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Conference  
ADA NATIONAL NETWORK

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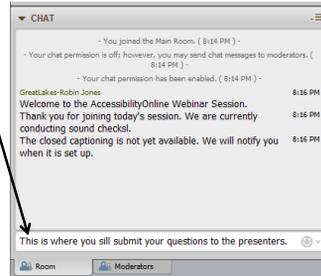
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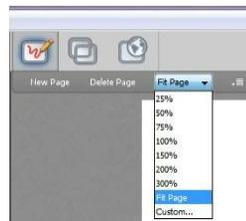


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## SUMMARY: TITLE I and TITLE IV OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA) FROM A DISABILITY PERSPECTIVE

*The LEAD Center is led by National Disability Institute and is funded by the Office of Disability Employment Policy, U.S. Department of Labor, Grant No. #OD-23863-12-75-4-11*

The **National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD)** is a collaborative of disability, workforce and economic empowerment organizations led by **National Disability Institute** with funding from the **U.S. Department of Labor's Office of Disability Employment Policy**, Grant No. #OD-23863-12-75-4-11.

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## PRESENTATION BY

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- ▶ Information contained in this presentation is for general guidance and with the understanding that the author is not engaged in rendering legal advice and services. As such, it should not be used as a substitute for consultation with professional legal advisors.

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## LEGISLATIVE HISTORY

- ▶ In March 2013, the House passed [H.R. 803](#), The SKILLS Act
- ▶ In July 2013, the Senate HELP Committee reported out [S. 1356](#), The Workforce Investment Act of 2013
- ▶ On June 25, 2014, the Senate passed a complete Substitute to H.R. 803, the [Workforce Innovation and Opportunity Act \[WIOA\]](#)
- ▶ On July 9, 2014, the House passed H.R. 803, without amendment and sent the bill to the President for his signature
- ▶ On July 22, 2014, the President signed WIOA into law [Public Law 113-126]

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## PURPOSE OF TITLE I OF WIOA

- ▶ Modernize and improve existing federal workforce development programs
- ▶ Help workers attain skills for 21<sup>st</sup> century jobs
- ▶ Ensure physical, programmatic, and technology accessibility for individuals with disabilities in order to facilitate entry into and retention of competitive integrated employment

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## OVERVIEW OF TITLE I OF WIOA AMENDMENTS

- ▶ Repeal of Workforce Investment Act of 1998
- ▶ Definitions
- ▶ State workforce development boards
- ▶ Unified State plan
- ▶ Local workforce development boards
- ▶ Local plan (content)
- ▶ Performance accountability system

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## OVERVIEW OF TITLE I (CONT.)

- ▶ Establishment of one-stop delivery system
- ▶ Identification of eligible providers of training services
- ▶ Use of funds for youth workforce investment activities
- ▶ Use of funds for adults and dislocated employment and training activities
- ▶ National programs
- ▶ Nondiscrimination (Section 188)

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## REPEAL OF WIA

- ▶ WIOA repeals the Workforce Investment Act of 1998 and replaces it with new authorizing language for workforce systems
- ▶ Title I of WIOA is referred to as Workforce Development Activities

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## DEFINITIONS

- ▶ Core programs includes Title I of Rehabilitation Act (State VR programs)
- ▶ Individual with a barrier to employment includes individuals with disabilities, including youth who are individuals with disabilities
- ▶ Individual with a disability means an individual with a disability under ADA

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## STATE WORKFORCE DEVELOPMENT BOARDS-MEMBERSHIP

- ▶ Membership must include state officials with primary responsibility for core programs e.g., State VR program
- ▶ Membership may include community-based organizations such as organizations that provide or support competitive, integrated employment for individuals with disabilities

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## STATE WORKFORCE DEVELOPMENT BOARDS-FUNCTIONS

- ▶ Strategies to support career pathways to enter or retain employment
- ▶ Identification and dissemination of best practices, including strategies for serving individuals with barriers to employment
- ▶ Strategies to ensure technology is accessible to individuals with disabilities

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## UNIFIED STATE PLAN

- ▶ Scope—includes Title I of Rehabilitation Act (State VR program) other than CAP program and American Indian VR Services
- ▶ Description—The Plan must include specific provisions applicable to individuals with disabilities
- ▶ Assurances—The Plan must include assurance regarding compliance with Section 188 (nondiscrimination)
- ▶ Approval—The VR state plan must be approved both by Secretary of Labor and Secretary of Education (after approval by Commissioner of RSA)

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## LOCAL WORKFORCE DEVELOPMENT BOARDS—MEMBERSHIP

- ▶ Membership—must include an appropriate representative of the State VR program serving the local area and may include community-based organizations that provide or support competitive integrated employment for individuals with disabilities

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## LOCAL WORKFORCE DEVELOPMENT BOARDS—STANDING COMMITTEE

- ▶ At a minimum, the local Board may designate a standing committee to assist with the operations related to the provision of services to individuals with disabilities, including:
  - ▶ Compliance with Section 188
  - ▶ ADA (physical and programmatic accessibility)
  - ▶ Appropriate training for staff for providing supports and accommodations
  - ▶ Finding employment opportunities

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## LOCAL WORKFORCE DEVELOPMENT BOARD—FUNCTIONS

- ▶ Identify and promote proven and promising strategies, including providing physical and programmatic accessibility in accordance with Section 188 and ADA
- ▶ Develop strategies for using technology to maximize accessibility
- ▶ Annually assess physical and programmatic accessibility of all one-stop centers

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## LOCAL PLAN

- ▶ Include description of how entities within one-stop delivery system will comply with Section 188 and ADA regarding physical and programmatic accessibility, including:
  - ▶ Facilities
  - ▶ Programs and services
  - ▶ Technology
  - ▶ Materials
- ▶ Include replicated cooperative agreements with VR

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## PERFORMANCE ACCOUNTABILITY SYSTEM

- ▶ Primary indicators of performance for adults and dislocated workers
- ▶ Primary indicators of performance for youth
- ▶ State levels of performance
- ▶ State adjusted levels of performance
- ▶ Local performance accountability measures
- ▶ Performance reports
- ▶ Eligible training providers performance reports
- ▶ Sanctions

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## ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM

- ▶ One-stop partners, including State VR program
- ▶ MOU between local board and one-stop partners
- ▶ One-stop operators must be designated or certified
- ▶ Mandatory services include career services, training services, access to specified employment, and training activities
- ▶ Certification and continuous improvement

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## ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM (CONT.)

- ▶ Funding of Infrastructure—
  - ▶ MOU or
  - ▶ Maximum amounts contributed by State VR program specified in statute (range from .75-1.5% of the amount of Federal funds provided to carry out the VR program over specific programs years)

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## ID OF ELIGIBLE TRAINING PROVIDERS

- ▶ Governor, after consultation with State board must establish criteria, information requirements, and procedures regarding eligibility of training providers
- ▶ Local board may establish additional criteria

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## USE OF FUNDS FOR YOUTH

- ▶ Eligibility
- ▶ Out-of-school priority
- ▶ Required state youth activities
- ▶ Allowable state youth activities, including supporting financial literacy
- ▶ Local elements and requirements
- ▶ Applicants not meeting enrollment requirements of particular programs

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## USE OF FUNDS FOR ADULT AND DISLOCATED WORKERS

- ▶ Required statewide employment and training activities include disseminating information on physical and programmatic accessibility under Section 188 and ADA
- ▶ Permissive statewide employment and training activities may include coordination with local activities for individuals with disabilities and financial literacy activities

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## USE OF FUNDS FOR ADULT AND DISLOCATED WORKERS (CONT.)

- ▶ Required local employment and training activities
  - ▶ Career services
  - ▶ Training services
  - ▶ Eligibility for career and training services
  - ▶ Use of individual training accounts

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## USE OF FUNDS FOR ADULT AND DISLOCATED WORKERS (CONT.)

- ▶ Permissible local employment and training activities
  - ▶ Customer support to enable individuals with disabilities to navigate multiple services and activities
  - ▶ Technical assistance regarding provision of services to individuals with disabilities
  - ▶ Improved coordination among employment and training activities and programs

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## NATIONAL PROGRAMS

- ▶ Training capacity—DOL must have sufficient capacity to provide, coordinate, and support appropriate:
  - ▶ Training
  - ▶ TA
  - ▶ Staff development
  - ▶ Replicating programs of demonstrated effectiveness
- ▶ Promising practices—Establish system of promising and proven practices

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## NONDISCRIMINATION (SECTION 188)

- ▶ Prohibits discrimination on the basis of, among other things, disability with regard to programs or activities funded or otherwise financially assisted under Title I of WIOA

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## INITIAL IMPLEMENTATION

- ▶ ETA Released Guidance Letter (TEGL) on February 19, 2015 regarding “Vision and Initial Implementation of WIOA”
- ▶ Vision
  - ▶ Needs of Businesses and Workers Drive Workforce Solutions
  - ▶ One-Stop Centers Provide Excellent Customer Service and Focus on Continuous Improvement
  - ▶ Workforce System Supports Strong Regional Economies

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## INITIAL IMPLEMENTATION

- ▶ Key Operational and Governing Principles
  - ▶ Align programs and ensure integrated services through a unified plan and shared governance
  - ▶ Workforce boards focus on strategy
  - ▶ Promote accountability and transparency
  - ▶ Ensure data drives decisions and informs customer choice
  - ▶ Start taking action NOW

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## **TIMEFRAMES FOR REGULATIONS AND GUIDANCE**

- ▶ Notices of Proposed Rulemaking will be issued in early 2015
- ▶ Joint NPRM will be issued by DOL and ED covering joint activities including state planning, performance, and one-stop system
- ▶ DOL will issue NPRM covering remaining ETA-administered provisions of WIOA
- ▶ ED will publish two NPRMs covering amendments to the Rehabilitation Act
- ▶ Final regulations are expected by early 2016
- ▶ ETA will issue Operating Instructions in Spring 2015

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## **SUMMARY OF AMENDMENTS TO TITLE I OF WIOA FROM DISABILITY PERSPECTIVE**

- ▶ WIOA includes numerous provisions applicable at the state and local levels designed to ensure physical, programmatic, and technology accessibility for individuals with disabilities
- ▶ Need for state and local infrastructures supporting training, TA, and adoption of promising and proven practices and strategies to enhance universal access and equal opportunity for individuals with disabilities

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## OVERVIEW OF TITLE IV AMENDMENTS (REHABILITATION ACT)

- ▶ Structural Changes
- ▶ Relationship To Workforce Development System
- ▶ Focus On Competitive Integrated Employment
- ▶ Definitions
- ▶ Supported Employment
- ▶ New Mandates For Youth
- ▶ Determination Of Eligibility For VR Services

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## OVERVIEW OF TITLE IV AMENDMENTS (REHABILITATION ACT)

- ▶ State Plan
- ▶ Limitations On Use Of Subminimum Wage
- ▶ Advisory Committee On Increasing Competitive Integrated Employment For Individuals With Disabilities
- ▶ National Council on Disability

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## STRUCTURAL CHANGES

- ▶ Rehabilitation Services Administration (RSA) remains in Department of Education
- ▶ National Institute on Disability and Rehabilitation Research renamed the National Institute on Disability, Independent Living, and Rehabilitation Research and relocated to the Administration For Community Living (ACL), DHHS
- ▶ Independent Living Programs relocated to ACL
- ▶ Assistive Technology State programs relocated to ACL

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## STRUCTURAL CHANGES (CONT.)

- ▶ **ELIMINATION OF AUTHORIZED PROGRAMS**
  - ▶ Projects with Industry
  - ▶ Recreation Programs
  - ▶ Migrant and Seasonal Farmworkers

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## RELATIONSHIP TO WORKFORCE DEVELOPMENT SYSTEM

- ▶ State plan for VR services included within unified or combined state plan
- ▶ State Plan must be approved by ED and DOL
- ▶ Each state submits a single four year strategic plan

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## FOCUS ON COMPETITIVE INTEGRATED EMPLOYMENT

- ▶ Purpose of VR program clarified to increase competitive integrated employment
- ▶ Adopts definition from existing regulations

Competitive integrated employment means work performed on a full or part-time basis (including self-employment) for which an individual is:

1. Compensated at not less than federal minimum wage requirements or state or local minimum wage law (whichever is higher) and not less than the customary rate paid by the employer for the same or similar work performed by other individuals without disabilities;
2. 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 employees) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and
3. 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.

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## DEFINITIONS

### ▶ CUSTOMIZED EMPLOYMENT (NEW)

- ▶ Competitive integrated employment for an individual with a significant disability based on strengths and abilities of the individual and negotiations with an employer and carried out through flexible strategies (examples listed)
- ▶ Flexible strategies includes job exploration by the individual and customizing a job description

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## DEFINITIONS (CONT.)

### ▶ SUPPORTED EMPLOYMENT

- ▶ Retains current definition with an amendment concerning the aspect of the definition related to “working toward competitive integrated employment”
- ▶ The term 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...

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## SUPPORTED EMPLOYMENT SERVICES

- ▶ WIOA modifies the length of time supported employment services may be provided by a VR agency without securing an extension from 18 to 24 months

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## NEW MANDATES FOR YOUTH

- ▶ A State VR agency must reserve not less than 15% of its allotment for the provision of pre-employment transition services for youth
- ▶ Pre-employment transition services must be provided in collaboration with local school districts and must include services such as:
  - ▶ Job exploration counseling
  - ▶ Work-based learning experiences
  - ▶ Workplace readiness training (social and independent living skills)
  - ▶ Instruction in self-advocacy
- ▶ WIOA also lists authorized (permissive) activities

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## NEW MANDATES FOR YOUTH (CONT.)

- ▶ National Pre-Employment Transition Coordination–The Secretary of ED must support state agencies and coordinate with other federal agencies
- ▶ State Plan-must include strategies for providing VR services for youth
- ▶ Local Pre-Employment Transition Coordination-Each local VR office must carry out specified responsibilities, including working with schools and American Job Centers

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## NEW MANDATES FOR YOUTH (CONT.)

- ▶ Supported Employment (Title VI)
  - ▶ A State VR agency must reserve and expend half of its allotment for youth to assist those youth in achieving an employment outcome in supported employment
  - ▶ Title VI funds for supported employment may be used to provide “extended services” for a period not to exceed 4 years

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## ELIGIBILITY DETERMINATION

- ▶ Determination of eligibility for VR services must be done on an individualized basis and not based on an assumption that categorically excludes individuals within broad categories of disabilities
- ▶ A determination of eligibility must be done based on clear and convincing evidence

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## STATE PLAN

- ▶ Order of Selection-Permits the state to elect to serve eligible individuals (whether or not receiving VR services) who require specific services or equipment to maintain current employment
- ▶ CSPD-modifies provisions relating to “appropriate and adequate training”
- ▶ Extended employment-State must report information to DOL Wage and Hour Division for individuals in extended employment
- ▶ Performance accountability requirements specified in Title I of WIOA (workforce development) apply to VR programs under Title I of the Rehabilitation Act

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## STATE PLAN (CONT.)

- ▶ Coordination with Employers-Describe how VR agency will work with employers to identify employment opportunities and career exploration and provide TA regarding ADA requirements and job matching
- ▶ Coordination with State Medicaid Programs, ID/DD agencies, and mental health agencies to achieve employment in competitive integrated settings
- ▶ Coordination with Ticket to Work Program

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## LIMITATIONS ON THE USE OF SUBMINIMUM WAGE

- ▶ New procedures and requirements applicable to payment of subminimum wage
- ▶ Payment of subminimum wage to youth (24 or younger)
- ▶ Construction Clause
- ▶ Continued employment at a subminimum wage (regardless of age)
- ▶ Documentation and verification

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## ADVISORY COMMITTEE ON INCREASING COMPETITIVE INTEGRATED EMPLOYMENT

- ▶ DOL established Committee on January 5, 2015
- ▶ Must submit periodic reports and final report (2 years after Committee established) on findings, conclusions and recommendations
- ▶ Composition of Committee
- ▶ Duties include:
  - ▶ Ways to increase employment opportunities for individuals with intellectual or developmental disabilities or other significant disabilities in competitive integrated employment
  - ▶ The use of Section 14(c) certificate programs
  - ▶ The ways to improve oversight of the use of such certificates

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## NATIONAL COUNCIL ON DISABILITY

- ▶ WIOA reduces the number of members on the NCD from 15 to 9
- ▶ Also changes the process for appointment of members
  - ▶ Currently all members appointed by President
  - ▶ Under WIOA, 5 members appointed by President, 1 by Majority Leader and 1 by Minority Leader of Senate and 1 by Speaker of the House and 1 by the Minority Leader of the House

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# Questions?

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Thank you for participating in today's  
ADA-Audio Conference Session

The next scheduled session is:

***“Punch-In: A resource for college and transition age  
students with disabilities regarding employment”***

**April 21, 2015**

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