

# **NATIONAL COUNCIL ON DISABILITY RECOMMENDATIONS WORKFORCE INVESTMENT ACT REAUTHORIZATION**

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**Lex Frieden, Chairperson  
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## **Background**

In 1998, Congress passed the Workforce Investment Act (WIA), creating authority for the Workforce Development System, a federal employment services program, which provides assistance through One-Stop Centers across the nation. This system replaced a number of smaller federally supported employment programs, consolidating the funds into what was intended to be a more user-friendly, universally accessible system of employment services. The Rehabilitation Act was included as a separate program with separate funding under the new Act. Title IV of WIA now carries the authority for the Rehabilitation Act in its entirety and throughout the Act creates a number of opportunities for interaction between the State Vocational Rehabilitation (VR) system and the One-Stop Centers. For example, the State VR program is identified as one of several "partners" in the One-Stop system. The Act also makes clear that One-Stop Centers are to be available and accessible to individuals with disabilities and includes non-discrimination language that specifically references disability.

Originally slated for reauthorization in 2003, WIA now appears to be on track in both the House and Senate to move forward in 2005. With so much of importance to the disability community in the Act, the National Council on Disability (NCD) offered to the 108th Congress detailed recommendations. NCD observations and input are included in the following recommendations, which are offered as a guide to disability-related issues for the current reauthorization process.

## **Accessibility and Non-Discrimination**

Despite the provisions in Section 188 of WIA, which contains the anti-discrimination requirements for the One-Stop Centers and other entities operating under the Act, there continues to be sufficient evidence to give rise to concerns regarding physical and/or programmatic accessibility of the Centers for individuals with disabilities.

(1) In 2004, the Government Accountability Office (GAO) reported on significant variance in implementation of access strategies for individuals with disabilities (GAO-05-54).

(2) The Urban Institute and Johns Hopkins University reported similar findings of One-Stop accessibility problems for individuals with disabilities in research conducted for the Ticket to

Work and Work Incentive Advisory Panel (Holcomb, P. & Barnow, B., Serving People with Disabilities through the Workforce Investment Act's One-Stop Career Centers, TWWIAP, November 2004).

(3) Analysis of Workforce Investment Act Standardized Record Data (WIASRD) shows dramatic reductions over the last three years in percentages of persons served who indicated they had a disability. The percentage of people exiting from Adult Services who indicated having a disability shrank from 8.7 percent to 5.8 percent from 2001 to 2003.

The Department of Labor (DOL) has taken steps to address these issues. NCD commends DOL for issuing a Section 188 checklist designed to assist program operators in identifying their nondiscrimination obligations, assessing their performance, increasing accessibility, and identifying resources that can be of assistance. However, concerns remain as to whether this is sufficient to address the physical, information-technology and programmatic accessibility issues facing individuals with disabilities in the system. If One-Stop Centers lack the resources and/or the communications technology to implement accessibility, it will remain difficult for the checklist and associated technical assistance to solve the problem.

### **NCD Recommendations**

NCD recommends DOL continue strengthening its monitoring and enforcement of compliance of the One-Stop Centers with the accessibility provisions of WIA. This is one key means for ensuring full participation in the workforce and employment development system by all job seekers, irrespective of disability. Various means of maintaining strengthened enforcement are recommended for DOL's consideration. NCD recommends that DOL: establish and publicize a complaint procedure for use by individuals who have been denied access or are not able to access all available resources; incorporate accessibility guarantees in requirements for state workforce development plans; and insist on inclusion of representatives of people with disabilities (or at least of state VR agencies) on state and local Workforce Investment Boards (WIBs). NCD recommends that DOL, through its Office of Disability Employment Policy (ODEP) or through its Office of Inspector-General (OIG), jointly develop with the Department of Justice (DOJ) a plan for proactive enforcement of the nondiscrimination and accessibility requirements of the law bearing on the ability and willingness of One-Stop Centers to serve customers with disabilities.

### **Community Involvement**

In ensuring accessibility to the One-Stop Centers, it is important to involve the community partners, such as employers, training entities, referral sources, schools, employer associations, and others with which One-Stop Centers and WIBs work and with which they have referral and planning relationships. As important as it is for One-Stop Centers to be accessible, that accessibility may in the end do little good if the employers, training programs and other referral sources are inaccessible. While One-Stop Centers lack legal authority to enforce consistently high accessibility standards in the communities, there are a number of strategies that One-Stop Centers can use to strongly support reasonable accommodation, accessibility, and success.

### **NCD Recommendations**

NCD recommends that DOL survey One-Stop Centers and people with disabilities who have

received referral services through them to determine the measures the One-Stop Centers have used to monitor the treatment that people with disabilities receive from community partners, and the means the One-Stop Centers have developed for sharing accessibility expertise and resources with such providers. The results of this survey should be published and made available to all stakeholders in the One-Stop system, including potential community partners, as a means of improving areas with problems and difficulties.

### **One Stop Infrastructure Funding**

GAO (GAO-03-884T) reports that One-Stops across the country are hampered by the lack of sufficient One-Stop infrastructure funds. WIA reauthorizing legislation not completed in the 108th Congress addressed this issue with provisions in the House and Senate versions requiring Workforce Development partners to contribute from their own appropriated administrative funds to One-Stop administration in their states. NCD is concerned with this solution, especially the impact it will have on the ability of an already fiscally strapped VR system to provide needed services to people with significant and most significant disabilities. Data has consistently reflected that each year the state VR systems are unable to serve a majority of individuals eligible for services. As a result, Order of Selection within VR means that many individuals with disabilities are unable to receive much needed services to become competitively employed. Loss of additional funds to the One-Stops may create additional problems and exacerbate the issue of persons with disabilities waiting for services.

### **NCD Recommendations**

NCD recommends that the funding challenge be addressed with dedicated funding for the One-Stop infrastructure in WIA. If sufficient dedicated funding is not available, a cap on the percentage of administrative dollars from the WIA partners should be phased in over a number of years to lessen the immediate impact on people waiting for services. There should be accountability to the WIA partners as to how any administrative funds are used to fund the One-Stops.

### **Outcome and Performance Measures**

The need for One-Stops to meet current performance measures is often the driving factor in deciding who receives WIA services (GAO-05-54, GAO-03-884T). As a result, in order to meet current performance measurements, One-Stop staff members are reluctant to serve clients who may be less likely to find employment or experience an increase in earnings. Accordingly, some clients are denied services. The need to meet specific performance measures creates a disincentive to provide services to harder-to-serve populations. NCD believes that the effect of the current system significantly impacts the ability of individuals with disabilities to receive appropriate training and employment services. NCD remains concerned that measures emphasizing per capita cost or per-employment-outcome cost discourage One-Stop Centers from working with people who need extensive or individualized services, including persons with disabilities. Such performance measures have the unintended consequence of discriminating against the individuals for whom the non-discriminatory and universal access standards were designed in the Act. It is important to note that individuals with disabilities would be particularly impacted if all One-Stop partners were required to apply the Office of Management and Budget's proposed measure of efficiency - a formula that divides the annual appropriation by the number of participants serviced. It is inaccurate and an unfair representation to consider the additional

costs of working with job applicants with disabilities while failing to acknowledge the potentially more-than-offsetting savings resulting from the successful employment as taxpayers of such applicants and the reduced need for other services.

### **NCD Recommendations**

To reflect the effectiveness of the One-Stop program, performance measures should take into account the individualized needs of participants, especially participants with disabilities. To ensure equal treatment for individuals with disabilities, NCD strongly recommends that WIA require the development of alternative outcome measures, which account for the characteristics of the population served, the intensity of the services provided, resulting savings from competitive employment and the diminished need for services. Thus, NCD recommends DOL develop outcome measures that take into account all the relevant variables involved in working with job seekers with disabilities, including not only the potential costs of working with this population within a mainstream setting, but also the benefits to the taxpayers of commitment and success in such work.

### **Demonstration Programs: Navigator Program and Customized Employment**

Navigator Program: The workforce development system established under WIA, while centrally focusing on the One-Stop Centers as a single entry point for access to information and services, ultimately depends for its effectiveness on the coordination, cooperation, and capacity of a variety of community partners, including "mandatory partners" under the law. For individuals with disabilities this can be a very confusing and complex system, unless the staff members at One-Stop Centers are well versed in the range of specialized resources and services available to these individuals. A closely related problem involves collaboration among different elements in the workforce development system, including DOL, SSA's recently established area work incentive coordinators (AWICs), and SSA's work incentive initiatives. In an effort to improve this coordination and maximize the sharing of information and resources, DOL and SSA established the Disability Navigator Program, a pilot program focused on ensuring that the needed expertise will be available and accessible to the staff and service users of One-Stop Centers. The Navigator Program places in One-Stop Centers staff members who are knowledgeable about the range of specialized services available to assist job seekers with disabilities. With the Navigator Program, and other strategies such as co-location of VR in One-Stop Centers facilities, NCD is hopeful that the highest possible degree of seamlessness will be attained.

Customized Employment: WIA recognizes the obligation of the One-Stop Centers to work with hard-to-serve individuals who may need specialized or individualized services. In fulfillment of that recognition, NCD commends DOL for the demonstration customized employment grants it has made. Preliminary figures indicating achievement of gainful employment by 595 of the first 1,292 persons served suggest that such programs have a role to play even within a system as large as that created under WIA.

### **NCD Recommendations**

NCD recommends that WIA include the Navigator and Customized Employment programs in the authorization for the One-Stop systems, guaranteeing that both will be supported and strengthened as a means of facilitating service coordination and participation of individuals with

disabilities using the Navigator System and ensuring necessary supports for individuals with significant disabilities through Customized Employment.

## **Title IV—Rehabilitation Act**

### **Cost of Living Adjustments**

Under the current system of funding VR, the overall national program receives a mandatory cost of living adjustment (COLA) based on the Consumer Price Index (CPI). This COLA is then distributed to the states using a formula based largely on overall population growth and the average wage in each state. This formula has resulted in well over 20 states receiving less than the mandated COLA in any given year. Further, it seems this formula does not take into account the population growth of persons with disabilities of working age needing VR services to obtain competitive employment.

### **NCD Recommendations**

While NCD understands the difficulty in changing the entire formula for distributing the COLA funds to the states, we must work toward each state receiving at least the minimum mandated COLA based on the CPI. Currently, Reallotment Funds, funds returned by states that do not match their entire federal allotment, are sometimes used to begin to address this formula problem by helping to insure that no state actually receives fewer dollars than the prior year. The additional amount needed to bring all states up to the minimum COLA has been estimated in past years to be approximately \$20 million dollars per year. A combination of any available Reallotment Funds and increases phased in over a number of years would insure all states reach the mandated COLA without adversely impacting any states that currently receive greater than the COLA due to the distribution formula.

### **Dedicated Funding**

The Rehabilitation Act includes a number of smaller, specialized programs designed to address specific service needs of individuals with disabilities, creating a balance between Title I of the Act and the specialized programs designed to support the VR infrastructure. NCD recognizes the importance of the Supported Employment State Grant program, Projects with Industries, Migrant and Seasonal Farmworkers, and Recreation Projects in the VR system.

In addition to the specialized programs noted, the VR program is clearly the only employment program currently focused on serving persons with significant and most significant disabilities with the outcome of competitive employment in the community. NCD recognizes and supports the need for VR to remain a separate program with separate funding to accomplish this goal.

### **NCD Recommendations**

NCD commends the House and Senate for their continued support of the Supported Employment State Grant, Projects with Industry, Migrant and Seasonal Farmworkers, and Recreation Projects programs through the appropriations process of the past three years. These programs provide a carefully structured balance in the Rehabilitation system that could not be achieved with limited Title I funds. NCD recommends that these programs continue to be authorized in the Act as separate and distinct programs to maintain the balance they create in the system.

Further, as was recognized by the original crafters of WIA in 1998, NCD strongly recommends

that VR remain a separate Title with separate funding under WIA. This will continue the focus on persons with significant and most significant disabilities obtaining competitive jobs in their communities.