

TRAINING AND EMPLOYMENT NOTICE	NO. 10-15
	DATE September 17, 2015

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE DEVELOPMENT BOARDS

FROM: PORTIA WU 
Assistant Secretary

SUBJECT: Workforce Innovation and Opportunity Technical Amendments Act

1. **Purpose.** To announce changes made to the Workforce Innovation and Opportunity Act (WIOA) through passage of the Workforce Innovation and Opportunity Technical Amendments Act.
2. **References.**
 - WIOA (Pub. L. 113-128) Title I
 - WIOA Technical Amendments Act (Pub. L. 114-18)
3. **Background.** The Workforce Innovation and Opportunity Technical Amendments Act (WIOA) was signed into law on May 22, 2015. The Act contains technical amendments that clarify or correct provisions in title I of WIOA that relate to the designation of local workforce development areas, the use of alternative local boards, references in the performance accountability provisions, and the hold harmless provisions of the Adult and Dislocated Worker formulas.
4. **Amendments.** The WIOA Technical Amendments Act provides the following amendments that relate to workforce development activities:
 - A. **Rural Concentrated Employment Programs (CEPs).**
Section 2(a) amends section 106(b) of WIOA to clarify that areas served by Rural CEPs are eligible to be designated as local workforce development areas under WIOA, if they meet the criteria specified in paragraphs (2) and (3) of that subsection of WIOA, including criteria related to successful performance and sustained fiscal integrity. Local

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workforce development areas are areas designated by the Governor in accordance with requirements of section 106 and they receive substate formula allocations under the Adult, Dislocated Worker and Youth formula programs to carry out workforce development activities.

Rural CEPs were established in the 1960s to provide comprehensive employment and training activities in certain rural areas, and currently exist in Kentucky, Minnesota, Montana, and Wisconsin. The Workforce Investment Act (WIA) provided an “automatic designation” of areas served by rural CEPs as local areas under WIA. Prior to the technical amendments, WIOA did not address designation for rural CEP programs. The technical amendment provides that the Governor may approve initial and subsequent designations of rural CEP areas under WIOA if the area meets the criteria for prior performance and fiscal integrity under WIOA section 106(b)(2) and (3), which are also applicable to other local areas previously designated under WIA.

B. Alternative Entity Designation.

Section 2(b) of the Technical Amendments Act amends section 107(i) of WIOA, which covers the criteria for the use of an alternative entity as a local workforce development board, to require that the alternative entity must have been in existence on the day before the enactment of the Workforce Investment Act of 1998 (WIA), rather than the day before the enactment of WIOA, as had been provided in WIOA originally.

Local workforce development boards perform a key role under WIOA in developing and coordinating policies and activities relating to workforce development in local areas. WIOA contains changes from WIA in the composition requirements for the membership of local boards that were made to streamline the local boards and strengthen certain representation, such as requiring the inclusion of representatives of Registered Apprenticeship programs, and not requiring the representation of every One-Stop partner program on the board. WIA had contained a “grandfathering” provision that allowed entities (“alternative entities”) meeting certain general composition requirements, that were in existence on the day before the enactment of WIA, to perform the role of local boards.

While there had been an intention to continue to allow the grandfathering of these alternative entities under WIOA, the enacted provision had included among the criteria for alternative entities that the entity had been in existence on the day before the enactment of “this Act”, which meant WIOA rather than WIA. The effect of the originally enacted provision could have been to allow local areas to retain the local Workforce Investment Boards that had been authorized under WIA unchanged, in lieu of incorporating the new composition requirements authorized under WIOA, potentially negating the intended reforms. To avoid that result, the technical amendment replaces the reference to the alternative entity being in existence on the day before the enactment of WIOA with the requirement that the alternative entity was in existence on the day before the enactment of WIA in 1998.

C. Erroneous Cross References.

Section 2(c)(1) amends section 116(b)(2)(A)(iv) of WIOA to correct an erroneous cross-reference relating to the establishment by the Secretary of Labor and the Secretary of Education of a new performance indicator that shows the effectiveness of the core programs in serving employers under WIOA; these core programs include WIOA Adult, Dislocated Worker, and Youth formula programs under title I, the adult education program authorized under title II, the Wagner-Peyser Act program which was amended under title III, and the Vocational Rehabilitation program administered under title I of the Rehabilitation Act of 1973.

In referencing the purpose of the development of the effectiveness in serving employers for the Youth formula program under title I, the enacted provision erroneously referenced another indicator of performance relating to the attainment of credentials. This created confusion as to whether in developing the indicator measuring effectiveness in serving employers, the Secretaries were only to measure that effectiveness as it related to the attainment of credentials, diplomas, or their equivalents by youth, or potentially to all aspects of the youth program. The amendment replaces the reference to the credential attainment indicator with a reference to the general employer effectiveness indicator in clause (i)(VI). This change clarifies that the Secretaries have the flexibility to develop the indicator on effectiveness in serving employers applicable to any aspect of the youth formula program.

Section 2(c)(2) amends section 116(g)(1) of WIOA to eliminate an erroneous cross-reference that relates to the provision of technical assistance for local areas that fail to meet local performance measures for the youth, adult, or dislocated worker program, but also includes a reference “for a program described in subsection (d)(2)(A)”. The cross-references provision does not describe any programs. The amendment therefore deletes the cross-reference.

D. Hold Harmless Provisions.

Section 2(d) amends section 132(b)(1)(B)(iv)(I) and section 132(b)(2)(B)(iii)(I) of WIOA that contain “hold harmless” provisions that are intended to ensure States do not receive allotments under the Adult and Dislocated Worker formulas, respectively, under title I that are “less than” an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year. The “less than” qualifying language was inadvertently omitted from those provisions and the amendment inserts that language.

E. Conforming Amendments.

Section 2(e) contains conforming amendments to align references in other provisions in WIOA to provisions that were renumbered in the technical amendments.

F. Effective Dates.

Section 2(f) provides that the amendments made by section 2 take effect as if included in WIOA.

5. **Inquiries.** Please direct questions to the appropriate ETA Regional Office.

6. **Attachment(s).** None