become familiar with these regulatory procedures.

RESOURCE MATERIALS:

1. Bird, K., Foster, M., & Ganzglass, E. (2014). New Opportunities to Improve Economic and Career Success for Low Income Youth and Adults. Washington, D.C.: CLASP. Available at: <http://www.clasp.org/resources-and-publications/publication-1/KeyProvisionsofWIOA-Final.pdf>
2. Hoff, D. (2014). WIA is Now WIOA: What the New Bill means for People with Disabilities. Boston, MA: Institute for Community Inclusion, University of Massachusetts Boston. Available at: https://www.communityinclusion.org/article.php?article_id=382
3. Hossain, F. (2014) Serving Out of School Youth under WIOA. Washington, DC: MDRC Available at: <http://www.mdrc.org/publication/serving-out-school-youth-under-workforce-innovation-and-opportunity-act-2014>
4. Institute for Educational Leadership. Guideposts for Success. Washington, D.C.: Institute for Educational Leadership, National Center for Workforce and Disability. Retrieved on August 7, 2015 from: <http://www.ncwd-youth.info/guideposts>
5. LEAD Center (2015). Understanding Changes in Youth Services: Part 3 of a 4-Part Series on WIOA. Washington, DC: LEAD Center. Available at: <http://www.leadcenter.org/webinars/understanding-changes-regarding-youth-services-part-3-4-part-series-wioa>
6. U.S. Department of Education (2015). Vision for the One-Stop Delivery System under the Workforce Innovation and Opportunity Act (WIOA). RSA TAC 15-01. August 13, 2015. Available at: <http://www2.ed.gov/policy/speced/guid/rsa/tac/2015/tac-15-01.pdf>
7. U.S. Department of Labor (2015). The Workforce Innovation and Opportunity Act. Fact Sheet: Youth Program. Washington, D.C.: U. S. Department of Labor, Employment and Training Administration. Available at: http://www.doleta.gov/wioa/Docs/WIOA_YouthProgram_FactSheet.pdf
8. Notices and information about each of the proposed regulations can be found at: <http://www.doleta.gov/WIOA/NPRM.cfm>
9. Text of the law can be found at: <http://www.doleta.gov/WIOA/docs/BILLS-113hr803enr.pdf>



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